ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

****

Cap. 15.

An Act for dividing, allotting, and inclosing Lands in the Parish of *Elsing* in the County of *Norfolk*. [21st *June* 1841.]

WHEREAS there are within the Parish of *Elsing* in the County of *Norfolk* divers Open Fields and Field Lands, Commons, Commonable Lands, and Waste Grounds, and divers inclosed Lands and Homesteads: And whereas *Frances Browne* Widow is or claims to be Lady of the Manor of *Elsing*, with the Members, in the said County, and as such claims to be entitled to the Soil of the said Commons, Commonable Lands, and Waste Grounds: And whereas the said *Frances Browne*, *Edward Lombe* Esquire, and divers other Persons, are respectively Owners and Proprietors of all the Messuages, Cottages, Lands, and other Hereditaments in *Elsing* aforesaid: And whereas the Lands of the said several Owners and Proprietors are in their present State incapable of any considerable Improvement, and it would be of great Advantage to the Proprietors thereof and Persons interested therein to have the same divided and inclosed, and specific Parts thereof allotted to the Proprietors thereof, to be held in Severalty, and all Rights of Common therein extinguished; but the Purposes aforesaid cannot be effected without the Authority of Parliament: And whereas an Act was

passed in the Forty-first Year of the Reign of King *George* the
41 G. 3. c. 109. Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts:* And whereas another Act was passed in the First and Second Year
1 & 2 G. 4. c. 23. of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

Recited Acts to form Part of this Act.

That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third, and in the First and Second Year of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall, from the passing of this Act, be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

Appointment of Commissioner.

II. And be it enacted, That *Thomas Utton* of *Brome* in the County of *Suffolk*, Gentleman, and his Successors for the Time being, to be elected or appointed in manner herein-after mentioned, shall be the Commissioner for carrying this Act and the said recited Acts into execution; and it shall be lawful for the said Commissioner and he is hereby required to divide, allot, and inclose the said Open Fields and Field Lands, Commons, Commonable Lands, and Waste Grounds in the said Parish of *Elsing*, according to the Regulations and Provisions contained in the said recited Acts and this Act: Provided always, that no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the first Sitting to be held for the Purpose of executing this Act), until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, and which Declaration it shall be lawful for any Justice of the Peace acting for the said County of *Norfolk* to administer and receive, and he is hereby required to administer and receive the same, and which Declaration shall be in lieu of the Oath or Affirmation required by the said Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds; and the said Declaration shall be annexed to and deposited with the Award of the said Commissioner; and any Copy of such Declaration, attested by the Clerk of the Peace for the Time being of the County of *Norfolk*, or his Deputy, shall be at all Times admitted as legal Evidence.

Qualification of Commissioner.

Penalty on Persons acting not qualified.

III. And be it enacted, That if any Person, not having so qualified himself, shall act as a Commissioner, he shall for every such Offence forfeit the Sum of Fifty Pounds, with full Costs of Suit, to any Person who shall sue for the same, by Action of Debt or on the Case, in any of Her Majesty's Courts of Record at *Westminster*.

IV. And

Penalty on making a false Declaration.

IV. And be it enacted, That if any Person shall falsely or corruptly make and subscribe a Declaration under the Authority of this Act, knowing the same to be untrue in any material Particular, he shall be guilty of a Misdemeanor.

Appointment of new Commissioner.

V. And be it enacted, That in case the said *Thomas Utton*, or any Person to be appointed a Commissioner in his Room by virtue of this Act, shall die, or become incapacitated, or neglect or refuse, for the Space of Two Calendar Months, to act as such Commissioner, it shall be lawful for the Majority in Value (such Value to be ascertained according to the Rate or Assessment made for the Relief and Maintenance of the Poor of the said Parish of *Elsing* at the Time when such Meeting as next herein-after mentioned shall be held) of the several Proprietors of Lands within the said Parish, who shall attend, either personally or by their respective Agents, at any Meeting to be held for that Purpose, of which Meeting Notice shall be given, by some One or more of the Persons interested in the said Inclosure, by Advertisement, and also on the Church Door, as herein-after directed, at least Fourteen Days before such Meeting, to appoint, by Writing under their Hands, some fit Person to be a Commissioner in the Room of the said *Thomas Utton*, or of the Commissioner appointed in his Place, and so from Time to Time as often as any such Commissioner shall die, neglect or refuse or become incapable to act.

Appointment of Surveyor.

VI. And be it enacted, That it shall be lawful for the Commissioner from Time to Time, by Writing under his Hand, to appoint a fit Person to be a Surveyor for the Purposes of this Act during the Pleasure of the Commissioner, and on every Vacancy in like Manner to appoint some other Surveyor as often as there shall be Occasion: Provided always, that no Person shall act as such Surveyor until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration it shall be lawful for any Commissioner for the Time being, or any Justice of the Peace for the said County, to administer and receive; and the said Declaration, so made and subscribed, shall be annexed to and deposited with the Award of the Commisisoner.

Surveyor to make a Declaration.

Appointment of Clerk.

VII. And be it enacted, That it shall be lawful for the said Commissioner to appoint a Clerk to assist him in carrying this Act into execution, and from Time to Time to remove such Clerk, and to appoint another in his Stead.

No Party interested to be a Commissioner, &c.

VIII. And be it enacted, That no Person shall be appointed or shall act as a Commissioner or Surveyor in the Execution of this Act who shall be interested in the Lands to be inclosed, or who shall be the Agent ordinarily intrusted with the Care, Superintendence, or Management of the Estate of any Person so interested.

Allowances to Commissioner and Clerk.

IX. And be it enacted, That the said Commissioner and the said Clerk shall be paid respectively out of "The Inclosure Expences Fund," for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act, the Sum of Three Pounds and Three Shillings for each Day they shall respectively be engaged

engaged as aforesaid for the first Three Years after the passing of this Act, and Two Pounds and Two Shillings *per* Day afterwards; and such Payment shall be in full Satisfaction to the said Commissioner and Clerk respectively for their Time and Trouble, and for the several Expences incurred by them during their several Journeys and Attendances in the Execution of this Act, except the Expences for the Use of Rooms for Sittings and Attendances, and the Expence of Appeals or other legal Proceedings against the said Commissioner, and the Costs, Charges, and Expences of Notices and Advertisements, and of preparing, copying, proclaiming, and depositing the Award, and other like necessary Costs, Charges, and Expences in carrying this Act into execution: Provided always, that it shall not be lawful for the said Commissioner to retain or pay himself or the said Clerk any Money on account of the before-mentioned Allowances respectively beyond One Third of the Allowance to which they shall be respectively entitled, until after the Expiration of Six Calendar Months from the Day of the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or Clerk previous to the Execution of the said Award, the Commissioner for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts herein directed to be made and stated, pay to the Executors or Administrators of the deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due thereon.

Length of Day for estimating Allowances.

X. And be it enacted, That in computing the aforesaid Allowance to the said Commissioner and Clerk a Day shall be deemed to consist of Eight Hours during the Period between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and Six Hours during the Period between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*; and where the Time occupied in going to and attending at and returning from any Sittings to be holden or on other Business to be transacted under the Provisions of this Act shall be of less Duration than Eight Hours in the first of the Periods aforesaid, or of Six Hours in the second Period, the same shall be charged as only Half a Day, and the said Commissioner and Clerk shall be paid accordingly.

Meetings, and Notices thereof.

XI. And be it enacted, That the said Commissioner shall cause Notice to be given, by Advertisement, or on the Church Door of *Elsing* aforesaid, of the Time and Place when and where his first and every subsequent Sitting shall be held (Sittings by Adjournment only excepted), and he may from Time to Time adjourn any such Sittings as he shall see Occasion; and if at the Time and Place appointed for any such Sitting the Commissioner shall not attend it shall be lawful for his Clerk to adjourn such Sitting for not more than Twenty-one Days, to be held at the same Place, giving timely Notice thereof to the Commissioner: Provided always, that all the Sittings of the Commissioner for executing this Act shall be held within the said Parish, or within Eight Miles thereof.

XII. And

Notices how to be given.

XII. And be it enacted, That all Notices by this Act directed to be given by Advertisement shall be given by Advertisement to be inserted in the *Norwich Mercury*, or in some other Newspaper printed or usually circulated in the said County of *Norfolk*, and all Notices directed to be given on the Church Door shall be by Writing under the Hand of the Party giving such Notice, or of his Solicitor or Agent, to be affixed on the principal outer Door of the Parish Church of *Elsing* aforesaid on *Sunday* before Divine Service; and all Notices necessary to be given by the Commissioner or his Clerk, the Mode of giving which is not hereby particularly directed, shall be by one of the Methods aforesaid; and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate, any thing in the said first-recited Act to the contrary notwithstanding.

What shall be a Refusal to act.

XIII. And be it enacted, That if the said Commissioner shall not attend the First or Second Sitting appointed to be held for putting this Act into execution, and to qualify himself by making the Declaration in that Behalf prescribed, or if he shall at any Time, after having qualified himself as aforesaid, wilfully absent himself from any Two successive Sittings appointed by him for an Attendance as a Commissioner for the Purposes of this Act, not being prevented by Sickness or other reasonable Cause, or if any Commissioner to be hereafter elected or appointed as aforesaid shall not attend and qualify himself at the First or Second Sittings to be held after his Appointment, or shall, after having qualified himself as aforesaid, wilfully absent himself in manner aforesaid after such Notice, and without Cause of Excuse as aforesaid, every such Absence or Non-attendance shall be deemed to be a Refusal to act.

Persons summoned by the Commissioner and refusing to give Evidence to be punished.

XIV. And be it enacted, That if any Person, having been summoned to testify the Truth upon Oath touching any Matter relating to the Execution of this Act, and having been paid or tendered a sufficient Sum of Money, to be fixed or ascertained by the said Commissioner, to defray the Charges of his Attendance, shall not appear before the said Commissioner pursuant to such Summons (without assigning some reasonable Excuse, to be allowed by the Commissioner, for not appearing), or appearing shall refuse to be sworn or to give Evidence touching the Premises, it shall be lawful for the said Commissioner, upon Proof of such Summons and Tender made before him upon Oath (which Oath he may administer), by Warrant directed to any Person whomsoever, to cause any Sum of Money not exceeding Ten Pounds to be levied by Distress upon the Person so neglecting or refusing to appear or give Evidence; and the Money so to be levied as aforesaid shall be considered as Part of the "Inclosure Expences Fund," and shall be applied towards defraying the Costs and Expences of obtaining this Act, and carrying the said recited Acts and this Act into execution.

For regulating Distresses.

XV. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, shall be directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to

to pay the same; and the surplus Monies arising from such Sale, after satisfying such Sum of Money, and the Costs and Expences attending the Distress and Sale, shall, on Demand, be returned to the Party whose Goods and Chattels shall have been so distrained.

Proceedings to be entered in a Book.

XVI. And be it enacted, That all the Orders, Proceedings, and Determinations of the Commissioner at any Sitting to be held in pursuance of this Act shall be entered in a Book to be provided for that Purpose, and shall be signed by the Commissioner or Clerk, and being so signed shall be deemed to be Originals; and all such Books shall be deposited with and kept by the Clerk to the Commissioner, and may be read as Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any thing done in relation to this Act.

Proprietors to pay their own Expences at Sittings.

XVII. Provided always, and be it enacted, That the several Persons interested in the said Inclosure, and their respective Agents, shall pay their own Expences whenever they shall attend any of the Sittings to be held in pursuance of this Act.

Debts to be paid and Accounts to be audited.

XVIII. And be it enacted, That the Commissioner shall not at any Time permit any just Claim or Demand upon him as such Commissioner to remain unpaid for a longer Period than Three Months; and, once at least in every Twelve Calendar Months during the Execution of this Act, and until the Account of the Commissioner shall be finally allowed, (the first of such Periods to be computed from the Day of the passing thereof,) the said Commissioner shall and he is hereby required to make a true and just Statement and Account of all Sums of Money by him received and expended or applied in the Execution of this Act, and of all Sums due to him for his own Trouble or Expences; and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before One or more of Her Majesty's Justices of the Peace for the County of *Norfolk*, not interested in the Premises, to be by him examined and balanced.

Accounts to be published.

XIX. And be it enacted, That the Balance of such Account shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the Commissioner; and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be inserted in some Newspaper printed or usually circulated within the said County; and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by such Justice or Justices, nor until such Abstract thereof shall have been published in some such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

For shortening Boundaries.

XX. And be it enacted, That for the Purpose of shortening or rendering straight any Boundary Drains and Fences between the Lands

Lands to be inclosed and the old inclosed Lands in the said Parish, or between such Lands to be inclosed and old inclosed Lands, or any of them, and any Lands in any Parish or Parishes adjoining thereto, it shall be lawful for the said Commissioner (with the Consent of the Owners of the Land in any such adjoining Parish or Parishes, or of the Lord or Lady of the Manor in which such Land is situate, in case the same be a Common or Waste Ground, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate,) to set out and determine the Boundaries between the Lands to be inclosed and any adjoining Lands lying in the same or in any adjoining Parish or Parishes, as he shall judge proper for the Purposes aforesaid; and after such Boundaries shall have been so set out and determined as aforesaid the same shall be made, fenced, ditched, or mounded by such Person, in such Manner, and at such Times as the said Commissioner shall direct, and shall for ever thereafter be deemed the Boundaries between the allotted and the old inclosed Lands respectively, or (as the Case may be) between the allotted or old inclosed Lands and such adjoining Lands lying in the same or in any adjoining Parish or Parishes.

Commissioner to set out Drains, and enlarge and turn Watercourses.

XXI. And be it enacted, That it shall be lawful for the said Commissioner to set out and make such Common Ponds, Drains, Ditches, Watercourses, Tunnels, Banks, and Bridges, of such Extent and Form, and in such Situations, as he shall deem necessary, in the Lands to be inclosed, and also to enlarge, cleanse, or alter the Course of, and improve, any of the present Rivulets, Brooks, Streams, Drains, Ditches, or Watercourses, Tunnels, Banks, or Bridges, as well in and over the same Lands, as also in any ancient Inclosures or other Lands within the said Parish, as the said Commissioner shall deem necessary (making such Satisfaction to the Proprietors of such ancient Inclosures or Lands for the Damage done thereby as the said Commissioner shall think just); and the Amount of any such Satisfaction, and also the Expences of making and enlarging, altering and cleansing, such Rivulets, Brooks, Streams, Drains, Ditches, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first done in pursuance of this Act, if not otherwise provided for, shall be raised and paid by the said Commissioner in the same Manner as the other Expences of carrying this Act into execution, but all such Rivulets, Brooks, Streams, Drains, Ditches, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Persons and in such Manner as the said Commissioner shall by his Award direct; provided that no Rivulet, Brook, Stream, or Watercourse be diverted or turned without the Consent in Writing of the Persons from whose Lands the same may be diverted, and of the Persons into whose Lands the same may be turned, or to the Prejudice of any Person interested in such Rivulet, Brook, Stream, or Watercourse, except with his Consent in Writing.

Power to widen Roads, making Compensation to

XXII. And be it enacted, That it shall be lawful for the said Commissioner to widen any of the public Roads or Highways, where he shall think it necessary, within the said Parish of *Elsing*, to any Extent

Land Owners.

Extent he shall think fit, not exceeding Forty Feet, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands adjoining such Roads (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any Dwelling House, other than a Cottage), the said Commissioner making a full Compensation for the Value of the Land so taken, either by allotting and awarding unto the Persons from whom any such inclosed Land shall be so taken an adequate Part of the Lands to be inclosed, or out of the "Inclosure Expences Fund," and also making good and substantial Fences on each Side of all such widened public Roads and Highways in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to stop up or divert Roads, &c.

XXIII. And be it enacted, That in setting out the several public Carriage Roads, Highways, Bridle Roads, and Footpaths, in pursuance of this Act or of the said first-recited Act, the said Commissioner may, if he think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the County of *Norfolk*, discontinue, stop up, divert, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footpaths passing through any of the Lands to be inclosed, or any of the old Inclosures within the said Parish; and the Soil of the Roads and Ways so to be discontinued and stopped up shall be deemed and taken to be Part of the Lands to be inclosed by virtue of this Act: Provided always, that nothing herein contained shall authorize the discontinuing, stopping up, diverting, or altering of any Turnpike Road leading through the said Parish of *Elsing*, unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first obtained.

Proceedings previously to stopping up and diverting Roads, &c.

XXIV. Provided always, and be it enacted, That before any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered by the said Commissioner, or any such Order of Two Justices shall be made, the said Commissioner shall cause to be affixed, at each End of such public Carriage Road, Highway, Bridle Road, or Footpath, a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the Commissioner; and the said Commissioner shall also cause the same Notice to be given by Advertisement for Four successive Weeks, and also on the Church Door on Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so given, and after such Order as herein-before mentioned shall have been made, such public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject, however, to such Appeal as is hereinafter mentioned.

Appeal to the Quarter Sessions.

XXV. Provided also, and be it enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footpath should be discontinued, stopped up, diverted, or altered, as the Case may be, within

within Four Calendar Months after the making of the said Order to make his Complaint thereof by Appeal to the Justices of the Peace at the Quarter Sessions for the said County, upon giving to the said Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been given as aforesaid, nor on any Hearing of Appeal to go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of Appeal, Jury at Sessions to determine whether the Roads, &c. shall be discontinued.

XXVI. And be it enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether such public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be thereby injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath is unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such Appeal, and shall award the Costs of resisting the said Appeal to be paid by the Appellant to the said Commissioner, and the same shall be recoverable in the same Manner as any Penalties and Forfeitures are recoverable under the said first-recited Act; but if the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath is not unnecessary, or that the same could not beneficially to the Public be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court shall allow such Appeal, and such public Carriage Road, Highway, Bridle Road, or Footpath shall not be discontinued, stopped up, diverted, or altered; or in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring the same to its original State, and shall award to the Appellant the Costs of prosecuting such Appeal; and such Costs shall be paid by the said Commissioner out of the "Inclosure Expences Fund," and be deemed Part of the Expences of carrying this Act into execution.

Expences of discontinuing or widening Roads.

XXVII. And be it enacted, That the Charges and Expences attending the widening, or the stopping up, discontinuing, diverting, and altering of any Roads shall be paid out of the "Inclosure Expences Fund," and be deemed Part of the Expences of carrying this Act into execution.

Justices may declare any of the Carriage Roads completed.

XXVIII. And be it enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the said County of *Norfolk* shall certify any of the public Carriage Roads to be set out in pursuance of this Act to be sufficiently formed and completed, such Roads shall thenceforth be kept in repair by such Persons and in

in such Manner as the public Roads within the said Parish are or ought by Law to be kept in repair; and every such Certificate shall, at the Quarter Sessions of the Peace to be holden for the said County next after the Date thereof, be delivered to the Clerk of the Peace for the said County, or his Deputy, and shall be filed of Record at such Sessions.

Commissioner to appoint private Roads;

XXIX. And be it enacted, That the said Commissioner shall set out such private Roads, Bridleways, and Footpaths through the Lands to be inclosed as he shall think requisite, giving such Notice, and subject to such Examination, as is required by the said first-recited Act in the case of public Roads; and any Expences which the said Commissioner may think fit to incur prior to the Time of making his Award relative to the setting out or the Formation or Completion of such private Roads, Bridleways, and Footpaths, or any of them, shall be paid out of the "Inclosure Expences Fund," and be deemed Part of the Expences of carrying this Act into execution; and the said private Roads, Bridleways, and Footpaths shall thenafter be maintained and kept in repair by and at the Expence of the Owners and Proprietors for the Time being of any of the Lands within the said Parish, in such Shares and Proportions and in such Manner as the said Commissioner shall by his Award direct.

and allot the Herbage of such Roads.

XXX. And be it enacted, That the said Commissioner shall by his Award order the Grass and Herbage growing upon the private Roads to be set out by him by virtue of this Act to be for ever thereafter for the Use of such Persons as he shall in his Judgment think best entitled to the same.

To prevent cutting Turf, Flags, &c.

XXXI. And be it enacted, That if any Person or Persons shall, after Notice given by the said Commissioner of the Enactment contained in this Clause, cut, dig, pare, grave, flay, or carry away any Turfs, Flags, Whins, or Furze in or from the said Lands to be inclosed, or any Part thereof, without the Licence of the said Commissioner first obtained in Writing for that Purpose (which Licence the said Commissioner is hereby empowered to grant under such Rules and Regulations as he shall think proper to insert therein), he shall forfeit for every such Offence any Sum not exceeding Forty Shillings; and every such Sum shall be applied towards defraying the Inclosure Expences.

Commissioner empowered to suspend or extinguish Rights of Common.

XXXII. And be it enacted, That it shall be lawful for the said Commissioner, at such Time as he shall think proper, and before the Execution of his Award, by Notice on the Church Door, to order all or any Part of the Rights of Common or other Rights in or over the Lands to be inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended during such Time as shall be expressed in such Notice; and from the Time mentioned in such Notice such Rights shall be extinguished or suspended accordingly.

XXXIII. And

Cattle depasturing in breach of the Commissioner's Order to be distrained.

XXXIII. And be it enacted, That if, during the Suspension or after the Extinguishment of any such Rights of Common or other Rights as aforesaid, any Owner or Occupier of Land, or of any Commonable Messuage or Cottage, or the Site of any Commonable Messuage or Cottage, within the said Parish, or any other Person, shall permit his Cattle or Sheep to go or depasture upon any of the Lands over which such Rights shall be suspended or extinguished, it shall be lawful for the said Commissioner, or any other Person by his Order (testified in Writing under his Hand), and also for any other of the said Owners or Occupiers, to distrain such Cattle or Sheep being upon such Lands or Grounds contrary to such Order, and to impound the same until the Person so offending shall pay the Person so distraining such Sum of Money as the said Commissioner shall, by Writing under his Hand, to be delivered to or left at the Place of Abode of the Person whose Cattle or Sheep shall be so distrained, have previously ordered, not exceeding Ten Shillings for each Head of Cattle and Five Shillings for each Sheep so distrained; and in case the same shall not be paid within Seven Days after the Delivery of such Writing, the said Commissioner is hereby authorized, upon Proof of such Offence having been committed, and of Nonpayment of the Penalty hereby imposed, to cause the Cattle or Sheep so distrained or impounded, or such of them as he shall think necessary, or any other Goods or Chattels of the Person so offending, to be sold for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress, rendering the Surplus (if any) to the Owner of such Cattle or Sheep.

Commissioner to direct the Course of Husbandry.

XXXIV. And be it enacted, That it shall be lawful for the said Commissioner, as soon after the passing of this Act as conveniently may be, and from Time to Time as he shall think fit, by Notice in Writing under his Hand to be affixed on the Church Door, to direct the Course of Husbandry and the Stint or Rule of Stocking to be observed upon the Lands to be inclosed, until the Time when he shall have completed the Division, Allotment, and Inclosure thereof, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking and feeding of the Commonable Lands and Fallows or Stubbles upon the same, and to make such Recompence as he shall think right to any Person injured by such Directions, and shall and may make such further Orders and Regulations as to him shall seem expedient touching the Mode and Course of Husbandry and Management to be adopted and observed by the Farmers and Occupiers within the said Parish of *Elsing*, for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking, any of the said Lands to be inclosed, until the said Division, Allotment, and Inclosure shall be completed; and the said Commissioner shall impose such pecuniary Penalties on every Person not conforming to such Directions as he shall think necessary, not exceeding the Sum of Five Pounds *per* Acre, and so in proportion for a greater or less Quantity, in case of cross-cropping or withholding from the Land its due Portion of Manure, or Ten Pounds in any other Case, for any One Offence, and shall also determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the

Lands

Lands in his Occupation, by whom and in what Sum of Money such Tenant shall be compensated for any such Manure left or given up by him; and such Penalties and other Sums of Money shall be recovered in the Manner directed by the said first-recited Act with respect to the levying and recovering of Penalties.

Satisfaction to be made for growing Crops.

XXXV. And be it enacted, That the said Commissioner shall by Writing under his Hand order what Recompence in Money shall be made to the Owner of any Crops growing, according to the customary Mode of Cultivation within the said Parish, upon the Lands to be inclosed or exchanged, at the Time such Division, Allotment, and Inclosure shall be made, for the said Crops, by the Person to whom the Lands upon which such Crops are growing shall be allotted, and also what Recompence in Money shall be paid, and by whom, to any Tenant or Occupier of any Land, as well for ploughing, tilling, cultivating, manuring, or folding any of the Lands to be inclosed or exchanged, for the Benefit accruing thereby to the Person to whom such Lands shall be allotted, as for any Loss or Disadvantage which any such Tenant or Occupier may sustain by the Loss of his following or way-going Crops upon the Lands to be inclosed or exchanged; and if in any of the said Cases the Money to be paid for such Recompence be not paid at the Time and in the Manner ordered by the said Commissioner, he shall raise and levy the same on the Party liable thereto, for the Use of the Party entitled thereto, by such Ways and Means as the Rates hereby authorized to be made for defraying any Deficiency, if any, of the Monies to be raised by the said Commissioner, by Sale of Lands for raising and paying the Inclosure Expences, are herein directed to be raised and levied.

Claims to be delivered to the Commissioner.

XXXVI. And be it enacted, That all Persons claiming any Interest in any of the Lands to be inclosed shall deliver their respective Claims, in Writing under their Hands, or the Hands of their Agents, unto the said Commissioner, at the Sitting to be held for that Purpose, stating the several Particulars in respect whereof such Claims are made, and distinguishing Freehold, Copyhold, and Leasehold Property from each other, and the Manors, if any, of which such Property is holden; and no Claim shall be received by the said Commissioner after the last Sitting to be held for that Purpose, of which due Notice shall have been given, and so expressed therein, except for some special Cause to be allowed by the said Commissioner.

Adjudication upon Claims.

XXXVII. And be it enacted, That after the said Claims shall be so received the said Commissioner shall cause Notice, by Writing under his Hand, to be affixed on the Church Door, to be given of a Time, at least Ten Days distant, and a Place, for all Parties concerned to appear before him, and show Cause for or against the Allowance or Disallowance of the said Claims; and at such Sitting the said Commissioner shall proceed to examine into and determine the same, and shall make such Order therein as to him shall appear just; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Differences shall happen between any of the

said Proprietors touching their respective Rights or Claims, or touching the respective Shares which they ought to have in the Allotments, the said Commissioner shall, by Examination of Witnesses upon Oath (which Oath the said Commissioner is hereby empowered to administer), and by such other Evidence as to him shall seem proper, hear and determine the same, and shall make such Order therein as to the said Commissioner shall appear just; which Order shall be final, unless any Party shall be dissatisfied with the Determination of the said Commissioner, and shall proceed to try his Rights by an Issue at Law as herein-after mentioned.

Commissioner not to determine Titles contrary to Possession.

XXXVIII. And be it enacted, That this Act shall not authorize the said Commissioner to determine the Title to any Lands, or to determine any Right between any Parties, contrary to the actual Possession of such Parties (except in respect of Encroachments as herein-after mentioned), but in case the said Commissioner shall be of opinion against the Rights of the Party in Possession he shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or recovered from him by due Course of Law.

Parties dissatisfied authorized to try their Rights at Law.

XXXIX. And be it enacted, That if any Person claiming to be interested in the said intended Division and Allotments or Inclosure shall be dissatisfied with any Determination of the said Commissioner concerning any Claim or any Right or Interest in or to the Lands to be inclosed, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action in one of Her Majesty's Courts of Record at *Westminster*, upon a feigned Issue, against the Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioner shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent; and thereupon the Person so dissatisfied may proceed to a Trial at Law of the Matter so determined by the said Commissioner at the then next Assizes, or at the Assizes immediately following such next Assizes, which may be holden for the said County of *Norfolk* after such Action shall have been commenced; and the Defendant in such Action shall, upon being served with the usual Process therein, appear and plead thereto, or file common Bail, and accept One or more Issue or Issues, whereby such Claim, and the Right and Interest thereby insisted on, may be tried and determined (such Issues to be settled by the proper Officer of the Court in which such Action shall be commenced, in case the Parties differ); and the Verdict given upon the Trial of such Action shall be binding and conclusive upon all Parties thereto, unless the Court shall set aside such Verdict, and order a new Trial to be had; and after such Verdict shall be given, and final Judgment obtained thereon, the said Commissioner shall act in conformity thereto, and allow or disallow the Claim thereby determined, according to the Event of such Trial; and the Costs attending any such Actions shall abide the Event of the Trial.

If no Action within Time limited, Determination of Commissioner final.

XL. Provided always, and be it enacted, That if no such Action shall be commenced, or if the Plaintiff therein shall not proceed to Trial, within the Time herein-before limited for that Purpose, (unless the Court for sufficient Cause put off such Trial,) the Determination of the said Commissioner shall be final.

Deaths of Parties not to abate Proceedings.

XLI. And be it enacted, That if any Person, Plaintiff or Defendant in any Action to be brought as aforesaid, shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened (the Heir or Devisee or other Person entitled to the Interest of the deceased Party in the Matter in question being served with Process in the Action); and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before Action brought, and before the Expiration of the Time herein limited for bringing such Action, it shall be lawful for the Person who might have brought such Action against the Person so dying to bring the same, within the Time so limited as aforesaid, against such Person as if actually living, and to serve the said Commissioner or his Clerk with the usual Process for commencing such Action, in the same Manner as the deceased Person might have been served therewith if living; and it shall thereupon be incumbent on such Clerk to serve with such Process the Heir or Devisee or personal Representative of the deceased Person, or other the Person who shall claim the Benefit of such Determination as aforesaid; and on such Process being served such Heir or Devisee or personal Representative, or other Person, shall appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had thereon in the same Manner as if such Person had been living; and the Rights, Interests, and Claims of all Parties shall be equally bound by the Event of any Action so brought or continued as aforesaid, as if the Death of any of the Persons interested therein had not occurred.

If Parties die before Inclosure is completed, Allotments to be made to their Representatives.

XLII. And be it enacted, That if any Person interested in the said Inclosure shall die before the same shall have been completed, the Powers and Authorities hereby vested in the said Commissioner shall not be thereby determined or suspended, but he shall proceed in the Execution of such Powers and Authorities in such Manner as he might have done in case such Person had not died; and the Share of the Person so dying shall be allotted to such Person as by Law shall become entitled to the same, and shall be accepted by such Party according to the Directions of this Act, and he shall be liable to the Charges and Expences and other Conditions of this Act.

Commissioner to award Costs.

XLIII. And be it enacted, That in case the said Commissioner, upon the Determination of any Claim or Objection to be delivered to him in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for him, upon Application, to assess and award such Costs as he shall think reasonable, to be paid, by the Person whose Claim or Objection shall have been disallowed, to the Person in whose Favour any Determination shall have been made; and in

case any Person liable to pay such Costs shall refuse or neglect to pay the same, upon Demand, the said Commissioner shall, by Warrant directed to any Person whomsoever, cause the same to be levied by Distress; and if there be no Goods or Chattels whereon to levy such Costs, it shall be lawful for the Person in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Leases at Rack Rent to be void.

XLIV. And be it enacted, That immediately after the Allotments herein directed to be made shall have been marked and staked out, and the Commissioner shall have directed the same to be entered upon by the Persons respectively for whom the same shall be intended, every Lease and other Agreement or Holding at Rack Rent subsisting of all or any Part of the Lands to be inclosed for any Term of Years not exceeding Twenty-one Years, or from Year to Year, (except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure,) shall determine and be void as to all such Lands, but not as to any other Lands comprised therein, such Compensation as between Lessor and Lessee being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated, either by Payment of a Sum in gross, or by a Reduction of Rent, as the Commissioner shall, by Writing under his Hand, order in that Behalf; and if any such gross Sum for Compensation shall not be paid to the Party entitled to receive the same, within One Month after Demand made in Writing under the Hand or Common Seal (as the Case may require) of the Party to whom the same shall be payable, the Commissioner shall raise and levy the same, for the Use of the Party entitled thereto, by such Ways and Means as the Rates hereby authorized to be made for defraying any Deficiency (if any) of the Monies to be raised by the said Commissioner by Sale of Lands for paying the Inclosure Expences are herein directed to be raised and levied; and it shall be lawful for the Commissioner, by Writing under his Hand, to ascertain and direct what Rent or Proportion of Rent shall be paid by the several Tenants of the Lands to be inclosed, for the Lands comprised in their respective Holdings, to their respective Landlords, from or after the Time of passing this Act, until such Lands shall be marked and staked out, and be directed to be entered upon as aforesaid.

Beneficjal Leases not to be vacated.

XLV. Provided always, and be it enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease, other than a Lease at Rack Rent, of any Lands within the said Parish, but the Party entitled to such beneficial Lease shall be entitled to hold and enjoy his Term under the Rents and Covenants specified in his Lease.

Wills and Settlements not to be affected.

XLVI. Provided also, and be it enacted, That nothing in this Act contained shall extend to revoke, make void, or alter any Will or Settlement,

Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance out of or affecting any of the Lands to be inclosed, or any of the Lands which may be exchanged or parted with, in pursuance of this Act, but that as well the Lands allotted and exchanged, as the Lands which shall be assigned in Partition or in Compensation for any other Estate or Right, by virtue of this Act, shall, immediately after such Allotment, Exchange, or Partition, be and enure, and the several Persons to whom the same shall be so allotted or given in Exchange or Partition as aforesaid shall be seised and possessed thereof respectively, to, for, and upon the same Estates, Uses, Trusts, Intents, and Purposes, and subject to the same Conditions, Charges, Rates, Taxes, Outgoings, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Partition shall have been made would have stood limited for or been subject to in case the same respectively had not been allotted, exchanged, or parted with as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

Parties may sell their Common Rights, and Persons entitled to have Allotments may mortgage, &c. before Execution of the Award.

XLVII. And be it enacted, That if at any Time before the Execution of the Award of the Commissioner any Person shall sell his Right or Interest in the Lands to be inclosed, or any Part thereof, to any Person, the Commissioner shall, upon receiving Notice of any such Sale, make an Allotment of Land to the Purchaser, or to his Heirs or Assigns, in respect of the Right or Interest so sold; and every such Purchaser, or his Heirs or Assigns, shall, from the Execution of the said Award, hold and enjoy the Land so to be allotted to him, in the same Manner as the Vendor might or ought to have done in case such Sale had not been made; and it shall be lawful for any Person who shall be entitled to any Allotment under this Act to devise, grant, surrender, mortgage, or otherwise convey and assure the same Allotment, or all or any Part of his Interest therein, at any Time before the Execution of the said Award; and every such Devise, Grant, Surrender, and other Assurance shall be of the same Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment to sell, dispose of, and convey the Estate in right of which he may be entitled to such Allotment, separate from and retaining to himself such Allotment, Common Right, and Interest, and the Commissioner is hereby required to award such Allotment accordingly.

Encroachments.

XLVIII. And be it enacted, That all Encroachments and Inclosures which shall have been made by any Person within Twenty Years next before the passing of this Act, upon and from the Commons and Waste Grounds by this Act directed to be divided, allotted, and inclosed, without the Licence, Consent, or Grant of or from the Lord or Lady of the said Manor of *Elsing* with the Members, entered or enrolled in the Court Books of the said Manor, shall be deemed Parcel of the Lands to be inclosed, and shall be divided, allotted, and inclosed accordingly.

XLIX. And

Allotment of old Inclosures with Consent of Proprietors.

XLIX. And be it enacted, That it shall be lawful for the Commissioner, with the Consent in Writing and at the Request of any Owner or Proprietor of any Houses, Homesteads, Gardens, Orchards, or old inclosed Lands within the said Parish of *Elsing*, whether such Owner or Proprietor shall be a Corporation, Donee of a Power for Sale, Trustee for Sale, or a legal or equitable Tenant in Fee Simple or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or a Tenant for Years determinable on any Life or Lives, with the Consent of the Lessor of any such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands holden for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardian, Trustee, Feoffee for charitable or other Uses, Husband, Committee, or Attorney of or acting for any such Owner or Proprietor as aforesaid who shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, (such Consent to be respectively testified, in case of a Corporation, by Writing under their Common Seal, or by Writing under the Hand of the Agent of such Corporation, and in case of an Individual under his Hand,) to order, consider, and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable, and Parcel of the Lands hereby directed and authorized to be divided, allotted, and inclosed, and to divide and allot the same accordingly; and such Allowance shall be made to the Owners or Proprietors of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands, on account of the Situation or other beneficial Circumstance thereof, as the Commissioner shall adjudge to be just and reasonable; and he shall allot and award unto such Owners and Proprietors so much and such Part of the Lands to be inclosed, or which may become allottable by virtue of this present Clause, as he shall think reasonable and just.

Insulated old Inclosures to be deemed allottable Lands.

L. And be it enacted, That all inclosed Lands within the said Parish, whether lying in single Pieces or in several adjoining Pieces, which are surrounded by Open Field Land, and thereby placed in an insulated Situation, shall be deemed Part of the Lands to be inclosed.

Land to be set out and sold for defraying the Expences of this Act.

LI. And be it enacted, That the Commissioner shall, in the first place, set out and allot such Part or Parts of the said Lands and Grounds to be inclosed as in his Judgment will be necessary to be sold, in order by Sale thereof to raise a sufficient Sum of Money for paying the Inclosure Expences; (that is to say,) the Costs and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the Commissioner and Clerk for Expences, Time, and Trouble, and the Costs and Expences of preparing and depositing the Award of the Commissioner, and all Costs and Expences that the Commissioner shall be put unto in respect of any Appeal against his Decision, or of any Suit at Law or in Equity that may be instituted by or against him as Commissioner in the Execution of this Act, either before or after the Execution of the said Award, and all other Costs and Expences whatsoever of carrying this

this Act into execution; and when the same shall be so set out or allotted then it shall be lawful for the Commissioner and he is hereby directed to sell the same Lands and Grounds, by public Auction or private Contract, to any Person, for the best Price that can be reasonably had for the same, either in One Lot or more Lots; and the Purchaser thereof shall at the Time of such Sale pay into the Hands of the said Commissioner, or to such Person as he shall appoint, a Deposit of One Seventh Part at the least on his Purchase Money, and the Remainder of the Purchase Money shall be paid to the said Commissioner, or as he shall direct or appoint, within Three Calendar Months next after such Sale; and in default of such Payment the Money deposited as aforesaid shall be forfeited, and shall be applied towards carrying this Act into execution, and the said Lands or Allotments shall again be put up to Sale in manner aforesaid.

The Receipt of the Commissioner to be a full Discharge.

LII. And be it enacted, That the Receipt to be given by the said Commissioner to the Purchaser, for all or any Part of his Purchase Money, shall be a full and complete Discharge to him for the Sum of Money therein acknowledged or expressed to have been received; and such Purchaser shall not afterwards be obliged to see to the Application of such Purchase Money, or any Part thereof, or be answerable or accountable for the Loss, Misapplication, or Non-application thereof, or any Part thereof.

The Commissioner to convey, &c.

LIII. And be it enacted, That the said Commissioner shall, by an Indenture of Grant, or by Indentures of Lease and Release, to be made and executed by him at the Costs and Charges of the said Purchaser, convey and assure the Lands or Allotments so to be sold as Freehold of Inheritance unto and to the Use of such Purchaser as aforesaid, his Heirs and Assigns for ever, or to such Use or Uses as he shall direct; and the Conveyance and Assurance so to be made of the Lands or Allotments so sold shall be effectual in Law to all Intents and Purposes whatsoever.

Application of Purchase Money.

LIV. And be it enacted, That the Money arising from such Sale or Sales shall be applied by the said Commissioner in defraying the Expences of such Sales, and other the Inclosure Expences; and in case any Surplus thereof, not exceeding One hundred Pounds, shall remain after Payment of such Expences, then and in such Case such surplus Money shall be applied and appropriated by the said Commissioner in such Way and for such Purpose, for the general Benefit of all Parties interested in the said Inclosure, as the said Commissioner shall in his Judgment think fit; and in case the said Surplus shall exceed One hundred Pounds, then and in such Case the whole of such Surplus shall be divided and apportioned between the several Proprietors and Persons interested in the Lands hereby directed to be divided, allotted, and inclosed, in such Shares as shall be in proportion to their respective Rights and Interests, and in manner directed by this Act in Cases wherein any Money is directed to be paid into the Bank of *England* for the Purchase or Exchange of Lands, Tenements, or Hereditaments to be settled to the same Uses.

Allotment to be set out for Repair of Highways.

LV. And be it enacted, That the Commissioner shall, if he shall see fit, allot to the Surveyor of the Highways for the Time being of the said Parish of *Elsing*, and to his Successors for ever, such Parcels of the Lands to be inclosed as he shall think necessary and most convenient for supplying Stone and other Materials for the Repairs of the several Roads and Ways by this Act authorized to be made, and of the several other Roads and Ways within the said Parish; and such Allotments shall be inclosed and fenced as the Commissioner shall direct, and shall from the Execution of his Award be vested in the Surveyor of the Highways within the said Parish for the Time being, in Trust for the Purposes aforesaid; and the Grass and Herbage of such Allotments shall belong to such Persons as the Commissioner shall by his Award direct, and if he shall make no such Direction then such Surveyor shall from Time to Time let the Herbage for the most Money that can be obtained for the same, and shall apply the Rents and Profits towards the Repairs of the public Roads or Highways within the said Parish; and the said Surveyor shall account for such Rents and Profits in the same Manner as he is by Law accountable for other Monies that shall come to his Hands in the Capacity of Surveyor of the Highways, and shall be subject to the like Penalties for the Neglect thereof.

Allotment to be set out for the Recreation of the neighbouring Population.

LVI. And be it enacted, That the said Commissioner shall, in the next place, allot and award unto the Churchwardens and Overseers for the Time being of the said Parish, in the most appropriate Situation out of any Part of the Lands to be inclosed, One Piece of Land, not less than Two Acres in the whole, as a Place of Exercise and Recreation of the neighbouring Population; and such Allotment shall be held by the Churchwardens and Overseers for the Time being for the Purpose aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Parish.

Allotments to be set out for the Lady of the Manor for Right of Soil.

LVII. And be it enacted, That the said Commissioner shall, in the next place, allot and award unto the Lady for the Time of the said Manor of *Elsing*, with the Members, such Part of the Lands to be inclosed as in the Judgment of the said Commissioner shall be equal in Value to One Eighteenth Part of the Value of the said Commons and Waste Lands which shall remain after the foregoing Allotments shall have been made, which Allotment or Allotments shall be in lieu of and a full Compensation for the Right and Interest of such Lady or such other Person in and to the Soil of the said Commons and Waste Lands, exclusive of any other Allotments which may be made to such Lady in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Lands.

Allotment of Residue.

LVIII. And be it enacted, That after the several Allotments herein-before directed shall have been set out and made, the said Commissioner shall divide, allot, and award all the Remainder of the Lands to be inclosed unto and amongst the several Owners and Proprietors thereof, and Persons who shall be entitled to any Estate, Right, or Interest therein, in such Shares and Proportions as the said Commissioner

Commissioner shall adjudge and determine to be proportionate to the Value of their respective Rights and Interests therein.

Open Fields allottable.

LIX. And be it enacted, That all old Inclosures of Land within the said Parish of *Elsing* in which there are Lands belonging to different Proprietors shall be deemed to be Open Fields, and shall be divided and allotted by the said Commissioner by virtue of or under the Powers and Authorities vested in him by this Act.

Applications for Situations of Allotments.

LX. And be it enacted, That the said Commissioner shall appoint a Sitting for receiving Applications from the several Proprietors of the Lands to be inclosed touching the Situations in which they would respectively choose to have their Allotments set out, and shall give Ten Days Notice of the Time and Place of such Sitting by Advertisement or on the Church Door.

For determining Objections to Allotments.

LXI. And be it enacted, That as soon as the said Commissioner shall have ascertained the respective Rights and Interests of the several Parties interested in the Lands to be inclosed, and also the Allotments by him proposed to be made to such Parties respectively in lieu of such Interest, he shall hold a Sitting, of which Ten Days Notice shall be given by Advertisement or on the Church Door, when such Parties may be informed of the Situation of such intended Allotments, and see the same delineated upon a Map or Plan to be produced for their Inspection; and if any of such Parties upon such Inspection shall be dissatisfied with the proposed Allotments, the said Commissioner shall at such Sitting, or at some other Sitting to be appointed by him for that Purpose, receive Statements in Writing of Complaints and Objections thereto, and shall forthwith, or as soon after as conveniently may be, determine the same; and the Determination of the said Commissioner with respect to such Allotments shall be final and conclusive.

Roads and Allotments to be fenced.

LXII. And be it enacted, That the several public and private Roads to be made or set out in pursuance of this Act and the said recited Acts, or either of them, and also all such Parts of the Roads as shall in pursuance of this Act or the said recited Acts be widened or altered, and also the several Allotments to be made in pursuance of this Act, including the Allotments herein-before directed to be sold by the Commissioner, shall be inclosed, ditched, and fenced by such Person, and within such Time, and in such Manner, as the said Commissioner shall by his Award, or any Writing under his Hand before the Execution of the said Award, order or direct; and the Expences of inclosing, ditching, and fencing the same in the first instance shall be discharged out of the "Inclosure Expences Fund," and be deemed Part of the Expences of carrying this Act into execution; and such Ditches and Fences when made shall for ever thereafter be kept in repair and maintained and cleansed by the Persons for the Time being entitled in Possession to the said Allotments, as the said Commissioner shall by his Award or any other Writing order or direct.

LXIII. And

The Allotments to be of the same Tenure as the Lands in lieu of which they were made.

LXIII. And be it enacted, That all such Lands as shall be given in Exchange or on Partition, or be allotted, by virtue of this Act, shall be held by the Person to whom they shall be given in Exchange or on Partition, or allotted, under the same Tenures, Rents, Customs, and Services, Rates, Taxes, and Outgoings, as the Lands in respect of which such Lands shall be given in Exchange or on Partition, or allotted, would have been held in case this Act had not been passed; and the Lands given in Exchange or on Partition, or allotted, in respect of Freeholds, shall be deemed Freehold; and the Lands given in Exchange or on Partition, or allotted, in respect of Copyhold or Customary Lands, shall be deemed Copyhold or Customary Lands, and shall be held of the Lords of the same Manors, under the same Rents, and by the same Customs and Services, as the Copyhold or Customary Lands in respect of which they may be given in Exchange or on Partition, or allotted, were or ought to have been held, and shall pass by the like Surrenders as the Copyhold or Customary Lands in respect whereof such Exchanges, Partitions, or Allotments shall be made now do; and the Lands given in Exchange or on Partition, or allotted, in respect of Leasehold Lands, shall in like Manner be deemed Leasehold, and shall be held under the same Rents and Covenants as the Lands in respect of which they may be allotted were held, and the Remainder or Reversion thereof shall be vested in the same Lessors respectively as the Remainder or Reversion of such other Lands was vested before the passing of this Act, except where otherwise particularly directed by this Act; any Law or Usage to the contrary notwithstanding.

Admissions to Copyholds.

LXIV. And be it enacted, That the respective Persons to whom any such Copyhold Allotments shall be made shall, within Six Months next after the Execution of the said Award, be admitted Tenant or Tenants to the same, without paying any Fine or other Charge to the Lord or Lady or to the Steward of the Manor or Manors respectively whereof the same shall be holden (save and except for the Stamp Duties and Parchment requisite to be used for the Copies of such Admissions respectively, and such reasonable Fees to the respective Stewards of the said Manors as the said Commissioner in and by his said Award shall think proper to order and direct), but in case any Person or Persons to whom any such Copyhold Allotments shall be made shall not have been before admitted to the same, or to the ancient Copyhold Lands and Tenements for or in respect whereof such Allotment or Allotments shall be made, then the customary Fines, Fees, and other Payments shall be due and payable on the Admission of the Person or Persons who shall have become entitled to such last-mentioned Copyhold Allotments; and the said Commissioner shall and he is hereby required to determine, describe, and abut, in and by his said Award, and in and by the Map or Plan to be thereto annexed, all the Messuages, Lands, Tenements, and Hereditaments in the said Parish of *Elsing* which are to remain or become Copyhold or Leasehold; and all other Messuages, Lands, Tenements, and Hereditaments in the said Parish of *Elsing* (except such as shall be so ascertained by the said Commissioner

Copyholds and Leaseholds to be described in the Award and Map.

missioner in his said Award to be Copyhold or Leasehold as aforesaid) shall, from and after the Execution of the said Award, be deemed, taken, and enjoyed as Freehold Messuages, Lands, Tenements, and Hereditaments respectively, subject nevertheless to such Free Rents and Services, and other Payments, Rates, Taxes, and Outgoings, as are now payable out of or for the said respective Freehold Lands, Tenements, and Hereditaments situate in *Elsing* aforesaid.

Remainder to be Freehold, and subject to former Payments.

LXV. And be it enacted, That when any Person to whom any Allotment shall be made or Lands assigned in Exchange by virtue of this Act shall hold such Lands, or the Lands in respect of which such Allotment or Exchange is made, under different Titles and for different Estates, the Commissioner shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall accordingly in his Award set out distinct and several Allotments for such respective Lands, and also in the said Award, and the Map annexed thereto, set out and distinguish the several Estates holden by several and distinct Titles and for different Estates.

Separate Allotments for Land held by different Titles.

LXVI. And be it enacted, That where the Commissioner shall have omitted to distinguish in his Award the several Tenures under which any of the said Lands shall be holden, or the different Estates or Titles for or under which the same shall be held, or to set out and award several and distinct Allotments, as by this Act directed, it shall be lawful for him, at any Time within Twelve Months after the Execution of his Award, and he is hereby required, upon Request in Writing to him made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if his Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish and set out the Allotments and Lands held by different Tenures, and also the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as he is by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by his Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award; and such Instrument shall be deposited with the Award of the Commissioner, and shall thenceforth be deemed to be Part thereof to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid shall be paid by the Party who shall have requested the Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

Where Allotments are omitted to be distinguished by the Award, the Defect may be remedied by a separate Instrument.

LXVII. And be it enacted, That no Person shall graze or keep any Beast or Cattle upon any of the Roads or Ways which the Commissioner

Cattle not to be depastured in the

missioner shall order to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the Execution of the Award of the said Commissioner; and every Owner of Lands within the said Parish, his Servants and Labourers, and also every Peace Officer and Parish Officer of the said Parish for the Time being, is hereby empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid as Cattle Damage feasant.

Highways for Seven Years.

LXVIII. And be it enacted, That it shall be lawful for the Rector for the Time being of the Parish of *Elsing* aforesaid, by Indenture under his Hand and Seal, with the Consent and Approbation of the Patron of the said Rectory for the Time being, such Consent to be had previous to the Execution of such Indenture by other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part of the Allotment to be made to such Rector in right of his Rectory to any Person whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Months next after the passing of this Act; so that the Rent for the same shall be thereby reserved to the Rector for the Time being by quarterly Payments in every Year; and so that there be thereby also reserved and made payable to such Rector the best and most improved Rent that can be reasonably gotten for the same, without taking any Fine, Foregift, or other Consideration for granting such Lease; and so that no such Lessee be made dispunishable for Waste by any express Words to be contained in such Lease; and so that there be inserted in every such Lease Power of Re-entry on Nonpayment of the Rent within a reasonable Time, to be therein limited, after the same shall become due; and so that a Counterpart of each such Lease be duly executed by the Lessee: Provided always, that whenever any such Lease shall by any Means become forfeited or void, or be surrendered before the Expiration by Effluxion of Time of the Term thereby granted, then, and so often as the same shall happen, it shall be lawful for such Rector for the Time being, with the previous Consent and Approbation of the Bishop of the Diocese, and of the Patron of the said Rectory, to grant a new Lease of the Land so demised for such Term of Years as shall at the Time of such Avoidance be unexpired of the original Term, subject nevertheless to the Provisoes and Conditions contained in the original Lease, and then remaining unperformed and capable of taking effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act, or any Law or Usage, to the contrary notwithstanding.

Power to Rector to lease his Allotment.

LXIX. And be it enacted, That it shall be lawful for the said Commissioner, at any Time before the Execution of his Award, to make any Alterations which he may think right and expedient in the Allotments or in the Fences which he may have set out and ordered, or in the private Roads over such Allotments, or in any of the Orders or Directions relating thereto which he may have made in pursuance of this Act; and in case any Person shall be injured by any such Alteration, on account of any Expences he may

Power for Commissioner to make Alterations in Allotments.

may have incurred or otherwise, the said Commissioner shall ascertain and determine what Recompence shall be made to him for such Injury, and shall either pay the Amount thereof out of the "Inclosure Expences Fund," or shall direct by whom and in what Manner such Recompence shall be made; and in case of Nonpayment thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

Partitions may be made in certain Cases.

LXX. And whereas it may happen that some of the Proprietors of Lands in the said Parish, and Persons entitled to Allotments to be made by virtue of this Act, may be seised or possessed thereof, or entitled thereto, in undivided Moieties, Joint Tenancy, or as Coparceners or Tenants in Common, and cannot, by reason of Infancy, Settlement, Absence beyond the Seas, or other Disability or Incapacity, make an effectual Division thereof; be it therefore enacted, That it shall be lawful for the said Commissioner, upon the Request in Writing of any such Proprietors, being seised or possessed or entitled in undivided Moieties, or as Coparceners, Joint Tenants, or Tenants in Common, or of the Husbands, Guardians, Trustees, Committees, or Attornies, duly authorized, of such of them as may be under Coverture, Minors, Lunatics, or beyond the Seas, or under any other legal Disability or Incapacity, to make Partition and Division of the said Lands or Allotments coming to such of the said Proprietors as shall be so seised or possessed or entitled, and to allot the same to such Owners and Proprietors in Severalty; and immediately after the said Allotments shall be so made and declared the same shall be holden and enjoyed by the Persons to whom the same shall be allotted in Severalty in the same Manner, and subject to the same Uses and Trusts, as the undivided Parts or Shares of such Estates would have been in case such Partition and Division had not been made; and every such Partition shall be specified in the Award of the said Commissioner, or some other Instrument under his Hand and Seal; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Expences of Partitions.

LXXI. And be it enacted, That all Costs and Expences attending any Partition to be made by virtue of this Act shall be borne and defrayed by the several Proprietors of or Persons interested in the Estates which shall be so parted in such Manner and Proportions as the said Commissioner shall order, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power of Exchange.

LXXII. And be it enacted, That it shall be lawful for the said Commissioner to allot and award any Lands within the said Parish of *Elsing* in Exchange for any other Lands within the said Parish, or within any adjoining Parish, Township, or Place, provided that all such Exchanges be specified and declared in the Award of the said Commissioner, and be made with the Consent of the Person claiming before the said Commissioner to be the Owner of the

Lands

Lands so exchanged, whether such Person claiming to be such Owner shall be a Corporation, or a Donee of a Power for Sale, Trustee for Sale, or a legal or equitable Tenant in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or a Tenant for Years determinable on any Lives (with the Consent of the Lessor thereof, but not otherwise), or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Person claiming before the said Commissioner to be such Owner as aforesaid who at the Time of making such Exchange shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and every such Exchange so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands held in right of any Church or Chapel or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands shall be situate: Provided also, that all Costs and Expences attending the making and completing of any Exchanges shall be borne by the several Parties making such Exchanges in such Manner and in such Proportions as the said Commissioner shall by his Award or any other Writing direct, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power to apply Compensation Money coming to Parties under Disability towards Inclosure Expences and substantial Improvements.

LXXIII. And be it enacted, That when any Money is, under the Provisions of the said first-recited Act or of this Act, directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, Donee of a Power for Sale, Trustee for Sale, or a legal or equitable Tenant for Life or in Tail, or to any Feoffee in Trust, Executor or Administrator, Husband, Guardian, Committee, or other Trustee, for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person whose Lands are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, to be settled to the same Uses, it shall be lawful for the said Commissioner, out of such Money, to defray the Proportion (if any) of any Monies to be raised by any Rate hereby authorized to be made for defraying any Part of the Inclosure Expences which shall be charged upon any of the Lands of the respective Parties in possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, or on which such Timber or Wood actually grew, and also to defray the Expence of any permanent Improvement, such as building, subdividing, dividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioner be proper to be made, and shall

shall be made, under his Direction, upon any Lands to be by virtue of this Act allotted to such Parties.

Investment of the Surplus when amounting to 200*l.*

LXXIV. And be it enacted, That if the Surplus of any such Monies shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid unto the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes,* and the General Orders of the said Court, without Fee or Reward; and shall, when so paid in, there remain, until the same shall, by Order of the said Court, made upon a Petition to be preferred to the said Court in a summary Way by the Parties who would have been entitled to the Rents and Profits of the said Lands, be applied to either of the following Purposes; (that is to say,)

1 G. 4. c. 35.

The Redemption or Discharge of the Land Tax, or of any Debt or other Incumbrance affecting other Lands standing settled therewith to the same or the like Uses or Trusts:

The Purchase of other Lands to be conveyed or settled upon the like Uses or Trusts, or such of them as shall be then existing undetermined or capable of taking effect.

Payment of Dividends meanwhile.

LXXV. And be it enacted, That in the meantime and until such Application shall be made the said Money may, by Order of the said Court, to be made upon the like Petition, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or of other Government or Real Securities; and the Dividends or Interest of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so to be purchased, conveyed, and settled.

When less than 200*l.* and amounting to 20*l.*

LXXVI. And be it enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees, in Cases of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Commissioner, to be signified in Writing under his Hand, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like

like Approbation, to Two Trustees, to be nominated by the Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the said Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands or Common Seal (as the Case may be) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England*, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

LXXVII. And be it enacted, That in case the Surplus of such Monies shall be less than Twenty Pounds the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, for the Use and Benefit of the Parties respectively entitled thereto.

In case the Money raised by the Sale of Lands is not sufficient to defray the Expences of the Act, the Deficiency to be raised by Rate.

LXXVIII. Provided always, and be it enacted, That if it shall appear to the said Commissioner, either before or after the Execution of his Award, that the Money raised or to be raised and received by or from the Sale of the Lands hereby directed to be sold by him as aforesaid for paying and discharging the Inclosure Expences shall not be sufficient to pay and discharge the whole of the Inclosure Expences, the Deficiency shall be made up and raised from Time to Time by a Rate or Rates to be made by the said Commissioner, and levied upon the several Persons to whom any Allotment or Allotments shall be made by virtue of this Act, (save and except the Purchaser and Purchasers of the Land directed to be sold as aforesaid, and save and except the Rector of the said Rectory for the Time being in respect of any Allotment which shall be made to him in respect of the said Rectory, and the Surveyor of the Highways, and the Churchwardens and Overseers within the said Parish of *Elsing* for the Time being, for and in respect of the Allotments to be made to the said Rector, and the Allotments herein-before directed to be made to the said Surveyor and the said Churchwardens and Overseers as aforesaid,) in such Shares and Proportions, and shall be paid at such Time and Place, and to such Persons, as the said Commissioner shall order or appoint, either by Notice under his Hand, to be affixed on the Church Door of *Elsing* aforesaid, or delivered to or left at the last known usual Place of Abode in *England* of the respective Persons liable to the Payment of any Share or Proportion of such Deficiency, at least Fourteen Days before the Time appointed in such Notice for such Payment.

Remedies in Case of Non-payment of Expences.

LXXIX. And be it enacted, That if any Person shall refuse or neglect to pay his Share or Proportion of the Inclosure Expences as last aforesaid within the Time, at such Place, and to such Person as the said Commissioner shall appoint, it shall be lawful for the said Commissioner

Commissioner to recover the same, together with lawful Interest, to be computed from the Day on which the same ought to have been paid, by Action at Law in his own Name, in any of Her Majesty's Courts of Record at *Westminster;* or it shall be lawful for him, by Warrant directed to any Person whomsoever, to cause the same, with such Interest thereon as aforesaid, to be levied by Distress, or it shall be lawful for the said Commissioner, or any Person authorized by him, immediately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person, and demise or mortgage the same in such Manner, as the said Commissioner shall think proper, and receive the Rents and Profits thereof, until thereby or otherwise such Share or Proportion, with lawful Interest as aforesaid, and also the Costs and Expences attending such Distress or Entry upon and Receipt of the Rents and Profits of the said Premises, and of such Demise or Mortgage, shall be fully paid and satisfied.

Power for Commissioner to borrow Money.

LXXX. And be it enacted, That if, before the said Monies hereinbefore authorized to be raised by the said Commissioner can be raised and received by him, he shall find it necessary or expedient to obtain by Loan any Money for or towards the defraying the Expences of obtaining and executing this Act, it shall be lawful for him to borrow and take up at Interest such Sums of Money as he shall from Time to Time think necessary for the Purposes aforesaid, which Money so to be borrowed shall be repaid by the said Commissioner, with Interest for the same, out of the Monies to be raised by him by any of the Means aforesaid.

Monies may be recovered after Execution of the Award.

LXXXI. Provided always, and be it enacted and declared, That if at the Time of the Execution of the said Award there shall remain due from any Person any Sum of Money which shall have been ordered to be paid by virtue of this Act, it shall be lawful for the said Commissioner and he is hereby required to levy and raise the same in like Manner as he might have done before the Execution of his Award.

Persons having limited Interests may raise Money by Mortgage for Expences.

LXXXII. And be it enacted, That it shall be lawful for the respective Proprietors of Allotments to be made by virtue of this Act, being Tenants for Life or in Tail, or for any other Estate of Freehold or Inheritance, and also for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Proprietors, being under Coverture, Infants, Lunatics, Idiots, or beyond the Seas, or otherwise incapacitated, and for the Trustees or Feoffees for charitable, parochial, or other Uses, or a competent Number of them, in respect of any Lands held by them in Trust for any charitable, parochial, or other Uses, (with the Consent of the Commissioner, testified in Writing under his Hand and Seal,) from Time to Time to charge their Allotments with any Money not exceeding Five Pounds *per* Acre towards their respective Proportions of the Expences which shall in such Rates as aforesaid be charged upon such Parties, and also such Charges and Expences as the Commissioner shall by his Award, or any Writing under his Hand, either before or after the

Execution of such Award, certify to be proper for subdividing, ditching, and fencing their respective Allotments, and, for securing the Repayment of such Money, with Interest, to mortgage or demise the said Allotments unto or in Trust for any Person who shall advance such Money, for any Term of Years, but so that every such Mortgage or Demise be made with a Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby to be secured, with all Interest thereon, shall have been fully paid and satisfied, and so that in every such Mortgage or Demise which shall be made by or on behalf of any Person entitled to any such Allotment for the Term of his natural Life there be contained a Covenant to pay and keep down the Interest of the Money to be secured during his Life, in such Manner that no Person afterwards becoming possessed of such Lands shall be subject or liable to pay any larger Arrear of Interest than for Six Months previous to the Time when the Title of such Person shall accrue or commence; and every such Mortgage or Demise shall be valid in the Law for the Purposes thereby intended; and every such Mortgagee, and his Assigns, shal have the like Remedies, in case of Nonpayment of the Monies thereby secured, as in the Case of other Mortgages of the like Nature.

Direction for charging Copyhold Land with Expences.

LXXXIII. Provided always, and be it enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of any Copyhold Land shall, instead of being by Demise to such Mortgagee, and his Executors, Administrators, and Assigns, for a Term of Years, as mentioned and prescribed in and by the said first-recited Act, be presented and entered on the Court Rolls of the Manor under which such Copyhold Lands shall be held, whereupon the same Fees and other Payments shall be due and paid as in other Cases of Surrender by way of Mortgage, and shall operate as a Surrender to the Use of the Mortgagee, and his Heirs or Assigns respectively, according to the Custom of such Manor, subject nevertheless to Redemption on Repayment of the Principal Monies thereby respectively intended to be secured, with Interest thereon, as is herein provided in the Case of other Mortgages.

Empowering Commissioner, upon Application, to sell Part of Allotments to defray Expences.

LXXXIV. And be it enacted, That it shall be lawful for the Commissioner, on Application made to him in Writing by any of the Proprietors of Allotments to be made by virtue of this Act, or by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any of such Proprietors, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies respectively, or by any of the said Proprietors, being legal or equitable Tenants in Tail, or for Life or Lives, or on any other Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, to sell any Part of any such Allotment, for raising a Sum of Money sufficient to defray the proportionable Part of the Expences which shall in such Rates as aforesaid be charged upon such Parties, and also such Charges and Expences as the Commissioner shall by his Award, or any Writing

under his Hand, either before or after the Execution of such Award, certify to be proper, for subdividing, ditching, and fencing their respective Allotments, and the Expences of making and completing such Sale: Provided always, that it shall not be lawful for any Proprietor of an Allotment to raise by any such Sale, or by Mortgage and Sale, any greater Sum of Money for the Purposes aforesaid than such Proprietor might have borrowed or charged upon his Allotment for such Purposes by virtue of the said first-recited Act, reckoning Five Pounds for each Acre thereof: Provided also, that in all Cases in which the Money so raised by any such Sale shall not be equal to the Money which might be borrowed or charged on such Allotment as aforesaid it shall be lawful for the Proprietor, Part of whose Allotment shall be sold as aforesaid, to charge his Allotment with any Sum not exceeding the Difference.

Sales to be made according to the General Inclosure Act.

LXXXV. And be it enacted, That such last-mentioned Sales shall be made by the Commissioner in the same Manner and subject to the same Regulations as are prescribed by the said first-recited Act in respect of the Sale of Land towards defraying the Expences of obtaining and carrying into execution any Act for dividing, allotting, and inclosing any Lands or Grounds; and every such Allotment for which the full Purchase Money shall be paid shall be vested in the Commissioner, and be conveyed by Indenture of Grant, or by Indentures of Lease and Release, executed by him at the Expence of the Purchaser, unto and to the Use of or in Trust for such Purchaser and his Heirs, or as he shall appoint, and shall be inclosed, and held by such Purchaser in Severalty: Provided always, that nothing herein contained shall enable the Commissioner to convey any of such last-mentioned Allotments which shall be set out as Copyhold, by Grant, or Lease and Release, as Freehold, but such Copyhold Allotments shall be conveyed by the Commissioner by Indenture of Bargain and Sale without Enrolment, and shall be held by the Purchaser thereof by, under, and subject to the same Rents, Suits, and Services as such Allotment would have been held in case no such Sale had been made.

Application of Purchase Monies.

LXXXVI. And be it enacted, That the Receipt of the said Commissioner shall be a sufficent Discharge to the Purchaser for the said Purchase Money; and such Purchase Money shall be applied by the said Commissioner in or towards defraying the Costs and Expences for raising which such Sale shall have been made, and the Surplus (if any) shall be paid to the Parties from whose Allotments such Sale shall have been so made respectively; and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of the other Proprietors of such surplus Money shall be applied and disposed of in manner by this Act directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon.

An Award to be executed.

LXXXVII. And be it enacted, That, as soon as conveniently may be after the said Inclosure shall be completed, the Commissioners shall

draw up and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday*, by affixing a Proclamation on or near the outer Door of the Church of the said Parish previously to Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered as complete; and within Three Calendar Months after the said Commissioner shall have so made and executed the said Award he shall cause the same, together with one of the reduced Plans herein-after directed to be made annexed thereto, to be delivered to the Clerk of the Peace of the said County, who is hereby required to deposit and keep the same among the Records of the said County, so that recourse may be had thereto by any Person interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid; and the said Award shall, from the Delivery thereof to the said Clerk of the Peace, be deemed to be enrolled according to the Directions and within the Meaning of the said first-recited Act.

The Award and a reduced Plan of the Parish to be deposited in the Hands of the Clerk of the Peace.

LXXXVIII. And be it enacted, That a Copy of the said Award, fairly transcribed in a Book on plain unstamped Paper or Parchment, with the other of the reduced Plans herein-after directed to be made, shall, within the Time aforesaid, be deposited in the Parish Church of *Elsing* aforesaid, and there kept in a Box to be provided for that Purpose by the said Commissioner; and the said Award, and the said Copy thereof, and also any other Copy of the said Award, or of any Part thereof, to be made and attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

A Copy of the Award and a reduced Plan to be deposited in the Parish Church.

LXXXIX. And be it enacted, That the said Commissioner shall cause Two reduced Plans of the said Parish to be drawn upon Parchment or Vellum, on which the public and private Roads, Paths, and Drains, with the Boundary Fences of the several Allotments mentioned and described in the said Award, and such other Matters and Things as the said Commissioner shall think fit, shall be fairly and distinctly delineated and expressed; and the said Commissioner shall sign the said Plans, one of which shall be annexed to the said Award, and the other shall be annexed to or shall go and be kept with the Copy of the said Award to be deposited in the Parish Church of *Elsing* aforesaid; and the said Commissioner shall make and annex to the said Award a Schedule, describing and setting forth the Quantities of all the Homesteads, Gardens, Orchards, and ancient Inclosures in the said Parish; which said Plans, or either of them, shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Two reduced Plans to be drawn and annexed to the Award and also a Schedule of the old Inclosures.

XC. And be it enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act, except as to the Allotments, and except as to such other Determinations as are by this Act directed to be final, and except such Cases wherein an Issue

Power of Appeal.

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at Law shall be tried, as herein-before is mentioned, he may appeal to the General or Quarter Sessions of the Peace which shall be held for the said County within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and to the Party concerned Ten Days previous Notice in Writing of such Appeal, and of the Matter thereof (except with respect to the Accounts of the said Commissioner, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within One Calendar Month after the depositing of the Award, on giving to the said Commissioner such Notice as last aforesaid); and the Justices (not interested in the Premises) in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs and Damages, as to them shall seem reasonable; and in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, they shall award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner aforesaid, and the Costs and Damages which shall be so awarded shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

Order on Appeal to be final.

XCI. And be it enacted, That every Order and Determination of the said Justices upon every such Appeal shall be final, and shall not be removed or removeable by Certiorari, or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere.

General Saving.

XCII. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all other Persons, Bodies Politic, Corporate, or Collegiate, their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest, Claim and Demand, (other than and except such as are expressly barred and compensated for, or intended to be barred and compensated for, and extinguished, by this Act,) which they or any of them could or might have had in, to, or in respect of the Lands hereby authorized to be divided, allotted, and inclosed, in case this Act had not been passed.

Interpretation Clause.

XCIII. And be it enacted, That in the Construction of this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number:

Words importing the Masculine Gender only shall extend to Females as well as Males; the Word "Month" shall mean Calendar Month; the Word "Lands" shall include Messuages, Tenements, and Hereditaments, as well Freehold and Copyhold as of any other Tenure:

The Expression "Lands to be inclosed" shall be understood to mean Lands by this Act directed and authorized to be divided, allotted, and inclosed;

The

The Expression "the Inclosure Expences Fund" shall be understood to mean the Monies by this Act authorized to be raised for "the Inclosure Expences" in obtaining this Act, and carrying the same and the said recited Acts into execution, as herein mentioned:

The Expression "the Commissioner" shall mean the Commissioner appointed and for the Time being acting by virtue of this Act.

Act as printed by Queen's Printers to be Evidence.

XCIV. And be it enacted, That this Act shall be printed by the several Printers to the Queen's most Excellent Majesty duly authorized to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

SCHEDULE referred to in the foregoing Act.

Form of Declaration by Commissioner or Surveyor.

I *A.B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Powers and Authorities vested and reposed in me as a Commissioner [*or* Surveyor *or* Umpire, *as the Case may be*,] by virtue of an Act passed in the Fourth Year of the Reign of Her Majesty Queen Victoria, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice, to any Person whomsoever.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1841.