

ANNO SEXTO & SEPTIMO

GULIELMI IV. REGIS.

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CAP. CXV.

An Act for facilitating the Inclosure of Open and Arable Fields in *England* and *Wales*.

[20th *August* 1836.]

WHEREAS there are in many Parishes, Townships, and Places in *England* and *Wales* divers Open and Common Arable, Meadow, and Pasture Lands and Fields, and the Lands of the several Proprietors of the same are frequently very much intermixed and dispersed, and it would tend to the improved Cultivation and Occupation of all the aforesaid Lands within such Parishes, Townships, and Places, and be otherwise advantageous to the Proprietors thereof and Persons interested therein, if they were enabled by a General Law to divide and inclose the same: And whereas an Act was passed in the Forty-first Year of the Reign of His late Majesty King *George* the 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 Year of His late Majesty King *George* the Fourth, intituled *An Act to amend the Law respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: Be it therefore enacted by the King'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

41 G. 3. c. 109.

1 G. 4. c. 23.

Open and Common Lands may be inclosed with the Consent of Two Third Parts in Number and Value of the Parties interested therein.

of the same, That from and after the passing of this Act it shall be lawful for Two Third Parts in Number and Value (such Value to be ascertained as herein-after mentioned) of the several Persons who shall be seised or possessed of or entitled in possession to or interested in possession in any Rights of Common or other Rights in any Open and Common Arable Fields (including any untilled Slips or Balks therein), or any Open and Common Meadow or Pasture Lands or Fields, in any Parish, Township, or Place in *England* or *Wales*, known by Metes and Bounds, or occupied according to known and legal Rights (except as herein-after provided), as Tenant in Fee Simple or in Fee Tail, General or Special, or for Life or Lives, or by the Courtesy of *England*, or for any other Estate of or as of Freehold, or for Years determinable on any Life or Lives, or for any Term of Years whereof One hundred Years shall be unexpired, or as a Holder of Lands or Rights of Copyhold, Customary, Tenant Right, or other Tenure, of an Estate or Interest equal in Quantity to the Estates herein-before mentioned or any of them, and for the Guardian, Trustee, Feoffee for charitable or other Uses, Husband or Committee of such Person who at the Time of any Agreement for or on the making of any Inclosure authorized by this Act shall be an Infant, Idiot, Lunatic, or Feme Covert, or under any other Disability, in such Manner and with such Consent as is herein-after mentioned, to inclose such Open and Common Arable, Meadow, and Pasture Lands and Fields, or any of them, and to extinguish the Right of Inter-commonage which shall exist as well over as in respect of such Land; provided that no such Inclosure shall take place without the Consent in Writing under the Hands of Two Third Parts in Number and Value of the Persons so seised, possessed, entitled, or interested as aforesaid, or of the Guardians, Trustees, Feoffees, Husbands, or Committees aforesaid of such of the said Persons who may be under Disability as aforesaid, such Value to be ascertained by the Assessments of the Poor Rates of the respective Parishes or Townships for the then current Year, which Assessments of the Poor Rates, in case they shall not be made according to the full annual Amount or Value of the Tenements and Property thereby assessed, shall be increased or diminished so as to represent the full or true annual Value of the several Lands, Fields, and Rights liable to be affected by the intended Inclosure, and where the Lands are extra-parochial, or no Poor Rates shall exist in respect of any such Lands, then by the full or true annual Value thereof: Provided also, that no such Inclosure shall take place, nor shall any Agreement for that Purpose be binding, until a public Meeting of the Proprietors and Persons interested in the Lands intended to be inclosed shall have been previously called for the Purpose of taking the Expediency of such Inclosure into consideration by Notice under the Hands of Three or more of such Proprietors or Persons interested, such Notice to be affixed on the principal outer Door of the Church or Chapel of the Parishes, Townships, or Places wherein the Lands intended to be inclosed shall lie, or in case there be no such Church or Chapel, then on the Door of the Church or Chapel of some adjoining Parish, Township, or Place, and also advertised in some Newspaper circulating in the County wherein such Lands lie, at least Fourteen Days before the said intended Meeting; provided that such Inclosure may after such Meeting be proceeded

with by and with the Consent in Writing of Two Third Parts in Number and Value of the Proprietors and Persons interested in the Lands intended to be inclosed, notwithstanding some of the Parties who may approve of and consent to such Inclosure may not be present at such Meeting, and may signify their Consent thereto after the same shall have been holden.

The Consent of the Tenant in Remainder necessary in certain Cases.

II. And be it further enacted, That whenever any Inclosure shall be proposed to be made or consented to under the Authority of this Act, or any Agreement for Compensation in pursuance of the Provisions in that respect herein-after contained shall be entered into, by any Person or Persons who being necessary to make up, and without whom there shall not be consenting Parties sufficient to make up, the Proportion of Two Third Parts in Number and Value herein-before required, or other the Proportion herein-after required in the Case of an Inclosure without the Assistance of Commissioners, and who shall have a less Estate or Interest in the Land to be inclosed, or the said Rights therein, than a Fee Simple or an Estate in Tail, or be an Holder of a Copyhold or Customaryhold Tenant Right or other Tenure in such Lands or Rights for any less Estate than an Estate or Interest in Fee or in Tail, or shall be under any Disability, such Consent shall not be available for the Purposes of this Act unless the Person to whom the next immediate vested Estate of Freehold or of Copyhold or Customaryhold Tenant Right or other Tenure of Inheritance, in Remainder or Reversion, shall have been limited, (provided such Person shall be of the full Age of Twenty-one Years, and being a Female shall be unmarried,) shall consent thereto in Writing; and such Consent shall be sufficient for the Purposes of this Act, notwithstanding the Person giving the same may have an equitable Estate only in the Land intended to be inclosed, or may have previously charged or incumbered his Reversionary Estate therein: Provided always, that if the Person to whom such next immediate vested Estate in Remainder or Reversion may have been limited shall at the Time such Inclosure is proposed to be made happen to be an Infant, Feme Covert, Idiot, or Lunatic, it shall be lawful for the Guardian or Husband or Committee of such Infant, Feme Covert, Idiot, or Lunatic to consent to such Inclosure in his or her Stead: Provided always, that in respect to any Land held in right of any Benefice no Consent of the Incumbent thereof shall alone be available for the Purposes of this Act, where such Consent shall be necessary to make up the Proportion of Two Third Parts in Number and Value herein-before required, or other the Proportion herein-after required in the Case of an Inclosure without the Assistance of Commissioners, without the Concurrence of the Patron of such Benefice, and of the Archbishop or Bishop to whose Ordinary or Peculiar Jurisdiction the said Benefice shall be subject; and if the Patron of such Benefice shall happen to be a Minor, Idiot, Lunatic, or Feme Covert, it shall be lawful for the Guardian, Committee, or Husband of such Patron to consent to such Inclosure in the Stead of such Patron, and on his or her Behalf: Provided always, that if the Patronage of such Benefice shall happen to be in the Crown, and the Benefice shall exceed the yearly Value of Twenty Pounds in the King's Books,

Books, no Consent of the Incumbent thereof shall be available for the Purposes of this Act, where such Consent shall be necessary to make up either of the Proportions aforesaid, without the Concurrence of the Lord High Treasurer or the First Lord Commissioner of the Treasury for the Time being, who are respectively hereby authorized so to concur; but if such Benefice shall not exceed the yearly Value of Twenty Pounds in the King's Books, then no Consent of the Incumbent thereof shall be available for the Purposes of this Act, where such Consent shall be necessary to make up either of the Proportions aforesaid, without the Concurrence of the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal for the Time being, who is and are hereby authorized to give such Consent on behalf of the Crown.

Commissioners to be nominated by the Parties consenting to the Inclosure.

III. And be it further enacted, That whenever the Persons whose Consents are hereby rendered necessary to any such Inclosure shall have consented thereto in manner in that Behalf herein authorized and required, it shall be lawful for the major Part in Number and Value of the Proprietors of and Persons interested in the Lands intended to be divided and inclosed, or their known Agents, who may be present at a Meeting to be called for that Purpose, to nominate and appoint in Writing under their Hands One or more Person or Persons (not interested in the Premises) to be a Commissioner or Commissioners for dividing, allotting, and inclosing, and he or they is and are hereby empowered to divide, allot, and inclose, all or any of the Open and Common Arable Meadow or Pasture Lands or Fields in any such Parish, Township, or Place, or in any Parishes, Townships, or Places adjoining or lying within Two Miles of the aforesaid Parish, Township, or Place which may have been agreed to be divided, allotted, and inclosed as aforesaid; and when and as often as any such Commissioner, or any Commissioner to be from Time to Time appointed in his Place, shall die, neglect or refuse or become incapable to act, it shall be lawful for the major Part in Number and Value of the Proprietors of such Open Common Arable Fields or other Lands or Fields as aforesaid so agreed to be divided, allotted, and inclosed, or of their Agents, assembled at a public Meeting to be held in manner herein-before mentioned in respect to the Meeting for taking such Inclosure into consideration, to nominate and appoint any other Person not interested in the Premises to be a Commissioner in the Stead or Place of the Commissioner so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and in case the said Proprietors or Persons interested as aforesaid shall make default in appointing any new Commissioner within Two Calendar Months after any such Death, Neglect, Refusal, or Disability shall happen, and shall be known and signified to them or any Two of them respectively as aforesaid, then the surviving or remaining Commissioner (if any) shall and he is hereby required from Time to Time, by Writing under his Hand, within One Calendar Month next after the Expiration of the said Period allowed to the Proprietors or Persons interested for naming such new Commissioner to be appointed as aforesaid, to appoint one other Commissioner, not interested in the said Inclosure, in the Place of such Commissioners so dying, neglecting, refusing, or becoming disabled to act as aforesaid; and every such

such new Commissioner so to be appointed shall have the like Powers and Authorities for carrying this Act into execution in all respects whatsoever as the Commissioner in whose Place he shall have been so appointed and chosen as aforesaid was invested with under and by virtue of this and the said herein-before recited Act.

Commissioners to appoint a Clerk.

IV. And be it further enacted, That the said Commissioner or Commissioners shall and they are hereby authorized and empowered to appoint a Clerk to assist him or them in the Execution of the said recited Act and this Act, and shall and may remove such Clerk and appoint another in his Room as to him or them shall seem meet; and in case of the Death, Incapacity, Neglect, or declining to act of any such Clerk, then and in any such Case the said Commissioner or Commissioners shall and may appoint any other Person to be Clerk.

Umpire to be appointed.

V. And be it further enacted, That in all Cases where Two Commissioners shall have been appointed for any such Inclosure they shall, before they proceed upon the Business of such Inclosure, by Writing under their Hands appoint a fit and proper Person (not interested in the said Division and Inclosure) to act as Umpire between them, and from Time to Time afterwards renew such Appointment in the event of the Death, Refusal, Neglect, or Incapacity to act of the Person so appointed; and if any Difference of Opinion shall arise between them touching or concerning any Matter or Thing to be done by them by virtue or in the Execution of the said recited Act or of this Act, the Matter upon which such Difference shall arise shall be settled and determined by such Person so to be appointed Umpire, whose Determination therein shall be deemed and taken to be the Determination of the said Commissioners, and shall be reduced into Writing, and shall be binding and conclusive upon all Parties whomsoever (so far as the Acts and Determinations of the Commissioners are by the said recited Act or this Act declared to be final and conclusive); and for the Purposes aforesaid such Umpire shall have and he is hereby invested with the same Powers and Authorities as by the said recited Act and this Act are given or vested in the said Commissioners.

In case of Difference of Opinion between the Commissioners, the Matter to be determined by the Umpire.

Commissioners and Umpire to take an Oath

VI. Provided always, and be it further enacted, That no Person shall be capable of acting as a Commissioner or an Umpire or a Surveyor in the Execution of this Act or the said recited Act until he shall have taken and subscribed an Oath or made an Affirmation in the Form or to the Effect following before One of His Majesty's Justices of the Peace for the County, Riding, Division, or Place in which the Lands intended to be inclosed, or some Part thereof, are situate; which Oath or Affirmation the said Justice is hereby empowered to administer; (that is to say,)

Form of Oath.

'I *A.B.* do swear, [*or, being One of the People called Quakers,* do solemnly affirm,] That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the several Powers and Authorities vested and reposed in me as a Commissioner [*or* an Umpire] *or* Surveyor [*as the Case*

'*Case may be*] by virtue of an Act passed in the Year
'of the Reign of King *William* the Fourth, intituled *An Act, &c.*
'[*here set forth the Title of this Act*], according to Equity and
'good Conscience, without Favour or Affection, Prejudice or Par-
'tiality, to any Person or Persons whomsoever.

'So help me GOD.'

[*Or, being a Quaker, omit the Words* 'So help me God.']

Commissioners to give Notice of Meetings, &c.

VII. And be it further enacted, That the said Commissioner or Commissioners or Umpire shall and he or they is or are hereby required to cause Notice in Writing to be affixed to the respective Church or Chapel Doors of the Parish, Township, or Place wherein the Lands intended to be inclosed are situate, or if there be no Church or Chapel, then in some conspicuous public Place there, and also a like Notice to be published in some Newspaper circulating in the County wherein such Lands lie, of the Time and Place of his or their Attendance or Meeting, and of all other subsequent Attendances or Meetings for executing the Powers hereby or in and by the said recited Act vested in him or them, Ten Days before any such Meeting (Meetings by Adjournment only excepted); and if there be Two Commissioners, and not more than One of them shall attend at the Time and Place appointed for any such Meeting, it shall be lawful for the Commissioner who shall attend such Meeting, or the Clerk of the said Commissioners, or if Notice shall have been given of such Meeting by any Umpire, and both the Commissioners shall not attend the same, it shall be lawful for such Umpire, to adjourn such Meeting to any future Day not exceeding Fourteen Days from the Day of Adjournment; and such Clerk shall cause Notice of such Adjournment to be given to the said Commissioners: Provided always, that all the Meetings of the said Commissioners, or Umpire and Commissioners, shall be holden in one of the Parishes or Townships wherein the Lands to be inclosed are situate, or within Seven Miles of the Boundaries of One of them.

Adjournment of Meeting in case of Failure of Attendance of Commissioners.

Place of Meeting.

Mode in which other Notices are to be given.

VIII. Provided always, and be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioner or Commissioners or Umpire shall be so given by affixing the same on the respective Church or Chapel Doors of the several Parishes, Townships, or Places wherein the Lands to be inclosed are situate, or if there be no Church or Chapel, in some conspicuous public Place in such Parishes, Townships, or Places, and by Advertisement in a Newspaper circulating in the County wherein such Lands are situate.

Allowance to Commissioners, Umpire, and Surveyors.

IX. And be it further enacted, That out of the Money that shall arise for defraying the Expences of executing this Act there shall be paid to each of the Commissioners (if more than One) and to the Umpire who shall act in the Execution thereof, as a Recompence for his Pains and Trouble, the Sum of Three Guineas for each and every Day they shall respectively be employed in travelling to, returning from, and attending in the Execution of this Act, and no more; and at all Meetings to be held in pursuance of this Act the said Commissioners and Umpire shall, out of such Allowance, defray their own Expences; and there shall be paid to the Surveyor or Surveyors

to

to be appointed for the Purposes of this Act such Allowances in respect of his or their Services as the said Commissioner or Commissioners shall adjudge to be a full Recompence and Satisfaction for all his or their Expences and Charges whatsoever in attending the said Commissioners, and in surveying and admeasuring the Lands and Grounds to be inclosed, and in planning and staking out the several Allotments intended to be made, and in making such Maps and Plans as may be required respectively by virtue of this Act.

Major Part of Proprietors may agree for Payment of a gross Sum to Commissioners, &c.

X. Provided always, and be it enacted, That it shall be lawful for the major Part in Number and Value of the Proprietors and Persons interested as aforesaid to make any Agreement with any Commissioner or Commissioners or Surveyor or Surveyors to be appointed under this Act for the Payment to them respectively of One Sum for the whole Duty or any Part thereof to be performed by them or either of them.

Four Fifths of Proprietors, &c. may agree to adopt any previous Plan, &c.

XI. Provided further, and be it enacted, That it shall be lawful for Four Fifths in Number and Value of such Proprietors and Persons interested as aforesaid to agree upon the Adoption for the Purposes of this Act of any Plan, Map, Admeasurement, or Valuation previously made, and such Agreement shall be binding upon any Commissioner or Commissioners or Umpire who may be appointed in pursuance of the Provisions of this Act.

Four Fifths in Number may agree upon Rules for Guidance of Commissioners or Umpire.

XII. Provided also, and be it enacted, That it shall be lawful for Four Fifths in Number and Value of such Proprietors and Persons interested as aforesaid to agree upon the Rules, Conditions, and Principles according to which any such Commissioner or Commissioners or Umpire shall act in allotting the Lands to be inclosed to the several Persons interested therein, and such Agreement shall be binding upon such Commissioner or Commissioners or Umpire as aforesaid.

Such several Agreements may be appealed against to the Quarter Sessions.

XIII. Provided nevertheless, and be it further enacted, That it shall be lawful for any Proprietor or Person interested as aforesaid, who may deem himself aggrieved by any such Agreement as hereinbefore mentioned for the Payment of a Commissioner or Commissioners, Surveyor or Surveyors, or for the Adoption of any Plan, Map, Admeasurement, or Valuation, or for establishing any Rules, Conditions, and Principles for the Guidance of the Commissioner or Commissioners or Umpire in making Allotments, to appeal against the same to the first General Quarter Sessions of the Peace to be holden in and for the County, Riding, or Division wherein the Lands, or the greater Part thereof, in respect of which the Matter of Complaint may arise, shall be situate, or some Adjournment thereof, or if such General Quarter Sessions shall be holden within One Month from the making of such Agreement, then to the General Quarter Sessions next following such first General Quarter Sessions, or some Adjournment thereof; and Notice of such Appeal shall in each Case be given in Writing to the Commissioner or Commissioners Seven Days at the least before the Day on which such Sessions respectively shall be holden: Provided always, that in the event of the Decision upon

Notice of Appeal.

Proviso.

upon any such Appeal being in favour of the Appellant it shall be lawful for any Party who shall have consented to such Agreement for Inclosure as aforesaid to withdraw his Consent from such Agreement, by giving Notice in Writing to that Effect to the Commissioner or Commissioners at any Time within Twenty-one Days after the Day on which the Decision upon such Appeal as aforesaid shall have been given; and if by reason of such Withdrawal of Consent the Proportion of Two Thirds in Number and Value of consenting Parties shall not remain, the said Agreement for Inclosure shall thenceforth cease and determine.

A Copy of the Objections to be left with the Party objected to, or given to his Agent.

XIV. And be it further enacted, That if any of the Parties interested in the Premises shall have any Objection or Objections to any of the Accounts or Claims which shall be delivered to the said Commissioner or Commissioners by virtue of the said recited Act or of this Act, such Objection or Objections shall be reduced into Writing, and Two Parts thereof shall be signed by the Party or Parties making the same, or by some Person or Persons on his, her, or their Behalf, and One Part thereof shall be delivered to the Party or Parties whose Claim or Account shall be objected to, or to his, her, or their Agent, or left at his, her, or their last and most usual Place or Places of Abode, at such Time or Times as the said Commissioner or Commissioners shall appoint for that Purpose.

For settling Disputes between Parties interested.

XV. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, touching or concerning the respective Rights or Interests which they or any of them shall claim to have in, to, or out of the Lands and Fields hereby authorized to be divided, allotted, and inclosed, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall be lawful for the said Commissioner or Commissioners, and they are hereby authorized and required, to examine into, hear, and determine the same respectively; provided that nothing in this Act contained shall authorize the said Commissioner or Commissioners to determine the Title to any Manors, Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

Commissioners may award Costs.

XVI. And be it further enacted, That in case the said Commissioner or Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of the said recited Act or this Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are respectively hereby empowered, upon Application being made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid, either for the public Account for or towards the Expences occasioned in or relating to the Investigation, settling, and determining of such Claim or Claims, if finally disallowed, or to the Party or Parties in whose Favour any Determination of the said Commissioner or Commissioners shall be made, by the Person or Persons whose Claim or Objection shall be thereby disallowed or over-ruled, or against whom the said Com-

missioner or Commissioners shall have determined as aforesaid; and in case the Person or Persons who shall be liable to pay such Costs shall neglect or refuse to pay the same, upon Demand, it shall be lawful for the said Commissioner or Commissioners, and he and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause such Costs to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to such Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Appeal allowed when Parties are dissatisfied with Decision of the Commissioners.

XVII. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division and Inclosure shall be dissatisfied with any Determination of the said Commissioner or Commissioners or Umpire touching or concerning any Claim or Objection which shall be delivered to the said Commissioners in pursuance of the said recited Act or this Act, or touching or concerning any Property, Right, or Interest intended to be affected by such Determination, and shall cause Notice in Writing of such Dissatisfaction to be delivered to or left at the usual Places of Abode of the Commissioner or Commissioners or Umpire making such Determination, and of the Party or Parties in whose Favour such Determination shall have been made, if there be any Party or Parties specially interested in the same, or his, her, or their Agent, within Thirty Days next after such Determination shall have been notified in Writing to the several Parties or Persons specially interested, if any such there be, it shall be lawful for such Person or Persons so dissatisfied, and giving such Notice as aforesaid, to bring or cause to be brought an Action or Actions upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, and to proceed to a Trial at Law of the Matter so determined by the said Commissioners or Umpire at the then First or Second Assizes to be holden for the County wherein the Lands relating to which such Dispute shall arise are situate; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, and file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, Rights in question, and the Property, Right, and Interest thereby insisted upon, may be tried and determined; such Issue or Issues to be settled by the proper Officer of the Court in which the said Action shall be commenced, in case the said Parties shall differ about the same; and the Verdict or Verdicts which shall be given upon the Trial of such Action shall be binding, final, and conclusive, unless the Court wherein such Action shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had thereon, which it shall be lawful for the said Court to do in case the said Court shall think proper; and after such Verdict or Verdicts shall be obtained, and not set aside, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim, Property, Right, or Interest thereby

determined according to the Event of such Trial or Trials; and the Costs and Charges payable by the said Commissioner or Commissioners in or relating to such Action or Actions shall be paid and discharged out of the Monies to be raised by him or them for the Purposes of this Act: Provided always, that if no such Notice shall be given, and such Action or Actions at Law shall not be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then the Determination of the said Commissioner or Commissioners or Umpire shall be final, binding, and conclusive to all Intents and Purposes whatsoever: Provided always, that if any of the Parties in any such Action to be commenced as aforesaid shall die before the Determination thereof such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and that no Difference, Suit, or Proceeding as aforesaid, nor any Difference or Dispute touching the Title to any Lands, Tenements, or Hereditaments, shall impede or delay the said Commissioner or Commissioners in the Execution of the Powers of this Act, but the Division, Allotment, and Inclosure hereby authorized to be made shall be proceeded in notwithstanding any such Difference or Proceeding.

Death of Parties not to abate Actions.

XVIII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons who might have brought such Action or Actions against the Person or Persons so dying to bring the same within the Time so limited as aforesaid against such Person or Persons as aforesaid as if actually living, and to serve the Clerk of the said Commissioner or Commissioners with Process for commencing such Action or Actions in the same Manner as the Party or Parties so dying might have been served therewith if living; and it shall thereupon be incumbent upon the Heir or Heirs or other Person or Persons who shall claim the Benefit of such Determination as aforesaid to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead; and Proceedings shall be had therein in the same Manner as if such Person had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Commissioners not to determine Rights between Parties except in Cases of Encroachments within 20 Years.

XIX. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioner or Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties, except in Cases of Encroachments made within the Period of Twenty Years next preceding the passing of this Act; but in case the said Commissioner or Commissioners shall be of opinion against the Right of the Person or Persons so in Possession they shall forbear to make any Determination thereupon until the Possession shall have been given up by or taken from such Person or Persons by Ejectment or other due Course of Law.

XX. And

Encroachments made within 20 Years to be deemed Part of the Land to be allotted.

XX. And be it further enacted, That all Encroachments or Intakes which at any Time within Twenty Years next preceding the Date of the Agreement for any such Inclosure have been made upon the said Lands and Fields hereby authorized to be divided and inclosed shall be deemed and considered Part and Parcel of the Lands and Fields to be allotted and inclosed by virtue of this Act as if the same were actually lying open and uninclosed, and shall be divided and allotted accordingly; and in case any Dispute or Difference shall arise touching any such Encroachments or Intakes, or as to the Extent thereof, such Dispute or Difference shall be determined by the said Commissioner or Commissioners.

Lands used for charitable Purposes not to be deemed an Encroachment.

XXI. Provided also, and be it further enacted, That in case any such Lands shall have been taken or used at any Time before the passing of this Act for the Erection of a School-house or School-houses, or the Appurtenances thereto, or for other charitable Purposes, such Lands so taken, or the Erections made thereon, shall not be taken or deemed to be of the Nature of an Encroachment within the Meaning of this Act.

Lands inclosed more than 20 Years deemed to be ancient Inclosures.

XXII. Provided always nevertheless, and be it further enacted, That all Lands which shall have been inclosed from the Open Fields, or any of them, for more than Twenty Years next preceding the Date of the Agreement for such Inclosure, shall for the Purposes of this Act be deemed and taken to be ancient Inclosures.

Cultivated Ground to be allotted to Proprietors only.

XXIII. Provided always, and be it enacted, That it shall not be lawful for the said Commissioner or Commissioners or Umpire to allot to any other Person than the Proprietor thereof any Land which may be cultivated as Orchard or Garden, or on which any Building may have been erected, or which may have been inclosed by virtue of any voluntary Agreement between the Proprietor thereof and the Persons having Right of Common over the same, without the Consent in Writing of such actual Proprietor.

Compensation to be made for Standing Crops.

XXIV. And be it further enacted, That the said Commissioner or Commissioners shall, by some Writing or Writings under their Hands, ascertain, order, and appoint what Recompence and Satisfaction in Money shall be made to the Owner or Owners of any Crops growing at the Time of the said intended Division and Allotment, for the said Crops, by the Person or Persons to whom the Lands on which such Crops are growing shall be allotted, and also what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Tenants, Occupier or Occupiers of Lands to be inclosed as aforesaid, as well for the ploughing, tilling, and manuring of any Lands or Fields which shall be allotted to some other Person or Persons, and for the Profit or Advantage which any such Person or Persons to whom the said Lands and Fields shall be allotted will obtain thereby, as for any Loss or Disadvantage which any such Tenant or Tenants, Occupier or Occupiers, shall or may sustain by the Loss of any following or way-going Crop in any of the Open and Common Lands or Fields by this Act authorized to be divided, allotted, and inclosed, or by means of the said Division, Allotment, and Inclosure; and if in any

any or either of the said Cases last mentioned such Recompence and Satisfaction shall not be made at the Time and in the Manner to be appointed by the said Commissioner or Commissioners, then the said Commissioner or Commissioners shall and may, by any Warrant or Warrants under his or their Hands and Seals, directed to any Person or Persons whomsoever, (which Warrant or Warrants he or they are hereby authorized and empowered to grant accordingly,) cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons required to make such Recompence and Satisfaction as aforesaid, together with the Costs and Charges of such Distress and Sale, rendering the Overplus, if any, to the Owner or Owners of such Goods and Chattels.

Commissioners to direct the Course of Husbandry to be followed.

XXV. And be it further enacted, That the said Commissioner or Commissioners shall, as soon after his or their Appointment as conveniently may be, by some Writing or Writings under his or their Hands to be affixed on the principal outer Doors of the several and respective Churches or Chapels of the Parishes or Townships in which the Lands to be inclosed are situate, or if there be no Church or Chapel, then in some conspicuous Place in the Parish, Township, or Place where such Lands shall be, order and direct the Course of Husbandry that shall be used in, over, and upon the Open Arable, Meadow, or Pasture Lands or Fields to be divided, allotted, and inclosed by virtue of this Act, until the Time when he or they shall have made and completed the intended Division and Allotment thereof, as well with respect to breaking up and laying down, as the ploughing, sowing, fallowing, and tilling the same Lands and Fields; and by the same or any other Writing or Writings under his or their Hands, to be affixed as aforesaid, shall and may make such Orders and Regulations touching the Conduct of the Owners and Occupiers of the same Lands and Fields, for the preventing the committing of Waste or Destruction by any Person or Persons whomsoever upon any of the Lands and Fields to be divided and allotted by virtue of this Act, in the meantime and until the Allotments and Divisions thereof shall be effected, as to the said Commissioner or Commissioners shall seem expedient; all which Orders and Regulations of the said Commissioners shall be binding and conclusive upon all Parties interested therein, their Farmers and Tenants; and that the said Commissioners shall set and impose such pecuniary Penalties and Forfeitures upon every Person not conforming to such Orders and Regulations as they shall think necessary, not exceeding Five Pounds *per* Acre; all which Penalties and Forfeitures shall be paid to such Person or Persons and for such Uses and Purposes as the said Commissioner or Commissioners shall by any such Writing or Writings as aforesaid, or any other Writing or Writings, direct or appoint; and the said Commissioner or Commissioners are hereby authorized and required to raise and levy the same, for the Use of the Person or Persons he or they may consider entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of carrying this Act and the said recited Act of the Forty-first Year of the Reign of His late Majesty King *George* the Third into execution may be raised and levied.

XXVI. And

Commissioners to allot the Lands to be inclosed.

XXVI. And be it further enacted, That the said Commissioner or Commissioners shall apportion, divide, set out, and allot the said Open or Common Arable, Meadow, and Pasture Lands or Fields authorized by this Act to be divided, allotted, and inclosed unto and amongst the several Proprietors thereof and Persons interested therein, in proportion to their respective Shares, Rights of Common, and all other Rights, Property, and Interest, and in proportion to the true and real Value of their several Shares, Rights of Common, and all other Rights, Property, and Interests, and the same, when so apportioned, divided, set out, and allotted, shall be taken to be in lieu and full Satisfaction of and for such their said several Shares, Rights of Common, and all other Rights, Property, and Interests, to be ascertained and adjusted by such Ways and Means and in such Manner as to the said Commissioners shall seem just and expedient, but subject to the Rules, Orders, and Regulations herein contained or referred to and authorized to be established concerning the same.

At the Desire of the Parties several Allotments may be set out together, distinguished by Metes and Bounds, but not fenced from each other.

XXVII. And be it further enacted, That in case any Number of the Proprietors or Persons interested in the Lands and Fields agreed to be inclosed under the Authority of this Act shall deem it expedient and desire to have their Allotments thrown together and distinguished by Metes and Bounds, but not fenced from each other, and of such their Desire shall give Notice in Writing to the said Commissioner or Commissioners, such Commissioner or Commissioners shall and he and they is and are hereby required to set out the several Allotments of the said Persons so giving Notice as aforesaid in One Plot or Parcel of Land, distinguishing the Portion of such Plot or Parcel of Land allotted to each of such Proprietors by Metes and Bounds, but not requiring them to make any Subdivision Fences or other Fences, save such Ring or outer Fences as may be necessary and may be ordered by the said Commissioner or Commissioners to be made for dividing the said Plot or Parcel of Land from the Residue of the Lands so to be inclosed.

For ascertaining Boundaries.

XXVIII. And be it further enacted, That for the Purposes of shortening or rendering straight or otherwise improving any Boundary Fence or Fences between the Lands and Fields hereby authorized to be divided, allotted, and inclosed, and the old or other Lands thereunto adjoining, or between such Allotments and inclosed or other Lands, or any of them, and any adjoining Lands and Grounds, it shall be lawful for the said Commissioner or Commissioners (with the Consent of the Lord of any Manor in which the Lands are respectively situate, and of the Owners of any such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate,) to set out, ascertain, and determine the Boundaries between the Lands hereby authorized to be divided, allotted, and inclosed, and any adjoining Lands or Grounds lying in the same or in any adjoining Manor, Parish, or Place, as the said Commissioner or Commissioners shall judge proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, 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 or Commissioners shall

direct, and shall for ever thereafter be deemed the Boundaries between the said allotted and inclosed Lands respectively, or (as the Case may be) between the said Allotments or inclosed or other Lands and such adjoining Manor, Parish, or Place; any Law, Usage, or Custom to the contrary notwithstanding.

Right of Herbage in private Roads to be set out.

XXIX. And be it further enacted, That the said Commissioner or Commissioners shall in and by his or their Award order and appoint the Grass and Herbage growing and renewing upon all and every the private Roads to be set out by him or them within the said Lands and Fields hereby authorized to be divided, allotted, and inclosed, to be and for ever hereafter remain to and for the Use and Benefit of such Persons as the said Commissioner or Commissioners shall in his or their Judgment think best entitled to the same.

Empowering Rectors to erect Buildings on Lands allotted in right of Glebe, and charge Expences thereon.

XXX. And whereas the Allotments made to any Rector or Vicar who may be entitled to any Glebe Lands in such Open and Common Arable, Meadow, or Pasture Lands or Fields, or some of such Allotments, may probably require some additional Buildings, by reason whereof, and in order to render the same of greater Value to the said Rectors and Vicars respectively, and their respective Successors, it may be necessary that some Buildings should be erected thereon, and some necessary division as well as interior or subdivision Fences may be necessary to be made, planted, and raised in and upon the said Allotments or some of them: And whereas the erecting of such further Buildings, and the making, planting, and raising such Fences, will be attended with considerable Expence, and as the same will probably be more beneficial to the Successors of such Rectors and Vicars respectively than to the Rector and Vicar in whose Incumbency such Allotment and Inclosure may take place; be it therefore further enacted, That it shall and may be lawful to and for the said Rectors and Vicars respectively, and their respective Successors, by and with the Consent in Writing of the respective Patrons of the said Rectories and Vicarages, and of the Ordinary of the Diocese for the Time being, to erect or cause to be erected for Agricultural Purposes such further Buildings upon the Allotment or Allotments (which Buildings the said Rectors and Vicars respectively, and their respective Successors, are hereby required to cause to be insured equal to the Value thereof annually in some of the Offices in *London* established for Insurance against Fire,) so as aforesaid to be set out unto the said Rectors and Vicars and their respective Successors as aforesaid, and also to make, plant, and raise such outer division as well as interior or subdivision Fences in and upon the said Allotment or Allotments as the said Commissioner or Commissioners shall judge necessary and proper for the Occupation of the Lands so to be allotted to the said Rectors and Vicars respectively, and their respective Successors, and by any Deed or Deeds, Writing or Writings, under the respective Hand and Seal of such Rectors or Vicars respectively, and their respective Successors, and attested by Two or more credible Witnesses, by and with the Consent in Writing of the Bishop of the Diocese for the Time being, to charge such Allotment or Allotments so as aforesaid to be set out for the said Rectors and Vicars

respectively, and their respective Successors as aforesaid, and the Buildings so to be erected thereon, with such Sum or Sums of Money, not exceeding in the whole Two Years annual Value of the respective Allotments so to be set out to the said Rectors and Vicars respectively, as the said Commissioners shall think necessary for the Purposes of and in order to be applied to paying and defraying the Charges and Expences of erecting the said further Buildings, and of making, planting, or raising such division or subdivision Fences, or for either of the said Purposes, and in applying for and obtaining the Consent of the said Bishop, and in exercise of the Powers given to and vested in the said Rectors and Vicars respectively by virtue of this Act and the said recited Act; which Sum or Sums of Money shall be paid to such Person or Persons as the said Commissioners shall nominate and appoint, in order to be applied or disposed of accordingly; and for securing the Repayment of such Sum or Sums of Money, with Interest for the same, to grant, mortgage, lease, or demise the Allotments so as aforesaid to be set out unto and for the said Rectors and Vicars respectively, and their respective Successors, as aforesaid, and the Buildings so to be erected thereon, unto such Person or Persons who shall advance and lend the same, his, her, and their Executors, Administrators, or Assigns, for any Term or Number of Years, so that every such Grant, Mortgage, Lease, or Demise be made with a Proviso to cease and be void, or with an express Trust to be surrendered, when the Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be respectively fully paid and satisfied; and such Mortgagee or Mortgagees advancing and lending the Money so to be borrowed shall not be obliged to see to the Application or be in anywise answerable for the Misapplication of such Monies or any Part thereof; and the said Rectors and Vicars respectively, and their respective Successors for the Time being, shall be and are hereby required and made liable, at the End of every Year after the Date of such Mortgage, to pay to the Person or Persons to whom such Grant, Mortgage, Lease, or Demise shall be made, his, her, or their Executors, Administrators, or Assigns, One Thirtieth Part of the respective Principal Monies so to be borrowed, until the whole thereof shall by such annual Payments be paid off and discharged, and also to pay and keep down the Interest of the said respective Monies so to be borrowed, so that the future Rectors and Vicars of the said respective Parishes or Townships becoming possessed of such respective Lands and Fields shall not be subject or liable (and they are hereby respectively discharged from being subject or liable) to pay any further or larger Share of such Monies than his or their Proportion thereof according to such last-mentioned Condition, or any Interest for the same save only from the Day of the Death, Resignation, or Cession of the preceding Incumbent of the said Rectories or Vicarages respectively; and that it shall and may be lawful to and for the Person or Persons who shall advance and lend such Monies, his, her, or their Heirs, Executors, Administrators, and Assigns, for the more easily recovering the said One Thirtieth Part of the said Principal and the whole of the Interest which is enacted annually to be paid, to have, use, exercise, and take such and the same Powers and Remedies, by Entry and Distress upon the Premises

so to be charged, mortgaged, and demised, and Sale of such Distress, as by the Laws now in force are provided for and given to Landlords or as they can use and take for the Recovery of Rack Rents in arrear.

Rectors, with Consent of Bishop, may demise the Allotments.

XXXI. And be it further enacted, That it shall and may be lawful for the Rectors of the said Rectories and the Vicars of the said Vicarages respectively for the Time being, by Indentures under their respective Hands and Seals, with the Consent and Approbation of the Bishop of the Diocese for the Time being, and of the Patron of the said Rectories and Vicarages, from Time to Time to lease and demise all or any Part of the Allotments to be set out and allotted to them respectively by virtue of this Act, to any Person or Persons whomsoever, for any Term not exceeding Twenty-one Years, so that the Rent or Rents for the same shall be thereby reserved to such Rectors and Vicars for the Time being by Four equal quarterly Payments in every Year, and so that there be thereby reserved to such Rectors and Vicars the best and most improved Rent or Rents that can be reasonably gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for granting any such Lease, and so that no such Lessee by any such Lease or Demise be made dispunishable for Waste by any express Words to be therein contained, and so that there be inserted in every such Lease Power of Re-entry on Non-payment of Rent or Rents to be thereby reserved within a reasonable Time, to be therein limited, after the same shall become due, and so that a Counterpart of such Lease be duly executed by the Lessee or Lessees to whom such Lease shall be made as aforesaid; and every such Lease shall be valid and effectual, any Law or Usage to the contrary notwithstanding.

Commissioners in certain Cases to apportion Expences of erecting Boundary Fences.

XXXII. Provided always, and be it further enacted, That in case, through the Necessity of Situation or any other Accident or Circumstance, it shall happen that One or more of the said Proprietors shall not have an equal or proportionable Quantity of Boundary Mounds or Fences allotted to him, her, or them on the said intended Inclosure, it shall be lawful for the said Commissioner or Commissioners, when he or they shall judge it necessary and reasonable, to award, order, ascertain, and appoint what Sum or Sums of Money such Proprietor or Proprietors shall respectively pay and contribute towards making the Mounds and Fences of the Allotments of such other Proprietor or Proprietors who shall or may have too great a Proportion of Mounding or Fencing allotted to him, her, or them by virtue of this Act, the same to be settled by the said Commissioner or Commissioners in such Manner as he or they shall order, direct, or appoint; and the Money so ordered, directed, or appointed to be paid shall be raised, levied, and recovered in such and the same Manner as the other Expences of this Act are herein or by the said recited Act ordered and directed to be levied and recovered.

Act not to affect Settlements.

XXXIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed or adjudged to extend to revoke, make void, alter, or annul any Settlement, Deed, Will, or Lease,

Lease, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Rent-charge, Debt, or Incumbrance whatsoever in, out of, upon, or affecting any of the Lands, Tenements, or Hereditaments hereby authorized to be divided and allotted, or which shall be exchanged or assigned in compensation for any other Estate or Right in pursuance of this Act; but as well the Lands allotted as the Tenements or other Hereditaments which shall be assigned in Exchange or as a Compensation for any other Estate or Right shall, immediately after such Allotment, Exchange, or Assignment shall be made, be vested, remain, and enure, and the several Persons to whom the same shall be allotted, assigned, or given in Exchange as aforesaid shall thenceforth stand and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Deeds, Wills, Settlements, Limitations, and Remainders, Conditions, Charges, Tenures, Rents, Services, and Incumbrances, as the several Lands, Tenements, and Hereditaments in respect whereof such Allotments, Assignments, and Exchanges shall have been made should or would have stood severally limited, settled, or subject or liable to, or been held by, in case the same had not been allotted, assigned, or exchanged, and this Act had not been made or acted upon; save and except such Rents and Services as shall have been compensated for and extinguished, and such Leases and Tenancies at Rack Rents as shall become void, by virtue of this Act, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority of this Act or of the said Act of the Forty-first Year of the Reign of His late Majesty King *George* the Third.

Leases at Rack Rent may be voided.

XXXIV. Provided also, and be it further enacted, That all Leases, Agreements, and Tenancies at Rack Rent subsisting of any Part or Parts of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed at the Time of the first Appointment of any Commissioner or Commissioners for the Inclosure thereof, or which shall be exchanged in pursuance of this Act, shall, so far only as respects the Lands hereby authorized to be divided and allotted or exchanged, cease and be void at such Time or Times as the said Commissioner or Commissioners shall by Writing under his or their Hands direct or appoint, so as the respective Lessors or Landlords of such Lands or Tenements do, before or at the respective Times at which such Leases or Tenancies shall be directed to cease, make and pay such Satisfaction to the respective Lessees or Tenants for the Loss which shall be sustained by the Determination of such Leases respectively, so far as regards the said Lands the Tenancy and Leases whereof are hereby authorized to be determined, as shall be mutually settled and agreed between them, or as the said Commissioner or Commissioners, being required by either of the Parties, shall ascertain and direct; and the said Commissioner or Commissioners, being so required, are hereby empowered and directed to apportion a reasonable and proportionable Part, according to the Season of the Year, of the Rent reserved on any such Lease or Agreement, for or in respect of the Time which shall have elapsed between the last Day on which any Payment of the Rent shall have become due and the

Determination of any such Lease or Agreement; and such Part of the Rent shall be recoverable by such Ways and Means as may by Law be used for the Recovery of Rent in arrear; and the said Commissioners are hereby empowered and directed in every Case where such Lands or other Hereditaments shall be held by virtue of such Lease or Agreement, together with other Lands or Hereditaments, by one entire Rent, to apportion and determine what Part of such Rent shall be deducted in respect of such of the Lands or other Hereditaments in such Lease or Agreement comprised as to which the same shall be determined as aforesaid, and from what Time such Deduction shall take place; and the rest of the Rent reserved on any such Lease or Agreement shall, during the Remainder of the Term thereof, be the Rent of and for the Residue of such Lands and Hereditaments, and shall be payable and recoverable in like Manner as the entire Rent reserved by such Lease or Agreement shall immediately before such Apportionment be payable and recoverable.

Exchanges may be made.

XXXV. And be it further enacted, That it shall be lawful for the said Commissioner or Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever, whether situate within the Boundary of such Open and Common Lands or Fields as aforesaid, or adjoining thereto, within the Parishes, Townships, or Places in which the Lands to be allotted and inclosed are situated, or any of them, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the same Parishes, Townships, or Places respectively, or any of them, or within any Parish, Township, or Place adjoining to the said Parishes, Townships, or Places respectively, or any of them; provided that all such Exchanges shall be ascertained, specified, and declared in the Award of the said Commissioner or Commissioners, and be made with the Consent in Writing of the Proprietor or Proprietors of the Hereditaments and Premises which shall be so exchanged, whether such Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate, or Collegiate, Corporation Aggregate or Sole, Rector, Parson, Vicar, or other Ecclesiastical Person or Persons, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail, Special or General, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor or Lessors, but not otherwise, or with the Consent of the Guardians, Husbands, Committees, or Attornies of or acting for any such Proprietor or Proprietors who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Coverts, Idiots, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, or of the Trustees or Feoffees for charitable, parochial, or other Uses, or of the Person or Persons having Power to sell and dispose of the Hereditaments and Premises which shall be so exchanged (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 all and every such Exchange and Exchanges so to be made respectively 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, Tenements, and Hereditaments held in right of any Church,

Church, 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 Benefice shall be situate.

Allotments to be under the same Tenure as the Lands in respect of which they are allotted.

XXXVI. Provided always, and be it further enacted, That the Lands, Grounds, and Hereditaments which shall be allotted or exchanged by virtue of this Act shall be held in like Manner, under and by virtue of the same Terms and Rents, and shall be thereafter deemed to be of the same Quality and Tenure, as the Lands, Tenements, or Hereditaments in respect of which such Allotment or Allotments or Exchanges shall be made were held or deemed to be of immediately before the making of every such Allotment or Exchange respectively: Provided always, that when the Tithes of any Common Lands or Fields agreed to be allotted or inclosed under the Provisions of this Act belong to different Persons or do not extend over the whole of such Common Lands or Fields it shall be lawful for the Commissioners or Commissioner to allot the Tithes as well as the Land, in order that all Persons may have Tithe-free Allotments in lieu of Lands which were before exempted from Tithes.

For defraying Expence of Exchanges.

XXXVII. Provided also, and be it further enacted, That all Costs, Charges, and Expences attending the making any Exchanges and Partitions shall be paid and borne by the several Persons making such Exchanges and Partitions in such Manner and in such Proportions as the said Commissioner or Commissioners shall, by any Writing under his or their Hands, order and direct.

Ditches, &c. may be cleaned, altered, or widened.

XXXVIII. And be it further enacted, That the said Commissioner or Commissioners shall and may scour out, widen, and alter all such ancient Ditches, Drains, Watercourses, Tunnels, Gates, and Bridges in the respective Open Common Arable, Meadow, or Pasture Lands or Fields (or any one of them) hereby authorized to be allotted and inclosed, and also shall and may set out, widen, and make any new Ditches, Drains, Watercourses, Tunnels, Gates, and Bridges in, through, and over the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, (the Expences thereof to be raised and defrayed as the other Expences of executing the Powers of this Act are herein directed to be raised and defrayed,) and of such Breadth, Depth, and Dimensions, and in such Directions, as the said Commissioners shall think proper; and the said Commissioner or Commissioners shall and may and they are hereby directed and required in and by their Awards to order and determine by whom, and at whose Expence, and at what Time and in what Manner, the said Ditches, Drains, Watercourses, Tunnels, Gates, and Bridges shall be afterwards cleansed, scoured, and maintained, and also shall and may direct, order, and award all or any of the Streams, Springs, and Watercourses within the said Lands and Fields hereby authorized to be divided, allotted, and inclosed to be carried, diverted, and turned into such Courses, and through, over, and across such Parts of the Lands and Fields hereby authorized to be divided, allotted, and inclosed, as they the said Commissioners shall in their Discretion judge proper for the draining or watering the several Allotments so to be made as aforesaid.

XXXIX. Pro-

Power to Commissioners to make Drains through Land not proposed to be inclosed, due Compensation being made for Damage done.

XXXIX. Provided always, and be it enacted, That if it shall be necessary, for the Purpose of carrying off the Water from such Drains as may be made under the Authority of this Act, to make Drains through any Land not to be inclosed, divided, or allotted under the same, it shall be lawful for the said Commissioners and their Servants to enter upon such Lands, and make such Drains accordingly, due Compensation being made for any Damage done to such Lands thereby; and it shall be lawful for such Commissioners in their Award to direct by which of the Persons to whom any Allotment shall be made in any Field so divided and inclosed such Drains shall be maintained, and the Persons so directed to maintain such Drains shall maintain the same accordingly, and have the same Authority to enter upon such Lands as herein-before described, for the Purpose of maintaining the same, as is herein-before given to the said Commissioners and their Servants for the making of the same, making due Compensation for any Damage which may be done to such Lands.

Upon the Consent of Seven Eighths in Number and Value, an Inclosure may take place without the Intervention of Commissioners.

XL. And be it enacted, That in case Seven Eighths in Number and Value of the Persons being seised, possessed of, entitled to, or interested in any Open and Common Arable Fields, or Open and Common Meadow or Pasture Lands or Fields, in *England* or *Wales*, and any Rights of Common or any other Rights therein, being Persons having such Estates or Interests in the said Lands, Fields, or Rights as are herein-before required for the Purpose of consenting to any such proposed Inclosure as aforesaid, shall by themselves or their known Agents, or if Covert, Infants, Idiots, or Lunatic then by their Husbands, Guardians, or Committees, at a public Meeting to be called for that Purpose in the Manner and after the Notice herein-before provided for, or at some Adjournment thereof, enter into an Agreement for such Inclosure under the Provisions of this Act, but without the Intervention of Commissioners, and for the Discharge of the Lands to be inclosed from all Rights of Common, and for the granting of Compensation to such Persons as may be possessed of such Rights, whether consenting Parties to any such Agreement or not, and shall sign or seal (as the Case may require) the Schedule herein-after mentioned, every such Inclosure shall, from and immediately after the Expiration of the Notices of such Schedule having been deposited as herein-after mentioned, be as valid and effectual to all Intents and Purposes (subject only to the Right of Appeal herein-after given) as if the same had been effected by means of Commissioners to be appointed under this Act.

Schedule of Land proposed to be inclosed to be deposited with the Clerk of the Parish and the Clerk of the Peace; and a Notice thereof affixed on the Church.

XLI. And be it further enacted, That before any Land shall be inclosed under the Provisions herein contained for Inclosure without the Assistance of Commissioners, a Schedule of such Land, containing a correct Description thereof, and signed by the Persons proposing to make such Inclosure, and also by the Persons whose Consent to such Inclosure is herein-before required to be given, and whenever the Inclosure shall be proposed to be made by any Person having a less Estate than a Fee Simple or under Disability, then accompanied by a Copy of the several Limitations contained in the Deed or Will under which such Person may be entitled, shall be deposited with the Clerk of the Parish, Township, or Chapelry, and

also with the Clerk of the Peace of the County in which the Land proposed to be inclosed may be situated; and a Notice of such Schedule having been so deposited (such Notice containing a Description of the Land intended to be inclosed) shall be published in some Newspaper usually circulating in the County wherein such Land is situated, at Three several Times in Three successive Months after such Schedule shall have been so deposited, and a Copy thereof shall be affixed on the principal outer Door of the Church or Chapel of the Parish or Township in which the Land may be situated, before the Commencement of Divine Service, or if there be no Church or Chapel then in some conspicuous Place there, for Three successive *Sundays* after such Schedule shall have been so deposited: Provided always, that whenever such Inclosure shall be proposed to be made by a Corporation Aggregate, or the Consent of a Corporation Aggregate shall be necessary thereto, the affixing of the Common Seal of such Corporation to such Schedule shall be deemed a sufficient Compliance with the Provisions of this Act.

Door, and published in some Newspaper circulating in the County.

XLII. And be it further enacted, That it shall be lawful for any Person who shall be seised or possessed of or entitled in Possession to any Land or Tenement in respect of which Compensation may be proposed or ought to be given, or to which any Right of Common may attach, or who, having no Land in the Common Field in which an Inclosure is proposed to be made, may nevertheless have a Right of Common therein, whether such Person shall be Tenant in Fee Simple, or Fee Tail, General or Special, or for Life or Lives, or by the Courtesy of *England*, or for any other Estate of Freehold, or for Years determinable on any Life or Lives, and also for any Person whose Right of Common may be merely personal, and for the Guardian, Trustee, Feoffee for charitable or other Uses, Husband, or Committee of such Person who shall be an Infant, Idiot, Lunatic, or Feme Covert, or under any other Disability, to consent and agree to the Compensation which may be offered or which ought to be given by the Persons making such Inclosure, not only as to the Nature and Amount of such Compensation, but as to the Manner in which the same shall be secured, and to sign the Agreement for that Purpose; but no such Agreement shall be valid if entered into by any Person having a limited Interest only, or by any Incumbent of a Benefice, without the Consent of the same Persons and to be testified in the same Manner as is herein-before required in the Case of such Persons being respectively Parties to any Agreement for Inclosure: Provided always, that in case such Compensation or any Part thereof shall be agreed to be paid in Money, and such Money shall belong to any Persons who in the said first-recited Act are mentioned or described as Persons incapacitated to receive the same, then such Money shall be paid and applied in such and the same Manner as Money belonging to such Persons is directed to be applied under the Provisions of the said first-recited Act.

Incapacitated Persons enabled to enter into an Agreement for Compensation.

XLIII. And be it further enacted, That whenever any Agreement for Compensation may or may not have been entered into, and notwithstanding any such Agreement, if any Person interested in any such Inclosure, other than a Person who may have signed such Agreement

Persons having Objections to such Inclosure to deposit them

with the Clerk of the Peace, within Six Months;

Agreement or otherwise consented thereto, shall object to such Inclosure, or to the Nature or Amount of any Compensation which may be offered, or to the Manner in which such Compensation may be proposed to be secured, or on account of there not having been any Compensation offered, it shall be lawful for him to state such Objection in Writing, and to deposit the same with the Clerk of the Peace at any Time within Six Calendar Months from the Expiration of the aforesaid Notices of the Deposit of such Schedule; and such Schedule and Copy of Limitations, and every Statement and Document annexed to such Schedule, and every Statement of Objection which may be so deposited, shall be open to the Inspection of any Person interested, and the Deposit of such Statement of Objections in manner aforesaid shall be deemed and taken to be a sufficient Notice to all Persons interested in such Inclosure.

to be open to Inspection.

Clerk of the Peace to lay the Schedule &c. before the Justices at Quarter Sessions, who shall hear and determine upon such Objections.

XLIV. And be it further enacted, That the Clerk of the Peace shall cause the Schedule and Statement of Objections, and all other Papers relating thereto, and which shall have been so deposited with him, to be laid before the Justices at the General Quarter Sessions of the Peace, or at some adjourned Meeting thereof, which shall be held not earlier than Twenty-eight Days next after the Deposit of such Objections, in and for the County, Riding, or Division wherein the Lands proposed to be inclosed, or the greater Part thereof, shall be situate; and all such Objections shall be heard and determined by the said Justices in manner herein-after provided.

Persons interested in Allotments may sell the same before the Award; and Commissioners may allot them to the Purchasers.

XLV. And be it further enacted, That it shall and may be lawful for any Person or Persons interested in the said Allotments at any Time to mortgage, sell, demise, or dispose of all such Estate, Right, Title, Interest, and Property which he, she, or they shall then have in or to the said Open and Common Arable, Meadow, or Pasture Lands or Fields (or any one of them), and of the Allotments set out in lieu thereof, before the Execution of the Award of the said Commissioner or Commissioners; and it shall be lawful for the said Commissioner or Commissioners, and he or they are hereby authorized and required, upon the Conveyance or other Instrument by which such Sale or Disposition is confirmed being produced to them, and the Execution thereof proved to their Satisfaction, to allot the same to the Purchaser or Purchasers thereof respectively; and if not so allotted such Conveyance or other Instrument shall be valid and effectual in Law, notwithstanding it may have been so made before the Execution of the said Award.

Tenants for Life empowered to Allotments to defray Expences.

XLVI. And be it further enacted, That it shall be lawful for the said Commissioner or Commissioners, in case he or they shall be requested by Writing under the Hand or Hands of any Person or Persons being Tenant for Life, or other Person being in Possession of, but not having the absolute Estate or Interest in, any Lands hereby authorized to be allotted and inclosed, to sell and dispose of any Part or Parts of the Allotment or Allotments belonging to such Person or Persons, for the Purpose of defraying his, her, or their Shares of the Costs, Charges, and Expences of putting into execution this Act and the said recited Act of the Forty-first Year of the Reign of His late

Majesty King *George* the Third, and the Expences of fencing, ditching, subdividing, and inclosing such Allotment or Allotments; and the said Commissioners shall accordingly sell such Part or Parts of such Allotment or Allotments, either by private Contract or public Auction, as they shall think proper, to such Person or Persons as shall be willing to purchase the same, and shall convey the same to such Purchaser or Purchasers by any Deed under their Hands and Seals; and the Receipt of the said Commissioners for such Money shall be a full and complete Discharge to such Purchaser or Purchasers for such Purchase Money; and the said Commissioners shall apply the Purchase Money in or towards the Payment of such Expences, and in fencing, ditching, subdividing, and inclosing the said Allotment or Allotments respectively, and not otherwise; but such Purchaser or Purchasers shall not be liable to see to the Necessity or Expediency of such Sale, nor be answerable nor accountable for the Misapplication of such Purchase Money; and upon the Payment of such Purchase Money or Purchase Monies into the Hands of the said Commissioner or Commissioners, the Lands so to be sold as last aforesaid shall immediately thereupon be vested in Fee Simple in Possession (if such Allotment or Allotments is or are made in right of Freehold) in the Purchaser or Purchasers thereof, and the same shall be thenceforth held in Severalty by such Purchaser or Purchasers thereof respectively, as his, her, or their private Property, and shall be allotted accordingly by the said Commissioner or Commissioners.

When Allotments to a Tenant for Life are in different Parishes, Commissioners may sell the Land in one Parish to defray Expences attending the other Portion of the Allotment.

XLVII. Provided always, and be it further enacted, That where any Allotment or Allotments so to be made to any Person or Persons being Tenant for Life or in Tail, or other Person being in Possession, but not having the absolute Estate or Interest in any Lands hereby authorized to be allotted and inclosed, which stand limited to the same Uses, shall be situated partly in one and partly in another Parish or Township or Place, it shall and may be lawful to and for the said Commissioner or Commissioners, in case they shall be requested as last herein-before mentioned, to sell and dispose of, and to convey and assure to the Purchaser or Purchasers thereof, any Part or Parts of the said Allotments belonging to such Person or Persons in any One or more of the said Parishes, Townships, or Places, in manner in that Behalf herein-before mentioned, as well for the Purpose of defraying his, her, or their Share or Shares of the Costs, Charges, and Expences of putting into execution this Act and the said recited Act, and the Expences of fencing, ditching, subdividing, and draining such Allotment or Allotments in respect of such of the said Lands as are situated within the same Parish wherein the said Allotment or Allotments so sold may be situated, as for and in respect of such of the said Lands or other Hereditaments or Allotments as may be situated in any other Township or Place: Provided always, that it shall not be lawful to raise by such Sale any further or greater Sum of Money than the Person or Persons Part of whose Allotment or Allotments may be sold or disposed of would have been empowered and authorized to borrow or charge upon his, her, or their Allotment or Allotments under or by virtue

Proviso.

of

of the said recited Act or this Act, reckoning Five Pounds for each and every Acre of such Allotment or Allotments.

Not to charge Lands with Expences unless the Sum to arise by the Sale shall be less than 5*l.* per Acre.

XLVIII. Provided always, and be it further enacted, That it shall not be lawful for the Proprietor or Person from whose Allotments Lands shall be as aforesaid deducted to charge his, her, or their Lands or Hereditaments, by virtue of the said recited Act or this Act, with any Money towards Payment of such Expences, unless the Money to arise by such Sale shall be less than the Sum of Five Pounds *per* Acre; and then and in such Case it shall be lawful for such Person or Persons to charge his, her, or their Estate or Estates with, or to raise by Mortgage thereof, or other Means or Ways, as mentioned in the said recited Act or this Act, such further Sum of Money as may be necessary for the Payment of the Expences of executing this Act, and subdividing the said Allotments, as, together with the Value of the Lands so deducted, shall not exceed the Amount that might be borrowed and charged on the Lands to be divided and allotted at the Rate of Five Pounds for each and every Acre.

For Payment of Expences of measuring, dividing, allotting, and inclosing Open and Common Lands.

XLIX. And be it further enacted, That the Charges and Expences of surveying, valuing, planning, measuring, dividing, and allotting the said Open and Common Arable, Meadow, or Pasture Lands or Fields hereby authorized to be divided, allotted, and inclosed, and of fencing the Lands of the Persons from whom a Deduction of Land shall be made as herein-before directed, and also the Expences of preparing and enrolling the Awards of and the Allowances and Payments to be made to the said Commissioner or Commissioners, Umpire, and Surveyors respectively, as herein-before directed, and all other Charges and Expences incident to or attending the carrying this Act into execution, shall be paid, borne, and defrayed by all the Proprietors of the Lands and Hereditaments so authorized to be divided, allotted, and inclosed, or exchanged, in such Proportions as the said Commissioner or Commissioners shall settle, adjust, and determine, to be paid at such Time or Times and to such Person or Persons as they the said Commissioner or Commissioners shall order and direct; Notice thereof in Writing under their Hands being given Thirty Days before the Time such Payment shall be required: Provided always, that in case any Number of Persons whose Allotments shall not exceed Two Acres respectively shall have required their Allotments to be thrown together as aforesaid, such Persons shall not be liable to pay, bear, or defray any Part of the Charges and Expences as aforesaid: Provided also, that it shall be lawful for Four Fifths in Number and Value of the Proprietors and Persons interested as aforesaid, at any Meeting to be held as herein-before is mentioned, to agree that any Persons whose Allotments shall not exceed Five Acres respectively shall not be liable to pay, bear, or defray any Part of the Charges and Expences aforesaid, and such Persons shall by virtue of such Agreement be exempt from all Liability thereto.

Commissioners to account.

L. And be it further enacted, That once at least in every Year, to be computed from the first Appointment of such respective Commissioner

missioner or Commissioners, the Accounts of the said Commissioners, Commissioner, or Umpire, containing a true Statement of all and every Sum and Sums of Money by them received and expended, or due to them for their Trouble and Expence in the Execution of this Act and the said recited Act of the Forty-first Year of the Reign of His late Majesty King *George* the Third, until such Account shall be finally settled, shall, together with the Vouchers relating to the same, be by them laid before Three of His Majesty's Justices of the Peace for the County in which the Lands to be inclosed, or the greater Part of them, shall be situated, to be by them examined and balanced; and such Balance shall be stated in the Books of Account to be kept in the Office of the Clerk of the said Commissioners; and no Charge or Item in such Account shall be binding on the Parties concerned, or valid in Law, unless the same shall be so allowed: Provided also, that it shall not be lawful for the Commissioners to be appointed in pursuance of this Act, or any of them, to retain or pay to themselves or Clerk, out of any Monies to be received by them or over which they may have any Control in the Execution of any Inclosure to be effected under this Act, any Sum or Sums of Money on account of any Allowance herein-before directed to be made to such Commissioners and Clerk respectively beyond One Third of such Allowance as they shall respectively be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Day of the Delivery of the Award hereby directed to be made in the Church of the Parish in which the Lands inclosed may be situate.

Awards.

LI. And be it further enacted, That the said Commissioner or Commissioners shall make and execute Awards, with Maps or Plans thereto annexed, and shall cause the same to be enrolled in manner as directed by the said recited Act; and such Awards shall be deposited in the respective Parish Churches of the Parishes wherein the Lands so to be allotted and inclosed, or the greater Part thereof, are situated.

Provisions of recited Acts, where not altered or repealed, extended to this Act.

LII. And be it further enacted, That all and every the Clauses, Provisions, and Enactments contained in the said Act of the Forty-first Year of the Reign of King *George* the Third and of the First Year of the Reign of King *George* the Fourth, or such of them as are applicable to and consistent with the Purposes and Object of this Act, shall and may be in full Force and Effect for carrying into effect the Allotments, Division, Inclosures, and Exchanges hereby authorized to be made, as fully and effectually as if such Clauses, Provisions, and Enactments had been herein repeated and re-enacted, and had been made Part of this Act, with such Alterations and Variations as would adapt them and render them applicable to the Object and Purposes of this Act.

Appeal to Quarter Sessions where Parties think themselves aggrieved.

LIII. And be it further enacted, That it shall be lawful for all Persons who shall think themselves aggrieved by any thing done by virtue of this Act or the said recited Act (except in Cases where the Things so done are herein or by the said Act of the Forty-first Year of His late Majesty King *George* the Third declared to be final, binding,

binding, and conclusive,) to appeal to the General Quarter Sessions of the Peace which shall be held in and for the County, Riding, or Division wherein the Lands, or the greater Part thereof, in respect of which the Matter of Complaint may arise, shall be situated, or any Adjournment thereof, within Six Calendar Months next after the Cause of Complaint shall have arisen, first giving or causing to be given Twenty-eight Days Notice thereof in Writing to the said Commissioner or Commissioners, or One of them, or to the Parties intended to be appealed against; and the Justices at their said Quarter Sessions, or any Adjournment thereof, are hereby authorized and required to hear and determine the Matter of every such Appeal, and shall also hear and determine any Appeal against the Sum agreed to be paid to any Commissioner or Surveyor, or against the Adoption of any Plan, Map, Admeasurement, or Valuation, or against any Rules, Conditions, and Principles which may have been agreed upon in manner aforesaid for the Guidance of the Commissioner or Commissioners or Umpire in making Allotments, and shall also hear and determine all Objections (if any) which may have been made in manner aforesaid to any Inclosure without the Assistance of Commissioners, or to the Nature or Amount of the Compensation which may have been offered, or to the Manner in which the same may have been proposed to be secured, or on account of there not having been any Compensation offered, and to make such Order in every such Case respectively, and to award such Costs, as to them in their Discretion shall seem meet, and by their Warrant to levy the Costs awarded by Distress and Sale of the Goods and Chattels of the Parties respectively adjudged to pay the same, rendering the Overplus (if any) to the respective Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; and every Determination of the said Justices shall be final and conclusive on all Parties concerned; and no such Complaint, Appeal, or Proceeding shall be removed or removeable by Certiorari or any other Writ or Proceeding whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

Act not to affect Rights of Lords of Manors.

LIV. Provided always, and be it further enacted, That nothing in this Act contained shall in any Case authorize the Inclosure of any Waste whatsoever, whether the Soil thereof shall or shall not be vested in the Lord of any Manor, and whether with or without the Assent of the Lord of such Manor; nor shall any thing in this Act contained prejudice, lessen, or defeat the Right, Title, or Interest of the respective Lords for the Time being of any such Manors in or to any of the Royalties or Seignories, Fisheries, Manorial and other Rights, Customs, and Services incident or belonging to the said respective Manors or any of them; but that such respective Lords, and all and every Person and Persons claiming in Trust for him or them as such respective Lords for the Time being of the said several and respective Manors, shall and may at all Times for ever hereafter have, hold, receive, take, and enjoy all Rents, Services, Courts, Perquisites

Perquisites and Profits of Courts, Fines, Goods and Chattels of Felons and Fugitives, Felons of themselves and put in Exigent, Deodands, Waifs, Estrays, and Forfeitures, Privileges and Jurisdictions of their several and respective Manors, to the respective Lords thereof, or any Person or Persons claiming under him or them, incident, belonging, or appertaining, except in respect of any Land or Estate for which Compensation is herein-before authorized to be made, in as full, ample, and beneficial Manner to all Intents and Purposes as the same might or ought to have been held and enjoyed in case this Act had not been passed.

Act not to authorize the Inclosure of any Open or Common Fields within certain Distances of large Towns.

LV. Provided always, and be it further enacted, That nothing in this Act contained shall authorize the Inclosure of any Open or Common Arable Fields, or of any Open or Common Meadow or Pasture Lands or Fields, situate and being within Ten Miles of the City of *London*, or of any Open or Common Meadow or Pasture Lands or Fields situate and being within One Mile of any City or Town of Five thousand Inhabitants, or within One Mile and a Half of any City or Town of Fifteen thousand Inhabitants, or within Two Miles of any City or Town of Thirty thousand Inhabitants, or within Two Miles and a Half of any City or Town of Seventy thousand Inhabitants, or within Three Miles of any City or Town of One hundred thousand Inhabitants; provided that in all Cases the Number of such Inhabitants shall be ascertained by the then last Parliamentary Census thereof, and that such Distance shall be measured in a direct Line from the Town Hall if there shall be any Town Hall, or if there shall be no such Town Hall then from the Cathedral or Church, if there shall be only One Church, or if there shall be more Churches than One then from the principal Market Place of any such City or Town.

Meaning of certain Words in this Act.

LVI. And be it further enacted, That the Words and Expressions herein-after mentioned, which in their ordinary Signification have a more confined or a different Meaning, shall in the Construction of this Act, except when the Nature of the Provision or the Context of the Act exclude such Construction, be interpreted as follows; (that is to say,) the Words "Proprietor," "Owner," and "Person" shall respectively extend as well to an Individual as to a Body Politic, Corporate, or Collegiate, and to a Corporation as well Aggregate as Sole, whether such Corporation be Eleemosynary or Civil, Ecclesiastical or Lay; the Word "Benefice" shall extend to and be taken to comprehend Rectories, Vicarages, Donatives, Perpetual Curacies, Parochial and Consolidated Chapelries and Churches, and Chapels having a District assigned thereto; the Word "Tithes" shall extend to any Rent-charge or Payment in lieu of Tithe; the Word "Land" shall extend to every Species of Land, whether Arable, Meadow, or Pasture, and whether Freehold, Copyhold, or Customary, or held by any other Tenure, and as well to One Piece or Parcel as to any Number of Pieces or Parcels of Land; the Word "Parish" shall be construed to include any Parish, Township, Liberty, Precinct, Vill, Village, Hamlet, Tithing, Chapelry, or any other Place or Division or District of a Place, whether Parochial or Extra-parochial; and every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as one Person or Thing.

LVII. Pro-

Saving the Rights of His Majesty in respect of the Duchy of Cornwall, or of the Duke of Cornwall for the Time being.

LVII. Provided further, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to affect, prejudice, or derogate from the Estate, Right, Title, Interests, Privileges, or Authority of the King's most Excellent Majesty, His Heirs and Successors, in right or in respect of His Duchy of *Cornwall*, or of the Duke of *Cornwall* for the Time being, or to authorize, sanction, or permit the Inclosure of any Lands, Grounds, Tenements, or Hereditaments whatsoever, or give any Right or Title whatsoever to any Encroachment or Intake heretofore made thereupon, or otherwise affect any Lands, Grounds, Tenements, or Hereditaments whatsoever belonging to or held of or being within and forming Part and Parcel of any Manor, Messuage, or Tenement, Open Field, Pasture, Common, or other Land or Ground whatsoever, or any Advowson, Rectory, or Vicarage, Parcel of the Possessions of the Duchy of *Cornwall*, or wherein or whereunto, or over, upon, or with reference whereto, His Majesty, in respect of His said Duchy of *Cornwall*, or the Duke of *Cornwall* for the Time being, may have or claim to have any Estate, Right, Title, or Interest whatsoever, nor at any Time or Times be admitted in any Court of Law or Equity or otherwise considered as Evidence upon any Occasion to affect in any Manner His Majesty, His Heirs and Successors, in right or in respect of His said Duchy of *Cornwall*, or the Duke of *Cornwall* for the Time being.

Saving as to the Duchy of Lancaster.

LVIII. Provided always, and be it further enacted, That nothing in this Act contained shall authorize the Inclosure of any Open Lands in, to, or over which His Majesty, in right of His Crown or of His Duchy of *Lancaster* has or may have or claim to be entitled to any Estate, Right, Title, or Interest whatsoever.

General Saving.

LIX. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, Ecclesiastical and Civil, his, her, or their respective Heirs, Successors, Executors, and Administrators, (other than and except the Persons to whom any Allotment or Compensation shall be made by virtue of this Act, in respect of the Interest or Property for which such Allotment or Compensation shall be made to them in respect of such Right, and except such other Rights and Interests as the Intents and Purposes hereby authorized shall absolutely require to be barred, destroyed, or extinguished by this Act, and all Persons respectively claiming under them or in Remainder after them,) all such Estate, Right, Title, Interest, Claim, and Demand as they, every or any of them, had or enjoyed of, in, to, or out of the said Open and Common Arable, Meadow, or Pasture Lands or Fields hereby authorized to be divided, allotted, and inclosed, before the passing of this Act, or the carrying the Powers thereof into execution, or could or might have held or enjoyed in case this Act had not been made, or the Powers thereof had not been carried into execution.

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