ANNO SEXTO

GULIELMI IV. REGIS.

Cap.3.

An Act for inclosing Lands in the Parish of *Orwell* in the County of *Cambridge*, and for commuting the Tithes of the said Parish. [30th *March* 1836.]

WHEREAS there are within the Parish of *Orwell* in the County of *Cambridge* divers Open Fields and Commonable and Waste Lands and Grounds, and divers inclosed Lands and Homesteads: And whereas *John Bendyshe* Esquire is or claims to be Lord of the Manor of *Orwell* aforesaid: And whereas the said *John Bendyshe*, as such Lord of the said Manor of *Orwell*, is entitled to the Soil of the Waste Lands within such Manor: And whereas the Master, Fellows, and Scholars of the College of the Holy and Undivided Trinity within the Town and University of *Cambridge*, of King *Henry* the Eighth's Foundation, are Patrons of the Rectory and Parish Church of *Orwell* aforesaid: And whereas the Rector for the Time being of the said Rectory and Parish Church of *Orwell* aforesaid is entitled to all the Great and Small Tithes arising within the said Parish, but the said Rectory is at present void: And whereas the Right Honourable *Charles Philip* Earl of *Hardwicke*, the said *John Bendyshe*, the Master or Keeper, Fellows, and Scholars of *Christ College* in the University of *Cambridge*, by *Henry* the Sixth, King of *England*, first begun, and after his Decease augmented, finished, and established by *Margaret* Countess of *Richmond* and *Derby*, Mother to King *Henry* the Seventh, *William Beaumont*, *Farrow Miller*, *Chandler Merry*, *Thomas Scruby*, and divers other Persons, are the Owners

and Proprietors of or interested in the said Open Fields and Commonable and Waste Lands and Grounds, and the said inclosed Lands and Homesteads, in the Parish of *Orwell* aforesaid: 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 and Second Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: And whereas it would be advantageous to the Persons entitled to the said Open Fields and Commonable and Waste Lands and Grounds, if the same were divided and allotted unto and among them according to their respective Rights and Interests therein, and inclosed and held in Severalty, and if the same and the said inclosed Lands and Homesteads were exonerated from Tithes; but as the several Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it 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 of the same, That *Richard Attwood* of *Salisbury* in the County of *Wilts*, Gentleman, *Alexander Watford* of the Town of *Cambridge* in the County of *Cambridge*, Gentleman, and *Anthony Jackson* of *Barkway* in the County of *Hertford*, Gentleman, and their Successors to be appointed in manner herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Open Fields and Commonable and Waste Lands, and for carrying this Act into execution, subject to the Rules, Orders, and Regulations in this Act contained, and also subject to the Rules, Orders, and Directions contained in the said recited Acts, except such as are by this Act varied or altered.

41 G. 3. c. 109.

1 & 2 G. 4. c. 23.

Appointment of Commissioners.

Commissioners to make a Declaration.

II. And be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act until he shall have made and subscribed the Declaration following; that is to say,

'I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the Sixth Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.'

And such Declaration shall be in lieu of and as a Substitution for the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds; and such Declaration, when duly made and subscribed, shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

III. And

Appointment of new Commissioners,

III. And be it further enacted, That in case the said *Richard Attwood*, or any Person hereafter to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act as a Commissioner in the Execution of this Act, then and in every such Case it shall be lawful for the said *John Bendyshe* by Writing under his Hand, within Fourteen Days after such Death, Refusal or Incapacity to act, shall be made known to him, to nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room and Stead of the said *Richard Attwood* or of such other Person appointed in his Stead so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and in case the said *Alexander Watford*, or any Person hereafter to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act as a Commissioner in the Execution of this Act, then and in every such Case it shall be lawful for the Rector of the said Parish of *Orwell* for the Time being by Writing under his Hand, within Fourteen Days after such Death, Refusal or Incapacity to act, shall be made known to him, to nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room and Stead of the said *Alexander Watford*, or of such other Person appointed in his Stead, so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and in case the said *Anthony Jackson*, or any Person hereafter to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act as aforesaid, then and in every such Case the surviving or remaining Commissioners, within One Calendar Month next after such last-mentioned Death, Neglect, Refusal, or Incapacity shall have been made known to them, shall, by Advertisement in the Newspaper called the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated within the County of *Cambridge*, and by Writing under their Hands to be affixed on the principal outer Door of the Parish Church of *Orwell* aforesaid upon a *Sunday* immediately before Divine Service, give Notice of a Meeting to be held within the Parish of *Orwell* aforesaid, or within Eight Miles thereof, at least Fourteen Days before such Meeting, for the Purpose of appointing some Person to be a Commissioner in the Room of the said *Anthony Jackson*, or of such Person hereafter appointed in his Stead, as the Case may be, at which Meeting it shall be lawful for the Majority in Value, to be ascertained by the Land Tax Assessment, of the Proprietors or Persons interested in the Lands and Grounds by this Act directed to be divided and inclosed (other than the said *John Bendyshe* and the said Rector for the Time being), or the known Agents or Attornies of any of them, who shall be present at such Meeting, by Writing under their Hands to nominate and appoint some proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room and Stead of the said *Anthony Jackson*, or of such Person appointed in his Stead so dying, neglecting, refusing, or becoming incapable to act as last aforesaid: Provided always, that if it shall happen that any Person or Persons herein-before respectively authorized and empowered to appoint such new Commissioners shall not make any such Appointment within the respective Times herein-before for that Purpose limited, then and so often as it shall so happen the surviving or remaining Com-

Parties authorized not appointing, the surviving Commissioners may appoint.

Commissioners from Time to Time shall, within Three Weeks next after the Expiration of such Time allowed for appointing such new or succeeding Commissioner as aforesaid, by Writing under their Hands nominate and appoint some other fit and proper Person to be a Commissioner in the Place and Stead of every such Commissioner so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and every new Commissioner so nominated and appointed under either of the Powers hereinbefore given shall, from and immediately after his Appointment and making the Declaration prescribed in that Behalf, have such and the like Powers and Authorities for carrying this Act and the said recited Acts into execution to all Intents and Purposes as if he had been named and appointed a Commissioner in and by this Act.

What shall be deemed a Refusal to act.

IV. And be it further enacted, That if either of the said Commissioners shall neglect to attend at One of the first Two Meetings appointed to be held for putting this Act in execution, and to qualify himself by making the Declaration in that Behalf prescribed, (Notice being given to him of such intended Meetings under the Hand of One other of the said Commissioners,) or if either of the said Commissioners shall, at any Time after having qualified himself as aforesaid, absent himself from any Two successive Meetings appointed to be held as aforesaid, he having first known of such Meetings by his Presence at the Appointment thereof, or having Notice thereof in Writing given him or left at his usual Place of Abode under the Hand of the Clerk of the said Commissioners, and such Commissioner not being prevented by Sickness or other reasonable Cause, or if any Commissioner to be nominated and appointed as aforesaid shall not attend and qualify himself at One of the first Two Meetings after his becoming a Commissioner, or shall, after having qualified himself as aforesaid, wilfully absent himself from any Two successive Meetings, (having first known thereof, or after such Notice and without such Cause as last aforesaid,) every such Absence or Nonattendance shall be deemed and taken to be a Refusal to act.

Appointment of Surveyor.

V. And be it further enacted, That it shall be lawful for the said Commissioners from Time to Time by Writing under their Hands to appoint One or more fit and proper Person or Persons, not interested in the Premises, to be Surveyor or Surveyors for the Purposes of this Act during the Will and Pleasure of the said Commissioners, and on every Vacancy in like Manner to appoint some other Surveyor or Surveyors as often as there shall be Occasion; and it shall also be lawful for the said Commissioners to allow the Surveyor or Surveyors for the Time being acting under this Act for his and their Time and Trouble any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, or planning the said Lands, and also any Sum not exceeding Two Pounds and Two Shillings for each and every Day he or they shall be actually and wholly employed in the Business of the said dividing, allotting, and inclosing, exclusive of the Survey aforesaid; which said several Allowances shall be in full Satisfaction for his or their Time and Trouble, and for all travelling and other Expences of every Description to be incurred by such Surveyor or Surveyors in and about the Execution of this Act.

VI. Pro-

Surveyor to make a Declaration.

VI. Provided always, and be it further enacted, That no Person shall be capable of acting as a Surveyor in the Execution of this Act until he shall have made and subscribed the Declaration following; (that is to say,)

'I *A.B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Duties incumbent on me as Surveyor by virtue of an Act passed in the Sixth Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Partiality, Favour or Affection, Prejudice or Malice, to any Persons whomsoever.'

Which Declaration the Commissioners for the Time being, or any Justice of the Peace for the said County of *Cambridge*, are and is hereby empowered and required to administer or receive; and the said Declaration so made and subscribed by any such Surveyor shall be annexed to and deposited with the Award of the said Commissioners.

Penalty on making false Declaration.

VII. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, shall be subject to the like Pains and Penalties to which Persons guilty of wilful and corrupt Perjury are or may be liable.

Appointment of Clerk.

VIII. And be it further enacted, That the said Commissioners shall have Power and they are hereby authorized to appoint some fit and proper Person to be Clerk to assist them in carrying this Act and the said recited Acts into execution, and from Time to Time to remove such Clerk and appoint another in his Stead as to such Commissioners shall seem meet; and such Clerk so to be appointed shall be paid or allowed, out of the Money to be raised for putting this Act in execution, such Sum or Sums of Money as herein-after mentioned for his Time, Trouble, and Expences in the Assistance to be given by him as aforesaid.

Allowance to Commissioners and Clerk.

IX. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same and the said recited Acts, the said Commissioners and the Clerk to be appointed by them as herein-before directed shall respectively be paid for each and every Day they shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts, during the first Three Years next after the passing of this Act, the Sum of Three Pounds and Three Shillings and no more, and after the Expiration of the said Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings and no more, for each and every Day they shall be respectively employed as aforesaid, in full Satisfaction for their Time and Trouble and for the several Expences which they shall be put unto during their several Journies and Attendances in the Execution of this Act or the said recited Acts, other than and except the Expences for the Use of the Rooms in which the Meetings shall be holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of drawing, copying, engrossing, and enrolling the Award of the said Commissioners, and of Notices and Advertisements.

Regulating the Duration of Meetings.

X. And for regulating the Duration of all Meetings to be holden for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged only as Half a Day, and the said Commissioners and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk in which shall be entered the several Days on which the said Commissioners shall hold the Meetings, and at what Hours the said Commissioners were respectively present thereat, and at what Hour they severally left or adjourned the same; and such Book shall be signed by the said Commissioners at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the said Inclosure, their Agents or Attornies, during the several Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided always, that it shall not be lawful for the said Commissioners to retain or pay themselves or such Clerk, out of any Monies to be received by them or over which they may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-before directed to be made to such Commissioners and Clerk respectively, beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the said Commissioners shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioners or either of them, or of the said Clerk, previous to the Execution of the said Award, the Commissioners for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or Commissioners, or of such deceased Clerk, such Sum of Money as shall appear by the said Accounts to be due thereon.

Proprietors to pay their own Expences at Meetings.

XI. Provided always, and be it further enacted, That all Proprietors and Persons interested in the said Inclosure, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend at any of the Meetings to be held in pursuance of this Act.

Notice and Adjournment of Meetings.

XII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice to be given in the Newspaper called the *Cambridge Chronicle*, or in some other Newspaper circulated in the said County of *Cambridge*, and also by a Notice affixed upon the principal outer Door of the Parish Church of *Orwell* aforesaid on some *Sunday* before Divine Service, of the Time and Place of their First and every subsequent Meeting for executing the Powers hereby and by the said recited Acts vested in them, at least Seven Days before every such Meeting shall be held (Meetings by Adjournment only excepted), and the said Commissioners shall and may adjourn such Meetings from Time to Time as they shall see Occasion for the Execution of this Act and the

said

said recited Acts: Provided always, that all Meetings of the said Commissioners for executing this Act shall be held at some convenient Place in the said Parish of *Orwell* or within Eight Miles therefrom.

How other Notices are to be given.

XIII. Provided always, and be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioners, except in Cases where such Notice is directed to be given otherwise in and by this Act, shall be given by Advertisement to be inserted in the said Newspaper called the *Cambridge Chronicle*, or in some other Newspaper circulated in the said County of *Cambridge*, and also by affixing such Notice on the principal outer Door of the Parish Church of *Orwell* aforesaid.

Commissioners to settle Disputes.

XIV. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties who now are or before the Execution of the Award of the said Commissioners may be interested in the said intended Division and Allotment, touching their respective Rights and Interests in the said Lands to be divided and allotted by virtue of this Act, or any other Matter or Thing relating to the said intended Division or Allotment, it shall be lawful for the said Commissioners and they are hereby required, upon Examination of Witnesses on Oath (which Oath the said Commissioners are hereby authorized to administer) or of any other proper Evidence, to inquire into, hear, and determine the same: Provided always, that nothing herein contained shall authorize or empower the said Commissioners to determine the Title to any Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any of the Parties contrary to the Possession of such Parties, except in Cases of Encroachment as herein-after mentioned; but in case the said Commissioners shall be of opinion against the Right of the Party so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by such Party, or recovered from such Party by Ejectment, or other due Course of Law.

Power to award Costs.

XV. And be it further enacted, That in case the said Commissioners shall, upon the hearing or determining of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of the said first-recited Act or of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made by the Party or Parties whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs or Charges, shall refuse or neglect to pay the same on Demand, then it shall be lawful for the said Commissioners, 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 and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods

and

and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and if there shall not be any Goods or Chattels whereon to levy the same, or in case the Party ordered to pay such Costs be a Body Politic, Corporate, or Collegiate, then and in either of the said Cases it shall be lawful for the Party or Parties in whose Favour such Costs shall be awarded to recover the same by Action or Actions of Debt or on the Case, in which Action or Actions it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioners, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Allowing Parties to try their Rights at Law.

XVI. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said Division and Allotment, shall be dissatisfied with any Determination of the said Commissioners for the Time being touching or concerning any Claim or Claims of Right of Common or other Rights and Interests in, over, or upon or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part or Parts thereof, or touching or concerning any Matter or Thing whatsoever relating to the Division, Allotment, or Inclosure by this Act directed, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with any such Determination, to cause an Action to be brought in one of His Majesty's Courts of Record at *Westminster* upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioners shall have been notified in Writing to the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, against whom such Determination shall have been made, or to his, her, or their known Agent or Attorney; and the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied as aforesaid, shall proceed to a Trial at Law of the Matter so determined by the said Commissioners at the next or the second Assizes to be holden for the said County of *Cambridge* after such Action or Actions shall have been so commenced; 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, or file common Bail, and accept One or more Issue or Issues whereby such Claim or Claims, Objection or Objections, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Persons and Person, Bodies and Body Politic, Corporate, and Collegiate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim

or Claims, Right or Rights, Interest or Interests thereby determined according to the Event of such Trial or Trials: Provided always, that if no such Action at Law as aforesaid shall be commenced within the Time herein-before limited, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time and in manner herein-before mentioned, then the Determination of the said Commissioners shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

Deaths of Parties not to abate Actions.

XVII. Provided also, and be it further enacted, That if any of the Parties, Plaintiffs or Defendants, in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate respectively, who might have brought such Action against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action, in the same Manner as the Party or Parties so dying might have been served therewith if living; and it shall thereupon be incumbent on 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 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 or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of every such Action.

Suits not to delay the Execution of the Act.

XVIII. Provided always, and be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching or concerning the Right, Title, or Interest of any Person or Persons or Party or Parties in or to any Lands, Tenements, Tithes, or Hereditaments whatsoever for or in respect of which any Right of Common or other Rights or Interests in, over, or upon the said Lands hereby directed to be divided and allotted, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, or hinder the said Commissioners from proceeding in the Execution of the Powers vested in them by this Act or the said recited Acts; but the said Division and Allotment shall be proceeded in notwithstanding such Suit or Suits, and the said Commissioners shall award the Allotment or Allotments in respect of the Hereditaments to which such Suit or Suits shall relate to the Person or Persons or Party or Parties who shall be in the actual Possession or Enjoyment of such Hereditaments, and the same Allotment or Allotments shall follow the Event of any such Suit or Suits, and may be had and taken by the Person or Persons or Party or Parties who upon the Determination of such Suit or Suits shall become entitled to the same.

Deaths of Parties not to delay the Ex-

XIX. And be it further enacted, That if any of the Parties interested in the said Division and Allotment shall die before the same shall be completed,

Weeks; and after the said several Notices shall have been so affixed and published as aforesaid the said public Carriage Road, Highway, Bridle Road, or Footway shall be and shall be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject however to such Appeal to the Court of General Quarter Sessions for the County of *Cambridge* as is herein-after mentioned.

Persons who may think themselves aggrieved if any Highway should be ordered to be stopped up or diverted may appeal.

XXV. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footway should be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the said Commissioners or their Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of Appeal, Jury at Sessions to determine whether old Highway shall be discontinued.

XXVI. And be it further enacted, That in case of such Appeal the Justices at the said Quarter Sessions shall, for the Purpose of determining whether the public Highway so intended to be discontinued, stopped up, diverted, or altered, or whether the said Party appealing would be injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that the public Highway so discontinued, stopped up, diverted, or altered is wholly unnecessary, or may, beneficially to the Public, be discontinued, altered, or diverted, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioners, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up is not unnecessary, or that the Highway so diverted or altered could not, beneficially to the Public, be so diverted or altered, or that the Party appealing would be injured or aggrieved by the said Highway being discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of Quarter Sessions shall allow such Appeal, and shall make an Order for restoring the said Highway so discontinued, stopped up, diverted, or altered by the Order of the said Commissioners to its original State; and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party or Parties giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioners, and shall be raised by the said Commissioners in such and the same Manner as they are hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

XXVII. And

Power to widen Roads, making Compensation to Landowners.

XXVII. And be it further enacted, That the said Commissioners shall and may and they are hereby authorized and empowered to widen any of the public Roads or Highways where they shall see it necessary within the said Parish of *Orwell*, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands and Grounds adjoining to such Roads, (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House,) and to make a full Compensation for the Value of the Land or Ground so to be taken for the widening of such public Roads or Highways by allotting and awarding unto the Person or Persons from whom any such inclosed Land or Ground shall be so taken an adequate Part or Parts of the said Lands and Grounds hereby directed to be divided and allotted, and also to make good and substantial Fences on each Side of all such widened public Roads and Highways for and in lieu of the Fences which shall be injured or destroyed by means of such widening.

Expences of discontinuing or widening Roads.

XXVIII. And be it further enacted, That the Charges and Expences attending the stopping up, discontinuing, diverting, or widening of such Roads, and the making of such Fences as aforesaid, shall be raised and paid in such and the like Manner as the Expences of passing and executing this Act are hereby directed to be raised and paid.

Justices may certify Roads in part.

XXIX. And be it further enacted, That, when and so soon as any of the public Roads to be set out by virtue of the said first-recited Act and this Act shall be made and completed, it shall be lawful for any Two or more of His Majesty's Justices of the Peace for the said County of *Cambridge*, if they shall think fit, from Time to Time to certify and declare under their Hands and Seals any of such public Carriage Roads so to be set out to be fully and sufficiently formed, repaired, and completed, and such Road or Roads, or so much thereof as shall in any such Certificate be described or certified, shall thenceforth be supported and kept in repair by such Persons and in like Manner as the public Roads within the said Parish of *Orwell* are or ought to be by Law amended and kept in repair; and every such Certificate shall, at the General Quarter Sessions of the Peace to be holden for the County of *Cambridge* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County.

Encroachments.

XXX. And be it further enacted, That all Encroachments or Inclosures taken or made from or on any Part of the said Lands hereby directed to be divided and inclosed within Twenty Years next before the passing of this Act, and all other Encroachments or Inclosures at any Time taken or made from or on any Part of the said Lands for which any annual Rent or other Money Payment or Acknowledgment shall have been assessed or made within Twenty Years next before the passing of this Act, shall be deemed Part and Parcel of the Lands by this Act directed to be divided and allotted; and in case any Dispute shall arise touching any such Encroachments or Inclosures, or the Extent or Duration thereof, such Dispute shall be settled and determined by the said Commissioners.

Commissioners to direct the Course of Husbandry.

XXXI. And be it further enacted, That the said Commissioners shall, so soon after the passing of this Act as conveniently may be, and from Time to Time as they shall think fit, by Writing under their Hands to be

any Messuages or Gardens, Orchards or other old Inclosures, or any Part or Parts of the said Lands in the said Parish hereby directed to be divided and inclosed, and shall set out, allot, and award such Plot or Plots of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed as in the Judgment of the said Commissioners shall be equal in Value to and a full Compensation and Satisfaction for such Moduses, or other Payments or Compositions Real in lieu of Tithes.

What shall be deemed Arable Land.

XXXVII. Provided always, and be it further enacted, That the said Commissioners, in valuing and ascertaining the Amount of Tithes, Moduses, and other Payments or Compositions Real in lieu of Tithes, payable to the several and respective Persons seised of or entitled to Tithes, Moduses, or other Payments or Compositions Real in lieu of Tithes, shall not in any Case deem and consider as Meadow or Pasture Lands any Lands or Grounds which shall have been in Tillage at any Time within the Space of Seven Years immediately preceding the passing of this Act.

Tithes, Moduses, &c. to be payable until the Allotments are set out and Possession authorized to be taken.

XXXVIII. Provided always, and be it further enacted, That until the said Allotments for and in lieu of Tithes, Moduses, or other Payments and Compositions Real in lieu of Tithes, shall be made and set out in pursuance of this Act, and until Possession thereof shall be authorized to be taken, or until such other Time as the said Commissioners shall appoint by Writing under their Hands, such Tithes, Moduses, or other Payments and Compositions Real in lieu of Tithes, shall continue payable to and be received and enjoyed by the same Person or Persons and in such Manner as they would or might have been payable, received, and enjoyed respectively in case this Act had not been passed; and if any Dispute or Difference shall arise between any Persons touching or concerning the Proportion of Tithes, Moduses, or other Payments or Compositions Real in lieu of Tithes, which ought to be rendered or paid for or in respect of the Time which shall have elapsed between the last Day of rendering such Tithes, or Payment of such Moduses, or other Payments or Compositions Real respectively, and the Time of making and setting out and authorizing Possession to be taken of the Allotments to be made in lieu thereof in pursuance of this Act, the said Commissioners shall and they are hereby authorized and required, on Application to them made for that Purpose, either before or after the Execution of their Award, to hear and finally determine every such Dispute and Difference.

Proprietors of old Inclosures, &c. not having sufficient Open Field Lands, to make Compensation in Money for their Tithes.

XXXIX. Provided always, and be it further enacted, That in case there are any Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds in the said Parish, subject or liable to the Payment of Tithes either Great or Small, or to any Moduses or Compositions Real or Payments in lieu of Tithes, the respective Proprietors whereof shall not happen to be entitled to any or a sufficient Quantity or Share of the Lands and Grounds hereby directed to be divided and inclosed to make Compensation for such Tithes, Moduses, Compositions Real, or other Payments in lieu of Tithes, as herein-before directed, such Proprietors shall respectively pay or cause to be paid unto such Person or Persons, and at such Time or Times as the said Commissioners shall direct or appoint, such Sum or Sums of Money as in the Judgment of the said Commissioners shall be a just and full Compensation and Satisfaction

for the Tithes, Moduses, and Compositions Real or other Payments in lieu of Tithes, issuing or payable out of such Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds respectively, or such Part of the same for which the Proprietors thereof may not be possessed of Land or Common Right sufficient to make such Compensation as aforesaid, and also such Sum and Sums of Money as the said Commissioners shall determine to be just and fair for the Proprietors of the said old inclosed Lands to contribute towards defraying the Costs, Charges, and Expences of obtaining and passing this Act and carrying the same into execution; and in case any Person or Persons shall refuse or neglect to pay such Sum or Sums of Money at the respective Days and Times to be appointed for Payment thereof it shall be lawful for the said Commissioners, by any Warrant or Warrants under their Hands and Seals directed to any Person or Persons whomsoever, to cause such Sum or Sums of Money to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so making default in payment as aforesaid, wheresoever the same shall be found, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, the reasonable Charges of such Warrant, Distress, and Sale being first deducted, together with Interest after the Rate of Five Pounds *per Centum per Annum*, to be computed on such Sum or Sums of Money from the Time the same shall be directed by the said Commissioners to be paid as aforesaid; or otherwise it shall be lawful for the said Commissioners, or any Person or Persons authorized by them, to enter upon and take possession of the Lands or Tenements belonging to such Person or Persons so refusing or neglecting to pay as aforesaid, and which shall have been discharged from Tithes, Moduses, or other Payments or Compositions Real in lieu of Tithes, by virtue of this Act, and to receive and take the Rents and Profits thereof, until thereby or therewith or otherwise such Sum and Sums of Money, and the Costs and Charges so ordered and directed by the said Commissioners to be paid by such Person or Persons as aforesaid, and all Interest on such Sum and Sums of Money to be computed from the Time the same shall be by the said Commissioners directed to be paid as aforesaid, and also all Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the same Premises, shall be fully paid and satisfied; and all and every such Sums and Sum of Money shall be applied in payment of such Parts and Proportions of the Expences of obtaining and executing this Act as ought to be paid by the respective Persons whose Lands may be set out for discharging from Tithes, Moduses, or other Payments or Compositions Real in lieu of Tithes, such Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds; and in case such last-mentioned Sums and Sum of Money shall be more than sufficient to pay and discharge the said respective Proportions of the Costs, Charges, and Expences of obtaining this Act and of carrying the same into execution, the Residue and Remainder of such Sums and Sum of Money shall be divided amongst and paid to the several Proprietors of the said Lands whose Lands shall have been taken or appropriated for the Purpose of discharging Homesteads, Orchards, Gardens, or inclosed Lands or Grounds from Tithes, Moduses, or other Payments or Compositions Real in lieu of Tithes, in such Proportions as they shall be respectively entitled thereto; and if any of such last-mentioned Proprietors of the said Lands shall not be a Tenant or Tenants in Fee Simple of his, her, or their Estates therein, then

then such surplus Money shall be applied and disposed of in the same Manner as any Sum of Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses as the Lands so purchased or exchanged, is by this Act authorized or directed to be applied and disposed of.

Power for Tenants for Life, &c. of old Inclosures to charge their Estates with a Compensation for Tithes, &c.

XL. And be it further enacted, That it shall and may be lawful for the Husbands, Guardians, Trustees, and Committees or Attornies of such Proprietors being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability, and for any of the said Proprietors being Tenants in Tail, or for Life or Lives, or for Years determinable on any Life or Lives or any other Contingency, to charge the Lands or Grounds which shall be exonerated from Tithes, Moduses, or other Payments or Compositions Real as aforesaid, with such Sum or Sums of Money so to be paid for such Exoneration, and the Proportion of the Costs and Expences incident to and attending this Act and carrying the same into execution in respect of such Exoneration, and to grant, mortgage, surrender, lease, or demise, or otherwise subject the Lands and Grounds so to be charged unto the Person or Persons who shall advance and lend such Sum or Sums of Money respectively, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money so advanced, thereby to be secured with Interest for the same; or in case any Person or Persons in Possession who shall or may be liable to or charged with a Share of the Expences as aforesaid, or enabled by this or the said first-recited Act to charge such Lands and Grounds with the same, shall choose to advance, pay, and discharge such Sum and Sums of Money, then it shall be lawful for the said Commissioners, by any Deed or Writing under their Hands and Seals to be attested by Two or more credible Witnesses, in like Manner to grant, mortgage, surrender, lease, or demise, or otherwise subject the said Lands, Tenements, and Hereditaments, to such Person or Persons respectively paying and discharging the same, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money so advanced, paid, and discharged by him or them, with Interest for the same, to commence on the Termination of his, her, or their Right in the Premises, so that every such Grant, Mortgage, Surrender, Lease, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when such Sum or Sums of Money thereby to be secured shall be fully paid and satisfied, and also with a Covenant to pay and keep down the Interest, so that no Person or Persons afterwards becoming possessed of or entitled to any such Lands, Tenements, or Hereditaments shall be liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced; and every such Charge, Grant, Mortgage, Surrender, Lease, or Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Part of inclosed Lands, &c. may be

XLI. Provided nevertheless, and be it further enacted, That if the Owners or Proprietors of any such old Inclosures, not having any or sufficient

sufficient Interest in the Lands and Grounds hereby directed to be divided and inclosed to discharge their Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds from the Payment of Tithes, Moduses, or other Payments or Compositions Real in lieu of Tithes as aforesaid, shall be desirous of having a Part of such inclosed Lands or Grounds assigned or set apart to discharge their Houses, Homesteads, Gardens, Orchards, or inclosed Lands from the Payment of Tithes, Moduses, or other Payments or Compositions Real in lieu of Tithes, it shall be lawful for the said Commissioners, and they are hereby authorized and empowered, with the Consent of the Proprietors or Owners in Fee or in Tail, or for Life, in Possession of such inclosed Lands, (to be signified in Writing under their Hands at or previously to such Time as shall be appointed by the said Commissioners for receiving such Consents,) to deduct and set out so much and such Part or Parts of such old Inclosures as shall be equal in Value to the Tithes, both great and small, Moduses, or other Payments or Compositions Real in lieu of Tithes, payable by the Owner or Owners of such inclosed Lands in respect of his, her, or their respective Houses, Homesteads, Gardens, Orchards, and inclosed Lands within the said Parish, or such Part or Parts of them for which Compensation cannot be made as before mentioned; which Part or Parts of such inclosed Lands so deducted and set apart shall be considered as Part of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and shall be divided, allotted, and inclosed accordingly as Part thereof, and such Deductions shall for ever thereafter be deemed, taken, and considered to be a full Satisfaction for and Discharge from the Payment of such Tithes, Moduses, or other Payments or Compositions Real in lieu of Tithes.

given by Consent to commute the Tithes of the Remainder.

XLII. And be it further enacted, That the Allotments herein directed to be made to the said Rector in respect of and in lieu of Tithes and Glebe and Rights of Common shall be respectively inclosed, mounded, and fenced on all such Sides and Parts as are not ordered and directed to be fenced by any other Proprietor, with such Hedges, Ditches, Mounds, or other Fences as the said Commissioners shall think proper; and the Expences thereof shall be raised and paid in like Manner as the Expences of obtaining this Act and carrying the same into execution are herein directed to be raised and paid, unless by this Act otherwise directed; and such several Hedges, Ditches, Mounds, and Fences shall for ever thereafter be maintained and supported by and at the Expence of such Person or Persons and in such Manner as the said Commissioners shall in and by their Award direct and appoint: Provided always, that nothing in this Act contained shall extend, or be deemed or construed to extend, to charge any of the Tithe-free Lands in the said Parish of *Orwell* with any Part of the Expence of the said Rectorial Fencing.

Allotments to Rector to be fenced at the general Expence.

XLIII. And be it further enacted, That it shall be lawful for the Rector for the Time being of the Parish of *Orwell* aforesaid, by Indenture or Indentures under his Hand and Seal, with the Consent and Approbation of the Patron or Patrons of the said Rectory for the Time being, such Consent to be had previous to the Execution of such Indenture or Indentures by the other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part or Parts of the Allotment or Allotments to be set out and allotted to such Rector in right

Power to Rector to lease his Allotment.

right of his said Rectory, by virtue of this Act, to any Person or Persons whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the passing of this Act, so that the Rent or Rents for the same shall be thereby reserved to the Rector for the Time being by quarterly Payments in every Year, and so that there be thereby also reserved and made payable to such Rector the best and most improved Rent or Rents that can be reasonably had or gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for making or granting such Lease or Demise, 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 such Power of Re-entry on Nonpayment of the 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 each such Lease be duly executed by the Lessee or Lessees to whom such Lease shall be so made as aforesaid: Provided always, that whenever any Lease to be so granted shall by any means become forfeited or void or be surrendered before the Expiration by Effluxion of Time of the Term thereby granted, then and in such Case and so often as the same shall happen it shall be lawful for such Rector as aforesaid for the Time being, by and with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron or Patrons of the said Rectory, to grant a new Lease of the Land so demised for such Term or Terms of Years as shall at the Time or Times of such Avoidance be then to come and unexpired of the original Term or Terms granted by such original Lease or Leases, subject nevertheless to the Provisoes and Conditions contained in such original Lease or Leases, and then remaining unperformed and capable of taking effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act, or any Law or Usage, to the contrary notwithstanding.

For erecting Buildings on the Rector's Allotment.

XLIV. And whereas in order to the more convenient Occupation of the Allotment or Allotments to be set out to the Rector of the said Rectory as aforesaid, and with a view to render the same of greater Value, it may be necessary that Farmsteads or other Buildings should be erected thereon: And whereas the erecting of such Buildings will occasion considerable Expence, and such Buildings will probably be more beneficial to the Successors of the said Rector than to himself; be it therefore further enacted, That it shall be lawful for the said Rector for the Time being and his Successors, by and with the Consent in Writing of the Ordinary of the Diocese for the Time being, to erect such Farmsteads or other Buildings and Conveniences upon the Allotment or Allotments to be set out and allotted unto the said Rector for the Time being in right of his said Rectory as may be necessary for the more convenient Occupation thereof, (which Buildings and Conveniences the said Rector for the Time being and his Successors is and are hereby required to cause to be insured annually in a Sum equal to the Value thereof in some One or more substantial Office or Offices established for Insurances against Fire,) and by some Deed or Deeds, Writing or Writings, under his or their Hand and Seal or Hands and Seals, and attested by Two or more credible Witnesses, by and with the Consent in Writing of the said Ordinary for the Time being and of the Patrons of

the said Rectory for the Time being, to charge such Allotment or Allotments, and the Buildings and Conveniences to be erected thereon, or any Part or Parts thereof respectively, with such Sum or Sums of Money, not exceeding One Year's net Income or Produce of the said Rectory, after deducting all Outgoings, as the said Commissioners shall think necessary, for the Purpose of and in order to be applied towards paying and defraying the Charges and Expences of erecting such Buildings and Conveniences, and in applying for and obtaining the Consent of the said Ordinary and Patrons, and in exercise of the Powers given to and vested in the said Rector and his Successors by virtue of this Act, which Sum or Sums of Money shall be received by such Person or Persons as the said Commissioners shall nominate and appoint, and be applied and 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 Allotment or Allotments so as aforesaid to be set out and allotted unto and for the said Rector and his Successors, and the Buildings so to be erected thereon, or any Part or Parts thereof respectively, unto such Person or Persons as shall advance and lend the same, his, her, or their Executors, Administrators, and 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 or Condition to be surrendered, when the Sum or Sums of Money thereby secured, with the Interest thereof, shall be respectively fully paid and satisfied; and the 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 accountable for the Misapplication or Nonapplication of such Monies or any Part thereof; and the said Rector for the Time being and his Successors shall be and he and they is and are hereby required and made liable, at the End of every Year after the Commencement of the said Term of Years, to pay to the Person or Persons to whom such Grant, Mortgage, Lease, or Demise shall be made, his, her, or their Heirs, Executors, Administrators, or Assigns, One Twentieth Part of the Principal Money 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 Monies so to be borrowed; and it shall be lawful for the Person or Persons who shall advance and lend such Monies, his, her, or their Executors, Administrators, and Assigns, for the more easily recovering the said One Twentieth Part of the said Principal and the whole of the Interest, which is required 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 be charged, mortgaged, and demised, and by Sale of such Distress, as by the Laws now in force are provided for and given to Landlords for Recovery of Rent in arrear: Provided always, that in case any such Entry shall be made in order to distrain for the said Principal and Interest, or any Part thereof, as last aforesaid, the respective Tenants of the said mortgaged Premises on which such Entry shall be made shall and may and they are hereby authorized to pay such Principal and Interest and the reasonable Costs of such Entry, and deduct the same from the Rent payable by them to the said Rector and his Successors in respect of the said Premises.

Allotment of the Residue.

XLV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to apportion, divide, set out, and

and allot the Residue and Remainder of the said Lands and Grounds by this Act directed to be divided and inclosed unto and amongst the several Persons, and Bodies Politic, Corporate, or Collegiate, who at the Time of making such Allotments shall be entitled to any Estate, Right, or Interest therein, in such Quantities, Shares, Proportions, and Situations as by the said Commissioners shall be adjudged and determined to be a just and equitable Compensation and Satisfaction for their several and respective Lands, Grounds, Rights of Common, and Interests therein; and the said Allotments shall be fenced in, and the several and respective Mounds and Fences for dividing and inclosing the same shall be made, and for ever thereafter maintained and supported, in such Manner as the said Commissioners shall in and by their Award order and direct.

Allotment of old Inclosures with Consent of Proprietors.

XLVI. Provided always, and be it further enacted, That it shall be lawful for the said Commissioners, by and with the Consent in Writing and at the Request of the respective Owners or Proprietors of any Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parish of *Orwell*, whether such Owners or Proprietors shall be Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or Tenant or Tenants in Fee Simple or for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor or Lessors of any such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds holden for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid who shall be Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, (such Consent to be respectively testified by Writing under the Common Seal of such Bodies Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively,) to consider such Homesteads, Gardens, Orchards, and old inclosed Lands as allottable Lands, and Part and Parcel of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, and to divide and allot the same accordingly; and such Allowance shall be made to the respective Owners or Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation or other beneficial Circumstances thereof, as the said Commissioners shall adjudge to be just and reasonable; and the said Commissioners shall and they are hereby required to set out, allot, and award unto and for the respective Owners or Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, in lieu thereof, so much and such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed as they shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and in the said first-recited Act mentioned.

Insulated old Inclosures to be deemed allottable Lands.

XLVII. And be it further enacted, That all old inclosed Lands and Grounds within the said Parish of *Orwell* which are surrounded by Open Field Land, and thereby placed in an insulated Situation, shall be deemed Part of the Lands and Grounds within the said Parish of *Orwell* intended to be divided, allotted, and inclosed under and by virtue of this Act.

XLVIII. And

For defraying the Expences of the Act.

XLVIII. And be it further enacted, That the Costs, Charges, and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioners, Clerk, and Surveyor for Expences, Time, and Trouble, and the Costs and Charges that the Commissioners shall be put unto in respect of any Appeal against their Decision, or of any Suit or Suits at Law or in Equity that may be instituted by or against such Commissioners in the Execution of this Act, either before or after the Execution of their Award, and all other Costs, Charges, and Expences necessarily incurred in and about the carrying of this Act and the said recited Acts into execution, shall be borne and defrayed by the several Owners and Proprietors of and Persons interested in the said Lands and Grounds to be allotted, divided, and inclosed, and old Inclosures to be exonerated from Tithes by virtue of this Act, (other than and except the said Rector in respect of the Allotments to be made to him in lieu of his Tithes and Rights of Common and Glebe Land, and subject also to the Proviso herein-before made with respect to the Tithe-free Lands in the said Parish,) in such Shares and Proportions, and at such Time or Times, and to such Person or Persons as the said Commissioners shall, by Writing or Writings under their Hands, to be affixed upon the principal Church Door of the said Parish, or delivered to such Person or Persons, at least Twenty-one Days before the Time of Payment, order and direct; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Proportion of such Costs, Charges, and Expences as aforesaid within the Time and to such Person or Persons as the said Commissioners shall appoint, then and in such Case the said Commissioners shall and may, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, cause the same, together with lawful Interest to be computed from the Day on which the same ought to have been paid as aforesaid, 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, on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale; or it shall and may be lawful to and for the said Commissioners, or any Person or Persons authorized by them, immediately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person or Persons, and demise the same, and receive and take the Rents, Issues, and Profits thereof, until thereby or therewith or otherwise such Share or Proportion, Shares or Proportions, with lawful Interest for the same to be computed from the Time such Sum of Money shall be ordered to be paid, and also all the Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

Deficiency to be made good by further Rates.

XLIX. Provided always, and be it further enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the said Commissioners, either before or after the Execution of their Award, that the Money to arise by any previous Rate or Rates shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Rate or Rates to be made and levied upon the several Persons interested in the said Lands and

and Grounds hereby directed to be divided, allotted, and inclosed, in such Shares and Proportions, within such Time or Times, and to be paid to such Person or Persons as the said Commissioners shall from Time to Time direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid shall neglect or refuse to pay his or her Share or Proportion of any such Rate or Rates within the Time or Times to be respectively appointed as aforesaid, or at any Time after, upon Demand, the same shall and may be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

Monies may be recovered after Execution of the Award.

L. Provided also, and be it further enacted and declared, That if at the Time of the Execution of the said Award there shall remain due from any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, any Sum or Sums of Money which shall have been adjudged, ordered, or directed to be paid by virtue of this Act, it shall be lawful for the said Commissioners, and they are hereby authorized and required, to levy and raise the same in like Manner as they might or could have done before the Execution of their Award.

Commissioners may borrow Money, and the Parties lending the same shall be repaid with Interest.

LI. And be it further enacted, That it shall and may be lawful for the said Commissioners from Time to Time, as they in their Discretion shall think fit, to borrow of any Person or Persons willing to lend the same such Sum or Sums of Money as may be deemed necessary for paying the Expences of applying for and obtaining and executing this Act; and the Person or Persons who shall lend or advance any such Sum or Sums of Money shall be repaid the same out of the Monies which shall be raised or collected in pursuance of this Act, with Interest for the same from the Time of lending or advancing each such Sum respectively as aforesaid.

Commissioners to appoint Time for receiving Applications for Situations of Allotments.

LII. And be it further enacted, That the said Commissioners shall and they are hereby required to give Ten Days Notice of a Meeting for receiving Applications from the Owners and Proprietors of the Lands and Grounds hereby directed to be divided and allotted, touching the Situation in which they would respectively choose to have their Allotments set out and allotted.

Meetings for objecting to Allotments.

LIII. And be it further enacted, That when and so often as the said Commissioners shall have ascertained the respective Rights and Interests of the said Proprietors in the Lands and Grounds to be divided and allotted by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively in lieu thereof, the said Commissioners shall hold a Meeting at some convenient Time and Place when and where the Proprietors may be informed of such Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and if any of the said Proprietors upon such Inspection be dissatisfied with the proposed Allotments, the said Commissioners shall, at such Time and Place aforesaid, or at some other Time and Place to be appointed by them for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietor or Proprietors against any such Allotment

or Allotments, and shall forthwith, or so soon after as conveniently may be, determine the same, and such Determination shall be binding and conclusive on all Parties interested in such Allotment or Allotments.

Directions for fencing Allotments.

LIV. And be it further enacted, That the several and respective Allotments to be made of the said Lands hereby directed to be divided, allotted, and inclosed within the said Parish of *Orwell* after the Division thereof shall, within Six Calendar Months, to be computed from the signing and sealing of the Award of the said Commissioners, or within any shorter Space of Time to be appointed by the said Commissioners, be inclosed, and the Fences thereof composed of and planted with young Quicksets; and such Fences, where the same shall adjoin upon any public or private Road or Way, and in such other Place or Places as the said Commissioners shall think fit, shall be guarded with good and substantial Posts and Rails or otherwise, and with such Ditches on either or each Side thereof as the said Commissioners shall direct or appoint; all which said Fences shall be so planted and guarded as aforesaid by and at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, in such Manner, Shares, and Proportions as the said Commissioners shall in and by their Award order and direct.

Cattle not to be depastured in the Highways for Seven Years.

LV. And be it further enacted, That no Person or Persons whosoever shall graze or keep any Sort of Beast or Cattle whatsoever in or upon any of the Roads or Ways which the said Commissioners shall order and direct to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the making and executing of the Award; and all Owners of Lands or Grounds within the said Parish of *Orwell*, their and every of their Servants and Labourers, and also all the Peace Officers and Parish Officers of the said Parish of *Orwell* for the Time being, are hereby empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid as Cattle Damage feasant: Provided always, that nothing herein contained shall prevent or prohibit the Proprietors of the Lands and Grounds which shall next adjoin the said Roads and Ways from depasturing their Cattle so far as the Frontage of their respective Lands and Grounds may extend.

Commissioners may make Partitions.

LVI. And be it further enacted, That it shall and may be lawful for the said Commissioners to make Partition of any Lands, Tenements, new Allotments, or Hereditaments within the said Parish of *Orwell* respectively held by any Persons as Coparceners, Joint Tenants, or Tenants in Common, so as every such Partition be made upon Application from and with the Consent and Approbation of any One or more of the several Proprietors thereof, signified in Writing under his, her, or their Hand or Hands, or under the Hands respectively of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of any of the said several Proprietors who may be under Coverture, Minors, Lunatics, or beyond the Seas, or under any other legal Disability or Incapacity to act, and so as every such Partition be specified in the Award of the said Commissioners, or some other Instrument under their Hands and Seals; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Power of Exchange.

LVII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Parish of *Orwell* in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments within the said Parish of *Orwell*, or any adjoining Parish, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or in Fee Tail, General or Special, or for Life, or by the Curtesy of *England*, or for Years determinable upon any Life or Lives, by and with the Consent of the Lessor or Lessors thereof, but not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owner or Owners as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, 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 Exchanges and Exchange so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church or Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall be situate: Provided also, that all the Costs, Charges, and Expences attending the making of any Exchanges shall be paid, borne, and defrayed by the several Persons making such Exchanges in such Shares and Proportions, and at such Time, and to such Person or Persons as the said Commissioners shall by any Writing under their Hands direct or appoint.

Exchanges and Partitions of Copyholds to be perfected by Admittance.

LVIII. And be it further enacted, That every Person to whom any Copyhold Lands or Tenements shall be allotted in Exchange or upon Partition as aforesaid shall as soon as conveniently may be, and at all events before the Expiration of Twelve Calendar Months after the Execution of the Award of the said Commissioners, or at the then next General Court Baron to be held for the Manor whereof such Copyhold Hereditaments shall be respectively holden, be admitted Tenant of the Copyhold Lands or Tenements so allotted; but in no such Case of any Admission by virtue of this Act shall any Fine, Rent, Heriot, Fees, or other Payment be paid and made to the Lord or Lords, Lady or Ladies of the said Manors respectively, or to his, her, or their Steward or Stewards, save only the Sum of Two Pounds and Two Shillings to such Steward or Stewards for the Fees of each Admission, over and besides the Stamp Duty payable by Law on each such Admission.

Power to enfranchise Copyholds.

LIX. And be it further enacted, That it shall be lawful for the Owner or Owners of any Lands, Tenements, or Hereditaments of Copyhold or Customary Tenure within and Parcel of the said Manor of *Orwell*, whether

whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or in Fee Tail, General or Special, or for Life, and for the Guardians, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who shall happen to be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, and for Trustees or Feoffees for charitable or other Uses, to contract and agree with the Lord or Lords, Lady or Ladies, for the Time being of the said Manor, whether such Lord or Lords, Lady or Ladies, shall be a Body or Bodies Politic, Corporate, or Collegiate, or shall hold the said Manor in Fee Simple, or for any limited Estate or Interest, for the absolute and perpetual Enfranchisement of all or any such Copyhold or Customary Lands, Tenements, or Hereditaments, and all Allotments in respect thereof, and for the Extinguishment of the Heriots, Quit Rents, and all other Rights of the Lord or Lords, Lady or Ladies, in, over, and upon the same, for a Compensation either in Money or Land, as in any such Contract shall be specified and declared.

Where the Enfranchisement shall be made for a Compensation in Land.

LX. And be it further enacted, That in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Land, the said Commissioners shall and they are hereby required, upon the Application of any of the Parties interested, and which Application shall be made at the First or Second Meeting to be holden under the Powers of this Act, to set out and allot unto and for the said Lord or Lords, Lady or Ladies of the said Manor, such Part or Parts of the Lands and Grounds hereby directed to be divided and inclosed, belonging to the Person or Persons contracting for such Enfranchisement and Extinguishment as aforesaid, as shall in the Judgment of the said Commissioners be a full Compensation and Satisfaction for such Enfranchisement and Extinguishment according to the Terms which shall be agreed upon between the Parties; and in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Money, the said Commissioners shall and they are hereby required, upon the like Application of any of the Parties interested as aforesaid, to ascertain and determine the Amount of such Compensation according to the Terms which shall be agreed upon between the Parties; and all such Money Payments shall be made to the said Commissioners, whose Receipt shall be an effectual Discharge for the same; and the said Commissioners shall pay such Monies in the Manner hereinafter directed with respect to Monies to be paid for the Purchase or Exchange of Hereditaments, or of any Timber or Wood growing thereon, unless the Lord or Lords, Lady or Ladies of the Manor within which any Copyhold Hereditaments shall be enfranchised as aforesaid shall be absolutely and beneficially entitled to such Manor, in which Case (subject to a Deduction for his, her, or their Proportion of the Expences of and attending this Act and carrying the same into execution,) the said Commissioners shall pay the Consideration Monies for such Enfranchisements to such Lord or Lords, Lady or Ladies, for his, her, or their own absolute Use; and all such Enfranchisements and Extinguishments when completed shall be specified in the Award of the said Commissioners, and an Entry of every such Enfranchisement and Extinguishment shall be made on the Court Rolls of the said Manor, and a Copy

Where the Enfranchisement shall be made for a Compensation in Money.

a Copy of such Entry, certified by the Steward or Deputy Steward of the said Manor, shall be admitted in all Cases as sufficient Evidence of such Enfranchisement and Extinguishment, and the Contract for the same, and of the Payment of the Consideration or Purchase Money when the same shall have been paid in Money; and when and so soon as such Allotments and Payments shall be respectively made as the Consideration for such Enfranchisements and Extinguishments as aforesaid, the Lands and Hereditaments which shall be so agreed to be enfranchised as aforesaid shall be held in Free and Common Soccage, freed and absolutely acquitted and discharged from all Customary Fines, Heriots, Rents, Fealty, Suit of Court, Amerciaments, Forfeitures, and other Customary Payments, Duties, Services, and Penalties whatsoever which by or according to the Custom of the Manor whereof such Lands and Hereditaments were Parcel they had or would have been subject to or charged with, or which would otherwise be payable, or to be done or performed, to the Lord or Lords, Lady or Ladies, for the Time being of the same Manor, for or in respect of the same Hereditaments, as Copyhold of the same Manor, if the same Hereditaments had not been so enfranchised; and the same Hereditaments shall (subject to any Charge or Mortgage which may be made under the Authority of the said recited Acts or of this Act) go, remain, and be to the same Uses, on the same Trusts, and subject to the same Powers and Limitations (as near as the Difference of the Tenure will admit) as would have been subsisting in such Hereditaments (as Copyhold) if the same had not been so enfranchised as aforesaid.

Incapacitated Persons may borrow Money for such Enfranchisements.

LXI. And be it further enacted, That it shall be lawful for the respective Husbands, Guardians, Trustees, Feoffees or Trustees for charitable or other Uses, Committees and Attornies of the Owner or Owners for the Time being of any such Copyhold Lands, Tenements, or Hereditaments so to be enfranchised as aforesaid, who shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any legal Disability, and for any such Owner or Owners being entitled for a particular or limited Estate only, to mortgage and charge the Lands, Tenements, or Hereditaments to which such Enfranchisements shall relate with the Monies to be paid as the Consideration for such Enfranchisement, and with Interest thereon, in the same Manner as is by this Act provided for enabling Parties to borrow Money for defraying the Costs of this Act, and other Purposes.

Tenure of Allotments.

LXII. And be it further enacted, That, subject to the Power of Enfranchisement herein-before contained, the several Lands, Grounds, and Hereditaments to be allotted and awarded, upon the said Division, Allotment, and Inclosure, to the several Persons, Body or Bodies Politic, Corporate, or Collegiate, interested therein, shall, immediately after the same shall have been so allotted and awarded, be holden by the said several Persons, Body or Bodies Politic, Corporate, or Collegiate respectively, by and under the same Tenures, (whether Freehold, Copyhold, or Leasehold,) and subject to the same Rents, Payments, Heriots, Fines, Customs, and Services, by, under, and subject to which the several Lands, Tenements, and Hereditaments in lieu or in respect of which the same Lands, Grounds, and Hereditaments shall be so allotted and awarded were respectively held immediately before the passing of this Act, and all such Allotments shall thereupon become Freehold, Copyhold, or Leasehold

Leasehold (as the Case may be), and shall be so distinguished in the Award to be made by the said Commissioners, any Law or Custom to the contrary notwithstanding.

Persons may sell or mortgage their Estates before Execution of the Award.

LXIII. And be it further enacted, That if any Person or Persons hath or have sold, or shall at any Time before the Execution of the Award of the said Commissioners sell, his, her, or their Right, Interest, and Property in the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, upon such Sale being made, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his, her, or their Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so allotted to him or her as aforesaid in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment or Allotments, or all or any Part of his, her, or their Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person or Persons entitled to any Allotment as aforesaid to sell, dispose of, and convey the Estate in right of which he, she, or they may be entitled to any such Allotment, separate and apart from, and retaining to himself, herself, and themselves, such Allotment, Common Right, and Interest, and the said Commissioners are hereby required to award such Allotment or Allotments accordingly.

Persons having limited Interests may raise Money by Mortgage to defray Expences.

LXIV. And be it further enacted, That it shall be lawful for all Husbands, Guardians, Trustees, or Committees of any of the Owners or Proprietors of any of the Lands and Grounds to be by virtue of this Act divided and allotted, being under Coverture, Infants, Lunatics, Idiots, or Persons beyond the Seas, or otherwise incapacitated, Tenants in Tail or for Life only, or Feoffees for charitable or other Uses, or any of them, by and with the Consent of the said Commissioners, testified in Writing under their Hands and Seals, from Time to Time to charge the Lands and Grounds which shall be so set out and allotted to them respectively by virtue of this Act with any Sum or Sums of Money which the said Commissioners shall in their Discretion judge necessary for the Purpose of inclosing, fencing, and dividing his or their respective Allotments, and for defraying the Expences of carrying this Act into execution, not exceeding Five Pounds for every Acre of such Lands and Grounds respectively, and for securing the Repayment of such Sum and Sums

Sums of Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the Lands and Grounds so to be set out and allotted as aforesaid, or any Part thereof, to such Person and Persons as shall advance or lend the same respectively, his, her, or their respective Executors, Administrators, and Assigns, for any Term or Number of Years, so as such Grant, Demise, Lease, or Mortgage be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied; and so as in every such Grant, Demise, Lease, or Mortgage which shall be made by or on behalf of any Person or Persons interested or entitled to any such mortgaged Premises for the Term of his, her, or their natural Life or Lives, there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his, her, or their respective Life or Lives, in such Manner as that no Person or Persons afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title of such Possession shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise so to be made in pursuance of this Act shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Mortgages may be assigned.

LXV. And be it further enacted, That all and every Persons and Person to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum or Sums of Money by them, him, or her lent and advanced on the Credit of and for the Purposes mentioned in this Act, or who shall be entitled to the Money thereby secured, shall and may from Time to Time, by any Deed or Deeds, Surrender or Surrenders, Writing or Writings, under their, his, or her Hands and Seals or Hand and Seal, to be executed in the Presence of and attested by One or more credible Witness or Witnesses, assign and transfer the same Security or Securities, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all their, his, or her Estate, Right, Title, or Interest and Term of Years then to come and unexpired of, in, and to the same, unto any Person or Persons whomsoever, who may again in like Manner assign the same, and so *toties quoties;* and such Mortgagee or Mortgagees, Assignee or Assignees, his, her, or their Executors or Administrators, and all Persons claiming under them or any of them, shall and may use, take, and pursue all such lawful Methods, Causes, and Expedients in Law or Equity for recovering or obtaining Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Nonpayment of the Principal Money and Interest to be thereby secured, or any Part thereof respectively, as is or are used, taken, and pursued in Cases of the like Nature.

Directions for charging Copyhold Lands with Expences.

LXVI. Provided always, and be it further enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of any Copyhold Lands, Tenements, or Hereditaments, whether by Deed or otherwise, shall be presented and entered on the Court Rolls of the Manor under which the said Copyhold Lands shall be held, whereupon the same Fees and other Payments shall be due and paid as in other Cases of Surrender by way of Mortgage, and shall operate as a

Surrender to the Use of the Mortgagee or Mortgagees, and his, her, or their Heirs or Assigns respectively, according to the Custom of such Manor, subject nevertheless to Redemption on Repayment of the Principal Monies thereby respectively intended to be secured, with Interest thereon, as is herein provided in the Case of other Mortgagees, instead of being demised to such Mortgagee or Mortgagees, and his, her, or their Executors, Administrators, or Assigns, for a Term of Years, as mentioned and prescribed in and by the said first-recited Act.

Leases at Rack Rent to be void.

LXVII. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall be marked and staked out, and the said Commissioners shall have directed the same to be entered upon by the Persons respectively to or for whom the same shall be intended, all and every Leases and Lease and other Agreements and Agreement at Rack Rent subsisting of all or any Part or Parts of the said Lands hereby directed to be divided and inclosed, or to be discharged from Tithes as aforesaid, and of any Right of Common thereon, and of the Messuages or Tenements and Homesteads respectively belonging thereto, for any Term or Terms of Years not exceeding Twenty-one Years, save and except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure, shall cease, determine, and be void, as to all such Lands and Rights of Common respectively, but not as to any other Hereditaments comprised therein, such Compensation being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated as the said Commissioners shall by Writing under their Hands order and direct in that Behalf; and it shall be lawful for the said Commissioners and they are hereby authorized by Writing under their Hands to ascertain, direct, and appoint what Rent or Share or Proportion of Rent shall be paid by the several Tenants of the Lands to be inclosed by virtue of this Act, or the Rights of Common thereof in their respective Holdings, to their respective Landlords, from the Time of passing this Act until such Lands shall be marked and staked out and be directed to be entered upon as aforesaid, and also to order and direct what Proportion and Amount of the whole Rent reserved upon such Lease or Leases, Agreement or Agreements, shall be paid by such Tenants from the Time of passing this Act to their respective Landlords for the Messuages, Homesteads, or ancient Inclosures comprised in such Lease or Leases, Agreement or Agreements, until the Expiration thereof, and which are not meant or intended to be made void as to such Messuages, Homesteads, or ancient Inclosures; provided that no Lease or Agreement comprising Messuages, Homesteads, or ancient Inclosures only shall be made void by this Act; but it shall be lawful for the said Commissioners and they are hereby empowered to take into consideration the Benefit and Advantage which shall or may accrue to their respective Tenants by reason of such Homesteads and ancient Inclosures being made free from Tithes, and by Writing under their Hands to direct such additional Rent as to the said Commissioners shall seem right and proper to be paid in future in respect thereof, and such Rent shall and may be recovered by such Ways and Means as may by Law be used for the Recovery of Rent in arrear.

LXVIII. Pro-

Beneficial Leases not to be vacated.

LXVIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease or Leases from any Body or Bodies Politic, Corporate, or Collegiate, or any Person or Persons, of any Lands, Tenements, or Hereditaments in the said Parish; but the Person or Persons entitled to such beneficial Lease or Leases shall and may hold and enjoy his, her, and their several and respective Terms at and under the same Rents and Covenants as are specified in his, her, or their respective Leases from the same Body or Bodies Politic, Corporate, or Collegiate, or other Person or Persons respectively.

Deeds, Wills, &c. not to be affected.

LXIX. Provided also, and be it further enacted, That nothing in this Act contained shall extend to revoke, annul, make void, alter, vary, or in anywise affect any Grant, Assurance, Limitation of Use or Uses, Declaration of Trust, or any Deed or Will whatsoever, (except such Leases and Agreements as are herein-before mentioned,) or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Rent, Incumbrance, or other Claim or Demand out of, upon, or affecting any of the Lands or Grounds hereby directed to be divided and allotted, or any of the Messuages, Lands, or Hereditaments which shall be exchanged or parted with in pursuance of this Act, but that as well the Lands allotted and exchanged as the Hereditaments which shall be assigned in Partition or in Compensation for any other Estate or Right by virtue of this Act or the said recited Acts, or either of them, shall, immediately after such Allotment, Exchange, Partition, or Assignment, remain and enure, and the several Persons to whom the same shall be allotted, assigned, or given in Exchange or on Partition as aforesaid shall thenceforth stand seised and possessed thereof respectively, to, for, and upon such and the same Use, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, and Incumbrances in all respects, as the several Lands, Tenements, and Hereditaments in respect whereof such Allotments, Exchanges, Partitions, and Assignments shall have been made should or would have stood severally limited, settled, vested, or subject or liable to, or been held by, in case the same had not been allotted, exchanged, parted with, or assigned as aforesaid, and this Act had not been passed, save and except such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, and except where any other of the Provisions of this Act are to the contrary, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority hereof or of the said recited Acts.

Separate Allotments to be made for Land held under different Titles.

LXX. And be it further enacted, That when the Proprietor or Proprietors of Lands or other Hereditaments which shall be inclosed, allotted, or exchanged by virtue of this Act shall hold their said respective Lands or other Hereditaments under different Titles and for different Estates, the said Commissioners shall, upon the Request of the said respective Proprietors in Writing under their Hands, ascertain and distinguish the Lands or other Hereditaments held for each of such Estates and under each of such Titles respectively, and shall accordingly in their Award set

set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments.

Application of Monies paid for Purchase or Exchange if amounting to 200*l.*

LXXI. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said first herein-before recited Act or this Act, to be paid for the Purchase, Exchange, or Enfranchisement of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses, it shall and may be lawful to and for the said Commissioners out of such Sums to defray such Proportion of the Expences of passing this Act and of carrying the same and the said recited Acts into execution as shall (if any) be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee in Possession of the Lands, Tenements, or Hereditaments so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any Payment Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioners be proper to be made and shall be made under their Direction upon any Lands to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee respectively; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward, and shall, when so paid in, there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons, Body or Bodies, who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts, or other Incumbrances, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or

1 G. 4. c. 35.

Hereditaments belonging to such Person or Persons, Body or Bodies, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part or Parts thereof as shall be necessary, or in the Expence of any such permanent Improvement as aforesaid; or until the same shall, upon the like Application, in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands, Tenements, or Hereditaments stood limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime, and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities or Government or Real Securities shall from Time to Time be paid, by Order of the said Court, to the Person or Persons, Body or Bodies, who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

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

LXXII. Provided always, and be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons, Body or Bodies, for the Time being entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so purchased or exchanged, and of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Commissioners, to be signified in Writing under their Hands, be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the said Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Person or Persons, Body or Bodies, who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, such Nomination to be approved of by the said Commissioners, and such Nomination and Approbation to be signified in Writing under the Hands or Common Seal (as the Case may be) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

LXXIII. Pro-

Where under 20*l*.

LXXIII. Provided also, and be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Persons, Body or Bodies, who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, for his, her, or their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person or Persons respectively entitled thereto.

Alterations may be made in the Allotments before the Award.

LXXIV. And be it further enacted, That it shall be lawful for the said Commissioners, at any Time before the executing of their final Award, to make any such Alterations in the Allotments or in the Fences which they may have set out and ordered, or in any of the Orders and Directions relating thereto, which they may have made in pursuance of this Act or the said recited Acts, as they may think right and expedient; and in case any Person or Persons shall be injured by any such Alteration on account of any Expences he, she, or they may have incurred, or otherwise, the said Commissioners shall ascertain and determine what Recompence shall be made to him, her, or them for such Injury, and shall either pay the Amount thereof out of the Monies to come to their Hands in the Execution of this Act, or shall order and direct by whom and in what Manner such Recompence shall be made, the same to be levied and recovered, in case of Nonpayment, in the same Manner as the Costs and Charges of obtaining this Act may be levied and recovered by virtue of the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, in case the same are raised by a Rate upon the Proprietors.

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

LXXV. And be it further enacted, That if, from Want of Information or other Cause, the said Commissioners shall have omitted to distinguish in their Award the several Tenures under which any of the said Lands or other Hereditaments are or shall be holden, or the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same are or shall be subject, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments as is hereby required, it shall be lawful for the said Commissioners and they are hereby authorized, at any Time within Twelve Calendar Months after the Date and Execution of their Award, upon Request in Writing to them made by the respective Proprietors of any such Allotments, Lands, or other Hereditaments, or other Persons interested therein, or their Agents, to do all such Acts as shall be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if their Award had not been made, and by any Deed or Instrument under their Hands and Seals to distinguish, ascertain, and set out the Allotments, Lands, and Hereditaments held by different Tenures, and the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same respectively are subject, and also the Allotments, Lands, and Hereditaments held by, for, or under different Estates or Titles respectively, in the same Manner as they are hereby authorized to do in their Award; and every such separate Instrument shall be enrolled and deposited with

the Award of the said Commissioners, and shall thenceforth be deemed and taken to be Part thereof to all Intents and Purposes whatsoever; and all the Expences which shall be reasonably incurred in or about any such subsequent Injury or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Person or Persons who shall have requested the said Commissioners to make and execute the same, or by his, her, or their Heirs, Executors, or Administrators.

Award to be made and deposited.

LXXVI. And be it further enacted, That as soon as conveniently may be after the said Division and Allotment shall be completed the said Commissioners shall form, draw up, and execute an Award, which, together with a proper Map or Plan thereto annexed, shall, within Ten Days after the Execution thereof, be delivered to the Clerk of the Peace for the County of *Cambridge*, who is hereby required to deposit and keep the same among the Records of the said County, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled within the Intent and Meaning of the said first-recited Act; and a Copy of the said Award and of the said Map or Plan, signed by the said Commissioners, shall within the Time aforesaid be deposited in the Parish Church of *Orwell* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award and the said Copy thereof, and any other Copy of the said Award or of any Part or Parts thereof, attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Accounts to be audited.

LXXVII. And be it further enacted, That once at least in every Three Calendar Months during the Execution of this Act (to be computed from the Time of passing thereof) the said Commissioners shall and they are hereby required to make a true and just Statement and Account of all the Sums of Money by them received and expended or applied in the Execution of this Act, and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before One of His Majesty's Justices of the Peace for the County of *Cambridge*, not interested in the said Inclosure, to be by him examined and balanced, and such Balance shall be stated in the Book of Accounts to be kept in the Office of the Person acting as Clerk to the said Commissioners; and an Abstract of such Account shall, within Fourteen Days after the same shall have been so examined and balanced, be published in the *Cambridge Chronicle*, or in some other Newspaper printed and circulated in the said County of *Cambridge*; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justice, and until such Account or the Abstract thereof shall have been so pub-

lished as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Power of Appeal.

LXXVIII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done in pursuance of the said recited Acts or of this Act, (other than and except as to the Allotments, and except such Claims, Matters, and Things as are herein-before directed or authorized to be ascertained, settled, tried, or determined by any Issue at Law, or where by any of the Provisions of the said recited Acts or of this Act the Determinations, Acts, or Proceedings of the said Commissioners are directed to be final or conclusive,) he, she, or they may appeal to any General or Quarter Sessions of the Peace which shall be holden for the said County of *Cambridge* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party or Parties concerned Ten Days Notice in Writing of such Appeal and the Matter thereof, except with respect to the Accounts of the Commissioners, which, notwithstanding the same shall have been examined and balanced as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award with the Clerk of the Peace for the said County of *Cambridge*, on giving to the said Commissioners such Notice as last aforesaid; and the Justices (not interested in the Premises) at the said General or Quarter Sessions are hereby required to hear and determine the Matter of such Appeal, and to make such Order and award such Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant of Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by Certiorari, or any other Writ or Process 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 and 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.

General Saving.

LXXIX. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Persons and Person, Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Right, Title, Estate, and Interest, Claim and Demand, (other than and except such as are expressly barred and compensated for or intended to be barred and compensated for and extinguished by this Act,) as they, every or any of them, could or might have had, held, and enjoyed of, in, to, or out of the said Lands authorized to be divided, allotted, and inclosed, or any Part thereof, in case this Act had not been passed.

Act to be printed by the King's Printers.

LXXX. And be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty duly authorized to

to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1836.