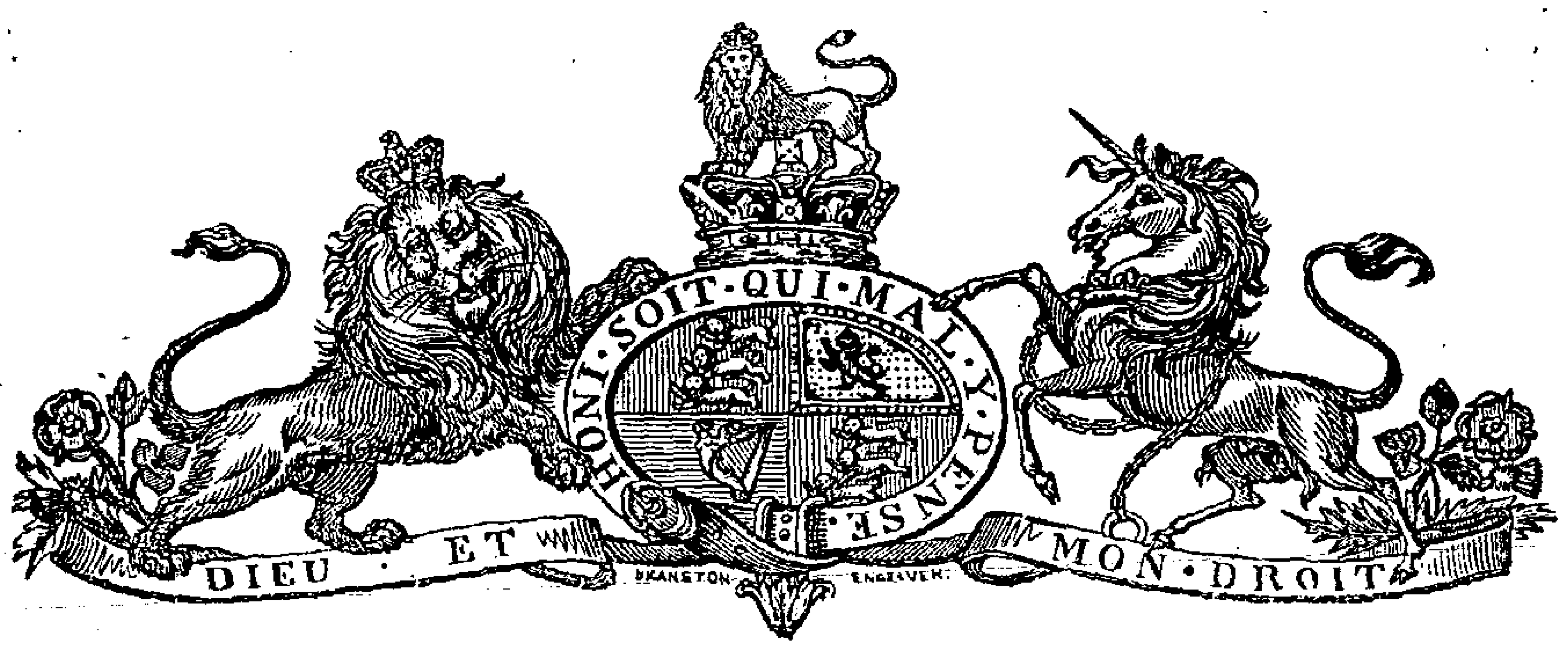


ANNO SEXTO & SEPTIMO

VICTORIÆ REGINÆ.

Cap. 10.

An Act for inclosing Lands in *Sowerby* and *Soyland* in the Parish of *Halifax* in the West Riding of the County of *York*. [27th *June* 1843.]

WHEREAS there are within the several Townships, Hamlets, Districts, or Places of *Sowerby* and *Soyland* in the Parish of *Halifax* in the West Riding of the County of *York* certain Commons, Waste Lands, and Moors, containing by Estimation Five thousand Acres or thereabouts: And whereas *Sackville Walter Lane Fox* Esquire is Lord of the Manor of *Wakefield* (within which the said several Townships, Hamlets, Districts, or Places are situate, and of which they are Parcel), and as such is or claims to be Owner of the Soil of all the said Commons, Waste Lands, and Moors, and of the Coals, Mines, Veins, and Seams of Coal, and all other Mines and Minerals therein: And whereas *Robert Stansfeld*, *Walker Priestley*, *John Whiteley* of *Stones*, *John Foster* of *Styes*, and *Roger Peel* the younger, and divers other Persons, as Owners of Messuages, Cottages, Lands, Tenements, and Hereditaments within the said several Townships, Hamlets, Districts, or Places, are or claim to be respectively entitled to Rights of Common upon the said Commons, Waste Lands, and Moors: And whereas the said Commons, Waste Lands, and

Moors yield but little Profit, and are in their present State incapable of considerable Improvement, and it would be advantageous to the several Persons interested therein if the said Commons, Waste Lands, and Moors (except a Parcel of Land commonly called the *Rakehead Reservoir*) were divided and inclosed, and specific Parts thereof allotted and awarded to the several and respective Proprietors or Persons interested therein in proportion to their several and respective Rights: And whereas an Act was passed in the Forty-first Year of the Reign of 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: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third, and in the First and Second Years of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall, from the passing of this Act, be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

41 G. 3. c. 109.

1 & 2 G. 4. c. 23.

Recited Acts to form Part of this Act.

Appointment of Commissioner.

II. And be it enacted, That *Thomas Bradley* of *Richmond* in the County of *York*, Gentleman, and his Successor for the Time being, to be elected and appointed in manner herein-after mentioned, shall be Commissioner for carrying this Act and the said recited Acts into execution; and it shall be lawful for the Commissioner and he is hereby required to divide, allot, and inclose the Commons, Waste Lands, and Moors within the said several Townships, Hamlets, Districts, or Places of *Sowerby* and *Soyland*, (except a Parcel of Land containing about Fourteen Acres, more or less, of the said Wastes, commonly called the *Rakehead Reservoir*,) and also to survey and plan the Lands to be inclosed, as well as the old inclosed Lands within the said Townships, Hamlets, Districts, or Places required to be surveyed according to the Regulations and Provisions contained in the said recited Acts and this Act: Provided always, that no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the First Meeting of the Commissioner, and in receiving the Declaration herein-after directed), nor to make such Surveys as aforesaid, until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule (A.) to this Act; and such Declaration shall be in lieu of the Oath required by the said Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds.

Qualification of Commissioner.

III. And

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

IV. And be it enacted, That in case the said *Thomas Bradley*, or any Person to be appointed a Commissioner in his Room by virtue of this Act, shall die or become incapacitated, or neglect or refuse for the Space of Two Months to act as such Commissioner, it shall be lawful for the major Part in Value (such Value to be ascertained by the Poor Rate Assessment for the Time being) of the several Persons interested in the Lands to be inclosed who shall attend, either personally or by their respective Agents, at any Meeting to be held for that Purpose, of which Meeting Notice shall be given by Five or more of the Persons interested in the said Inclosure, by Advertisement and also on the Church Door, as herein-after directed, at least Fourteen Days before such Meeting, to appoint, by Writing under their Hands, some fit Person to be a Commissioner in the Room of the said *Thomas Bradley* or of the Commissioner appointed in his Place, and so from Time to Time as often as any such Commissioner shall die, neglect or refuse or become incapable to act: Provided that, for the Purpose of voting at any such Meeting, the Interest of the said *Sackville Walter Lane Fox*, or the Lord of the said Manor for the Time being, shall be estimated at One Twelfth of the whole Amount of the Poor Rate Assessment of the Property conferring the Right to vote. Appointment of Commissioner on Vacancies.

V. Provided always, and be it enacted, That in case the said Proprietors shall not appoint a new Commissioner within the Space of Six Weeks next after such Death, Neglect, Refusal, or Incapacity shall happen or be known, the said *Sackville Walter Lane Fox*, or the Lord of the said Manor for the Time being, or his Steward or Deputy Steward as aforesaid, shall, within Three Weeks next after the Expiration of the Term so allowed for appointing such new Commissioner, by Writing under his Hand appoint some other fit Person to be a Commissioner in the Room of the Commissioner causing such Vacancy as aforesaid; and every new Commissioner appointed under any of the Powers herein-before given shall be invested with the same Powers and Authorities for carrying this Act into execution, and shall be subject to the same Regulations, as if he had been originally named a Commissioner in this Act; and every such Appointment shall be annexed to and deposited with the Award of the Commissioner. In case the Proprietors neglect to appoint a new Commissioner, the Lord of the Manor may appoint.

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

VII. And be it enacted, That it shall be lawful for the Commissioner to appoint a Clerk to assist him in carrying this Act into exe Appointment of Clerk.

execution, and from Time to Time to remove such Clerk, and to appoint another in his Stead.

No Party interested to be appointed a Commissioner, &c.

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

Allowances to Commissioner and Clerk.

IX. And be it enacted, That the Commissioner and the said Clerk shall be paid respectively out of the Inclosure Expences Fund, for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act, the Sum of Three Guineas for each Day they shall respectively be engaged as aforesaid, for the first Three Years after the passing of this Act, and Two Guineas *per* Day afterwards; and such Payment shall be in full Satisfaction to the Commissioner and Clerk respectively for their Time and Trouble, and for the several Expences incurred by them during their several Journeys and Attendance in the Execution of this Act, except the Expence of the Rooms in which the Meetings of the Commissioner shall be held, and the Expence of Appeals or other legal Proceedings against the Commissioner, and the Expence of Notices and Advertisements, and of preparing, proclaiming, and enrolling the Award, and such other like necessary Expences, and except also the lawful Charges of the said Commissioner as Surveyor: Provided always, that it shall not be lawful for the Commissioner to retain or pay himself or the said Clerk any Money on account of the before-mentioned Allowances respectively, beyond One Third of the Allowance to which they shall be respectively entitled, until after the Expiration of Six Months from the Day of the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided.

Length of Day for estimating Allowances.

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

Allowance for surveying.

XI. And be it enacted, That the Commissioner shall be paid and allowed out of the Inclosure Expences Fund a Sum not exceeding One Shilling *per* Acre for surveying, measuring, mapping, and planning the Land requiring to be surveyed under the Provisions of this Act; and such Payment shall be in full Satisfaction for the Time and Trouble of surveying, and for all travelling and other Expences of

of every Description to be incurred by him whilst engaged in the Duties of surveying under this Act.

Existing Plans, &c. of old Inclosures may be used.

XII. And be it enacted, That nothing in the said first-recited Act or this Act contained shall require the Commissioner to make or cause to be made any Survey or Admeasurement of any of the Messuages, Cottages, Gardens, and Inclosures within the said Townships, Hamlets, Districts, or Places, or any of them; but the Commissioner shall for the Purposes of this Act be at liberty to use and adopt the Plans and Surveys already made of the old inclosed Lands within the said Townships, Hamlets, Districts, or Places, or any of them, or any Part thereof respectively, which he may deem sufficient for the Purpose, without causing a new Survey, Admeasurement, or Plan to be made thereof.

Existing Plans of Lands to be inclosed may be used.

XIII. And be it enacted, That it shall be lawful for the Commissioner to adopt and make use of any Survey, Admeasurement, or Plan already made of the Lands to be inclosed, or of any Part thereof respectively, which he may deem sufficient for the Purpose, without causing a new Survey, Admeasurement, or Plan to be made thereof.

Compensation to Owners of Plans.

XIV. And be it enacted, That it shall be lawful for the Commissioner to grant such Compensation in Money to the Owners of any such Surveys, Admeasurements, or Plans as he may deem equivalent and fair.

Meetings, and Notices thereof.

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

Notices, how to be given.

XVI. And be it enacted, That all Notices by this Act directed to be given by Advertisement shall be given by Advertisement to be inserted in some Newspaper printed or usually circulated in the West Riding of the County of *York*; and all Notices directed to be given on the Church Door shall be by Writing under the Hands of the Party giving such Notice, to be affixed on the principal outer Door of the Parish Church of *Halifax* aforesaid, and of the Churches of *Sowerby* and *Ripponden* in the said Parish of *Halifax*, on *Sunday* before Divine Service; and all Notices necessary to be given by the Commissioner (the Mode of giving which is not hereby particularly directed) shall be by one of the Methods aforesaid; and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate,

relate, any thing in the said first-recited Act to the contrary notwithstanding.

What shall be a Refusal to act.

XVII. And be it enacted, That if the Commissioner shall not attend the First or Second Meeting appointed to be held for putting this Act into execution, and to qualify himself by making the Declaration in that Behalf prescribed, or if he shall at any Time after having qualified himself as aforesaid wilfully absent himself from any Two successive Meetings of such Commissioner, the Times of such Meetings being known to him by his having been present at the Appointment of the first thereof, or by a Notice thereof in Writing under the Hand of the Clerk of the Commissioner having been given to him or left at his usual Place of Abode, (such Commissioner not being prevented by Sickness or by other reasonable Cause,) or if any Commissioner to be hereafter elected or appointed as aforesaid shall not attend and qualify himself at the First or Second Meeting to be held after his Appointment, or shall, after having qualified himself as aforesaid, wilfully absent himself in manner aforesaid after such Notice, and without Cause of Excuse as aforesaid, every such Absence or Non-attendance shall be deemed to be a Refusal to act.

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

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

For regulating Distresses.

XIX. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, shall be directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the surplus Monies arising from such Sale, after satisfying such Sum of Money, and the Costs and Expences attending the Distress and Sale, shall, on Demand, be rendered to the Party whose Goods and Chattels shall have been distrained.

Proceedings to be entered in a Book.

XX. And be it enacted, That all the Orders, Proceedings, and Determinations of the Commissioner at any Meeting to be held in pursuance of this Act shall be entered in a Book to be provided for that Purpose, and shall be signed by the Commissioner, and being so signed shall be deemed to be Originals; and all such Books shall be deposited with and kept by the Clerk to the Commissioner, and may

be read as Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any thing done in relation to this Act.

Proprietors to pay their own Expences at Meetings.

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

Debts to be paid, and Accounts to be audited.

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

Accounts to be published.

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

For shortening Boundaries.

XXIV. And be it enacted, That for the Purpose of shortening or rendering straight and determining the Boundaries between the said Townships, or between the Lands to be inclosed and the old inclosed Lands in the said Townships respectively, or between the Allotments and old inclosed Lands, or any of them, and any adjoining Lands, it shall be lawful for the Commissioner (with the Consent of the Lord of the Manor in which the Lands are situate, and of the Owners of such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them, being a Corporation Aggregate,) to set out, ascertain, and determine such Boundaries as the Commissioner shall think proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, and determined the same shall be made, fenced, ditched, or mounded by such Persons, in such Manner, and at such Times as the Commissioner

sioner shall direct; and such Boundaries shall for ever thereafter be deemed the Boundaries between the said Townships respectively, or between the allotted and the old inclosed Lands respectively, or between the allotted and old inclosed Lands and such adjoining Lands, as the Case may be.

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

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

Power to widen Roads.

XXVI. And be it enacted, That it shall be lawful for the Commissioner to widen any of the public Roads or Highways which may pass through or over the Lands to be inclosed, to any Extent he shall think fit, not exceeding Forty Feet in the whole, and for that Purpose to take a sufficient Quantity of the Common or Waste Lands adjoining such Roads.

Power to stop up or alter existing Roads.

XXVII. And be it enacted, That in setting out the several public Carriage Roads, Highways, Bridle Roads, and Footpaths in pursuance of this Act or of the first-recited Act, the Commissioner may, if he thinks it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the West Riding of the County of *York*, discontinue, stop up, divert, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footpaths passing through or over any of the Lands to be inclosed, or any of the old Inclosures within the said Townships, Hamlets, Districts, or Places, or any of them; and the Soil of such of the Roads and Ways so to be discontinued and stopped up as pass through allottable Lands shall be deemed Part of the Lands to be inclosed: Provided always, that nothing herein contained shall authorize the altering or diverting of any Turnpike Road, unless the Consent of the Majority of

of such Number of the Trustees of such Turnpike Road as shall be assembled at a public Meeting, called and held for that Purpose on Ten Days Notice, be first obtained.

Proceedings previously to stopping up and diverting Roads.

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

Appeal to the Quarter Sessions.

XXIX. Provided also, and be it enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footpath should be discontinued, stopped up, diverted, or altered, as the Case may be, within Two Months after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the Quarter Sessions for the said West Riding, upon giving to the Commissioner or his Clerk Fourteen Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been given as aforesaid, nor on any Hearing of Appeal to go into 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 such Roads shall be discontinued.

XXX. And be it enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether such public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be thereby injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath is unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such Appeal, and shall award the Costs of resisting the said Appeal to be paid by the Appellant to the Commissioner; and the same shall be recoverable in the same Manner as any Penalties and Forfeitures are recoverable under the said

said first-recited Act; but if the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath is not unnecessary, or that the same could not beneficially to the Public be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court shall allow such Appeal, and such public Carriage Road, Highway, Bridle Road, or Footpath shall not be discontinued, stopped up, diverted, or altered, or in case the same shall have been discontinued, stopped up diverted, or altered, the said Court shall make an Order for restoring the same to its original State, and shall award to the Appellant the Costs of prosecuting such Appeal; and such Costs shall be paid by the Commissioner out of the Inclosure Expences Fund.

Expences of discontinuing or altering Roads.

XXXI. And be it enacted, That the Expences attending the purchasing the Soil of such Roads, or the stopping up, discontinuing, diverting, and altering of such Roads, and the Money Compensation in respect thereof, shall be paid out of the Inclosure Expences Fund.

Roads when declared completed, by whom to be repaired.

XXXII. And be it enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the West Riding of the County of *York* shall certify any of the public Carriage Roads to be set out in pursuance of this Act, or any Part or Parts thereof, to be sufficiently formed and completed, such Roads, or so much thereof as shall be comprised in any such Certificate, shall thenceforth be supported and kept in repair by such Persons and in such Manner as the public Roads within the said Townships are or ought by Law to be kept in repair; and every such Certificate shall, at the Quarter Sessions of the Peace to be holden for the said West Riding next after the Date thereof, be filed of Record by the Clerk of the Peace for the said West Riding.

Present public Roads not to be discontinued till new Roads are complete.

XXXIII. And be it enacted, That none of the present public Roads over the Lands to be inclosed shall be shut up or discontinued until the Commissioner shall have caused the public Roads to be set out, and until the same shall be properly formed, and made safe and convenient for Horses, Cattle, and Carriages.

Commissioner to appoint private Roads.

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

XXXV. And

Commissioner to declare in what Township Roads shall be.

XXXV. And be it enacted, That the Commissioner shall ascertain and determine, and by his Award declare, to which Township the several Roads and Ways to be set out by virtue of this Act and the said first-recited Act, as well as other Roads and Ways now existing in the said Townships respectively, or any Parts thereof respectively, shall be annexed, and thenceforth the same shall be deemed to be within such Township accordingly; and such of them as are public Roads and Ways shall thereafter be maintained and kept in repair by the Inhabitants of such Township, in like Manner as public Highways within the same are by Law liable to be maintained, and not otherwise.

Commissioner empowered to suspend or extinguish Rights of Common.

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

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

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

Claims to be delivered to the Commissioner, and

XXXVIII. And be it enacted, That all Persons claiming any Interest in any of the Lands to be inclosed shall deliver their respective Claims, in Writing under their Hands, or the Hands of their Agents,

Tenures distinguished.

Agents, unto the Commissioner, at the Meetings to be held for that Purpose, stating the several Particulars in respect whereof such Claims are made, and distinguishing Freehold, Leasehold, and Copyhold or Customary Estates from each other, and also distinguishing which Part or Parts of the Copyhold or Customary Lands and Premises are compounded for or held by Fine certain, as also which Part or Parts thereof are not compounded for or held by Fine uncertain; and no such Claim shall be received by the Commissioner after the last Meeting to be held for that Purpose, of which due Notice shall have been given, and so expressed therein (except for some special Cause to be allowed by the Commissioner).

Adjudication upon Claims.

XXXIX. And be it enacted, That after the said Claims shall be so received the Commissioner shall cause Notice on the Door of each of the said Chapels to be given of a Time (at least Ten Days distant) and a Place for all Parties concerned to appear before him, and show Cause for or against the Allowance or Disallowance of the said Claims; and at such Meeting the Commissioner shall proceed to examine into and determine the same, and shall make such Order therein as to him shall appear just; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Differences shall happen between any of the said Proprietors touching their respective Rights or Claims, or touching the respective Shares which they ought to have in the Allotments, the Commissioner shall, by Examination of Witnesses upon Oath (which Oath the Commissioner is hereby empowered to administer), and by such other Evidence as to him shall seem proper, hear and determine the same, and shall make such Order therein as to the Commissioner shall appear just; which Order shall be final, unless any Party shall be dissatisfied with the Determination of the Commissioner, and shall proceed to try his Rights by an Issue at Law as herein-after mentioned.

Commissioner not to determine Titles contrary to Possession.

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

Parties dissatisfied authorized to try their Rights at Law.

XLI. And be it enacted, That if any Person claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the Commissioner concerning any Claim or any Right or Interest in or to the Lands to be inclosed, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action, upon a feigned Issue, against the Person in whose Favour such Determination shall have been made, within Three Months next after such Determination shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent; and thereupon the Person so dissatisfied may proceed to a Trial at Law at the then next Assizes, or at the

Assizes immediately following such next Assizes, which may be holden for the County of *York* after such Action shall have been commenced; and the Defendant in such Action shall, upon being served with the usual Process therein, appear and plead thereto, or file Common Bail, and accept One or more Issue or Issues whereby such Claim, and the Right and Interest thereby insisted on, may be tried and determined (such Issues to be settled by the proper Officer of the Court in which such Action shall be commenced, in case the Parties differ); and the Verdict given upon the Trial of such Action shall be binding and conclusive upon all the Parties thereto, unless the Court shall set aside such Verdict and order a new Trial to be had; and after such Verdict shall be given, and final Judgment obtained thereon, the Commissioner shall act in conformity thereto, and allow or disallow the Claim thereby determined, according to the Event of such Trial; and the Costs attending any such Action shall abide the Event of the Trial.

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

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

Deaths of Parties not to abate Proceedings;

in case Parties die before Action brought, Suits to be carried on and defended in their Names.

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

Suits not to impede Execution of Act.

XLIV. And be it enacted, That no Action, Dispute, Difference, Suit, or Proceeding shall impede or delay the Execution of this Act, but the Commissioner shall proceed in the Execution thereof, notwithstanding any such Action, Dispute, Difference, Suit, or Proceeding;

ceeding; and the Allotment in respect of any disputed Property shall be taken and held by the Person who shall become entitled thereto upon the Determination of such Action, Dispute, Difference, Suit, or Proceeding.

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

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

Commissioner to award Costs.

XLVI. And be it enacted, That in case the Commissioner, upon the Determination of any Claim or Objection to be delivered to him in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for him, upon Application, to assess and award such Costs as he shall think reasonable to be paid, by the Person whose Claim or Objection shall have been disallowed, to the Person in whose Favour any Determination shall have been made; and in case any Person liable to pay such Costs shall refuse or neglect to pay the same upon Demand, the Commissioner shall, by Warrant directed to any Person whomsoever, cause the same to be levied by Distress; and if there be no Goods or Chattels whereon to levy such Costs, it shall be lawful for the Person in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Leases at Rack-rent to be void.

XLVII. And be it enacted, That immediately after the Allotments herein directed to be made shall have been marked and staked out, and the Commissioner shall have directed the same to be entered upon by the Persons respectively for whom the same shall be intended, every Lease and other Agreement at Rack-rent subsisting of all or any Part of the Lands to be inclosed, or of any Rights thereon, for any Term of Years not exceeding Twenty-one Years, (except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure,) shall determine and be void as to all such Lands or Rights, but not as to any other Lands comprised therein, such Compensation as between Lessor and Lessee being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated, as the Commissioner shall, by Writing under his Hand, order in that Behalf; and if any such Compensation shall not be paid to the Party entitled to receive the same within One Month after Demand made in Writing under the Hand or Common Seal (as the Case may require) of the Party to whom the same shall be payable, the Commissioner shall

shall raise and levy the same, for the Use of the Party entitled thereto, by such Ways and Means as the Inclosure Expences are directed to be raised and recovered; and it shall be lawful for the Commissioner, by Writing under his Hand, to ascertain and direct what Rent or Proportion of Rent shall be paid by the several Tenants of the Lands to be inclosed, or Rights, in their respective Holdings, to their respective Landlords, from the Time of the passing of this Act until such Lands shall be marked and staked out, and be directed to be entered upon as aforesaid.

Beneficial Leases not to be vacated.

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

Wills and Settlements not to be affected.

XLIX. And be it enacted, That nothing in this Act contained shall extend to revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance out of or affecting any of the Lands to be inclosed, or any of the Lands which may be exchanged or parted with, in pursuance of this Act, but that as well the Lands allotted and exchanged as the Lands which shall be assigned in Partition, or in compensation for any other Estate or Right by virtue of this Act, shall immediately after such Allotment, Exchange, or Partition be and enure, and the several Persons to whom the same shall be so allotted or given in Exchange or Partition as aforesaid shall be seised and possessed thereof respectively, to, for, and upon the same Estates, Uses, Trusts, Intents, and Purposes, and subject to the same Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Partitions shall have been made would have stood limited for or been subject to in case the same respectively had not been allotted, exchanged, or parted with as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

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

L. And be it enacted, That if at any Time before the Execution of the Award of the Commissioner any Person shall sell his Right of Common or other Right or Interest in the Lands to be inclosed, or any Part thereof, to any Person, the Commissioner shall, upon any such Sale being made (such Sale being certified in Writing to the Commissioner under the Hand of the Vendor, in the Presence of a subscribing Witness), make an Allotment of Land to the Purchaser, or to his Heirs or Assigns, in respect of the Right or Interest so sold; and every such Purchaser, or his Heirs or Assigns, shall, from the Execution of the said Award, hold and enjoy the Land so to be allotted to him in the same Manner as the Vendor might or ought to have done in case such Sale had not been made; and it shall be lawful for any Person who shall be entitled to any Allotment under this Act to devise, grant, surrender, mortgage, or otherwise convey and assure the same Allotment, or all or any Part of his Interest therein, at any Time before the Execution of the said Award;

Award; and every such Demise, Grant, Surrender, and other Assurance shall be of the same Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment to sell, dispose of, and convey the Estate in right of which he may be entitled to such Allotment separate from and retaining to himself such Allotment, Common Right and Interest, and the Commissioner is hereby required to award such Allotment accordingly: Provided always, that nothing herein contained shall extend to empower the Commissioner to award any Allotment to any Person other than the original Purchaser thereof, or to the Person to whom the same shall be first conveyed or disposed of, and that no such Allotment shall be so awarded unless the whole or entire Common Right or other Right or Interest of such Person so selling or disposing thereof shall be sold or disposed of in One Parcel or Lot: Provided also, that every such Certificate as aforesaid shall be delivered to the Commissioner at a Meeting to be by him appointed for that Purpose, and not at any Time afterwards, unless for some special Cause to be by the Commissioner allowed.

Encroachments.

LI. And be it enacted, That all Encroachments and Inclosures which shall have been made by any Person from or upon any Part of the Lands to be inclosed within Twenty Years next before the passing of this Act, whether any Amerciament, annual Rent, or any Money Payment or Acknowledgment hath or hath not been paid in respect of the same, to or for the Use of the Lord of the Soil, or any other Person, shall be deemed Parcel of the Lands to be inclosed, and shall be divided, allotted, and inclosed accordingly: Provided always, that it shall be lawful for the several Persons who shall be in Possession of any such Encroachment or Inclosure, or in the Receipt of the Rent thereof, at the Time of the passing of this Act, to take down and remove all such Buildings, Fences, and other Erections as shall then be thereon, and to convert the Materials thereof to their own Use.

Encroachments in Possession of Proprietors may be allotted to them without regard to Buildings.

LII. Provided always, and be it enacted, That where any Proprietor or Person entitled to any Allotment of the Lands to be inclosed shall be in Possession of or in Receipt of the Rents and Profits of any Encroachment made within the Space of Twenty Years previous to the First Day of *November* One thousand eight hundred and forty-two, adjoining to any ancient Inclosure of such Proprietor, then and in all such Cases the Commissioner shall allot and award such Encroachment so circumstanced, without regard to the Value of any Building thereon, unto the Proprietor to whose ancient Inclosure the same shall adjoin; and where any Proprietor or Person entitled to any Allotment as aforesaid shall be in Possession of or in Receipt of the Rents and Profits of any such Encroachment which shall not adjoin his ancient Inclosures, then and in such Case the Commissioner shall (in all Cases wherein it shall not be attended with any Inconvenience or Disadvantage to any other Person, or to the Lands to be inclosed,) allot and award such last-mentioned Encroachment, without regard to the Value of any Buildings (if any) thereon, unto such Proprietor so in Possession; and such several Encroachments, whether adjoining or not to any such

such ancient Inclosure, shall, subject to the above Provisoes respectively, be so allotted and awarded to the Proprietor of the ancient Inclosure in satisfaction of his Rights in or upon the Lands to be inclosed, or in part satisfaction of such Rights, as Circumstances may require; and in case any such Encroachment (exclusive of any Building thereon) shall exceed in Value the Allotment to which such Proprietor shall, in the Judgment of the Commissioner, be entitled, then the Commissioner shall fix a Sum of Money which shall in his Judgment be a full Equivalent for the Value of so much of the said Encroachment as shall be over and above the Value of the Allotment to which such Proprietor shall be entitled, and which Money shall be paid to the Commissioner at such Time, under such Conditions, and in such Manner as the Commissioner shall direct and appoint.

Commissioner may sell or allot Encroachments, with Buildings, to others, when not adjoining Estates of Proprietors in Possession.

LIII. Provided also, and be it enacted, That where the Commissioner shall think it expedient or proper that any such last-mentioned Encroachment not adjoining the ancient Inclosure of the Proprietor in Possession or Receipt of the Rents and Profits of such Encroachment, and whereon any Building is erected, should be sold or allotted to any Person other than such Proprietor, the Commissioner shall sell or allot and award the same to such other Person as he shall think proper; and the Commissioner shall pay to such Proprietor so in Possession such Sum of Money as to him shall seem reasonable for and in respect of such Building; and the Whole or such Part of such Money as the Commissioner shall think fit shall be paid to the Commissioner, by the Person to whom such Encroachment shall be so sold or allotted and awarded, at such Time, under such Conditions, and in such Manner as the Commissioner shall direct or appoint.

Allotment of old Inclosures with Consent of Proprietors.

LIV. Provided always, and be it enacted, That it shall be lawful for the Commissioner, with the Consent in Writing and at the Request of any Proprietor of any Houses, Homesteads, Gardens, Orchards, or old inclosed Lands within the said Townships or Places, whether such Owner or Proprietor shall be a Corporation, Tenant 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 Lives, (with the Consent of the Lessor of any such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands holden for Years determinable as aforesaid, and not otherwise,) or with the Consent of the Guardian, Trustee, Feoffee for charitable or other Uses, Husband, Committee, or Attorney of or acting for any such Proprietor as aforesaid, who shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, (such Consent to be respectively testified, in case of a Corporation, by Writing under their Common Seal, or by Writing under the Hand of the Agent of such Corporation, and in case of an Individual under his Hand,) to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable, and Parcel of the Lands to be inclosed; and such Allowance shall be made to the Proprietors of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands, on account of the Situation or other beneficial Circumstances thereof, as the Commissioner shall adjudge to be just and reasonable, and he shall allot

allot and award unto such Proprietors so much and such Part of the Lands to be inclosed as he shall think reasonable and just.

Allotments for Repair of Highways.

LV. And be it enacted, That the Commissioner shall, if he shall see fit, allot unto the Surveyors respectively for the Time being of the Highways of the said several Townships, and to their respective Successors for ever, such Parcels of the Lands to be inclosed, not exceeding in the whole Fifty Acres, as they shall think necessary and most convenient, for supplying Stone, Gravel, and other Materials for the making or forming and repairing of the public Highways and Roads by this Act authorized to be made, and for the repairing of all other public Highways or Roads within the said several Townships; and such Allotments shall be inclosed and fenced as the Commissioner shall direct, and shall from the Execution of his Award be vested in the Surveyors of the Highways within the said respective Townships for the Time being, in Trust for the Purposes aforesaid; and the Grass and Herbage of such Allotments shall belong to such Persons as the Commissioner shall by his Award direct; and if he shall make no such Direction, then such Surveyors respectively shall from Time to Time let the Herbage for the most Money that can be obtained for the same, subject to be entered upon for the Purposes aforesaid, and shall apply the Rents and Profits towards the Repairs of the public Roads or Highways within the said respective Townships; and such Surveyors respectively shall account for such Rents and Profits in the same Manner as he or they is or are accountable for any other Money that shall come into their Hands respectively as Surveyors of the Highways, and shall be under and subject to the like Penalties for the Neglect thereof; and afterwards, if Occasion shall require as herein-after mentioned, such Allotments shall be vested in such respective Surveyors, in Trust for Sale, freed and discharged from all the Uses, Trusts, and Purposes aforesaid.

When the Stone, &c. is got, the Allotments may be sold.

LVI. And be it enacted, That after all Materials fit for repairing the Highways and Roads shall be had or got from and out of any One or more of the Allotments which shall be vested in any such Surveyor in pursuance of this Act, then it shall be lawful for the Surveyor in whom the same shall be so vested for the Time being to sell the same by public Auction to any Person willing to become the Purchaser thereof, and to convey the same, freed and discharged from all the Uses, Trusts, and Purposes of this Act, to such Purchaser and his Heirs, in Fee Simple, by Deed under his Hand and Seal; and the Purchase Money shall be paid to and be applied by such Surveyor in and towards the Repairs of the Highways and Roads within the Township in which the Allotment so sold shall be situate, in such Manner as the Surveyor of the Highways in such Township shall direct; and the Receipt of the Surveyor for the Purchase Money shall be an effectual Discharge to the Purchaser, and his Heirs, Executors, Administrators, and Assigns.

Allotment to be set out for the Recreation of the Inhabitants.

LVII. And be it enacted, That the Commissioner shall allot and award unto the Churchwardens and Overseers for the Time being of the said Townships of *Sowerby* and *Soyland*, out of any Part of the Lands to be inclosed, One or more Piece or Pieces of Land, not exceeding

Ten Acres in the whole, nor less than Eight Acres, in the most appropriate Situation, as a Place of Exercise and Recreation for the Inhabitants of the said Townships and Neighbourhood; and such Allotment shall be held by the Churchwardens and Overseers for the Time being of the said Townships for the Purposes aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Churchwardens and Overseers, in such Proportions and Manner as shall be directed by the Award of the Commissioner, out of the Rents to be received for the Herbage of the said Allotment, or out of the Poor Rates of the said Townships, or otherwise; and the Grass and Herbage growing upon such Allotment may be from Time to Time let by such Churchwardens and Overseers, and the Rent which shall be received by them for the same shall be by them from Time to Time applied, in the first place, in maintaining and repairing the Fences of the said Allotment, and, subject thereto, in aid of the Rates for the Repair of the public Highways in the said Townships.

Allotments for Peats or Turves.

LVIII. And be it enacted, That the Commissioner shall set out, allot, and award, in such Situations as he shall judge proper, unto the Constable of the Constabulary of *Sowerby* for the Time being, several Pieces or Parcels of the Lands to be inclosed, not exceeding in the whole One hundred Acres, in Trust for the Benefit of the Owners and Proprietors for the Time being, and their Tenants and Occupiers, of Estates entitled to Common Right in or upon the Lands to be inclosed, for the Purpose of their digging and getting Peats or Turves therein, to be used and consumed for Fuel only in their respective Dwelling Houses in or upon such Estates, but not to be sold, given away, or otherwise used, applied, or disposed of; and the Grass or Herbage of the said Parcels of Land (but without Prejudice or Hindrance to the Rights and Privileges hereby given and allowed therein respectively) shall be let from Year to Year by the said Constable for the Time being, for the most Money that can be made thereof; and the Rents and Profits arising from the same shall be paid by the said Constable to the Overseers of the Poor of the Township to which the Land shall be annexed, and by such Overseers applied in aid of the Poor Rates of the said Township, or shall be paid by such Constable to the Overseers of the said several Townships in such Proportions as the Commissioner shall in and by his Award direct.

Allotment for public Wells and Watering Places.

LIX. And be it enacted, That the Commissioner shall set out, allot, and award unto the Constable of the Constabulary of *Sowerby* so much and such Part or Parts of the Lands to be inclosed, in such Situation or Situations as he shall think proper, Part thereof as and for public Wells to supply the Inhabitants of the said several Townships with Water, and other Part thereof as and for public Watering Places for Cattle, which said Wells and Watering Places shall and may be from Time to Time for ever hereafter cleansed, repaired, and maintained by the Constable of *Sowerby* for the Time being; and the Costs and Expences thereof shall be paid to the said Constable out of the Poor Rates of the said several Townships of *Sowerby* and *Soyland* respectively

tively by the Overseers of the Poor in such Proportions as the Commissioner shall by his Award direct.

Allotment to the Lord of the Manor.

LX. And be it enacted, That the Commissioner shall (after setting out the public Roads and Highways, and Allotments for Recreation, for Materials for Repair of Roads, for Peats and Turves, for Wells and Watering Places, and for raising Money for the Inclosure Expences Fund, and previous to any other Allotment, and without making any other Deduction from the Lands to be inclosed in any other respect whatsoever,) allot and award unto the Lord for the Time being of the said Manor of *Wakefield* so much and such Part of the Lands to be inclosed as shall, in the Judgment of the Commissioner, be equal in Value to One Twelfth Part of the Residue of such Commons, Waste Lands, and Moors, Quantity and Value considered, in lieu of his Right and Interest in the Soil of the said Commons, Waste Lands, and Moors, exclusive of any other Allotments which may be made to such Lord in lieu of or in satisfaction for any other Rights or Interests in such Commons, Waste Lands, and Moors.

Allotment to the Lord in lieu of certain yearly Rents.

LXI. And be it enacted, That the Commissioner shall, in addition to the Allotment in lieu of Right of Soil, allot and award unto the said *Sackville Walter Lane Fox*, Lord of the said Manor, or to the Lord of the said Manor for the Time being, such Part of the Lands to be inclosed as shall, in the Judgment of the Commissioner, be equal in annual Value to the yearly Rents now paid or payable for his present Dams, Goits, and Millsteads upon the said Commons or Waste Grounds, in lieu and in full Satisfaction of such Dams, Goits, and Millsteads, which said Dams, Goits, and Millsteads shall be considered Part of the Lands to be inclosed by virtue of this Act.

Allotments to Overseers of Poor of Sowerby and Soyland.

LXII. And be it enacted, That the Commissioner shall allot and award unto the Overseers of the Poor for the Time being of the Township of *Sowerby*, and their Successors, all that Piece or Parcel of Land, Part of the Lands to be inclosed, situate at or near a Place called *Crowhill End*, containing Thirty-eight Acres or thereabouts, and lately inclosed from the said Commons or Waste Grounds by or by the Direction of the Overseers of the Poor of the said Township of *Sowerby*, and shall also allot and award unto the Overseers of the Poor for the Time being of the Township of *Soyland*, and their Successors, all those Two several Pieces or Parcels of Land, Part of the Lands to be inclosed, situate respectively at or near Places respectively called *Barret Hill* and *Wells*, containing together Twenty Acres or thereabouts, lately inclosed from the said Commons or Waste Grounds by or by the Direction of the Overseers of the Poor of the said Township of *Soyland*; and the Overseers of the Poor of the said respective Townships of *Sowerby* and *Soyland*, and their respective Successors, shall pay, apply, and dispose of the Rents, Issues, Profits, and Proceeds of the said Parcels of Land so to be allotted to them respectively in aid of the Poor Rates of the said several Townships respectively; and the said several Parcels of Land shall be allotted and awarded to the said Overseers respectively, over and besides any other Allotments of the Lands to be inclosed to which they

they are or shall be entitled as Overseers of the Poor in respect of any ancient Messuages or Cottages, or ancient inclosed Lands or Grounds, and shall be subject to the Control of the Poor Law Commissioners, according to the Powers and Provisions of an Act passed in the Session held in the Fifth and Sixth Years of the Reign of King *William* the Fourth, Chapter Sixty-nine.

Allotment of the Residue.

LXIII. And be it enacted, That after the several Allotments herein-before directed shall have been set out and made, and after making Provision for the Expences of the Inclosure by Sale of Lands as herein-after mentioned, the Commissioner shall divide, allot, and award the Residue of all the Lands to be inclosed unto and amongst the several Owners and Proprietors of ancient inclosed Lands and Grounds situate within the said several Townships, Hamlets, Districts, or Places of *Sowerby* and *Soyland*, in respect of and according to the Value of such ancient inclosed Lands and Grounds, comprising the Sites or Ground Plots of Canals, Railways, Dwelling Houses, and all other Buildings (except such Messuages and Cottages as shall be proved to the Satisfaction of the Commissioner to have been erected upon Encroachments, and also except such Lands as shall in like Manner be proved to be Encroachments); and the said several Allotments shall be laid as contiguous and near to the respective Estates of the several Persons entitled to the same as conveniently may be, and shall be in full Bar of and Compensation for their several and respective Rights and Interests upon the Lands to be inclosed; and in estimating the Value of Woodlands and other Lands whereon are erected, constructed, or made any Canals, Railways, Dwelling Houses, or Buildings, or any other Improvements, except such as are in the Nature of agricultural Improvement, the Commissioner shall estimate the Value according to the Nature and Quality of the Soil, as if no Wood were growing thereon, or any Canals, Railways, Dwelling Houses, or any other Buildings, or any other Improvements, had been erected, constructed, and made thereon.

For determining Objections to Allotments.

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

Allotments to be fenced.

LXV. And be it enacted, That the several Allotments to be made in pursuance of this Act (except the Allotments to the Surveyors and Churchwardens and Overseers) shall be inclosed, ditched, and fenced, at the Expence of the respective Persons to whom the same shall be allotted, in such Manner and within such Times as the Commissioner shall, by his Award, or any Writing under his Hand, direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the Commissioner shall by his Award direct.

Curate's Allotments to be fenced at the general Expence.

LXVI. And be it enacted, That the Allotments to be made to the Curate of any Chapel or Curacy in respect of such Chapel or Curacy, or to any Trustees for or in respect of Lands belonging to any School of charitable Foundation, shall be well and sufficiently inclosed and fenced on all such Parts and Sides as shall not be directed to be fenced by any other Proprietor, or as shall not adjoin any inclosed Land, or be bounded by any sufficient Watercourse or other sufficient Fence, in the Judgment of the Commissioner; and the Expence attending the inclosing and fencing the same shall be discharged out of the Inclosure Expences Fund; and all such Inclosures and Fences, when made, shall for ever thereafter be kept in repair by such Curate or Trustees respectively, or by the Persons for the Time being entitled in Possession to the said Allotments.

To prevent Cattle grazing on the Roads.

LXVII. And be it enacted, That no Person shall graze or keep any Beast or Cattle or any Geese upon any of the Roads or Ways which the Commissioner shall order to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the Execution of the Award of the Commissioner; and every Owner or Occupier of Lands within the said Townships, Hamlets, Districts, or Places, his Servants and Labourers, and also the Pindar for the Time being of and within the Constabulary of *Sowerby*, is hereby empowered to take and impound any Horse, Ass, Bullock, Cow, Sheep, Lamb, Swine, or other Beast or Cattle, or Geese, which shall be found so grazing as aforesaid, as Cattle Damage feasant: Provided always, that nothing herein contained shall prevent the Proprietors of the Lands which shall next adjoin the said Roads or Ways from depasturing their Cattle thereon so far as the Frontage of their respective Lands extends.

Power to Curates of Chapels to lease their Allotments.

LXVIII. And be it enacted, That it shall be lawful for the Curates for the Time being of any Chapel or Curacy, by Indenture under their Hands and Seals, or by Surrender according to the Tenure thereof, with the Consent and Approbation of the Patron of the Curacy for the Time being, such Consent to be had previous to the Execution of such Indenture or passing of such Surrender by the other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part of the Allotment to be made to such Curate in right of his Chapel or Curacy, to any Person whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Months next after the passing of this Act, so that the Rent for the same shall be thereby reserved to the Curate for the Time being by quarterly Payments in every Year; and so that

there be thereby also reserved and made payable to such Curate the best and most improved Rent that can be reasonably gotten for the same, without taking any Fine, Foregift, or other Consideration for granting such Lease; and so that no such Lessee be made dispunishable for Waste by any express Words to be contained in such Lease; and so that there be inserted in every such Lease Power of Re-entry on Nonpayment of the Rent, within a reasonable Time, to be therein limited, after the same shall become due; and so that a Counterpart of each such Lease be duly executed by the Lessee: Provided always, that whenever any such Lease shall by any means become forfeited or void, or be surrendered before the Expiration by Effluxion of Time of the Term thereby granted, then and so often as the same shall happen it shall be lawful for such Curate for the Time being, with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron of the Curacy, to grant a new Lease of the Land so demised, for such Term of Years as shall at the Time of such Avoidance be unexpired of the original Term, subject nevertheless to the Provisoes and Conditions contained in the original Lease, and then remaining unperformed and capable of taking Effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act, or any Law or Usage, to the contrary notwithstanding,

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

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

Copyhold Lands given in Exchange to remain

LXX. Provided also, and be it enacted, That any Copyhold Lands holden of the said Manor which shall be given or taken in Exchange shall be and remain and be holden as Copyhold of the said

Copyhold, and Commissioners to declare the Tenures, &c.

said Manor; and the Commissioner shall by his Award declare the Tenures of the Lands which shall be given or taken in Exchange or on Partition or allotted, distinguishing the Freeholds and Leaseholds from the Copyholds, and whether the Copyholds be held by Fine compounded for and certain, or by Fine uncompounded for and uncertain; and that every Person to whom any Copyhold Lands shall be given in Exchange or on Partition or allotted shall, within Twelve Months next after the Execution of the Award, be admitted Tenant of the said Copyhold Lands without paying any Fine or other Relief or Heriot for such Admission, but after such First Admission the Copyhold Lands held by Fine certain shall be subject to a Fine of One Shilling only.

Power for Commissioner to make Alterations in Allotments, &c.

LXXI. And be it enacted, That it shall be lawful for the Commissioner, at any Time before the Execution of his Award, to make any Alterations which he may think right and expedient in the Allotments or in the Fences which he may have set out and ordered, or in the private Roads over such Allotments, or in any of the Orders or Directions relating thereto which he may have made in pursuance of this Act; and in case any Person shall be injured by any such Alteration, on account of any Expences he may have incurred or otherwise, the Commissioner shall ascertain and determine what Recompence shall be made to him for such Injury, and shall either pay the Amount thereof out of the Inclosure Expences Fund, or shall direct by whom and in what Manner such Recompence shall be made; and in case of Nonpayment thereof, the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

Separate Allotments for Land held by different Titles.

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

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

LXXIII. And be it enacted, That where the Commissioner shall have omitted to distinguish in his Award the several Tenures under which any of the said Lands shall be holden, or the different Estates or Titles for or under which the same shall be held, or to set out and award several and distinct Allotments, as by this Act directed, it shall be lawful for him, at any Time within Twelve Months after the Execution of his Award, and he is hereby required, upon Request in Writing to him made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if his Award had not been made, and by any Deed or Instrument under his

his Hand and Seal to distinguish and set out the Allotments and Lands held by different Tenures, and also the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as he is by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by his Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award, and such Instrument shall be enrolled and deposited with the Award of the Commissioner, and shall thenceforth be deemed to be Part thereof, to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Party who shall have requested the Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

Exchanges may be made.

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

Tenants to give up exchanged Lands.

LXXV. And be it enacted, That every Tenant under any Lease or Agreement for any Term of Years of any ancient inclosed or other Lands within the said Townships, or any of them, which shall be allotted and awarded in Exchange for other Lands, shall, within such Time as the Commissioner shall appoint, and whereof Notice in

Writing shall be given for that Purpose, give and resign up the full and peaceable Possession of such exchanged Lands to the Person to or with whom the same shall be exchanged, such Tenant of such exchanged Lands receiving from the Owner thereof such Satisfaction in Money as the Commissioner shall order or direct to be paid to such Tenant on account thereof as an Equivalent for the Loss he shall sustain thereby; and if the Money so to be ordered or directed as aforesaid shall not be paid to the Person entitled to receive the same, within Six Months after Demand made thereof, it shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

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

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

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

LXXVII. And be it enacted, That if the Surplus of any such Monies shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the Twelfth Year of the
12 G. 1. c. 32. Reign of His late Majesty King *George* the First, intituled *An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of* East India *Bonds and the Endorsements thereon, as likewise the Endorsements on* South Sea *Bonds*, and pursuant to the general Rules and Orders of the said Court, and without Fee or Reward, according to an Act passed in the Twelfth Year of the Reign of His late Majesty King
12 G. 2. c. 24. *George* the Second, intituled *An Act to empower the High Court of Chancery to lay out upon proper Securities any Monies, not exceeding a Sum therein limited, out of the Common or General Cash in the Bank of* England *belonging to the Suitors of the said Court, for the Ease of the*

the said Suitors, by applying the Interests arising therefrom for answering the Charges of the Office of the Accountant General of the said Court, and shall, when so paid in, there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Parties who would have been entitled to the Rents and Profits of the said Lands, be applied to either of the following Purposes; (that is to say,)

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

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

Payment of Dividends meanwhile.

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

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

LXXIX. And be it enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the Commissioner, to be signified in Writing under his Hand, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Chancery, 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 Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands (or Common Seal, as the Case may be,) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England*, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

LXXX. And be it enacted, That in case the Surplus of such Monies shall be less than Twenty Pounds, the same shall be paid to the

the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, for the Use and Benefit of the Parties respectively entitled thereto.

Expence of Inclosure to be defrayed by Sale of a sufficient Part of the Common.

LXXXI. And for the Purpose of raising Money for defraying the Expences of the Inclosure, (that is to say,) the Costs and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the Commissioner and Clerk for Expences, Time, and Trouble, and the Costs and Expences of preparing and enrolling the Award of the Commissioner, and all Costs and Expences that the Commissioner shall be put unto in respect of any Appeal against his Decision, or of any Suit at Law or in Equity that may be instituted by or against him as Commissioner in the Execution of this Act, either before or after the Execution of the Award, and all other Costs and Expences whatsoever of carrying this Act into execution, be it enacted, That the Commissioner shall mark and allot such Parts of the Lands to be inclosed as he shall judge sufficient in Value to defray the Expences aforesaid, and shall, from Time to Time as he shall find expedient, sell and dispose of the same, either by public Auction or private Contract; and the Purchase Monies to arise by such Sales shall be paid into the Hands of the Commissioner, and shall be by him applied in discharging the said Expences.

Commissioner to sign Receipts for Purchase Monies, and make Conveyances to Purchasers.

LXXXII. And be it enacted, That upon every Sale to be made by the Commissioner under the Provisions of this Act the Commissioner shall sign and deliver to each Purchaser a Receipt for his Purchase Money, which shall be a sufficient Discharge for the same; and upon Receipt of the whole Purchase Money for any of the Lands which shall be sold as aforesaid the Commissioner shall convey such Lands, and the Fee Simple and Inheritance thereof in Possession, by Deed under his Hand and Seal, to, upon, and for such Uses, Trusts, and Purposes as such Purchaser shall direct, and after such Conveyance the Premises conveyed shall become vested as Freehold of Inheritance, upon and for such Uses, Trusts, and Purposes as shall be expressed by such Deed; and any such Conveyance may be to the Effect set forth in the Schedule (B.) to this Act.

Application of Purchase Monies.

LXXXIII. And be it enacted, That all such Purchase Monies as shall be from Time to Time raised or received by the Commissioner from such respective Sales as aforesaid shall, after Payment of the Charges and Expences attending such respective Sales, be paid and applied by the Commissioner towards the Inclosure Expences Fund; and the respective Purchasers or other Persons paying the same shall not in any Manner be liable to see to the Application or be answerable for any Misapplication thereof.

Application of Surplus Money.

LXXXIV. And be it enacted, That in case any Surplus shall remain in the Hands of the Commissioner of the Monies by this Act autho-

authorized to be raised by the Sale of Land after answering the several Purposes for which such Monies are applicable, such Surplus Money shall be by the Commissioner paid unto the several and respective Surveyors of the Highways of and within the several Townships within which the Lands to be inclosed are situate, in such Shares as shall be in proportion to the several Highways of and within such several Townships, and shall be by the said Surveyors respectively laid out and expended in the Repairs of the said Highways respectively.

Power for Commissioner to borrow Money.

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

Proclamation and Deposit of the Award.

LXXXVI. And be it enacted, That, as soon as conveniently may be after the said Inclosure shall be completed, the Commissioner shall draw up and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday* by affixing a Proclamation on or near the outer Door of the Parish Church of *Halifax* previously to Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered as complete; and within Three Months after the Commissioner shall have so made and executed the said Award, he shall cause the same, together with One of the Maps or Plans herein-after directed to be made annexed thereto as Part thereof, to be delivered to the public Registrar at the public Register Office for the West Riding of the County of *York* at *Wakefield*, who is hereby required to deposit and keep the same among the Records of the said Office, so that Recourse may be had to the said original Award by any Person interested in the said Division and Inclosure; for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid; and the said Award shall, from the Delivery thereof to the said public Registrar at *Wakefield*, be deemed to be enrolled according to the Directions and within the Meaning of the said first-recited Act.

A Copy of the Award to be deposited at the parochial Chapel and another in the Rolls Office at Wakefield.

LXXXVII. And be it enacted, That a Copy of the said Award, fairly transcribed in a Book on plain or unstamped Paper or Parchment, with another of the Maps or Plans herein-after directed to be made, shall, within the Time aforesaid, be deposited in the parochial Chapel of *Sowerby* in the said Parish of *Halifax*, and there kept in a Box to be provided for that Purpose by the Commissioner, and another similar Copy thereof, and the other Map or Plan, shall be deposited in the Rolls Office for the said Manor of *Wakefield*; and the said Award, and the said Copies thereof respectively, and any other Copy of the said Award, or of any Part thereof, attested by the Registrar or Deputy Registrar of the said West Riding, (for every

Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall thereafter be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Maps or Plans, and a Schedule of old Inclosures, to be annexed to the Award and Copies.

LXXXVIII. And be it enacted, That the Commissioner shall cause Three Maps or Plans of the said Townships, Hamlets, Districts, and Places to be drawn upon Parchment or Vellum, on which the public and private Roads, Paths, and Drains, with the Boundary Fences of the several Allotments mentioned and described in the said Award, and such other Matters and Things as the Commissioner shall think fit, shall be fairly and distinctly delineated and expressed; and the Commissioner shall sign the Maps or Plans, one of which shall be annexed to the said Award, and another shall be annexed to or shall go and be kept with the Copy of the said Award to be deposited in the parochial Chapel of *Sowerby* aforesaid, and the other with the Copy of the Award to be deposited in the Rolls Office of the said Manor of *Wakefield*; and the Commissioner shall make and annex to the said Award a Schedule, describing and setting forth the Quantities of all the Homesteads, Gardens, Orchards, and ancient Inclosures in the said Townships, Hamlets, Districts, and Places; which said Maps or Plans, or any of them, shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Power of Appeal.

LXXXIX. And be it enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act (except as to the Allotments, and except as to such other Determinations as are by this Act directed to be final, and except such Cases wherein an Issue at Law shall be tried as herein-before is mentioned,) he may appeal to the General or Quarter Sessions of the Peace which shall be held for the West Riding of the said County of *York* within Four Months next after the Cause of Complaint shall have arisen, on giving to the Commissioner and to the Party concerned Ten Days previous Notice in Writing of such Appeal, and of the Matter thereof (except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within One Month after the Enrolment of the Award, on giving to the Commissioner such Notice as last aforesaid); and the Justices (not interested in the Premises) in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs and Damages, as to them shall seem reasonable; and the Costs and Damages which shall be so awarded shall be levied by Distress, and the said Justices shall issue their Warrant accordingly; and in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, they shall award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner aforesaid.

Order on Appeal to be final.

XC. And be it enacted, That every Order and Determination of the said Justices upon every such Appeal shall be final, and shall not be removed or removeable by Certiorari or any other Writ or Process

Process whatsoever into any of Her Majesty's Courts of Record at *Westminster* or elsewhere.

Limitation of Lands to be inclosed.

XCI. And be it enacted, That the Lands to be inclosed by virtue of this Act shall comprise only such Commons, Waste Lands, and Moors within the Townships, Hamlets, Districts, or Places of *Sowerby* and *Soyland* whereof the said *Sackville Walter Lane Fox*, as Lord of the Manor of *Wakefield*, is Owner of the Soil.

Saving the Rights of Proprietors of the Withens.

XCII. Provided always, and be it enacted, That nothing herein contained shall extend to defeat, prejudice, injure, or affect the Rights, Privileges, and Advantages which the Proprietors of the *Withens* or *Erringden Common* have hitherto enjoyed in or upon the Lands to be inclosed, but that the said Proprietors of the *Withens* or *Erringden Common* shall and may possess and enjoy the same Rights, Privileges, and Advantages, in such and the same Manner as they are now entitled to possess and enjoy the same, and as they could or might have done in case this Act had not passed, except such Rights of Common and other Rights as are by this Act authorized to be extinguished in or upon the Lands to be inclosed.

Saving the Rights of the Rochdale Canal Company.

34 G. 3. c. 78.

XCIII. Provided always, and be it enacted, That nothing herein contained shall extend to defeat, prejudice, injure, or affect the Rights, Privileges, and Advantages which "The Company of Proprietors of the *Rochdale* Canal" now enjoy or are entitled to by virtue of an Act passed in the Thirty-fourth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for making and maintaining a navigable Canal from the* Calder *Navigation, at or near* Sowerby Bridge Wharf *in the Parish of* Halifax *in the West Riding of the County of* York, *to join the Canal of His Grace the Duke of* Bridgewater *in the Parish of* Manchester *in the County Palatine of* Lancaster, *and also certain Cuts from the said intended Canal*, and of all and every or any of the Acts subsequently passed relating to the said Canal, in or upon the Lands to be inclosed, but that the said Company of Proprietors shall and may possess and enjoy the same Rights, Privileges, and Advantages, in such and the same Manner as they are now entitled to possess and enjoy the same under the said Acts, or any of them, and as they could or might have done in case this Act had not passed.

Mines, &c. reserved to the Lord of the Manor.

XCIV. Provided always, and be it enacted, That nothing in this Act contained shall defeat, lessen, or prejudice the Right, Title, or Interest of the said *Sackville Walter Lane Fox*, or the Lord of the said Manor of *Wakefield* for the Time being, in or to the Mines, Beds, or Seams of Coal, Ironstone, or other Mines and Minerals, (Stone, Flags, Slate, and Gravel only excepted,) in or under the Lands to be inclosed, or in or to any Seigniories or Royalties of or in or incident and belonging to the said Manor, but that the said *Sackville Walter Lane Fox*, and the Lord of the said Manor for the Time being, shall and may at all Times hereafter hold and enjoy all Rents, Fines, and Services, and all Courts and Profits of Courts, and all other Rights, Royalties, Jurisdictions, Franchises, and Privileges whatsoever, in or over the said Manor, (other than what are extinguished by this Act,) in as full, ample, and beneficial a Manner, to all Intents and Purposes, as if this

this Act had not been made; and the said *Sackville Walter Lane Fox*, and the Lord of the said Manor for the Time being, his Heirs or Assigns, or other Person claiming under him, shall and may at all Times hereafter have, hold, and enjoy all Mines of Coal, Ironstone, and Minerals, of what Nature or Kind soever, (Stones, Flags, Slate, and Gravel only excepted,) under the Lands to be inclosed, together with all Ways, Roads, and Passages, and full and free Liberty to make, use, and remove all Engines and Buildings, and to do all other Works, Acts, and Things, either now in use or hereafter to be invented, for searching for, winning, working, getting, stacking, depositing, carrying away, and disposing of the same, in, upon, through, over, and under the Lands to be inclosed, and for the full and complete Enjoyment thereof, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as if this Act had not been made; the Lord of the said Manor, his Heirs and Assigns, making a reasonable Satisfaction for the Damages to be done to the Owners and Occupiers respectively of such Allotments.

General Saving.

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

Interpretation Clause.

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

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

Words importing the Masculine Gender only shall extend to Females as well as Males:

The Word "Month" shall mean Calendar Month:

The Word "Person" shall include Corporation, whether Aggregate or Sole:

The Word "Parish" shall be understood to mean Townships or Township, as well as Parish:

The Word "Lands" shall include Tenements and Hereditaments:

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

The Expression "the Inclosure Expences Fund" shall be understood to mean the Monies by this Act authorized to be raised for defraying the Expences of obtaining this Act, and carrying the same into execution:

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

XCVII. And

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

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

Form of Declaration by Commissioner or Surveyor.

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

SCHEDULE (B.)

Form of Conveyance by Commissioner.

I the Commissioner acting in execution of an Act passed in the Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here set forth the Title of this Act*], by virtue of the Power and Authority to me given by the said Act, and in consideration of the Sum of paid into my Hands by which said Sum is the whole Purchase Money agreed to be paid by him to me for the Purchase of the Lands and Hereditaments herein-after described, being Part and Parcel of the Lands by the said Act authorized to be sold and disposed of by me, and the Receipt of which said Sum I do hereby acknowledge, do by this Deed under my Hand and Seal, by the Direction of the said testified by his Execution of these Presents, grant and convey unto his Heirs and Assigns, all that [*here describe the Premises*], together with the Appurtenances to the said

said Premises belonging, and the Fee Simple and Inheritance thereof in Possession, to have and to hold the same unto the said his Heirs and Assigns [*here state the Uses, Trusts, or Purposes of the Conveyance, as the Case may require*]. In witness whereof I have hereunto set my Hand and Seal this Day of One thousand eight hundred and forty .

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1843.