ANNO PRIMO

VICTORIÆ REGINÆ.

****

Cap. 2.

An Act for inclosing Lands in the Parish of *Sutton* in the *Isle of Ely* and County of *Cambridge*.

[11th *April* 1838.]

WHEREAS there are within the Parish of *Sutton* in the *Isle of Ely* and County of *Cambridge* divers Open Fields, Commonable and Lammas Lands, and divers Waste Lands and Grounds, and inclosed Lands and Homesteads: And whereas the Very Reverend *James Wood*, Doctor in Divinity, Dean of the Cathedral Church of the Holy and Undivided Trinity in *Ely*, and the Chapter of the same Church, are Lords of the Manor of *Sutton* aforesaid: And whereas *Joseph Vipan*, *John Vipan*, *Joseph Vipan* the younger, *William Wright*, *Thomas Upsher*, *William Jellings*, *John Custance*, and divers other Persons, are the Owners or Proprietors of or interested in the said Open Fields, Commonable and Lammas Lands, and Waste Lands and Grounds, and the said inclosed Lands and Homesteads, and also of or in ancient Commonable Messuages or Tofts within the said Parish of *Sutton*, and in respect thereof or otherwise are or claim to be entitled to certain Rights of Common or other Rights in or over the said Fields, Lands, or Grounds, or some Part or Parts thereof: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George* the Third, intituled *An Act for* 41G.3.c.109. *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 an Act was passed in the

the Second Year of the Reign of His Majesty King *George* the Fourth,
2 G. 4. c. 23. intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: And whereas the said Open Fields and Commonable and Lammas Lands, or some Parts thereof, lie dispersed in small Parcels, and the Properties of the several Owners thereof are much intermixed, and the said Fields and Lands and also the said Waste Lands and Grounds are in their present State incapable of much Improvement, and it would therefore be of great Advantage to the Persons entitled to or interested in the said Fields, Commonable and Lammas Lands, and Waste Lands and Grounds, if the same were divided and allotted unto and amongst them according to their respective Rights and Interests therein, and inclosed and held in Severalty, and all Rights of Common and Sheepwalk in or over the same extinguished; but the several Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the 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

Appointment of Commissioners. the Authority of the same, That *John Josselyn* of *Sproughton* in the County of *Suffolk*, and *Richard Peyton* of *Cook's Court* in the Parish of *Saint Clement Danes* in the City of *Westminster*, Gentlemen, and their Successors, to be appointed as herein-after provided, shall be and they are hereby appointed Commissioners for carrying into execution this Act and also the said recited Acts so far as they relate to the Purposes of this Act:

Commissioners to make a Declaration. 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 Commissioners, and in receiving the Declaration herein-after directed,) until he shall have made and subscribed the Declaration following; (that is to say)

Form of Declaration. 'I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, 'execute and perform the several Trusts, Powers, and Authorities vested 'and reposed in me as a Commissioner by virtue of an Act passed in the ' 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 Partiality, to 'any Person or Persons whomsoever.'

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

Appointment of new Commissioners. II. And be it further enacted, That in case the said *John Josselyn* and *Richard Peyton*, or any Person hereafter to be appointed a Commissioner for executing this Act, shall die, or neglect or refuse or become incapable to act as a Commissioner under this Act, before the Provisions thereof shall be carried into execution and the Duties of the Commissioners fully performed, then and in such Case it shall be lawful for any Two or more

of the Proprietors of the Lands and Grounds by this Act authorized to be divided, allotted, and inclosed, by Advertisement in some Newspaper printed and circulated within the County of *Cambridge*, and by Notice in Writing under their Hands to be affixed on the principal outer Door of the Parish Church of *Sutton* aforesaid upon a *Sunday* before Divine Service, to give Notice of a Meeting to be held within the Parish of *Sutton* aforesaid not sooner than Fourteen Days nor later than Twenty-eight Days after such Advertisement shall be inserted and such Notice affixed, for the Purpose of appointing some Person to be a Commissioner in the Room of the Commissioner so dying, or neglecting, refusing, or becoming incapable to act as aforesaid, at which Meeting it shall be lawful for the Majority in Value, to be ascertained by the Poor's Rate Assessment, of the Proprietors of the said Lands and Grounds, or their Agents or Proxies acting under Appointments in Writing, who shall be present at such Meeting, by Writing under their Hands to nominate and appoint some Person not interested in the Division, Allotment, and Inclosure of the said Lands and Grounds to be a Commissioner in the Room and Stead of the Commissioner so dying, neglecting, refusing, or becoming incapable to act as aforesaid.

Umpire appointed.

III. And be it further enacted, That if the Commissioners for the Time being for executing this Act and the said recited Acts shall disagree in their Opinion upon any Point or Matter relating to the Execution of this Act or the said recited Acts, *Anthony Jackson* of *Barkway* in the County of *Hertford*, Gentleman, shall be and he is hereby appointed an Umpire to determine the same; and in case the said *Anthony Jackson* shall die, refuse to act, or become incapable of acting as such Umpire, it shall be lawful for the Commissioners for the Time being, by Writing under their Hands, at any Meeting to be holden for the Execution of this Act, to appoint another Person (not interested in the said Division, Allotment, and Inclosure) to be an Umpire in the Place and Stead of the said *Anthony Jackson;* and in case and when and so often as a Vacancy shall afterwards happen by the Death, Refusal, or Incapacity of the Umpire, such Vacancy shall be supplied from Time to Time by the said Commissioners in manner aforesaid; and such Umpire so to be appointed as aforesaid shall have the like Powers and Authorities to act in determining any Point or Matter submitted to him by the said Commissioners as if he had been herein named and appointed Umpire; and in case the Commissioners for the Time being shall not appoint a new Umpire within Forty Days next after any Vacancy shall have arisen, it shall be lawful for the major Part in Value of the said Proprietors or Persons interested in the said Inclosure as aforesaid (such Value to be ascertained as aforesaid), at a Meeting to be holden in like Manner as is herein-before directed with respect to the Meeting to be held for the Appointment of new Commissioners, to appoint another Person (not interested in the said Division, Allotment, or Inclosure) to be an Umpire to supply such Vacancy.

Umpire to make a Declaration.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as Umpire in the Execution of the Powers given by this or the said recited Acts until he shall have made and subscribed the Declaration following; (that is to say,)

Form of Declaration.

'I *A.B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judg-

'ment,

'ment, execute and perform the several Powers and Authorities vested 'and reposed in me as an Umpire by virtue of an Act passed in the ' Year of the Reign of Her Majesty Queen *Victoria*, intituled '[*here insert the Title of this Act*], according to Equity and good Con-'science, and without Favour or Affection, Prejudice or Partiality, to any 'Person or Persons whomsoever.'

Which Declaration it shall be lawful for the Commissioners for the Time being, or either of them, or any Justice of the Peace for the *Isle of Ely*, to administer or receive; and the said Declaration so made and subscribed by any such Umpire shall be annexed to and deposited with the Award of the said Commissioners.

What shall be a Refusal of a Commissioner to act.

V. And be it further enacted, That if any Commissioner under this Act, not being prevented by Sickness or other unavoidable Cause, shall neglect to attend any Two successive Meetings appointed by the Commissioners for the Time being, such Neglect shall be deemed an absolute Refusal on the Part of such Commissioner to act or proceed further in the Execution of this Act.

Appointment of Surveyor.

VI. And be it further enacted, That it shall be lawful for the said Commissioners to appoint a Surveyor for the Purposes of this Act; and in case of the Death, Refusal, Neglect, or Incapacity of the Person so appointed to act as such Surveyor before his Duties are fully performed, (such Refusal, Neglect, or Incapacity to be determined upon by the Commissioners for the Time being,) then such Commissioners are hereby authorized to appoint another Surveyor in his Stead, and so from Time to Time to make a new Appointment as often as the said Office shall be vacant by reason of the Death, Refusal, Neglect, or Incapacity to act of any Surveyor; but no Commissioner acting in the Execution of the Powers hereby given shall be employed to act as such Surveyor during the Time he shall so act as Commissioner; and it shall be lawful for the Commissioners for the Time being, out of the Money to be raised by them for carrying this Act into execution, to allow the Surveyor for the Time being acting under this Act, for his Time and Trouble, any Sum not exceeding One Shilling and Sixpence *per* Acre for any Surveys, Maps, and Plans executed under this Act, and also any Sum not exceeding Two Pounds and Two Shillings for each and every Day he shall be actually and wholly otherwise employed in the Business of the said Division, Allotment, and Inclosure; and which said several Allowances shall be in full Satisfaction for the Time, Trouble, and all the travelling and other Expences of such Surveyor in and about the Execution of this Act.

Allowance to Surveyor.

Surveyor to make a Declaration.

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

Form of Declaration.

'I *A.B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, 'execute and perform the several Duties, Authorities, and Trusts re-'posed in me as Surveyor 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 Partiality, Favour, Affection, Prejudice, or Malice to any 'Person or Persons whomsoever.'

Which

Which Declaration the Commissioners for the Time being, or either of them, are or is hereby empowered to administer and receive; and the said Declaration so made and subscribed shall be annexed to and deposited with the Award of the said Commissioners.

Existing Surveys, Maps, &c. may be made use of.

VIII. And be it further enacted, That it shall be lawful for the Commissioners for the Time being to make use of, for the Purposes of the said Division, Allotment, and Inclosure, any existing Surveys, Maps, or Plans of the said Lands and Grounds, or any of them, provided such Surveys, Maps, or Plans be properly authenticated to their Satisfaction.

Appointment of Clerk.

IX. And be it further enacted, That it shall be lawful for the Commissioners for the Time being to appoint a Clerk to assist them in the Execution of this Act, and from Time to Time to remove such Clerk and appoint another Person in his Stead.

Allowance to Commissioners, Umpire, and Clerk.

X. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same, the said Commissioners and Umpire, and the Clerk to the said Commissioners, shall respectively be paid, for each Day they shall travel or be employed in any Business relating to the Execution of this Act, the Sum of Three Pounds and Three Shillings, and no more, during the first Two Years next after the passing of this Act; and after the Expiration of the said Two Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, for each Day they shall respectively be employed as aforesaid, in full Satisfaction for their Time, Trouble, and Expences in carrying this Act into execution, other than and except the Expences for the Use of the Room in which the Meetings of the said Commissioners shall be holden, and the Costs and Expences of preparing and enrolling the Award of the said Commissioners, and of Notices and Advertisements.

Regulating the Duration of Meetings.

XI. And for regulating the Duration of all Meetings to be holden for the Purposes of this Act, be it further enacted, That a Day shall be deemed to consist of Eight Hours at all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September;* and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and any Meeting to be holden for the Purposes of this Act of a less Duration than Eight or Six Hours (as the Case may be) shall be charged only as Half a Day, and the said Commissioners and Umpire and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk, in which shall be entered the several Days on which the said Commissioners and Umpire shall hold the Meetings, and at what Hours the said Commissioners and Umpire were respectively present thereat, and at what Hour they severally left and adjourned the same; and such Book shall be signed by the said Commissioners or Umpire at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the said Division, Allotment, and Inclosure, their Agents or Attornies, during the several Meetings to be held in pursuance of this Act; and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided always, that it shall not

not be lawful for the said Commissioners to retain or pay themselves or their Clerk out of any Monies to be received by them, or over which they may have any Control, in the Execution of this Act, any Sum of Money on account of the Allowance herein-before directed to be made to such Commissioners and Clerk respectively beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the said Commissioners shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioners, or either of them, or of the said Clerk, previous to the Execution of the said Award, the Commissioners for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or Clerk such Sum of Money as shall appear by the said Accounts to be due to such deceased Commissioner or Clerk.

Proprietors to pay their own Expences at Meetings.

XII. Provided always, and be it further enacted, That the several Persons interested in the said Division, Allotment, and Inclosure, their Attornies and Agents, shall pay their own Expences when they shall attend any of the Meetings to be held in pursuance of this Act.

Proceedings to be entered in a Book.

XIII. And be it further enacted, That all the Orders and Determinations of the said Commissioners 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 said Commissioners, and being so signed shall be deemed and taken to be Originals; and all such Books shall be deposited with and be kept by the Clerk to the Commissioners, and shall and may be read in Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any Matter or Thing done in pursuance of or in relation to this Act.

Notices and Adjournments of Meetings.

XIV. And be it further enacted, That the said Commissioners shall cause Notice to be given in some One Newspaper printed and circulated in the said County of *Cambridge*, and also by a Notice affixed upon One of the principal Doors of the Parish Church of *Sutton* aforesaid on some *Sunday* before Divine Service, of the Time and Place of their first and every subsequent Meeting for executing this Act, at least Seven Days before any such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioners shall and may adjourn such Meeting from Time to Time as they shall see Occasion for the Execution of this Act: Provided always, that all Meetings of the said Commissioners for executing this Act shall be held at some convenient Place in the said Parish of *Sutton*, or within Eight Miles thereof.

How other Notices are to be given.

XV. Provided always, and be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioners (the Mode of giving which is not hereby particularly directed) shall be given by Advertisement to be inserted in some One Newspaper printed and circulated in the said County of *Cambridge*, or by affixing such Notice upon One of the principal Doors of the Parish Church of *Sutton* aforesaid.

XVI. And

Commissioners to settle Disputes;

XVI. And be it further enacted, That if any Dispute or Difference shall arise between any Parties touching their Rights and Interests in the Lands to be divided, allotted, and inclosed by virtue of this Act, or relating in any other Manner to the said Division, Allotment, or Inclosure, it shall be lawful for the said Commissioners, upon Examination of Witnesses upon Oath (which Oath any such Commissioner is hereby authorized to administer), or upon any other Evidence satisfactory to them, to hear and determine the same, and to make such Order therein as to them shall seem equitable and just, and which Order shall be final and conclusive: Provided always, that nothing herein contained shall authorize or empower the said Commissioners to determine the Title to any Lands, or to determine any Right between any of the Parties, contrary to their Possession (except in Cases of Encroachment as hereinafter mentioned); but in case the said Commissioners shall be of opinion against the Right of the Party so in Possession they shall forbear to make any Determination thereupon until the Possession shall have been given up by or recovered from such Party by due Course of Law.

but not to determine Titles contrary to Possession.

Power to award Costs.

XVII. And be it further enacted, That in case the said Commissioners, upon the hearing and determining of any Claim or Objection to be delivered to them in pursuance of the said recited Acts or this Act, shall see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to assess and award such Costs and Charges as they shall think reasonable to be paid to the Person in whose Favour any Determination of the said Commissioners shall have been made by the Person whose Claim or Objection shall be thereby disallowed; and in case any Person liable to pay such Costs and Charges shall refuse or neglect to pay the same, on Demand, the said Commissioners shall and they are hereby required, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting all Expences attending such Distress and Sale; or if there shall be no Goods or Chattels whereon to levy such Costs, Charges, and Expences, it shall be lawful for the Person in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioners, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Allowing Parties to try their Rights at Law.

XVIII. Provided always, and be it further enacted, That if any Person interested or claiming to be interested in the said Division, Allotment, and Inclosure shall be dissatisfied with any Determination of the said Commissioners concerning any Claim, Right, or Interest in, over, upon, or to the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, or touching or concerning any Matter or Thing whatsoever relating to the Division, Allotment, or Inclosure by this Act directed (except where the Determination of the said Commissioners is hereby declared to be final), it shall be lawful for such Person

to

to bring an Action in One of Her Majesty's Courts of Record at *Westminster*, upon a feigned Issue, against the Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination 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 One of the Two first succeeding Assizes to be holden for the said County of *Cambridge* after such Action shall have been so commenced; and the Defendant in such Action shall and he is hereby required, upon being served with the usual Process therein, to appear and plead thereto or file Common Bail, and accept One or more Issue or Issues, whereby such Claim, and the Right, Property, and Interest thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action shall be commenced, in case the Parties shall differ about the same); and the Verdict which shall be given upon the Trial of such Action shall be final, binding, and conclusive upon all the Parties thereto, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had therein, which it shall be lawful for the Court to do, and also to act as is usual in other Cases; and after such Verdict shall be given, and final Judgment obtained, the said Commissioners shall act in conformity thereto, and allow or disallow the Claim thereby determined, according to the Event of such Trial; and the Costs attending such Action shall abide the Event of the respective Trials of such Issue or Issues: Provided always, that if no such Action shall be commenced, or the Plaintiff shall not proceed to Trial within the Times herein-before limited, then the Determination of the said Commissioners shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

Deaths of Parties not to abate Actions.

XIX. And be it further 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; 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 any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Person 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 said Commissioners or their Clerk with Process for commencing such Action, in the same Manner as the Person so dead might have been served therewith if living; and such Commissioners or their Clerk shall serve the Heir or other Person with such Process, and it shall thereupon be incumbent on the Heir or Devisee or personal Representative of the Person so dead, who shall claim the Benefit of such Determination, to appear and defend such Action in the Name of the Person so dead; and Proceedings shall be had therein in the same Manner as if such Person had been living, and the Rights, Interests, and Claims of all Parties shall be equally bound and concluded by the Event of such Action as if the Death of any of the Persons interested therein had not occurred.

XX. And

Suits not to delay the Execution of the Act.

XX. And be it further enacted, That no Difference, Dispute, Action, or Proceeding as aforesaid, nor any Difference concerning the Title to any Lands, shall impede or delay the said Commissioners in the Execution of this Act, but the said Division, Allotment, and Inclosure shall be proceeded in notwithstanding such Difference, Dispute, Action, or Proceeding; and the Allotment in respect of any disputed Property shall be taken and held by the Person who, upon the Determination of such Difference, Dispute, Action, or Proceeding, shall become entitled thereto.

Deaths of Parties not to delay the Execution of the Act.

XXI. Provided always, and be it further enacted, That if any Person interested in the said Division, Allotment, and Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioners shall not be thereby determined or suspended, but the said Commissioners shall proceed in the Execution of such Powers and Authorities in such Manner as they might have done in case such Person had not died; and the Share of the Person so dying shall be allotted to such Person as by Law shall become entitled to the same, and shall be accepted and taken by him according to the Directions of this Act, and he shall be liable to the Charges and Expences and the several Provisions of this Act.

Extinguishment of Commonable Rights.

XXII. And be it further enacted, That it shall be lawful for the said Commissioners, at such Time as they shall think proper, and by Notice for that Purpose under their Hands to be affixed on some principal Door of the Parish Church of *Sutton* aforesaid on some *Sunday* previous to Divine Service, to order and direct all or any Part of the Rights of Common, Rights of Sheepwalk, or other Commonable Rights in, upon, and over the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to be extinguished; and after the Time mentioned in such Notice all such Rights as shall be thereby directed to be extinguished shall cease and be extinguished accordingly, any Law, Usage, or Custom to the contrary thereof notwithstanding.

Power to shorten Boundary Fences.

XXIII. And be it further enacted, That for the Purpose of shortening or rendering straight any Boundary Fences between the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and the old inclosed Lands in the said Parish of *Sutton*, or between such Allotments and inclosed Lands, or any of them, and any adjoining Lands and Grounds, it shall be lawful for the said Commissioners (with the Consent of the Lord of any Manor in which the Lands are respectively situate, and of the Owners of any such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation,) to set out, ascertain, and determine the Boundaries between the Lands by this Act authorized to be divided, allotted, and inclosed, and any adjoining Lands or Grounds lying in the same or any adjoining Manor, as the said Commissioners shall think proper for the Purposes aforesaid; and after such Boundaries shall have been so set out, ascertained, and determined, the same shall be made, fenced, ditched, or mounded by such Person, in such Manner, and at such Time as the said Commissioners shall direct, and shall for ever thereafter be deemed the Boundaries between the said allotted and inclosed Lands respectively, or (as the Case may be) between the said allotted or inclosed

Lands and such adjoining Manor, any Law, Usage, or Custom to the contrary notwithstanding.

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

XXIV. And be it further enacted, That it shall be lawful for the said Commissioners to set out, appoint, and make such common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges in, through, over, and upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and also to enlarge, widen, turn, scour, and cleanse or alter the Course of and improve any of the present Drains, Ditches, Streams, or Watercourses, Banks and Bridges, as well in, through, and over the same Lands and Grounds, as also in, through, and over any ancient Inclosures or other Lands and Grounds within the said Parish of *Sutton*, as the said Commissioners shall deem necessary, making such Satisfaction to the Proprietors of such ancient Inclosures or Lands or Grounds for the Damage done thereby as the said Commissioners shall think fair and equitable; and the Costs and Expences of making, enlarging, widening, altering, turning, scouring, and cleansing of such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, if not otherwise discharged or provided for, shall be raised and levied by the said Commissioners in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution; but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Person and in such Manner as the said Commissioners shall in and by their Award order and direct; provided that no Stream or Watercourse be diverted or turned without the Consent in Writing of the Person from whose Lands the same may be diverted, and of the Person into whose Lands the same may be turned, and of the Persons entitled to or interested in such Stream or Watercourse.

Power to stop up Roads.

XXV. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footways in pursuance of this Act, the said Commissioners shall and they are hereby authorized, with such Consent and with such Order of Two Justices of the Peace as is required by the said recited Act, if they shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter, any of the Carriage Roads, Highways, Bridle Roads, or Footways passing or leading through or over any of the Lands or Grounds to be divided and allotted by virtue of this Act, or passing or leading through or over any of the old Inclosures within the said Parish of *Sutton*; and the Soil of the Roads and Ways so to be discontinued and stopped up, when such Roads and Ways pass through allottable Land, shall be deemed and taken to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act: Provided always, that nothing herein contained shall authorize the diverting or altering of any Turnpike Road leading through the said Parish of *Sutton*, unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first had and obtained.

Proceedings previously to diverting and

XXVI. Provided always, and be it further enacted, That before any public Carriage Road, Highway, Bridle Road, or Footway shall be discontinued,

tinued, stopped up, diverted, or altered by the said Commissioners, the said Commissioners shall cause to be affixed at each End of the said public Carriage Road, Highway, Bridle Road, or Footway so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footway is intended to be discontinued, stopped up, diverted, or altered (as the Case may be) by the said Commissioners; and the said Commissioners shall also cause the same Notice to be inserted in One Newspaper published or generally circulated in the said County of *Cambridge* for Four successive Weeks, and shall also cause a like Notice to be affixed on some principal Door of the Church of the said Parish of *Sutton* on the Four successive *Sundays;* and after the said several Notices shall have been so affixed and published as aforesaid, and such Order of the said Justices as herein-before mentioned shall have been obtained, the said public Carriage Road, Highway, Bridle Road, or Footway shall be and be deemed to be discontinued, stopped up, diverted, or altered (as the Case may be), subject however to such Appeal to the Court of General Quarter Sessions for the *Isle of Ely* as is herein-after mentioned.

stopping up Highways.

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

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

XXVIII. And be it further enacted, That in case of such Appeal the Justices of the said Quarter Sessions shall, for the Purpose of determining whether the said public Carriage Road, Highway, Bridle Road, or Footway so intended to be discontinued, stopped up, diverted, or altered shall be discontinued, stopped up, diverted or altered, or whether the said Party appealing would be injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footway so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may beneficially to the Public be discontinued, stopped up, altered, or diverted, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal; and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioners, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act passed in the Forty-first Year of the Reign of His Majesty

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

Majesty King *George* the Third; but if the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footway so to be discontinued, stopped up, diverted, or altered 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 by such public Carriage Road, Highway, Bridle Road, or Footway being so discontinued, stopped up, diverted, or altered (as the Case may be), the said Court of Quarter Sessions shall allow such Appeal, and such public Carriage Road, Highway, Bridle Road, or Footway 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 such public Carriage Road, Highway, Bridle Road, or Footway to its original State, and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal; and such Costs and Expences shall be paid by the said Commissioners, and shall be raised by them in such and the same Manner as they are hereby directed or empowered to raise the Money for discharging the Costs, Charges, and Expences of this Act.

Expences of discontinuing or altering Roads provided for.

XXIX. And be it further enacted, That the Charges and Expences attending the stopping up, discontinuing, diverting, and altering of such Roads shall be raised and paid in such and the like Manner as the Expences of obtaining and executing this Act are hereby directed to be raised and paid.

Justices may certify Roads in part.

XXX. And be it further enacted, That when and so soon as any of the public Roads to be set out by virtue of the said first-recited Act or this Act shall be made and completed to the Satisfaction of any Two or more of Her Majesty's Justices of the Peace for the said *Isle of Ely*, and they shall have issued a Certificate to that Effect under their Hands and Seals, such Road, or so much thereof as shall in any such Certificate be described or certified, shall thenceforth be supported and kept in repair by such Persons and in like Manner as the public Roads within the said Parish of *Sutton* are or ought by Law to be amended and kept in repair; and every such Certificate shall, at the General Quarter Sessions of the Peace to be holden for the *Isle of Ely* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said *Isle of Ely*, and be valid and effectual to all Intents and Purposes whatsoever.

Commissioners to appoint private Roads.

XXXI. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and appoint such private Roads, Bridleways, and Footways through and over the Lands and Grounds hereby directed to be divided, allotted, and inclosed as they shall think requisite, giving such Notice and subject to such Examination as is required by the herein-before recited Act of the Forty-first Year of the Reign of King *George* the Third in the Case of public Roads; and any Charges and Expences which the said Commissioners may think fit to incur or direct to be incurred prior to the Time of making their Award relative to the setting out or the Formation or Completion of such private Roads, Bridleways, and Footways, or any of them, shall be raised in like Manner as the Charges and Expences of obtaining and passing this Act and carrying

rying the same into execution; and the said private Roads, Bridleways, and Footways shall thereafter be made, supported, and kept in repair by and at the Expence of the Owners and Proprietors for the Time being of any of the Lands and Grounds within the said Parish of *Sutton*, in such Shares and Proportions and in such Manner as the said Commissioners shall in and by their Award order and direct, or by the Inhabitants of the said Parish in such Manner as the public Roads within the same are by Law liable to be supported and kept in repair, if the said Commissioners shall by their said Award so direct.

Allotment of Herbage of private Roads.

XXXII. And be it further enacted, That the said Commissioners shall, in and by their Award, order and appoint the Grass and Herbage growing and renewing upon all and every the private Roads to be set out by them by virtue of this Act to be and for ever thereafter remain to and for the Use and Benefit of such Persons as the said Commissioners shall in their Judgment think best entitled to the same.

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

XXXIII. And be it further enacted, That no Person shall graze or keep any Sort of Beast or Cattle on or by the Side of any of the public or private Roads or Ways which the said Commissioners shall order or direct to be set out for the Space of Seven Years next after the making and executing the Award of the said Commissioners; and every Owner of Lands or Grounds within the said Parish of *Sutton*, his Servants and Labourers, and also every Pindar, Peace Officer, and Parish Officer of the said Parish of *Sutton* for the Time being, is hereby empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid as Cattle Damage feasant: Provided always, that nothing herein contained shall prevent the Proprietors of the Lands and Grounds which shall next adjoin the said Roads and Ways from depasturing their Cattle thereon, so far as the Frontage of their respective Lands and Grounds extend, they doing thereby no Damage to the Fences of any other Person adjoining the said Roads or Ways.

Encroachments within Twenty Years to be considered as allottable Land.

XXXIV. And be it further enacted, That all Encroachments or Inclosures which shall have been made from or on any Part of the Lands hereby directed to be divided, allotted, and inclosed within Twenty Years next before the passing of this Act shall be deemed Part and Parcel of the Lands by this Act directed to be divided, allotted, and inclosed; and in case any Dispute shall arise touching any such Encroachments or Inclosures, or the Extent or Duration thereof, such Dispute shall be determined by the said Commissioners.

Encroachments to be allotted to Persons in possession, or to be sold.

XXXV. Provided always, and be it further enacted, That the Lands comprised in any Encroachment which shall have been made within Twenty Years last past shall (without regard to the Value of the Improvements since made thereon) be allotted to the Person in possession thereof, so far as he shall be entitled to any Allotment of sufficient Value by virtue of this Act; and in that Case the Value of such Encroachments shall, as Circumstances require, be deducted from or deemed a Compensation for the Allotments to which such Person shall be entitled under this Act; but if the Person in possession of such Encroachment shall not be entitled to any Allotment by virtue of this Act, or shall not be entitled to any Allotment equivalent to the Value of such Encroachment, then and in either

of those Cases the Whole or the surplus Quantities (as the Case may be) of such Encroachment shall be sold by the said Commissioners for such Sum of Money as they shall adjudge to be the Value thereof to the Person in possession thereof, or in case of his Refusal or Inability to purchase within One Calendar Month after Offer thereof made to him, then to any other Person, and shall be conveyed by them the said Commissioners in Fee Simple to the Purchaser thereof, and the Money arising by such Sale shall be applied towards defraying the Expences of this Act: Provided always, that in estimating the Value of the said Encroachment the said Commissioners shall estimate the Value of the Land only, without regard to any Improvements thereon, and according to the Price *per* Acre of the Waste Lands immediately adjoining.

Commissioners to direct the Course of Husbandry.

XXXVI. And be it further enacted, That it shall be lawful for the said Commissioners, so soon after the passing of this Act as conveniently may be, and from Time to Time as they shall think fit, by Notice in Writing under their Hands, to be affixed on One of the outer Doors of the Parish Church of *Sutton* aforesaid, to order and direct the Course of Husbandry and Stint or Rule of Stocking that shall be respectively observed and used in, over, and upon the Lands to be divided, allotted, and inclosed by virtue of this Act until the Time when they shall have completed the said Division, Allotment, and Inclosure, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof as to the stocking and feeding the Commonable Lands and Fallows or Stubbles upon the same, and to make such Recompence for the same as they shall think right; and they the said Commissioners shall and may make such further Orders and Regulations as to them shall seem expedient touching the Mode and Course of Husbandry and Management to be adopted and observed by the Farmers and Occupiers within the said Parish of *Sutton* for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking, any of the said Lands or Grounds to be divided, allotted, and inclosed, until the said Division, Allotment, and Inclosure shall be completed; all which Orders and Regulations shall be binding and conclusive upon all Parties interested therein, their Farmers and Tenants; and the said Commissioners shall and may set and impose such pecuniary Penalties and Forfeitures on every Person not conforming to such Orders and Regulations as they shall think necessary, not exceeding the Sum of Five Pounds *per* Acre, in case of cross-cropping or withholding from the Land its due Proportion of Manure, or Ten Pounds in any other Case for any One Offence; and shall and may also settle, adjudge, and determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the Lands in his Occupation, by whom such Tenant shall be compensated for any such Manure left or given up by him; and such Penalties, Forfeitures, and other Sums of Money so to be settled, ordered, adjudged, and determined to be paid for or on account of the several Matters and Things aforesaid shall be recovered and recoverable in the Manner directed in and by the said first-recited Act with respect to the levying and Recovery of Penalties.

Satisfaction to be made for growing Crops.

XXXVII. And be it further enacted, That the said Commissioners shall and they are hereby authorized to ascertain, and by Writing under their Hands to order and appoint, what Recompence or Satisfaction in Money

Money shall be made to the Owner of any Crops growing, according to the customary Mode of Cultivation within the said Parish, upon the Lands or Grounds hereby authorized to be divided, allotted, and inclosed, at the Time such Division, Allotment, and Inclosure shall be made, for the said Crops by the Person to whom the Lands or Grounds on which such Crops are growing shall be allotted, and also what Recompence and Satisfaction of Money shall be paid, and by whom, to any Tenant or Occupier of any Land, as well for ploughing, tilling, manuring, or folding any of the Lands or Grounds which shall be divided, allotted, and inclosed by virtue of this Act, for the Benefit and Advantage accruing thereby to the Person to whom such Lands and Grounds shall be allotted, as for any Loss or Disadvantage which any such Tenant or Occupier may sustain by the Loss of his following or waygoing Crops upon the Lands or Grounds by this Act authorized to be divided, allotted, and inclosed; and if in any of the said Cases the Money to be paid for such Recompence and Satisfaction shall not be paid at the Time and in the Manner to be appointed as aforesaid by the said Commissioners, it shall be lawful for the said Commissioners and they are hereby required to raise and levy the same for the Use of the Person entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are herein directed to be raised, levied, and recovered.

Applications for Situations of Allotments.

XXXVIII. And be it further enacted, That the said Commissioners shall appoint a Meeting for receiving Applications from the several Proprietors of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, touching the Situations in which they may be desirous of having their Allotments set out and allotted, and shall give Ten Days Notice of the Time and Place of such Meeting, by Writing, to be affixed upon some principal outer Door of the Parish Church of *Sutton* aforesaid.

Commissioners to set out Allotment for the Recreation of the Poor, to be held by Lords of the Manor.

XXXIX. And be it further enacted, That the said Commissioners shall set out, allot, and award unto the Lords for the Time being of the said Manor of *Sutton*, out of any Part of the Lands and Grounds to be inclosed by virtue of this Act, a Piece of Land or Ground, not exceeding Three Acres nor less than One Acre, as a Place of Exercise and Recreation for the neighbouring Population of the said Parish; and such Allotment shall be held by the Lords of the said Manor for the Purposes aforesaid.

Allotments to the Lords of the Manor for Right of Soil.

XL. And be it further enacted, That the said Commissioners shall and they are hereby authorized, in the next place, to set out and allot unto the said Lords of the Manor of *Sutton*, for and in lieu of and as a Compensation for their Right and Interest in the Soil of the Waste Lands and Grounds within the said Parish, so much and such Part of the said Lands hereby directed to be divided, allotted, and inclosed as, with the Allotment so directed to be made to them as last aforesaid, shall in the Judgment of the said Commissioners be equal in Value to One Twentieth Part of the said Waste Lands and Grounds.

Allotment of Residue.

XLI. And be it further enacted, That the said Commissioners shall apportion, divide, set out, and allot the Residue and Remainder of the several Open Fields, Commonable, Lammas, and Waste Lands and Grounds,

Grounds, and all other the uninclosed Lands within the said Parish of *Sutton*, (other than and except a certain Tract or Parcel of Land called *Middlemoor*,) unto and amongst the several Owners and Proprietors thereof, and Persons and Corporations who shall be entitled to any Estate, Right, or Interest therein, in such Quantities, Shares, Proportions, and Situations as the said Commissioners shall adjudge and determine to be proportionate to the Value of and a just and equitable Compensation and Satisfaction for their several and respective Rights, Property, and Interest in the said Fields, Lands, and Grounds.

Allotments to be fenced.

XLII. And be it further enacted, That the several Allotments to be made in pursuance of this Act 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 Time as the said Commissioners shall by their Award, or any Writing under their Hands, order or direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the said Commissioners shall by their Award order or direct.

Equalizing the Share of Fencing.

XLIII. Provided always, and be it further enacted, That if, from Situation, or from any other Circumstances, it shall happen that any of the Proprietors of the Lands hereby directed to be divided, allotted, and inclosed, or any Person to whom any Allotments shall be made, shall not have a proportionable Share of the Boundary Hedges, Ditches, Mounds, or Fences assigned to him to make by virtue of this Act, it shall be lawful for the said Commissioners to ascertain and appoint what Sum of Money shall be paid and contributed by such Proprietor or Person towards making the Boundary Hedges, Ditches, Mounds, and Fences of the Allotments of such other of the said Proprietors and Persons as shall have too great a Proportion thereof to make; and such Money shall be paid to such Persons and in such Manner as the said Commissioners shall by any Writing under their Hands direct and appoint; and the same shall and may be received and recovered by all or any of the Ways and Means which by the said first-recited Act are given or provided for raising and recovering the Expences of obtaining and executing Acts of Inclosure in Cases where such Expences are directed to be paid in proportion by the Proprietors of Lands to whom any Allotments shall be made; and every such Order of the said Commissioners shall be final, binding, and conclusive on all Parties interested and concerned therein.

Power for certain Owners to require their Allotments to be laid together without Subdivision Fences.

XLIV. And be it further enacted, That in case any Application in Writing shall be made to the said Commissioners for that Purpose at any Time at or before the Meeting directed to be held by them for receiving Applications for the Situation of Allotments, by any Two or more Persons being respectively Owners of not more than Four Acres of Open Field Land in the said Parish, but not possessing Rights of Common, or of Two Rights of Common, but not possessing any Open Field Land, to have the Whole or any Part or Parts of their Allotments thrown together and distinguished by Metes and Bounds, but not fenced from each other, then the said Commissioners shall set out such Allotments accordingly, without requiring the Proprietors thereof to make any Subdivision or other Fences, except only such ring or outer Fences as may be directed by the said Commissioners to be made for dividing the said Allotments.

Allotment of old Inclosures with Consent of Proprietors.

XLV. And be it further enacted, That it shall be lawful for the said Commissioners, by and with the Consent in Writing and at the Request of any Proprietor of any Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parish of *Sutton*, 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 Courtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor of any such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds holden for Years determinable as aforesaid, and not otherwise, or with the Consent of the 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 the Case of a Corporation by Writing under their Common Seal, and in case of an Individual under his Hand,) to regard such Homesteads, Gardens, Orchards, and old inclosed Lands as allottable, and Part of the Lands and Grounds to be divided, allotted, and inclosed under this Act, and to divide and allot the same accordingly; and such Allowance shall be made to the Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds on account of the Situation or other beneficial Circumstances thereof as the said Commissioners shall adjudge to be just and reasonable; and the said Commissioners shall set out, allot, and award unto and for the Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, in lieu thereof, so much and such Part of the Lands and Grounds hereby directed to be divided, allotted, and inclosed as they shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said first-recited Act mentioned.

Insulated old Inclosures to be deemed allottable Lands.

XLVI. And be it further enacted, That all inclosed Lands and Grounds within the said Parish of *Sutton* which are surrounded by Open Field Land, and thereby placed in an insulated Situation, except any Pieces of Land containing in Quantity upwards of Ten Statute Acres, shall be deemed Part of the Lands or Grounds within the said Parish of *Sutton* intended to be divided, allotted, and inclosed under and by virtue of this Act.

For disposing of Trees.

XLVII. And be it further enacted, That in case any Lands or Grounds upon which any Trees shall at the Time of making the Allotments be standing, shall be allotted to any Person other than the Proprietor of such Lands or Grounds before such Allotments were made, it shall be lawful for such Proprietor, at any seasonable Times to be appointed by the said Commissioners, within the Space of Three Calendar Months next after Possession of such Allotments shall be authorized to be taken, to enter into and upon the Lands and Grounds upon which the said Trees shall be standing, and to fell and cut down such Trees, and with Horses and Carriages or otherwise to carry away the same, to and and for his own Use and Benefit, he levelling all such Land or Ground as shall be broken or dug up for the Purpose aforesaid, and doing no unnecessary Hurt or Damage to the Owner thereof.

Meeting to be held to give Information of the Allotments.

XLVIII. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the several Proprietors of or Persons interested in the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted in lieu thereof, they the said Commissioners shall hold a Meeting at some convenient Time and Place for giving Information of such Allotments to the said Proprietors and Persons interested, and exhibiting the said Allotments upon a Map or Plan thereof; and if any of the said Proprietors or other Persons shall be dissatisfied with the proposed Allotments, the said Commissioners shall at such Time and Place aforesaid, or at some other Time and Place to be appointed by them for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietors or other Persons interested against any such Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same, and such Determination shall be binding and conclusive on all Parties interested in such Allotments.

Commissioners may make Partition of Estates in certain Cases.

XLIX. And be it further enacted, That it shall be lawful for the said Commissioners to make Partition of any Lands directed to be divided, allotted, and inclosed under this Act, respectively held by any Persons as Coparceners, Joint Tenants, or Tenants in Common, and also of any other Lands within the said Parish of *Sutton*, also held therewith by the same Parties respectively, provided that every such Partition be made upon the Request in Writing of any such Proprietors, or of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized, of such of them as may be under Coverture, Minors, Lunatics, or beyond the Seas, or under any other legal Disability or Incapacity to act; and provided also, that every such Partition be specified in the Award of the said Commissioners, or some other Instrument under their Hands and Seals; and all such Partitions shall be good, valid, and effectual to all Intents and Purposes whatsoever, and the Allotments made and declared under the same shall be holden and enjoyed in Severalty.

Expences of Partitions.

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

Power of Exchange.

LI. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any of the Lands or Grounds by this Act authorized to be divided, allotted, and inclosed, or any Lands within the said Parish of *Sutton*, in lieu of and 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 said Commissioners, and be made with the Consent of the Owner of the Lands which shall be so exchanged, whether such Owner shall be a Corporation, or a Tenant in Fee Simple or in Fee Tail, General or Special, or for Life, or by the Courtesy of *England*, or for Years determinable on

any Life or Lives, (by and 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 Owners 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 Corporation, 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 of any Lands held in right of any Church or Chapel, or other Ecclesiastical Benefice shall be made without the Consent in Writing of the Patron thereof and of the Bishop of the Diocese in which such Lands so to be exchanged shall be situate: Provided also, that all Costs, Charges, and Expences attending the making of any Exchanges shall be paid and borne by the several Persons making such Exchanges in such Proportions and Manner as the said Commissioners shall by any Writing under their Hands direct or appoint.

Costs of Exchanges and Partitions, by whom to be paid.

LII. And be it further enacted, That every Person to whom any Copyhold shall be allotted in Exchange or upon Partition as aforesaid shall, as soon as conveniently may be, and at all events before the Expiration of Twelve Calendar Months after the Execution of the Award of the said Commissioners, or at the then next General Court Baron to be held for the Manor whereof such Copyhold Lands shall be respectively held, be admitted Tenant of the Copyhold Lands so allotted.

Exchanges and Partition of Copyholds to be perfected by Admittance.

LIII. And be it further enacted, That it shall be lawful for the Owners of any Lands of Copyhold or Customary Tenure within and Parcel of the said Manor of *Sutton*, whether such Owners shall be Corporations or Tenants in Fee Simple or in Fee Tail, General or Special, or for Life, and for the Guardians, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who shall happen to be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, and for Trustees or Feoffees for charitable or other Uses, to contract and agree with the Lords for the Time being of the said Manor for the absolute and perpetual Enfranchisement of all or any such Copyhold or Customary Lands; and all Allotments in respect thereof, and for the Extinguishment of the Quit Rents and all other Rights of the Lords in, over, and upon the same, for a Compensation either in Money or Land, as in any such Contract shall be specified and declared.

Power to enfranchise Copyholds.

LIV. And be it further enacted, That in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Land the said Commissioners shall and they are hereby required, upon the Application of any of the Parties interested, made before a Plan of the Allotments shall be exhibited to the Proprietors as herein directed, to set out and allot unto and for the said Lords of the said Manor such Parts of the Lands and Grounds hereby directed to be divided and inclosed, belonging to the Persons contracting for such Enfranchisement and Extinguishment as aforesaid, as shall in the Judgment of

Provision where the Enfranchisement shall be made for a Compensation in Land.

of the said Commissioners be a full Compensation and Satisfaction for such Enfranchisement and Extinguishment, according to the Terms which shall be agreed upon between the Parties; and in Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Money, the said Commissioners shall and they are hereby required, upon the like Application of any of the Parties interested as aforesaid, to ascertain and determine the Amount of such Compensation according to the Terms which shall be agreed upon between the Parties; and all such Money Payments shall be made to the said Commissioners, whose Receipt shall be an effectual Discharge for the same; and the said Commissioners shall pay such Monies in the Manner herein-after directed with respect to Monies to be paid for the Purchase or Exchange of Hereditaments, or of any Timber or Wood growing thereon; and all such Enfranchisements and Extinguishments, when completed, shall be specified in the Award of the said Commissioners, and an Entry of every such Enfranchisement and Extinguishment shall be made on the Court Rolls of the said Manor; and a Copy of such Entry, certified by the Steward or Deputy Steward of the said Manor, shall be admitted in all Cases as sufficient Evidence of such Enfranchisement and Extinguishment, and the Contract for the same, and of the Payment of the Consideration or Purchase Money, when the same shall have been paid in Money; and when and so soon as such Allotments and Payments shall be respectively made as the Consideration for such Enfranchisement and Extinguishment as aforesaid, the Lands and Hereditaments which shall be so agreed to be enfranchised as aforesaid shall be held in Free and Common Socage, freed and absolutely acquitted and discharged from all Customary Fines, Rents, Fealty, Suit of Court, Amerciaments, Forfeitures, and other Customary Payments, Duties, Services, and Penalties whatsoever which, by or according to the Custom of the Manor whereof such Lands and Hereditaments were Parcel, they had or would have been subject to or charged with, or which would otherwise be payable, or to be done and performed to the Lords for the Time being of the same Manor, for or in respect of the same Hereditaments, as Copyholds of the same Manor, if the same Hereditaments had not been so enfranchised; and the same Hereditaments shall (subject to any Charge or Mortgage which may be made under the Authority of the said recited Acts or of this Act) go, remain, and be to the same Uses, on the same Trusts, and subject to the same Powers and Limitations (as near as the Difference of the Tenure will admit), as would have been subsisting in such Hereditaments as Copyhold if the same had not been so enfranchised as aforesaid.

Provision where the Enfranchisement shall be made for a Compensation in Money.

LV. And be it further enacted, That, subject to the Power of Enfranchisement herein-before contained, all such Lands as shall be allotted by virtue of this Act shall be held by the Person to whom they are allotted, under the same Tenures, Rents, Customs, and Services as the Lands in respect of which such Lands are allotted would have been held in case this Act had not been passed; and the Lands allotted in respect of Freeholds shall be deemed Freehold, and the Lands allotted in respect of Copyhold or Customary Lands shall in like Manner be deemed Copyhold or Customary Lands, and shall be held of the Lords of the Manor under the same Rents and by the same Customs and Services as the Copyhold or Customary Lands in respect of which they may be allotted were

The Allotments to be of the same Tenure as the Lands.

were or ought to have been held, and shall pass by the like Surrenders, Assurances, and Documents as the Copyhold or Customary Lands in respect whereof such Allotment shall be made now do; and the Lands 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 and remain 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.

Separate Allotments for Land by different Titles.

LVI. And be it further enacted, That when any Proprietor of Lands which shall be divided, allotted, inclosed, or exchanged, or any Person to whom any Allotment is made by virtue of this Act, shall hold such Lands, or the Lands in respect of which such Allotment is made, under different Titles or for different Estates, the said Commissioners shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall accordingly in their Award set out and distinguish distinct and several Allotments for such respective Lands; and they the said Commissioners are hereby empowered to apportion any Drainage Taxes payable for the current Year in which Possession may be delivered of any Allotments made by them under this Act between the Owners of the Land so allotted and the Persons to whom such Allotments shall be made, in such Manner as they may deem just; and the Sums of Money to be paid by such Parties respectively, and also any Arrears of Taxes due in respect of such Lands at the Time fixed for delivering Possession of the Allotments by the said Commissioners, shall and may be levied and raised by the said Commissioners from the Parties or Persons deemed by them liable to pay the same, in like Manner as the Charges of carrying this Act into execution, and shall be paid over to the Parties or Persons deemed by them entitled to receive the same.

Lands sold before Execution of Award may be allotted to Purchasers.

LVII. And be it further enacted, That if any Person has sold, or shall, at any Time before the Execution of the Award of the said Commissioners, sell his Right, Interest, and Property in the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioners and they are hereby required, upon such Sale being made, to make an Allotment of Land unto the Purchaser in every such Sale, or to his Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold as aforesaid; and every such Purchaser, or his Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him as aforesaid in the same Manner, to all Intents and Purposes, as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person who shall be entitled to any Allotment under or by virtue of this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment, or all or any Part of his Estate or Interest therein

therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment as aforesaid to sell, dispose of, and convey the Estate in right of which he may be entitled to any such Allotment separate and apart from and retaining to himself such Allotment, Common Right, and Interest, and the said Commissioners are hereby required to award such Allotment accordingly.

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

LVIII. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees, or Committees of any of the Proprietors of Land to be by virtue of this Act divided, allotted, and inclosed, being under Coverture, Infants, Lunatics, Idiots, or Persons beyond the Seas, or otherwise incapacitated, and also for any Tenants in Tail, or for Life only, or Feoffees or Trustees for charitable, parochial, or other Uses, or any of them, by and with the Consent of the said Commissioners, testified in Writing under their Hands and Seals, from Time to Time to charge the Lands and Grounds which shall be set out and allotted to them respectively with any Sum of Money which the said Commissioners shall in their Discretion judge necessary for the Purpose of inclosing, fencing, and dividing their respective Allotments, and for defraying the Expences of carrying this Act into execution, not exceeding Five Pounds for every Acre of such Lands and Grounds respectively; and for the Purpose of securing the Repayment of such Money, with Interest, it shall be lawful for such Persons to grant, mortgage, lease, or demise, or otherwise subject the said Allotments, to any Person who shall advance and lend the same, for any Term or Number of Years; but so that every such Grant, Demise, Lease, or Mortgage be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied; and so that in every such Grant, Demise, Lease, or Mortgage which shall be made by or on behalf of any Person interested in or entitled to any such mortgaged Premises for the Term of his natural Life, there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his Life, in such Manner that no Person afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title of such Person shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise shall be valid or effectual in the Law for the Purposes thereby intended.

Mortgages may be assigned.

LIX. And be it further enacted, That every Person to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum of Money by him lent and advanced on the Credit of and for the Purposes mentioned in this Act, or who shall be entitled to the Money thereby secured, may from Time to Time, by any Deed, Surrender, or Writing under his Hand and Seal, to be executed in the Presence of and attested by some credible Witness, assign and transfer the same Security, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his Estate, Right, Title, and

and Interest, and Term of Years then to come and unexpired, of, in, and to the same, unto any Person whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Assignee, and his Executors or Administrators, and all Persons claiming under him or them, shall and may use, take, and pursue all such lawful Methods, Causes, and Expedients in Law or Equity for recovering or obtaining Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Nonpayment of the Principal Money and Interest to be thereby secured, or any Part thereof respectively, as is or are used, taken, and pursued in Cases of the like Nature.

Copyhold Mortgage Securities to be entered on the Court Rolls of the Manor.

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

Leases at Rackrent to be void.

LXI. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall be marked and staked out, and the said Commissioners shall have directed the same to be entered upon by the Persons respectively to or for whom the same shall be intended, every Lease and other Agreement at Rack Rent subsisting of all or any Part of the said Lands hereby directed to be divided, allotted, and inclosed, and of any Right of Common thereon, and of the Messuages or Tenements and Homesteads respectively belonging thereto, for any Term of Years not exceeding Twenty-one Years, save and except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure, shall cease, determine, and be void as to all such Lands and Rights of Common respectively, but not as to any other Hereditaments comprised therein, such Compensation being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated as the said Commissioners shall, by Writing under their Hands, order and direct in that Behalf; and if any such Compensation shall not be paid to the Party entitled to receive the same within One Calendar 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 said Commissioners are hereby required to raise and levy the same, for the Use and Benefit of the Party entitled thereto, by such Ways and Means as the Rates to be levied for defraying the Costs, Charges, and Expences of obtaining and executing this Act are directed to be raised and recovered; and it shall be lawful for the said Commissioners, by Writing under their Hands, to ascertain, direct, and appoint what Rent, or Share or Proportion of Rent, shall be paid by the several Tenants of the Lands to be divided, allotted, and inclosed by virtue of this Act, or the Rights of Common thereof in their respective Holdings, to their respective Landlords, from the Time of passing this Act until such

Lands

Lands shall be marked and staked out, and be directed to be entered upon as aforesaid, and also to order and direct what Proportion and Amount of the whole Rent reserved upon such Leases or Agreements respectively shall be paid by such Tenants from the Time of passing this Act to their respective Landlords for the Messuages, Homesteads, or ancient Inclosures comprised in such Leases or Agreements respectively until the Expiration thereof, and which are not meant or intended to be made void as to such Messuages, Homesteads, or ancient Inclosures; provided that no Lease or Agreement comprising Messuages, Homesteads, or ancient Inclosures only shall be made void by this Act.

Beneficial Leases not to be vacated.

LXII. Provided always, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease from any Corporation or Person of any Lands in the said Parish of *Sutton*, but the Person entitled to such beneficial Lease shall and may hold and enjoy his Term at and under the same Rents and Covenants therein specified.

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

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

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

LXIV. And be it further enacted, That whenever any Money shall, under the Provisions of the said first herein-before recited Act or this Act, be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, 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 Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of

other Lands to be settled to the same Uses, it shall be lawful for the said Commissioners, out of such Sums, to defray the Proportion (if any) of the Expence of obtaining this Act, and of carrying the same and the said recited Acts into execution, which shall be charged upon any of the Lands of the respective Parties in possession of the Lands so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioners be proper to be made, and shall be made, under their Direction, upon any Lands to be by virtue of this Act allotted to such Parties, provided the same, with any other Monies to be raised by virtue of this Act, shall not exceed Five Pounds *per* Acre; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, without Fee or Reward; and shall, when so paid in, there remain until the same shall, by Order of the said Court, made upon a Petition to be preferred to the said Court in a summary Way by the Parties who would have been entitled to the Rents and Profits of the said Lands, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Discharge of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands settled therewith to the same Uses, as the said Court shall authorize to be purchased or redeemed or discharged, or such Parts thereof as shall be necessary; or until the same shall, upon the like Application in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, which shall be conveyed, limited, or settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands stood limited or settled, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime and until the said Annuities or Securities shall be ordered by the said Court to be sold for the Purposes aforesaid the Dividends and annual Produce of the said 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 such Lands so to be purchased, conveyed, and settled.

1 G. 4. c. 35.

LXV. Provided always, and be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same

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

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

Where less than 20*l.*

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

Alterations may be made in the Allotments before the Award.

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

When Allotments are omitted to be distinguished by the Award the Defect may be remedied by a

LXVIII. And be it further enacted, That if, from Want of Information, or other Cause, the said Commissioners shall have omitted to distinguish in their Award the several Tenures under which any of the said Lands are or shall be holden, or the several Rents, Payments, Fines, Customs, and Services to which the same are or shall be subject, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments as is hereby required,

it shall be lawful for the said Commissioners, at any Time within Twelve Calendar Months after the Date and Execution of their Award, upon Request in Writing to them made by any Proprietor of any such Allotment or Lands, or other Persons interested therein, or his Agent, to do all such Acts as shall be necessary for supplying such Omission, and for that Purpose to examine Witnesses and proceed as if their Award had not been made, and by any Deed or Instrument under their Hands and Seals to distinguish and set out the Allotments and Lands held by different Tenures, and the several Rents, Payments, Fines, Customs, and Services to which the same respectively may be subject, and also the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as they are hereby authorized to do by their Award; and every such separate Instrument shall be enrolled and deposited with the Award of the said Commissioners, and shall thenceforth be deemed and taken to be Part thereof, to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Party who shall have requested the said Commissioners to make and execute the same, or by his Heirs, Executors, or Administrators. separate Instrument.

LXIX. And be it further enacted, That the Costs, Charges, and Expences incident to and attending the passing of this Act shall be paid out of the first Monies to be raised by the said Commissioners under the Authority of this Act, and that the same, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioners, Umpire, Clerk, and Surveyor, and also any Costs and Charges which the said Commissioners may be put unto or may be incurred on their Behalf in respect of any Appeal against their Decision, or of any Suit at Law or in Equity that may be instituted by or against them in the Execution of this Act, either before or after the Execution of their Award, and all other Costs, Charges, and Expences necessarily incurred in and about the carrying this Act and the said recited Acts into execution, shall be borne and defrayed by the several Owners and Proprietors of and Persons interested in the said Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, in such Shares and Proportions, and shall be paid at such Time and Place, and to such Person as the said Commissioners shall, by Writing under their Hands, to be affixed upon the principal outer Door of the Church of the said Parish of *Sutton* at least Twenty-one Days before the Time of Payment, order and direct; and the said Commissioners are hereby authorized and empowered from Time to Time to make and form Estimates of all such Costs, Charges, and Expences, and to raise the Amount of such Estimates at such Time or Times as they shall deem necessary or proper, either before or after the Execution of their Award; and in case any Person shall refuse or neglect to pay his Proportion of such Costs, Charges, and Expences as aforesaid within the Time limited for that Purpose, and to such Person as the said Commissioners shall appoint, it shall be lawful for the said Commissioners to recover the same, together with lawful Interest to be computed from the Day on which the same ought to have been paid as aforesaid, by Action at Law in their own Names in any of Her Majesty's Courts of Record at *Westminster;* or it shall be lawful for such Commissioners, by Warrant under their Hands and Seals, directed to any Person whomsoever, Provision for Payment of Expences of Inclosure.

whomsoever, to cause the same, with such Interest, to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Owner of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale; or it shall be lawful for the said Commissioners, or any Person authorized by them, immediately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person, and demise the same, and receive and take the Rents, Issues, and Profits thereof, until thereby or therewith, or otherwise, such Share or Proportion, with lawful Interest for the same, to be computed from the Time such Sum of Money shall be ordered to be paid, and also all the Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

Power to make additional Rate in case of Deficiency.

LXX. Provided always, and be it further enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the said Commissioners, either before or after the Execution of their Award, that the Money to arise by any previous Rates shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Rate to be made and levied upon the several Persons interested in the said Lands and Grounds hereby directed to be divided, allotted, and inclosed in such Shares, within such Time, and to be paid to such Persons as the said Commissioners shall from Time to Time direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid shall neglect or refuse to pay his Share or Proportion of any such Rate within the Time to be appointed as aforesaid, or at any Time after, upon Demand, the same shall and may be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

Power to recover Monies due at the Execution of the Award.

LXXI. And be it further enacted, That if at the Time of the Execution of the said Award there shall remain due from any Person or Corporation any Sum of Money which shall have been adjudged, ordered, or directed to be paid by virtue of this Act, it shall be lawful for the said Commissioners to levy and raise the same in like Manner as they might or could have done before the Execution of their Award.

Power for Commissioners to borrow Money.

LXXII. And be it further enacted, That if before the said Monies herein-before authorized to be raised by the said Commissioners can be raised and received by them they shall deem it necessary or expedient to obtain by Loan any Sum or Sums of Money, it shall be lawful for the said Commissioners to borrow and take up at Interest, from any Persons willing to advance the same, such Sum or Sums of Money as they the said Commissioners shall from Time to Time think necessary for the Purposes aforesaid, which Money so to be borrowed shall be repaid by the said Commissioners, with Interest for the same, out of the Monies to be raised and received by them by any of the Ways or Means aforesaid.

The Award to be deposited with the Clerk of

LXXIII. And be it further enacted, That as soon as conveniently may be after the said Division, Allotment, and Inclosure shall be completed the said Commissioners shall prepare and execute an Award; and Notice

of

of the Execution of such Award shall be given in the said Parish of *Sutton* within Fourteen Days after the Date thereof, in such Manner as the said Commissioners may think fit; and the said Commissioners shall, within One Month after such Date, deliver the said Award, together with a proper Map or Plan thereto annexed of the Lands, Grounds, and Roads therein described, to the Clerk of the Peace for the *Isle of Ely*, who is hereby required to deposit and keep the same among the Records of the said Isle, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled within the Intent and Meaning of the said first-recited Act; and a Copy of the said Award, and of the said Map or Plan, signed by the said Commissioners, shall, within the said Period of One Month from the Date thereof, be deposited within the Parish Church of *Sutton* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award and the said Copy thereof, and any other Copy of the said Award or any Part thereof, attested by the Clerk of the Peace for the Time being of the said Isle, or his Deputy, (for every Sheet of which containing One hundred Words, Sixpence, and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

the Peace, and a Copy thereof in the Parish Church.

LXXIV. And be it further enacted, That once at least in every Three Calendar Months during the Time the said Commissioners shall receive or disburse any Sums of Money in the Execution of this Act the said Commissioners shall make a true and just Statement and Account of all the Sums of Money by them received and expended or applied in the Execution of this Act; and in such Statement or Account shall be stated the Items for which each Sum has been paid and disbursed; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be laid before One of Her Majesty's Justices of the Peace for the *Isle of Ely* not interested in the said Inclosure, to be by him examined and balanced, and such Balance shall be stated in the Book of Accounts to be kept in the Office of the Person acting as Clerk to the said Commissioners; and an Abstract of such Account shall, within Fourteen Days after the same shall have been so examined and balanced, be published in some Newspaper printed and circulated in the said County of *Cambridge*; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justice, and until such Account, or the Abstract thereof, shall have been so published as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Accounts to be audited.

LXXV. And be it further enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of the said recited Acts or this Act (other than and except as to the Allotments, and as to such Determinations, Acts, or Proceedings of the said Commissioners as are hereby directed to be final or conclusive, and except in Cases wherein an Issue at Law shall be tried as herein-before provided,) he may appeal to any General or Quarter Sessions of the Peace which shall be holden for the

Power of Appeal.

the said *Isle of Ely* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party concerned Ten Days Notice in Writing of such Appeal and the Matter thereof, except with respect to the Accounts of the said Commissioners, which, notwithstanding the same shall have been examined as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award with the Clerk of the Peace for the said *Isle of Ely*, on giving to the said Commissioners 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 thereon, and to award such Costs and Damages as to them shall seem reasonable, and by their Order and Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner of such Goods and Chattels, after deducting the reasonable Charges of such Warrant of Distress and Sale; and every Order and Determination of the said Justices upon every such Appeal shall be final and conclusive to all Parties concerned, and shall not be removed by Certiorari, or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous and vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant as to them in their Discretion shall seem reasonable, and such Costs shall be levied in manner aforesaid.

Saving the Rights of the Commissioners of Bedford Level, under the Act of 15 C. 2.

LXXVI. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to invalidate, lessen, or diminish, alter or take away, any of the Rights, Powers, and Authorities vested in the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*, or in the said Governor, Bailiffs, and Conservators of the *Bedford Level* Corporation, by virtue of an Act passed in the Fifteenth Year of the Reign of King *Charles* the Second, intituled *An Act for settling the Drainage of the Great Level of the Fens called* Bedford Level, or by any other Act, Statute, or Charter, Law of Sewers, or otherwise howsoever, but that all Rights, Powers, and Authorities which are now vested in the said Governor, Bailiffs, and Commonalty, or in the said Governor, Bailiffs, and Conservators, and in every or any of them, shall for ever hereafter remain, continue, and be in the said Governor, Bailiffs, and Commonalty, and in the said Governor, Bailiffs, and Conservators, and every of them, as fully and amply, to all Intents and Purposes, as if this Act had not been made.

Recited Inclosure Acts to form Part of this Act.

LXXVII. And be it further enacted, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third, and in the Second Year of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall be deemed and taken to be and be applied and executed as Part of this Act, except in Cases wherein the same are hereby respectively repealed or varied or become inapplicable to any Purposes of this Act.

LXXVIII. And

Meaning of certain Words in this Act.

LXXVIII. And be it further enacted, That in the Construction of this Act every Word importing the Singular Number only shall mean and include several Persons or Parties as well as One Person or Party, and several Things as well as One Thing respectively, and the converse; and every Word importing the Masculine Gender only shall mean and include a Female as well as a Male; and the Word "Land" shall mean and include every Species of Land or Ground, whether Arable, Meadow, or Pasture, and whether Freehold, Copyhold, or Customary, or of any other Tenure, and any Messuage, or Cottage, or Building; and the Word "Corporation" shall be understood to mean and include any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; and the Word "Commissioner" to mean and include any Commissioner for executing this Act; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

General Saving of Rights.

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

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

LXXX. And be it further enacted, That this Act shall be printed by the 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.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1838.