ANNO PRIMO

VICTORIÆ REGINÆ.

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Cap. 6.

An Act for inclosing Lands in the Parish of *Swavesey* in the County of *Cambridge*. [9th *May* 1838.]

WHEREAS there are within the Parish of *Swavesey* in the County of *Cambridge* divers Open and Common Fields, Common Meadows, Common Pastures, Commons, and other Commonable and Waste Lands and Grounds, and divers inclosed Lands and Homesteads: And whereas *Thomas Cockayne* Esquire is or claims to be Lord of the respective Manors of *Swavesey* with the Members and *Hobbledods* with *Bennetts* in *Swavesey* aforesaid: And whereas the Right Reverend *Joseph* Lord Bishop of *Ely* in right of his See is or claims to be Lord of the Manor of the Rectory in *Swavesey* aforesaid: And whereas the said *Thomas Cockayne* is Lessee of the said Rectory Manor under a Lease granted by him by the late Lord Bishop of *Ely:* And whereas the said *Thomas Cockayne*, *John Dodson*, *William Carter*, *William Parsons*, *Christopher Parsons*, *William Cole*, *James Richman*, *William Twist*, and divers other Persons, are the Owners or Proprietors of the said Open and Common Fields, Common Meadows, Common Pastures, Commons, and other Commonable Lands and Grounds, and of the said inclosed Lands and Homesteads, and of ancient Commonable Messuages or Tofts within the said Parish of *Swavesey*, and in respect thereof or otherwise are or claim to be entitled to certain Rights of Common, and other Rights and Interests, in, over, and upon the same or some Part or Parts thereof, or are otherwise interested therein: And whereas an Act was passed in the Forty-first Year of the Reign of King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually* 41 G.3. 109.
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 First and Second Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands, in* England: And whereas the Lands of the several Owners and Proprietors of the Open and Common Fields, Common Meadows, Common Pastures, Commons, and other Commonable Lands and Grounds within the said Parish of *Swavesey* are greatly intermixed, and lie dispersed in small Parcels, so as to render the Cultivation thereof expensive and inconvenient, and have been of late Years much encroached and trespassed upon, and the same are in their present State incapable of any considerable Improvements, and it would be of great Advantage to the Proprietors thereof and Persons interested therein to have the same divided and inclosed, and specific Parts thereof allotted to the Proprietors thereof, according to their respective Rights and Interests therein, and such Allotments held in Severalty, and all Rights of Common in, over, and upon the same respectively extinguished; but the beneficial 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 the Authority of the same, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third and in the First and Second Years of the Reign of King *George* the Fourth, and the several Enactments and Provisions of the said recited Acts, shall, from and after the passing of this Act, be deemed and taken to be and be applied and executed as Part of this Act for all Purposes and to all Intents whatsoever, except and in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall by this Act or otherwise become or be inapplicable to any of the Purposes of this Act.

1 & 2 G. 4. c. 23.

Powers of recited Acts to extend to this Act.

Meaning of certain Words in this Act.

II. 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, 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; 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.

Appointment of Commissioners.

III. And be it further enacted, That *Thomas Utton* of *Bracondale* in the City and County of the City of *Norwich*, Gentleman, and *Robert Wright* of the City of *Norwich* aforesaid, Gentleman, and their Successors for the Time being, to be elected or appointed in manner herein-after mentioned, shall be and they are hereby appointed Commissioners for carrying this Act into execution: Provided always, that no Person shall be capable of acting

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ing 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 a Declaration in the Words or to the Effect following; (that is to say,) Qualification of Commissioners.

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

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

IV. And be it further enacted, That if any Person, not having so qualified himself according to the Provisions of this Act to act as a Commissioner, shall presume to act in such Capacity, any such Person shall for every such Offence forfeit and pay the Sum of Fifty Pounds, with full Costs of Suit, to any Person who shall sue for the same, to be recovered by Action of Debt or on the Case in any of Her Majesty's Courts of Record at *Westminster* or elsewhere. Penalty on Persons acting not qualified.

V. And be it further enacted, That in case the said *Thomas Utton*, or any Person hereafter to be nominated or appointed a Commissioner in his Room or Stead by virtue of this Act, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or become incapacitated, or shall neglect or refuse for the Space of One Calendar Month to act as such Commissioner in the Execution of this Act, then and in such Case it shall be lawful for the Lord for the Time being of the said respective Manors of *Swavesey* with the Members and *Hobbledods* with *Bennetts* aforesaid to nominate and appoint, by Writing under his Hand, some fit and proper Person, not interested in the said Division, Allotment, and Inclosure to be a Commissioner in the Room of the said *Thomas Utton*, or of the Commissioner who shall be appointed in his Place, and so from Time to Time as often as any Commissioner so to be nominated or appointed by the Lord for the Time being of the said Manors shall die, neglect or refuse or become incapable to act as a Commissioner in the Execution of this Act; and in case the said *Robert Wright*, or any Person to be nominated or appointed a Commissioner in his Room or Stead by virtue of this Act, shall die, or become incapacitated, or neglect or refuse for the Space of One Calendar Month to act as such Commissioner in the Execution of this Act, then and in such Case it shall be lawful for the major Part in Value (such Value to be ascertained by the Land Tax or Poor Rate Assessment for the Time being) of the several Proprietors of Lands or Hereditaments within the said Parish of *Swavesey* (exclusively of the Lord for the Time being of the said several Manors of *Swavesey* with Appointment of Commissioners on Vacancies.

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the Members and *Hobbledods*) who shall attend, either personally or by their respective Agents, at any Meeting to be held for the Election of a new Commissioner by reason of such Death, Refusal, Neglect, or Incapacity as aforesaid, (of which Meeting Notice shall be given by some One or more of the Persons interested in the said Inclosure upon some *Sunday* before Divine Service, by Writing to be affixed on one of the outer Doors of the Parish Church of *Swavesey*, and also by Advertisement to be inserted in the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the County of *Cambridge*, at least Fourteen Days before such Meeting,) to nominate and appoint, by Writing under their Hands, some fit and proper Person, not interested in the said Division, Allotment, and Inclosure, to be a Commissioner in the Room of the said *Robert Wright*, or of the Commissioner who shall be appointed in his Place, and so from Time to Time as often as any such Commissioner so to be appointed by the major Part in Value of the said Proprietors (exclusive as aforesaid) shall die, neglect or refuse or become incapable to act as a Commissioner in the Execution of this Act.

In case Parties neglect to appoint new Commissioner, the remaining Commissioner to appoint.

VI. Provided always, and be it further enacted, That in case any Person or Parties herein-before enabled and authorized to appoint a new Commissioner shall refuse or neglect to appoint a new Commissioner within the Space of Six Weeks next after Notice of such Death, Neglect, Refusal, or Incapacity as aforesaid shall have been given by some one of the Persons interested in the said Inclosure to the Persons or Parties enabled or authorized to appoint such Commissioner, or by an Advertisement inserted in the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the said County of *Cambridge*, and by Writing to be affixed on the principal outer Door of the Parish Church of *Swavesey* upon a *Sunday* immediately before Divine Service, then and so often as the Case shall occur it shall be lawful for the surviving or remaining Commissioner and he is hereby required, within Three Weeks next after the Expiration of the Time so allowed for appointing such new or succeeding Commissioner as aforesaid, by Writing under his Hand to appoint some other fit and proper Person, not interested in the said Division, Allotment, and Inclosure, to be a Commissioner in the Room of the Commissioner causing such Vacancy as aforesaid; and every new Commissioner so appointed under either of the Powers herein-before given shall have and be invested with the same Powers and Authorities in all respects for carrying this Act into execution, and shall be subject to the same Regulations, as if he had been originally named a Commissioner in this Act; and every such Appointment shall be annexed to and deposited with the Award of the said Commissioners in manner herein-after directed with respect to the said Award.

Umpire appointed.

VII. Provided also, 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, *John Josselyn* of *Sproughton* in the County of *Suffolk*, Gentleman, shall be and he is hereby appointed an Umpire to determine the Point or Matter of such Disagreement or Disagreements in Opinion; and in case the said *John Josselyn* 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

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 and Inclosure) to be an Umpire in the Place and Stead of the said *John Josselyn*; and in case, and when and so often as a Vacancy shall afterwards happen by the Death, Refusal, or Disability 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 the Point or Matter of any Disagreement or Disagreements in Opinion of the said Commissioners as if he had been hereby and herein named and appointed Umpire; and in case the said Commissioners shall make default in appointing a new Umpire within Fourteen Days next after such last-mentioned Vacancy, the said Commissioners shall, as soon as conveniently may be, give Notice thereof in One or more Newspaper or Newspapers published or circulated in the said County of *Cambridge*, and by Writing affixed upon the Church Door of the Parish of *Swavesey* aforesaid; and thereupon it shall and may be lawful to and for the major Part in Value of the said Proprietors, including the Lord for the Time being of the several Manors of *Swavesey* with the Members and *Hobbledods* aforesaid, 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 a new Commissioner in the Place of the said *Robert Wright*, to appoint another Person (not interested in the said Division) to be an Umpire in the Place and Stead of the said *John Josselyn*, and so from Time to Time as Occasion shall require.

Umpire to make a Declaration.

VIII. 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 a Declaration in the Words or to the Effect following; (that is to say,)

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

Which Declaration it shall be lawful for the Commissioners or either of them, or any Justice of the Peace for the County of *Cambridge*, 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.

What shall be a Refusal to act.

IX. And be it further enacted, That if the said Commissioners or either of them shall refuse or neglect to attend the First or Second Meeting appointed to be held for putting this Act into execution, and to qualify himself by making the Declaration in that Behalf prescribed; or if any or either of the said Commissioners shall, at any Time after having qualified himself as aforesaid, wilfully absent himself from any Two successive Meetings of such Commissioners, the Times of such Meetings being known to him by his having been present at the Appointment of the First thereof, or by a Notice thereof in Writing under the Hand of the Clerk

of the said Commissioners having been given to him, or left at his usual Place of Abode, (such Commissioner not being prevented by Sickness or other reasonable Cause, to be allowed by the other Commissioner attending such Meetings,) or if any Commissioner to be hereafter elected or appointed as aforesaid shall not attend and qualify himself at the First or Second Meeting to be held after his Appointment, or shall, after having qualified himself as aforesaid, wilfully absent himself in manner aforesaid, after such Notice, and without such Cause of Excuse as last aforesaid, every such Absence or Non-attendance shall be deemed and taken to be a Refusal to act.

Appointment of Surveyor.

X. And be it further enacted, That *Alexander Watford* of *Cambridge* in the County of *Cambridge*, Land Surveyor, or his Successor, to be appointed in manner herein-after mentioned, shall be the Surveyor for the Purposes of this Act; and in case the said *Alexander Watford*, or any Person to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act, it shall be lawful for the said Commissioners to appoint some other fit and proper Person not interested in the said Division, Allotment, and Inclosure to succeed to such Office in the Room or Stead of the Surveyor so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and the said Commissioners are hereby authorized, out of the Money to be raised for defraying the Expences of obtaining and passing this Act, and carrying the same into execution, to allow to every such Surveyor for his Time and Trouble any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the said Lands, or any of the ancient inclosed Lands, or any Part thereof, and also any Sum not exceeding Two Pounds and Two Shillings for each Day he shall be actually and wholly otherwise employed in the Business of the said Division, Allotment, and Inclosure, exclusive of the said Survey, and which said several Allowances shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description, to be incurred by such Surveyor in and about the Execution of this Act.

Allowance to Surveyor.

Surveyor to make a Declaration.

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

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

Commissioners may administer Declaration.

Which Declaration it shall be lawful for any Commissioner for the Time being, or any Justice of the Peace for the said County of *Cambridge*, 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.

XII. And

Appointment of Clerk.

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

Allowance to Commissioners and Clerk.

XIII. 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 carrying the same into execution there shall be paid to each of the said Commissioners and to any Umpire who shall act in the Execution of this Act, and also to their Clerk, the Sum of Three Pounds and Three Shillings, and no more, for each Day they shall travel or be engaged in any Business relating to the Execution of this Act, or of any of the Powers hereby vested in them, during the first Three Years next after the passing of this Act, and after the Expiration of the said Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, for each and every Day they shall be respectively employed as aforesaid, in full Satisfaction for their Time and Trouble, and for the several Expences which they may incur during their several Journies and Attendances in the Execution of this Act, other than and except the Expences for the Use of the Rooms in which the Meetings shall be held for carrying this Act into execution, and the Costs and Expences of drawing, preparing, copying, engrossing, proclaiming, and enrolling the Award of the said Commissioners, and of Notices and Advertisements, and all other proper and necessary Expences.

For regulating the Duration of Meetings of the Commissioners.

XIV. And for regulating the Duration of all Meetings to be held for the Purposes of this Act, be it 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 that any Meeting to be held for the Purposes of this Act of less Duration than Eight Hours or Six Hours, (as the Case may be,) shall be charged as only Half a Day, and the said Commissioners and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk in which shall be entered the several Days on which the said Commissioners shall hold their Meetings; and in such Book shall also be entered at what Hour the said Commissioners and Clerk were respectively present at such Meeting, and at what Hour they respectively left the same; and such Book shall be signed by the said Commissioners at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the said Division, Allotment, and Inclosure, or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act; and all such Persons may take Copies of or Extracts from such Book without paying any thing for the same: Provided always, that it shall not be lawful for the said Commissioners to retain or pay themselves or the said Clerk, out of any Monies to be received by them, or over which they may have any Control, by virtue of this Act, any Money on account of the Allowance herein-before directed to be made to such Commissioners or to the said Clerk respectively beyond One Third of the Allowance to which they shall be respectively entitled as aforesaid, until after the Expiration of Six Calendar Months from the Day of the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the said Commissioners shall be appealed against,

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 any 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 Period allowed for Appeal against the Accounts hereinafter directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or Clerk such Sum as shall appear by the said Accounts to be due to such deceased Commissioner or Clerk.

Proprietors to pay their own Expences at Meetings.

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

Proceedings to be entered in a Book.

XVI. And be it further enacted, That all the Orders, Proceedings, 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 said 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.

Meetings, and Notices thereof.

XVII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice to be given, by Advertisement thereof in the Newspaper called the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the said County of *Cambridge*, and also by affixing the same upon some principal Door of the Parish Church of *Swavesey* aforesaid on some *Sunday* before Divine Service, of the Time and Place of their First and every subsequent Meeting for the Execution of this Act, Seven Days at least before any such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioners shall and may from Time to Time adjourn such Meetings as they may see Occasion for the efficient Execution of this Act; and if at the Time and Place appointed for any such Meeting only one of the said Commissioners shall attend, such one Commissioner may adjourn such Meeting to some future Period, not exceeding Twenty-one Days from the Day of such Adjournment, and to such Place as he shall think most convenient; and if at the Time and Place appointed for any such Meeting no Commissioner shall attend, it shall be lawful for the Clerk to the said Commissioners to adjourn such Meeting to some future Period, not exceeding Twenty-one Days from the Day of such Adjournment, then to be held at the Place from which such Adjournment was made, giving timely Notice thereof to the said Commissioners: Provided always, that all such Meetings of the said Commissioners for executing this Act shall be held within the Town of *Cambridge* in the County of *Cambridge*, or at some convenient Place in the said Parish of *Swavesey*, or within Eight Miles thereof.

Other Notices how to be given.

XVIII. Provided always, and be it further enacted, That all other Notices necessary to be given by the said Commissioners (the Mode of giving which is not hereby particularly directed) shall be given by

Advertisement in the said Paper called the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the said County of *Cambridge*, or by Writing to be affixed on some principal outer Door of the Parish Church of *Swavesey* aforesaid; and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate, any thing in the said first-recited Act to the contrary notwithstanding.

Claims to be delivered to the Commissioners.

XIX. And be it further enacted, That all Persons claiming any Estate, Right, or Interest in, over, upon, or to any Lands and Grounds in the said Parish of *Swavesey*, hereby authorized to be divided, allotted, and inclosed, or exonerated from Commonable or other Rights, under or by virtue of this Act, shall and they are hereby required, by themselves or their Agents, to deliver their respective Claims, in Writing under their Hands, or the Hands of their Agents, unto the said Commissioners, at such Meetings as shall be held by the said Commissioners for that Purpose, distinguishing in such Claims the several Particulars in respect whereof the Claims are made, and the Freehold, Copyhold, and Leasehold Property from each other, and within what Manor the same Property and Rights are situate; and that no such Claim shall be received by the said Commissioners after the last Meeting to be held for that Purpose, after due Notice thereof given, and which shall be so expressed therein, except for some special Cause to be allowed by the said Commissioners; and after the said Claims shall be so received the said Commissioners shall cause public Notice to be given, by affixing such Notice on some principal outer Door of the said Church on a *Sunday*, and shall in such Notice appoint a Time (at least Twenty Days distant) and also a Place when and where all Parties concerned may appear before them, and show Cause for or against the Allowance or Disallowance of the said Claims; and at such Meeting the said Commissioners shall proceed to examine into and settle and determine the same, and shall make such Order therein as to them shall appear just and equitable; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Disputes or Differences shall happen between any of the said Proprietors touching their respective Rights or Claims, or touching the respective Shares which they or any of them ought to have in the Allotment hereby intended to be made, the said Commissioners shall and they are hereby required, by Examination of Witnesses upon Oath (which Oath the said Commissioners are hereby empowered to administer), and by such other Evidence, Inquiry, and Satisfaction as to them shall seem proper, to hear and determine the same, and shall make such Order therein as to the said Commissioners shall appear equitable and just, which said Order shall be final and conclusive, unless any Party shall be dissatisfied with the Determination of the said Commissioners, and shall proceed to try his Rights by an Issue at Law, as hereafter mentioned, any thing herein contained to the contrary thereof in anywise notwithstanding.

Tofts to be deemed Commonable Messuages.

XX. And be it further enacted, That all Tofts, Foundations, or Sites of ancient Commonable Messuages or Cottages in the said Parish of *Swavesey* shall, upon Proof being made to the Satisfaction of the said Commissioners that Commonable Messuages or Cottages formerly stood thereon, be considered and deemed as Commonable Messuages or Cottages; and the respective Owners or Proprietors thereof shall be entitled to

to the same Compensation for the respective Right of Common originally belonging thereto as if such Messuages or Cottages were still standing.

Commissioners not to determine Titles contrary to Possession.

XXI. Provided always, and be it further enacted, That nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Lands, or to determine any Right between any Parties contrary to the actual Possession of any of such Parties (except in respect of Encroachments as herein-after mentioned); but in case the said Commissioners shall be of opinion against the Right of the Party so in Possession they shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or have been recovered from such Party by due Course of Law.

Punishing Persons summoned by the Commissioners, and refusing to to attend or to give Evidence.

XXII. And be it further enacted, That if any Person having been summoned to testify the Truth upon Oath touching any Matter in difference between any of the Parties interested in the Premises, or otherwise relating to the Execution of this Act, and having been paid or tendered a sufficient Sum of Money, to be ascertained by the said Commissioners, to defray the Charges of his Attendance, shall not appear before the said Commissioners pursuant to such Summons, without assigning some reasonable Excuse for not appearing, or appearing shall refuse to be sworn or to be examined or give Evidence touching the Premises, the said Commissioners, upon Proof thereof made before them upon Oath (which Oath the said Commissioners are hereby empowered to administer), shall and they are hereby authorized, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause any Sum of Money not exceeding Fifty Pounds to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to appear, or to be sworn and give Evidence, rendering the Overplus (if any), upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as aforesaid shall be considered as Part of the Monies which are hereby directed to be raised for defraying the Costs and Expences of obtaining this Act, and carrying the same into execution, and shall be applied accordingly.

Commissioners to award Costs.

XXIII. And be it further enacted, That in case the said Commissioners, upon the Hearing and Determination of any Claim or Objection to be delivered to them in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby required, 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 have been thereby disallowed; and in case any Person liable to pay such Costs and Charges shall refuse or neglect to pay the same, upon 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 Persons so refusing or neglecting to pay the same, rendering the Overplus (if any), upon 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 and Expences as aforesaid, it shall be lawful for the Person in whose Favour such Costs and Charges 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 in consequence of such Order, without setting forth any other Proceedings under this Act.

Parties dissatisfied may try their Rights at Law.

XXIV. 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 to any Right or Interest in, over, upon, or to the Lands or Grounds hereby authorized to be divided, allotted, and inclosed, or exonerated from Commonable or other Rights, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action upon a feigned Issue against the Person in whose Favour such Determination shall have been made, within Three 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 the then next Assizes, or at the Assizes immediately following such next Assizes which may be holden for the said County of *Cambridge* after such Action shall have been 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 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 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 upon sufficient Cause shown to put off the Trial of such Issue or Issues; and after such Verdict shall be given, and final Judgment obtained thereon, 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 Action shall be commenced, or the Plaintiff therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then the Determination of the said Commissioners shall be binding and conclusive to all Intents and Purposes whatsoever.

If no Action brought, Determination of Commissioners to be final.

Deaths of Parties not to abate Proceedings.

XXV. 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

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, and the Heir or Devisee of the Person who shall have so died as aforesaid, with the usual Process for commencing such Action, in the same Manner as the Person so dead might have been served therewith if living; and it shall be incumbent on the Heir or Devisee or personal Representative of the Person so dead, on being served with such Process, or other the Person who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had thereon in the same Manner as if such Person had been living; and the Rights, Interests, and Claims of all Parties shall be equally bound and concluded by the Event of such Action which shall be so brought or continued as aforesaid as if the Death of any of the Persons interested therein had not occurred.

Suits not to impede the Execution of the Act.

XXVI. 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, 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.

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

XXVII. 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 vested in the said Commissioners shall not be thereby determined or suspended, but the said Commissioners shall proceed in the Execution of the Powers and Authorities so vested in them respectively in such Manner as they respectively 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 fenced by such Party according to the Directions of this Act, and he shall be liable to the Charges and Expences and other Conditions of this Act.

Commissioners empowered to suspend or extinguish Rights of Common.

XXVIII. And be it further enacted, That it shall be lawful for the said Commissioners, at such Time as they shall think proper, and before the Execution of their Award, by Notice in Writing under their Hands, to be affixed on some principal Door of the Parish Church of *Swavesey* aforesaid on some *Sunday* previous to Divine Service, to order and direct all or any Part of the Rights of Common or other Rights in, over, or upon the Lands or Grounds hereby authorized to be divided, allotted, and inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Notice; and from and after the Time mentioned in such Notice all such Rights as shall be thereby directed to be extinguished shall be extinguished, or the Exercise thereof suspended accordingly, any Law, Usage, or Custom to the contrary notwithstanding; and if during the Suspension or after the Extinguishment of any such Rights of Common or other Rights as aforesaid any Owner or Occupier of Land, or of any Commonable Messuage or Cottage, or the Site of any Commonable Messuage

Penalty on Breach of Commissioners Orders.

or

or Cottage within the said Parish, or any other Person, shall permit his Cattle or Sheep to go, depasture, or feed upon any of the Lands or Grounds over which such Rights of Common or other Rights shall be suspended or extinguished, it shall be lawful for the said Commissioners, or any other Person by their Order (testified in Writing under their respective Hands), and also for any other of the said Owners or Occupiers, to distrain such Cattle or Sheep, being upon such Lands or Grounds contrary to such Order, and to impound the same until the Person so offending shall pay to the Person so distraining such Sum of Money as the said Commissioners shall by Writing under their Hands, to be delivered to or left at the Place of Abode of the Person whose Cattle or Sheep shall be so distrained, order and direct, not exceeding the Sum of Ten Shillings for each Head of Cattle, and not exceeding the Sum of Five Shillings for each Sheep so distrained; and in case the same shall not be paid within Seven Days after the Delivery of such Writing the said Commissioners are hereby authorized, upon Proof of such Offence having been committed, and of Nonpayment of the Penalty hereby imposed, to cause the Cattle or Sheep so distrained or impounded, or such of them as they shall think necessary, or any other Goods or Chattels of the Person so offending, to be sold, for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress, and also rendering the Surplus (if any) to the Owner of such Cattle or Sheep.

For shortening Boundaries.

XXIX. 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 authorized to be divided, allotted, and inclosed, and the old inclosed Lands in the said Parish of *Swavesey*, 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 Aggregate,) 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 in any adjoining Manor, as they shall judge proper for the Purposes aforesaid; and after such Boundaries shall have been so set out, ascertained, and determined as aforesaid the same shall be made, fenced, ditched, or mounded by such Person, in such Manner and at such Times as the said Commissioners shall direct, and shall for ever thereafter be deemed the Boundaries between the said allotted and inclosed Lands respectively, or (as the Case may be) between the said Allotments or inclosed Lands, and such adjoining Manor; any Law, Usage, or Custom to the contrary notwithstanding.

Commissioners to set out Drains and enlarge and turn Watercourses.

XXX. 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, of such Size, Extent, and Form, and in such Situations as the said Commissioners shall deem necessary, in, through, over, and upon the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, and also to enlarge, widen, turn, scour, and cleanse, or alter the Course of and improve,

prove, 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 *Swavesey*, as the said Commissioners shall deem necessary (making such Satisfaction to the Proprietors of such ancient Inclosures or Lands and Grounds, for the Damage done thereby, as the said Commissioners shall think fair and equitable); and the Costs and Expences of making and enlarging, widening, altering, turning, scouring, and cleansing 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 Persons and in such Manner as the said Commissioners shall in and by their said 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; but no Tunnel or Culvert shall be made through any Part of the Portion of the *Great Barrier Bank* without the special Leave in Writing obtained from the Governor, Bailiffs, and Conservators, or any Two or more of the Bailiffs, or Three or more of the Conservators, certified under the Hand of the Registrar for the Time being.

Power to widen Roads, making Compensation to Landowners.

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

Power to stop up Roads.

XXXII. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footpaths, in pursuance of this Act or of the said first-recited Act, the said Commissioners shall and they are hereby authorized and empowered, 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 Footpaths passing or leading through or over any of the Lands or Grounds intended 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 *Swavesey*, and the Soil of the Roads and Ways so to be discontinued and stopped up shall be deemed and taken to be Part of

the Lands 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 *Swavesey*, 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: Provided also, that no such Carriage Road, Highway, Bridle Road, or Footpath passing through any of the inclosed Lands within the said Parish shall be so discontinued, stopped up, diverted, turned, or altered without the Consent and Order in Writing of Two Justices of the Peace for the County of *Cambridge*.

Procceedings previously to stopping up and diverting Highways.

XXXIII. Provided always, and be it further enacted, That before any such Order of Two Justices of the Peace as is herein-before mentioned shall be made, or any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, diverted, stopped up, 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 Footpath so proposed to be discontinued, diverted, stopped up, or altered, a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footpath is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the said Commissioners acting under or by virtue of this Act; 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 the outer Door of the Church of the said Parish of *Swavesey* on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid, and after such Order as aforesaid shall have been made, in Cases where the same shall be necessary, under the Provisions of this Act, the said public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be; subject however to such Appeal to the Court of General Quarter Sessions for the County of *Cambridge* as is herein-after mentioned.

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

XXXIV. 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 Footpath should be discontinued, stopped up, diverted, or altered, as the Case may be, within Four Calendar Months after the Date of the said Order, where such Order shall be necessary, under the Provisions of this Act, or where the same shall be unnecessary, within Four Calendar Months after the last of the said Notices shall have been so published or affixed 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.

XXXV. And

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

XXXV. And be it further enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether the said public Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, diverted, or altered shall be discontinued, stopped up, diverted, or altered, or whether the 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 Footpath so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Session 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 of the Forty-first Year of the Reign of His Majesty King *George* the Third; but if the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footpath so be discontinued, stopped up, altered, or diverted 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 Footpath 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 Footpath shall not be discontinued, stopped up, diverted, or altered, or in case the same shall have been discontinued, stopped up, diverted, or altered the said Court shall make an Order for restoring such public Carriage Road, Highway, Bridle Road, or Footpath 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 the said Commissioners 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 widening Roads provided for.

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

Justices may declare any of the Carriage Roads completed.

XXXVII. And be it further enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the said County of *Cambridge* at any Special Sessions shall, under their Hands and Seals, certify any of the public Carriage Roads to be set out in pursuance of this Act to be fully and sufficiently formed and completed, such Roads shall thenceforth be supported and kept in repair by such Persons and in such Manner as the public Roads within said Parish of *Swavesey* are or ought

ought by Law to be amended and kept in repair; and every such Certificate shall, at the General or Quarter Sessions of the Peace to be holden for the said County of *Cambridge* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County, and be valid and effectual to all Intents and Purposes.

Commissioners to appoint private Roads.

XXXVIII. And be it further enacted, That the said Commissioners shall and they are hereby empowered and required to set out and appoint such private Roads, Bridle Ways, and Footways, through and over the Lands and Grounds hereby authorized 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, Bridle Ways, 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 the same into execution; and the said private Roads, Bridle Ways, 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 *Swavesey*, 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.

To allot the Herbage of private Roads.

XXXIX. 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.

Encroachments.

XL. And be it further enacted, That all Encroachments and Inclosures which shall have been made or taken by any Person from or upon any Part of the said Lands hereby authorized to be divided, allotted, and inclosed within Twenty Years next before the passing of this Act, whether any Amerciament, annual Rent, or any Money Payment or Acknowledgment hath or hath not been paid for or in respect of the same, to or for the Use of the Lord of the Soil, or any other Person whomsoever, shall be deemed Part and Parcel of the Lands by this Act authorized to be divided, allotted, and inclosed, and shall be divided, allotted, and inclosed accordingly, by virtue of this Act: Provided always, that in case any Question or Dispute shall arise touching any such Encroachment or Inclosure, or the Extent or Duration thereof, such Question or Dispute shall be referred to and be determined by the said Commissioners: Provided also, that it shall be lawful for the several Persons who shall be in possession of such Encroachment or Inclosure, or in Receipt of the Rent thereof, at the Time of the passing of this Act, to take down, remove, and carry away all such Buildings, Fences, and other Erections as shall then be on such Encroachment and Inclosure respectively, and to convert the same and the Materials

Materials thereof to their own Uses, without any Interruption from the said Commissioners.

Encroachments to be allotted to the Party in possession.

XLI. Provided always, and be it further enacted, That the Lands comprised in any Encroachment hereby directed to be divided, allotted, and inclosed as aforesaid shall (without Regard paid to any Improvement since made thereon) be allotted to the Person or Persons in possession thereof, so far as he, she, or they shall be entitled by virtue hereof to any Allotment of equal or sufficient Value, and in that Case the Value of such Encroachment shall according to the Circumstances be deemed a partial or entire Compensation for the Allotment or Allotments to which such Person or Persons shall be entitled by virtue of this Act; but if such Person or Persons shall not be entitled to any Allotment, or to any Allotment equivalent in Value to such Encroachment, then the said Commissioners shall sell the said Encroachment or Surplus thereof to the Person in possession of the same for such Sum of Money as shall be the fair Value thereof, independent of any Improvement made thereon, in case such Person shall desire to be the Purchaser of such Encroachment or Surplus; but in case such Person shall refuse to purchase the same, or shall neglect to pay the Purchase Money for the same within Three Months after the Value thereof, as fixed by the said Commissioners, shall have been communicated to him by the said Commissioners, by a Notice in Writing either delivered to him personally or left at his Place of Abode, then and in such Case such Encroachment or Surplus (as the Case may require) shall be deemed Part of the Land to be divided, allotted, inclosed, or disposed of by virtue hereof.

Commissioners to direct the Course of Husbandry.

XLII. 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 some principal outer Door of the Parish Church of *Swavesey* aforesaid on some *Sunday* previous to Divine Service, to order and direct the Course of Husbandry, and the Stint or Rule of stocking, that shall be respectively observed and used in, over, and upon the said Lands hereby authorized to be divided, allotted, and inclosed, until the Time when they shall have completed the said Division, Allotment, and Inclosure thereof, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking and feeding the Commonable Lands and Fallows or Stubbles upon the same, and to make such Recompence for the same as they shall think right, and 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 *Swavesey*, for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking any of the said Lands or Grounds hereby authorized to be divided, allotted, and inclosed, in the meantime and until the said Division, Allotment, and Inclosure shall be completed; all which Orders and Regulations shall be binding and conclusive upon all Parties interested, 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 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.

XLIII. 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 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 in 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.

XLIV. And be it further enacted, That the said Commissioners shall and they are hereby required to 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 would respectively choose to have their Allotments set out and allotted, and shall give Fourteen Days Notice of the Time and Place of such Meeting, by Writing under their Hands to be affixed upon some principal outer Door of the Parish Church of *Swavesey* aforesaid on some *Sunday* previous to Divine Service, and also by Advertisement to be inserted in the *Cambridge Chronicle* or in some other Newspaper printed or usually circulated in the County of *Cambridge* at least Fourteen Days before such Meeting.

For determining Objections to Allotments.

XLV. 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 the Lands and Grounds hereby authorized to

to be divided, allotted, and inclosed, and of the Persons entitled to Commonable or other Rights thereon, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors and Persons respectively in lieu thereof, the said Commissoners shall hold a Meeting at some convenient Time and Place, of which Meeting Fourteen Days Notice shall be giving by affixing the same upon some principal Door of the Parish Church of *Swavesey* aforesaid upon some *Sunday* previous to Divine Service, and also by Advertisement to be inserted in the *Cambridge Chronicle* or in some other Newspaper printed or usually circulated in the County of *Cambridge* at least Fourteen Days before such Meeting, when and where the said Proprietors and Persons aforesaid may be informed of the Situation of such intended Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and if any of the said Proprietors or other Persons aforesaid upon such Inspection 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 such Complaints and Objections of any Proprietors or other Persons aforesaid against such Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same, and such Determination shall be final, binding, and conclusive on all Parties interested in such Allotments.

Allotments to be set out for the Repair of Highways.

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

Allotments to be set out for the Lords of the several Manors, for Right of Soil.

XLVII. And be it further enacted, That the said Commissioners shall set out, allot, and award unto and for the Lords for the Time being of the said several Manors of *Swavesey* with the Members and *Hobbledods* with *Bennetts*, and the Rectory, or to such of them as shall in the Judgment of the said Commissioners be entitled to the Soil of the Commons and Waste Lands in the said Parish of *Swavesey*, or any Part thereof, Five Acres of such Commons and Waste Lands, over and above and exclusive

exclusive of any other Allotments which may be made to such Lords respectively, in lieu of and in full Compensation and Satisfaction of and for his or their respective Rights and Interests to and in the said Soil of the said Commons and Waste Lands, over and above and exclusive of any other Allotments which may be made to such Lords in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Lands; and such Allotments shall be divided between the respective Lords of the said several Manors entitled thereto as aforesaid in such Proportions as the said Commissioners shall direct and award.

Allotment to the Impropriator and Vicar in lieu of Glebe and Common Rights.

XLVIII. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and allot unto and for the Impropriator of the Impropriate Rectory of *Swavesey* aforesaid, and also unto and for the Vicar of the said Vicarage of *Swavesey*, or unto such Person as may be entitled to the same, such Parcels of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as in the Judgment of the said Commissioners shall be a full Equivalent and Compensation for the Glebe Lands and Right of Common respectively belonging to the said Impropriator and Vicar, or other Person entitled to the said Impropriate Rectory and Vicarage, in, over, and upon the Lands and Grounds by this Act authorized to be divided, allotted, and inclosed.

Commissioners to set out Allotment for the Recreation of the Poor.

XLIX. And be it further enacted, That it shall and may be lawful to and for the said Commissioners and they are hereby authorized to set out, allot, and award unto the Lords for the Time being of the said Manors, 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 Six Acres nor less than Four Acres as a Place of Exercise and Recreation for the Inhabitants in the Neighbourhood of the said Parish, and such Allotment shall be held by the Lords of the said Manors for the Purposes aforesaid.

Allotments to be set out for the Erection of Schools.

L. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby authorized and required to set out, allot, and award unto the Impropriator and Vicar of *Swavesey* and the Lords of the said Manors for the Time being, out of the Lands and Grounds to be inclosed by virtue of this Act, a Piece of Land or Ground containing One Rood contiguous to the Recreation Allotment lastly herein-before directed to be set out as a Site for the Erection of National Schools for Boys and Girls, and as Gardens appurtenant thereto; and such Allotment shall be held by the said Impropriator, Vicar, and Lords of the Manors in Trust for the Purposes aforesaid.

Allotment to Conservators of Bedford Level.

LI. And be it further enacted, That the said Commissioners are hereby directed and required to set out and allot to the said Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*, and their Successors, One entire Lot or Piece, Part and Parcel of the said open and uninclosed Common, containing Four Acres, lying contiguous to and on the South-east Side thereof, in one straight and parallel Line throughout the whole of the said Piece of Bank, and beyond the present Foreland of Sixty Feet, as a full and ample Compensation and Allowance for the Right of the said Governor, Bailiffs, and Commonalty, and their Successors, to cut, dig, cart, and carry away Earth, Soil, Clay, or Moor for the Reparation, Preservation, Main-

tenance, and upholding of the Portion of the *Great Barrier Bank* on the South-east Side thereof.

Allotment of Residue.

LII. And be it further enacted, That after the several Allotments hereinbefore directed to be set out and made shall have been so set out and made the said Commissioners shall and they are hereby required to divide, set out, allot, and award all the Residue and Remainder of the Open and Common Fields and other Grounds by this Act authorized to be divided, allotted, and inclosed unto and amongst the several Owners and Proprietors thereof, and Persons who shall be entitled to any Estate, Right, or Interest therein, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportionate to the Value of and a full Compensation and Satisfaction to them for their respective Rights and Interests in, to, over, and upon the said Open and Common Fields and other Grounds by this Act directed to be divided and allotted.

Allotment of old Inclosures, with Consent of Proprietors.

LIII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioners, b yand with the Consent in Writing and at the Request of any Proprietor of any Houses, Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parish of *Swavesey*, whether such Owner or Proprietor shall be a Corporation, Tenant in Fee Simple or for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor of any such Houses, 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 order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable, and Part and Parcel of the Lands, Grounds, and Hereditaments hereby authorized to be divided, allotted, and inclosed; and such Allowance shall be made to the Proprietor sof such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation or other beneficial Circumstances thereof, as the said Commissioners shall adjudge to be just and reasonable; and the said Commissioners shall and they are hereby required to set out, allot, and award unto and for the Proprietor of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, or other Hereditaments, in lieu thereof, so much and such Part of the Lands and Grounds hereby authorized 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 recited Acts mentioned.

Insulated old Inclosures to be deemed allottable Lands.

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

Lands

Lands or Grounds within the said Parish of *Swavesey* authorized to be divided, allotted, and inclosed under and by virtue of this Act.

Pieces of Waste Land by the Side of the Road may be allotted.

LV. And be it further enacted, That all Pieces and small Parcels of uninclosed Common or Waste Land, lying by the Side of any Turnpike Road or other public Road or Lane the Soil of which shall be the Freehold of the Lord of the Manor in his Right of Lord, and be liable to Rights of Common thereon within the said Parish of *Swavesey*, and which in the Judgment of the said Commissioners may be conveniently inclosed without incommoding the public Intercourse on such Road or Lane, or rendering such Turnpike Road of less Breadth than Forty-five Feet, and such other public Road or Lane of less Breadth than Forty Feet respectively, shall be deemed Part of the said Lands within the said Parish of *Swavesey* intended to be divided, allotted, and inclosed under and by virtue of this Act.

Allotments to be fenced.

LVI. 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.

Impropriator's and Vicar's Allotments to be fenced at the general Expence.

LVII. And be it further enacted, That the Allotments to be made to the Impropriator of the said Impropriate Rectory of *Swavesey*, and to the Vicar of the Vicarage of *Swavesey*, in respect of Glebe Lands belonging to the said Rectory and Vicarage, shall be well and sufficiently inclosed and fenced on all such Parts and Sides as shall not be directed to be fenced by any other Proprietor, or as shall not adjoin any inclosed Land, or be bounded by any sufficient Watercourse, or other sufficient Fence in the Judgment of the said Commissioners; and the whole Costs and Expence attending the inclosing and fencing of the same shall be deemed Part of the Expences of carrying this Act into execution, and shall be borne and defrayed accordingly by and out of the Money to be raised for the Purposes of this Act; and all such Inclosures and Fences, when made, shall for ever thereafter be kept in repair by the said Impropriator and Vicar, or by the Persons for the Time being entitled in Possession to the Allotments so set out to such Impropriator and Vicar as aforesaid.

Directing how Ditches and Fences for dividing the Bedford Level Corporation Bank shall be made, &c.

LVIII. Provided always, and be it further enacted That all Ditches and Fences which shall be required to be made for the Purpose of dividing or separating the Bank of the River *Ouze*, with the Forelands and Allotment thereof, called "The *Bedford* Level Corporation Barrier Bank," from any Allotments to be made in pursuance of this Act, shall in all Cases be made of a certain Width and Depth directed by the said Commissioners, and when made shall for ever thereafter be repaired and maintained of such Width and Depth by the Owners or Proprietors of such Allotments; and the said Corporation shall not in any Case be liable to the Expences of making, repairing, or maintaining any of such Ditches and Fences so adjoining the said *Barrier Bank*, Foreland, and Allotment.

LIX. Pro-

Equalizing the Share of Fencing.

LIX. 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 authorized 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 or 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.

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

LX. And be it further enacted, That no Person whosoever shall graze or keep any Sort of Beast or Cattle in or upon any of the Roads or Ways which the said Commissioners shall order or direct to be set out, and which shall be fenced on both Sides; and every Owner of Lands or Grounds within the said Parish of *Swavesey*, his Servants and Labourers, and also every Peace Officer and Parish Officer of the said Parish of *Swavesey* 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 extends.

Partitions may be made in certain Cases.

LXI. And whereas it may happen that some of the Proprietors of Lands in the said Parish of *Swavesey*, and Persons entitled to Allotments to be made by virtue of this Act, may be seised or possessed thereof or entitled thereto in undivided Moieties, Joint Tenancy, or as Coparceners or Tenants in Common, and by reason of Infancy, Settlement, Absence beyond Seas, or other Disability or Incapacity, or other Causes, cannot make an effectual Division thereof; be it therefore enacted, That it shall be lawful for the said Commissioners, upon the Request in Writing of any such Proprietors, being seised or possessed or entitled in undivided Moieties, or as Coparceners, Joint Tenants, or Tenants in Common, or of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of such of them as may be under Coverture, Minors, Lunatics, or beyond Seas, or under any other legal Disability or Incapacity, to make Partition and Division of the said Lands or Allotments to such of the said Proprietors as shall be so seised or possessed or entitled, and to allot the same to such Owners and Proprietors in Severalty; and from and immediately after the said Allotments shall be so made and declared the same shall be holden and enjoyed by the Persons to whom the same shall be allotted in Severalty, in such and the same Manner, and subject to such and the same

same Uses and Trusts as the undivided Parts or Shares of such Estates would have been held, in case such Partition and Division had not been made; and every such Partition shall be specified in the Award of the said Commissioners, or some other Instrument under their Hands and Seals, and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Expences of Partitions.

LXII. And be it further enacted, That all Costs, Charges, and Expences attending any Partition to be made by virtue of this Act shall be borne and defrayed by the several Proprietors of or Persons interested in the Estates which shall be so parted, in such Manner and Proportions as the said 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.

LXIII. 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 *Swavesey*, in lieu of and in exchange for any other Lands within the said Parish, or within any adjoining Parish, Township, or Place; provided that all such Exchanges be specified and declared in the Award of the said 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 Curtesy of *England*, or for Years determinable on any Life or Lives, (by and with the Consent of the Lessor thereof, but not otherwise,) or possessed of any Estate of Inheritance less than an Estate in Fee Simple, or with the Consent of the Guardians, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owner as aforesaid who at the Time of making such Exchange shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, such Consent to be testified in Writing under the Common Seal of the 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 and completing of any Exchanges shall be paid and borne by the several Parties making such Exchanges, in such Manner and in such Proportions as the said Commissioners shall by their Award 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.

Exchanges and Partitions of Copyholds to be perfected by Admittance.

LXIV. And be it further enacted, That every Person to whom any Copyhold Lands 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

Baron to be held for the Manor whereof such Copyhold Lands shall be respectively held, be admitted Tenant to the Copyhold Lands so allotted; but in no such Case of any Admission by virtue of this Act shall any Fine, Rent, Heriots, Fees, or other Payments be made to the Lord of the said Manors respectively, or to his Steward, save only the Sum of Two Pounds and Two Shillings to such Steward for the Fees of each Admission, over and besides the Stamp Duty payable by Law upon each such Admission.

Power to enfranchise Copyholds.

LXV. 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 respective Manors of *Swavesey* with the Members, *Hobbledods* with *Bennetts*, and the Rectory, 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 Attorneys 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 respective Manors, whether such Lords be Corporations, or shall hold the said Manors in Fee Simple, or for any limited Estate or Interest, or as Trustees, or otherwise, 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 Heriots, 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.

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

LXVI. And be it further enacted, That in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Land, the said Commissioners shall and they are hereby required, upon the Application of any of the Parties interested, and which Application shall be made at the First or Second Meeting to be holden under the Powers of this Act, to set out and allot unto and for the said Lords of the said respective Manors 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 the said Commissioners be a full Compensation and Satisfaction for such Enfranchisement and Extinguishment, according to the Terms which shall be agreed upon between the Parties; and in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Money the said Commissioners shall and they are hereby required, upon the like Application of any of the Parties interested as aforesaid, to ascertain and determine the Amount of such Compensation according to the Terms which shall be agreed upon between the Parties; and all such Money Payments shall be made to the said Commissioners, whose Receipt shall be an effectual Discharge for the same; and the said Commissioners shall pay such Monies in the Manner 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, unless the Lord of the Manor within which any Copyhold Hereditaments shall be enfranchised as aforesaid shall be absolutely and beneficially entitled to such Manor, in which

Where for Compensation in Money.

Case

Case (subject to a Deduction for his Proportion of the Expences of and attending this Act, and carrying the same into execution,) the said Commissioners shall pay the Consideration Monies for such Enfranchisements to such Lord for his own absolute Use; and all such Enfranchisements and Extinguishments, when completed, shall be specified in the Award of the said Commissioners; and an Entry of every such Enfranchisement and Extinguishment shall be made on the Court Rolls of the said Manors, and a Copy of such Entry, certified by the Steward or Deputy Steward of the said Manors, shall be admitted in all Cases as sufficient Evidence of such Enfranchisement and Extinguishment, and the Contract for the same, and of the Payment of the Consideration or Purchase Money when the same shall have been paid in Money; and when and so soon as such Allotments and Payments shall be respectively made as the Consideration for such Enfranchisements and Extinguishments as aforesaid, the Lands and Hereditaments which shall be so agreed to be enfranchised as aforesaid shall be held in Free and Common Soccage, freed and absolutely acquitted and discharged from all Customary Fines, Heriots, Rents, Fealty, Suit of Court, Amerciaments, Forfeitures, and other Customary Payments, Duties, Services, and Penalties whatsoever which by or according to the Custom of the respective Manors 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 Manors for or in respect of the same Hereditaments, as Copyholds of the same Manors respectively, if the same Hereditaments had not been so enfranchised; and the same Hereditaments shall (subject to any Charge or Mortgage which may be made under the Authority of the said recited Acts or of this Act) go, remain, and be to the same Uses, on the same Trusts, and subject to the same Powers and Limitations (as near as the Difference of the Tenure will admit) as would have been subsisting in such Hereditaments (as Copyhold) if the same had not been so enfranchised as aforesaid.

Incapacitated Persons may borrow Money for such Enfranchisements.

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

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

LXVIII. 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

Copyhold or Customary Lands shall in like Manner be deemed Copyhold or Customary Lands, and shall be held of the Lord of the same Manors, under the same Rents, and by the same Customs and Services as the Copyhold or Customary Lands in respect of which they may be allotted were or ought to have been held, and shall pass by the like Surrenders as the Copyhold or Customary Lands in respect whereof such Allotments 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.

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

LXIX. 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 authorized to be divided, allotted, and inclosed, or any Part thereof, to any 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 and 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 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 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.

LXX. And be it further enacted, That it shall be lawful for the respective Proprietors of Allotments to be made by virtue of this Act, being Tenants for Life or in Tail, or for any other Estate of Freehold or Inheritance, and also for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Proprietors being under Coverture, Infants, Lunatics, Idiots, or beyond the Seas, or otherwise incapacitated, and for the Trustees or Feoffees for charitable, parochial, and other Uses, or a competent Number of them, in respect of any Lands held by them in Trust for any charitable, parochial, or other Uses, from Time to Time to

charge their Allotments with any Money not exceeding Five Pounds for every Acre of such Lands, for or towards their respective Proportions of the Costs, Charges, and Expences of obtaining and carrying this Act into execution, and for securing the Repayment of such Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the said Allotments unto or in Trust for any Person who shall advance such Money for any Term or Number of Years, but so that every such Grant, Mortgage, Lease, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or reassigned, when the Money thereby to be secured, with all Interest thereon, shall have been fully paid and satisfied, and so that in every such Grant, Mortgage, Lease, or Demise which shall be made by or on behalf of any Person interested 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, and so as 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 in the Law for the Purposes thereby intended.

Mortgages may be assigned.

LXXI. 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 to be 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 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.

Direction for charging Copyhold Lands with Expences.

LXXII. 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 Surrender by way of Mortgage, and shall operate as a Surrender to the Use of the Mortgagee, and his Heirs or Assigns respectively, according to the Custom of such Manor, subject nevertheless to Redemption on Payment of the Principal Monies thereby respectively intended to be secured, with Interest thereon, as is herein provided in the Case of other Mortgagees, instead of being demised to such Mortgagee, and his Executors, Administrators, and Assigns, for

for a Term of Years, as mentioned and prescribed in and by the said first-recited Act.

Leases at Rack Rent to be void.

LXXIII. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall have been 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 authorized 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 the passing of this Act until such Lands shall be marked and staked out, and be directed to be entered upon as aforesaid, and also to order and direct what Proportion and Amount of the whole Rent reserved upon such Leases or Agreements respectively shall be paid by such Tenants from the Time of the passing of this Act to the 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.

LXXIV. 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 within the Parish of *Swavesey* aforesaid, but the Person entitled to such beneficial Lease shall and may hold and enjoy his Term under the same Rents and Covenants as are specified in his Lease from the same Corporation or Person.

Wills and Settlements not to be affected.

LXXV. Provided always, and be it further enacted, That nothing in this Act contained shall extend to annul, revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim

Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance, out of, upon, or affecting any of the Lands hereby authorized to be divided, allotted, and inclosed as aforesaid, or any of the Messuages, Lands, or Hereditaments which may be exchanged or parted with in pursuance of this Act, but that as well the Land allotted and exchanged as the Land which shall be assigned in partition or in compensation for any other Estate or Right by virtue or in pursuance of this Act shall, immediately after such Allotment, Exchange, Partition, or Assignment, be, remain, and enure, and the several Persons to whom the same shall be so allotted, assigned, or given in exchange or on partition as aforesaid shall be seised and possessed thereof respectively, to, for, and upon such and the same Estates, Uses, Trusts, Intents, and Purposes, and subject to such and the same Wills, Settlements, Limitations, 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 respectively had not been allotted, exchanged, parted with, or assigned as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

Application of Compensation Money when amounting to 200*l.*

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

1 G. 4. c. 35.

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 standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court shall authorize to be purchased, 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 aforesaid 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 of 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 or Interest and annual Produce of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, and settled.

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

LXXVII. And be it further enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Commissioners, to be signified in Writing under their respective 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 Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England* 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.

When under 20*l.*

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

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

Power for Commissioners to make Alteration in Allotments.

LXXIX. And be it further enacted, That it shall be lawful for the said Commissioners, at any Time before the Execution of their Award, to make any Alterations in the Allotments or in the Fences which they may have set out and ordered, or in the private Roads laid or to be laid over such Allotments, or in any of the Orders or Directions relating thereto which they may have made in pursuance of this Act, or 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 thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

Separate Allotments for Land by different Titles.

LXXX. 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.

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

LXXXI. And be it further enacted, That where, from the Want of necessary Information, or from any 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, Heriots, Customs, and Services to which the same are or shall be subject, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments as by this Act directed, 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 Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if 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, Heriots, 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 by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and

set out by their Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award; and such Instrument shall be enrolled and deposited with the Award of the 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.

Provision for Payment of Expences of Inclosure.

LXXXII. And be it further enacted, That the Costs, Charges, and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioners, Clerk, and Surveyor, for Expences, Time, and Trouble, and the Costs, Charges, and Expences of measuring, surveying, planning, valuing, dividing, and allotting any of the Lands by this Act authorized to be divided, allotted, and inclosed, and of preparing and enrolling the Award of the said Commissioners, and all Costs and Charges that the said Commissioners shall be put unto 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 as Commissioners in the Execution of this Act, either before or after the Execution of the said Award, and all other Charges and Expences whatsoever of carrying this Act into execution, (so far as the same relates to the Division, Allotment, and Inclosure hereby authorized to be made,) shall be borne and defrayed by the several Owners and Proprietors of and Persons interested in the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, (other than and except the said Impropriators and Vicar respectively in respect of the Allotments herein-before directed to be made to them for Rights of Common and Glebe Lands, and for the Benefit of the Poor, and other than and except the Surveyors of the Highways for the Time being in respect of the Allotments herein-before authorized to be made to them for Materials for the Repairs of Roads as aforesaid, and other than and except the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*, or the Governor, Bailiffs, and Conservators, and their respective Successors, in respect of their Portion of the said *Great Barrier Bank*, Foreland, and Holts planted thereon, or in respect of the Allotment hereby required to be made to the said Governor, Bailiffs, and Commonalty in lieu of their invariable Right of digging Earth, Clay, and Moor in and upon the said Open Common for the due Reparation and Maintenance at all Times of the said Portion of the said *Great Barrier Bank* for the Protection of the several Fen Lands which are thereby protected and defended from Inundation,) in such Shares and Proportions, and shall be paid at such Time and Place, and to such Persons, as the said Commissioners shall by Writing under their Hands, to be affixed upon some principal outer Door of the said Parish Church of *Swavesey* on some *Sunday* immediately before Divine Service, or delivered to the respective Persons liable to the Payment of such Costs, Charges, and Expences, at least Fourteen Days before the Time appointed for such 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

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 Charges and Expences as aforesaid within the Time 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 the said Commissioners, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause the same, with such Interest thereon as aforesaid, 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 Money shall be ordered to be paid, and also all the Costs, Charges, and Expences as aforesaid by or attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

Power for Commissioners to borrow Money.

LXXXIII. 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 find it necessary or expedient to obtain by Loan any Sum or Sums of Money for or towards defraying the Costs, Charges, and Expences aforesaid, 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.

Power to make additional Rate in case of Deficiency.

LXXXIV. 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 authorized to be divided, allotted, and inclosed, (other than and except the said Impropriators and Vicar and Poor respectively, and the Surveyors of the Highways for the Time being as aforesaid,) in such Shares and Proportions, 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

Proportion of any such Rate within the Time to be respectively appointed as aforesaid, or at any Time after, upon Demand, the same shall and may be levied and recovered in the Manner directed by this Act with respect to the present Rate.

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

LXXXV. And be it further enacted, That it shall be lawful for the said Commissioners, on Application made to them in Writing by any of the Proprietors of Allotments to be made by virtue of this Act, or by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any such Proprietors being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies respectively, or by any of the said Proprietors, being Tenants in Tail or for Life or Lives, or on any other Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, to sell any Part of any Allotment to be made by virtue of this Act to the Person by whom or on whose Behalf any such Application shall be made, for the Purpose of raising a Sum of Money sufficient to defray the proportionable Part of the Costs, Charges, and Expences of obtaining and carrying into execution this Act and the said recited Acts, and of fencing and inclosing and subdividing his Allotment, which shall in and by such Rates or Assessments as aforesaid be charged upon such Parties, and of the Costs, Charges, and Expences of making and completing such Sale; and such Sale shall be made by the said Commissioners in such and the same Manner, and subject to such and the same Rules and Regulations, as are mentioned and prescribed in and by the said first-recited Act in respect of the Sale of Lands towards defraying the Expences of obtaining and carrying into execution any Act for dividing, allotting, and inclosing any Lands and Grounds; and every such Allotment for which the full Purchase Money shall be paid shall be vested in the said Commissioners, and be conveyed by Lease and Release, executed by such Commissioners, to the Purchaser thereof, at the Expence of such Purchaser, unto and to the Use of or in Trust for such Purchaser and his Heirs, or as he shall appoint, and shall be inclosed, and held by such Purchaser in Severalty; and the Receipt of the said Commissioners shall be a good and sufficient Discharge to the Purchaser for the Purchase Money; and such Purchase Money shall be applied by the said Commissioners in or towards defraying such Costs, Charges, and Expences; and if any Surplus shall remain in the Hands of the said Commissioners such surplus Money shall be paid to the Parties from whose Allotments such Sale shall be so made respectively; and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of the other Proprietors of such surplus Money shall be applied and disposed of in manner by this Act directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon: Provided always, that nothing herein contained shall enable the said Commissioners to convey any Allotments set out by them as and for Copyhold of any of the said Manors respectively by Lease and Release as Freehold, but such Copyhold Allotments shall be conveyed by the said Commissioners by Indenture of Bargain and Sale, and shall be held by the Purchaser thereof by, under, and subject to the same Rents, Suits, and Services as such Allotments would have been held in case no such Sale had been made: Provided also, that

it shall not be lawful for any Proprietor of an Allotment to raise by any Sale and Mortgage or Charge as herein-before mentioned, or either of those Means, any greater Sum of Money for the Purposes aforesaid than such Proprietor might have borrowed or charged upon his Allotment for such Purposes, reckoning Five Pounds for each and every Acre thereof, under or by virtue of the said first-recited Act: Provided further, that in all Cases in which the Money so raised by such Sale shall not be equal to the Money which might be borrowed or charged on such Allotment as aforesaid it shall be lawful for the Proprietor, Part of whose Allotment shall be sold as aforesaid, to charge his Allotment with any Sum not exceeding the Difference.

Monies may be recovered after Execution of the Award.

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

Award to be deposited in the Hands of the Clerk of the Peace, and a Copy in the Parish Church.

LXXXVII. And be it further enacted, That, as soon as conveniently may be after the said Division or Allotment and Inclosure shall be completed, the said Commissioners shall and they are hereby required to form, draw up, and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday* by affixing such Proclamation on or near the outer Door of the Church of the said Parish of *Swavesey* previously to Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered as complete; and within Three Calendar Months after the said Commissioners shall have so made and executed the said Award they shall cause the same, together with a Map or Plan, as herein-after directed, to be made, to be delivered to the Clerk of the Peace for the said County of *Cambridge*, who is hereby required to deposit and keep the same among the Records of the said County, so that Recourse may be had thereto by any Person interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said first-recited Act; and a Copy of the said Award, fairly transcribed in a Book on plain or unstamped Paper or Parchment, with a proper Map or Plan, attested and signed by the said Commissioners, shall within the Time aforesaid be deposited in the Parish Church of *Swavesey* aforesaid, and there kept in a 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 County or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Reduced Plan, and a Schedule of

LXXXVIII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Two reduced Plans of the said Parish

old Inclosures, to be annexed to the Award.

Parish of *Swavesey* to be drawn upon Parchment or Vellum, on which the public and private Roads, Paths, and Drains, with the Boundary Fences of the several Allotments mentioned and described in the Award of the said Commissioners, and such other Matters and Things as the said Commissioners shall think proper to be described therein, shall be fairly and distinctly delineated, marked, and expressed; and the said Commissioners shall sign the said Plans, one of which shall be annexed to the said Award herein-before directed to be made, and the other shall be annexed to or shall go and be kept with the Copy of the said Award to be deposited in the Church of *Swavesey* aforesaid; and the said Commissioners shall and they are hereby required to make and annex to the said Award a Schedule describing and setting forth the Quantities of all and every the Homesteads, Gardens, Orchards, and ancient Inclosures in the Parish of *Swavesey* aforesaid; which said Plans or either of them shall from Time to Time and at all Times be admitted and allowed in all Courts whatsoever as legal Evidence of the Matters and Things therein contained.

Accounts to be audited.

LXXXIX. And be it further enacted, That the said Commissioners shall not at any Time permit any just Claim or Demand upon them as such Commissioners to remain unpaid for a longer Period than Three Calendar Months; and once at least in every Twelve Calendar Months during the Execution of this Act, the first of such Periods to be computed from the Day of the passing thereof, the said Commissioners shall and they are hereby required to make a true and accurate Account of all Sums of Money by them received and expended in the Execution of this Act; and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid and disbursed; and such Account, when so made, together with the Vouchers relating thereto, shall be by the said Commissioners laid before Two or more of Her Majesty's Justices of the Peace acting for the said County of *Cambridge*, not interested in the Premises, to be by them examined and balanced; and such Balance shall be by such Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the said Commissioners; and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be inserted in the *Cambridge Chronicle* or in some other Newspaper printed or usually circulated within the said County of *Cambridge;* and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by such Justices, nor until such Account thereof shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Power of Appeal.

XC. And be it further enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act (other than and except as to the Allotments, and except as to such Determinations as are by this Act directed to be binding and conclusive, and except in such Cases wherein an Issue at Law shall be tried as herein-before is mentioned,) he may appeal to the General or Quarter Sessions of the Peace which shall be held for the said County of *Cambridge* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party concerned Ten Days previous

Notice in Writing of such Appeal, and of the Matter thereof (except with respect to the Accounts of the said Commissioners, which, notwithstanding the same shall been examined and published as aforesaid, may be appealed against at any Time within Six Calendar Months after the Enrolment of the said Award in manner by this Act directed by the said Commissioners, 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 therein, 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, Distress, and Sale; and every Order and Determination of the said Justices upon every such Appeal shall be final and conclusive on all Parties concerned, and shall not be removed or removeable by Certiorari, or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster*, or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall and they are hereby required to award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner aforesaid.

Reservation of the Rights of the Bedford Level Corporation.

XCI. Provided always, 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, Power, 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 or in the Governors, Bailiffs, and Conservators of the *Bedford Level* Corporation, by virtue of an Act of Parliament made 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 Conservators, and every of them, as fully and amply, to all Intents and Purposes, as if this Act had not been passed, other than and except such as are expressly extinguished, barred, or compensated for, or intended to be, by this Act.

15 Charles 2. c. 17.

Saving the Rights of the Proprietors of the River Ouze Navigation.

XCII. Provided always, and be it further enacted, That the said Commissioners shall not be authorized or empowered by this Act to make, do, or execute, or cause to be made, done, or executed, any Work, Bank, Drain, Watercourse, Fence, or other Thing which shall occasion any Detriment, Prejudice, or Hindrance to the Navigation of the River *Ouze*, or to the Hauling-ways or Towing-paths upon or along the Banks of the said River within the said Parish of *Swavesey* belonging to the said Navigation, or the Proprietors thereof.

XCIII. Saving

General Saving.

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

Act to be printed by the Queen's Printers.

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

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