ANNO QUARTO

VICTORIÆ REGINÆ.

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Cap. 7.

An Act for inclosing Lands in the Manor of *Waningore* in the County of *Sussex*.

[18th *May* 1841.]

WHEREAS there are within the Manor of *Waningore* and in the Parish of *Chailey* in the County of *Sussex* certain Commons or Waste Lands, containing by Estimation Three hundred and twenty Acres or thereabouts: And whereas *James Henry Slater* Esquire is or claims to be Lord of the said Manor of *Waningore*, and as such is or claims to be Owner of the Soil of the said Commons or Waste Lands, and entitled to all Timber Trees and other Trees growing thereon, and to all Brick and Tile Earth, Quarries of Stone, Sand, Gravel, or other Materials, Mines and Minerals, within and under the same, except as to Twenty-eight Acres Three Roods and Five Perches, Part of the said Commons and Waste Lands, called *Chailey South Common*, the Soil whereof has been heretofore aliened by the Lords of the said Manor of *Waningore*: And whereas the Devisees under the Will of the late Reverend Sir *Henry Poole* Baronet are or claim to be entitled to the said Twenty-eight Acres Three Roods and Five Perches, subject to the Right of Commonage of other Persons thereon: And whereas the said *James Henry Slater* and the said Devisees, and the Right Honourable *James* Lord *Abinger*, *James Ingram* Esquire, and divers other Persons, in respect of certain Messuages, Lands,

and Tenements, are or claim to be entitled to Common of Pasturage and other Rights of Common in, upon, and over the said Commons and Waste Lands: And whereas the said Commons and Waste Lands in their present State afford very little Profit or Advantage to the Persons entitled to Right of Common thereon, but are capable of considerable Improvement, and the same would, if divided, allotted, and inclosed, be of great Advantage to the several Persons interested therein, but such Division, Allotment, and Inclosure cannot be made and effectually established without of the Aid of Parliament: And whereas an Act was passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required in the passing of such Acts:* And whereas another 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 Law respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third and in the Second Year of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall, from the passing of this Act, be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

41 G. 3. c. 109.

1 & 2 G. 4. c. 23.

Recited Acts to form Part of this Act.

Appointment of Commissioner.

II. And be it enacted, That *Thomas D'Oyly* Esquire, Sergeant at Law, and his Successors for the Time being, to be elected or appointed in manner herein-after mentioned, shall be the Commissioner for carrying this Act and the said recited Acts into execution; and it shall be lawful for the said Commissioner and he is hereby required to divide, allot, and inclose the said Commons and Waste Lands in the said Manor according to the Regulations and Provisions contained in the said recited Acts and this Act: Provided always, that no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the First Meeting of the Commissioner, and in receiving the Declaration herein-after directed,) until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act; and such Declaration shall be in lieu of the Oath or Affirmation required by the said Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds.

Commissioner to make a Declaration.

Penalty on Persons acting not so qualified.

III. And be it enacted, That if any Person, not having so qualified himself, shall act as a Commissioner, he shall for every such Offence forfeit the Sum of Fifty Pounds, with full Costs of Suit, to any Person

Person who shall sue for the same by Action of Debt or on the Case in any of Her Majesty's Courts of Record at *Westminster*.

Appointment of Commissioners on Vacancies.

IV. And be it enacted, That in case the said *Thomas D'Oyly*, or any succeeding Commissioner to be appointed as herein-after mentioned, shall happen to die, or decline or become incapable of acting for the Space of Two Calendar Months next after Notice in Writing shall have been given to him signed by any One or more of the Proprietors of Estates within the said Manor of *Waningore*, then the Chairman for the Time being of the Quarter Sessions of the Eastern Division of the County of *Sussex* shall, at the Request in Writing of any One or more of the Persons interested in the said Commons and Waste Lands who shall attend by themselves or their Agents at a Meeting to be held as soon as conveniently may be next after such Vacancy by such Death, Refusal, or Incapability shall occur, of which Meeting Notice in Writing, signed with the Name of One or more of such Proprietors, shall be affixed on the principal outer Door of the Parish Church of *Chailey*, and shall also be inserted in the "*Sussex Express*," or in some other public Newspaper circulating in the said County of *Sussex*, at least Ten Days before such Meeting, by Writing under the Hand of such Chairman, appoint from Time to Time some other fit Person to be a Commissioner in the Room of the Commissioner occasioning such Vacancy.

Appointment of Surveyor.

V. And be it enacted, That it shall be lawful for the Commissioner from Time to Time by Writing under his Hand to appoint a fit Person to be a Surveyor for the Purposes of this Act during the Pleasure of the Commissioner, and on every Vacancy in like Manner to appoint some other Surveyor as often as there shall be Occasion: Provided always, that no Person shall act as such Surveyor until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration it shall be lawful for any Commissioner for the Time being, or any Justice of the Peace for the said County, to administer and receive; and the said Declaration so made and subscribed shall be annexed to and deposited with the Award of the Commissioner.

Surveyor to make a Declaration.

Appointment of Clerk.

VI. And be it enacted, That it shall be lawful for the Commissioner to appoint a Clerk to assist him in carrying this Act into execution, and from Time to Time to remove such Clerk, and to appoint another in his Stead.

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

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

Allowances to Commissioner and Clerk.

VIII. And be it enacted, That the said Commissioner and the said Clerk shall be paid respectively out of the Inclosure Expences Fund for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act the Sum of Three Guineas

Guineas for the first Two Years after the passing of this Act, and Two Guineas *per* Day afterwards, and such Payment shall be in full Satisfaction to the Commissioner and Clerk respectively for their Time and Trouble and for the several Expences incurred by them during their several Journies and Attendances in the Execution of this Act, except the Expences of the Rooms in which the Meetings of the Commissioner shall be held, and the Expence of Appeals or other legal Proceedings against the Commissioner, and the Expence of Notices and Advertisements, and of preparing, proclaiming, and enrolling the Award, and such other like necessary Expences: Provided always, that it shall not be lawful for the Commissioner to retain or pay himself or the said Clerk any Money on account of the before-mentioned Allowances respectively beyond One Third of the Allowance to which they shall be respectively entitled until after the Expiration of Six 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 Commissioners shall be appealed against then not until such Appeal shall have been heard and decided.

Length of Day for estimating Allowances.

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

Meetings, and Notices thereof.

X. And be it enacted, That the Commissioner shall cause Notice to be given by Advertisement and on the Church Door of the Time and Place when and where the First and every subsequent Meeting shall be held Ten Days at least before such Meeting shall be held (Meetings by Adjournment only excepted), and he may from Time to Time adjourn any such Meetings; and if at the Time and Place appointed for any such Meeting the Commissioner shall not attend, it shall be lawful for the Clerk to adjourn such Meeting for not more than Twenty-one Days, to be held at the same Place, giving timely Notice thereof to the Commissioner: Provided always, that all Meetings of the Commissioner for executing this Act shall be held within the said Parish of *Chailey*, or within Eight Miles thereof; and in all Cases where by the said recited Acts or this Act the Objection or Approbation of the Proprietors to any Act, Matter, or Thing to be done or proposed to be done in pursuance of the said recited Acts or this Act is directed to be made or testified at any Meeting or Meetings, it shall be lawful for the said Proprietors to attend at such Meeting or Meetings by their respective Agents or Proxies authorized by Writing under their respective Hands, whose Acts or Votes shall be as effectual as if such Proprietors were present in Person.

XI. And

Notices how to be given.

XI. And be it enacted, That all Notices by this Act directed to be given by Advertisement shall be given by Advertisement to be inserted in some Newspaper or Newspapers printed or usually circulated in the said County, and all Notices directed to be given on the Church-Door shall be by Writing under the Hands of the Party giving such Notice, to be affixed on the principal outer Door of the Parish Church of *Chailey* aforesaid on *Sunday* before Divine Service; and all Notices necessary to be given by the Commissioner the Mode of giving which is not hereby particularly directed shall be by one of the Methods aforesaid; and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate, any thing in the said first-recited Act to the contrary notwithstanding.

What shall be a Refusal to act.

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

Persons summoned by the Commissioner, and refusing to give Evidence, punishable.

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

For regulating Distresses.

XIV. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, shall be directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same, and the surplus Monies arising from such Sale, after satisfying such

such Sum of Money, and the Costs and Expences attending the Distress and Sale, shall, on Demand, be rendered to the Party whose Goods and Chattels shall have been distrained.

Proceedings to be entered in a Book.

XV. And be it enacted, That all the Orders, Proceedings, and Determinations of the Commissioner at any Meeting to be held in pursuance of this Act shall be entered in a Book to be provided for that Purpose, and shall be signed by the Commissioner, and being so signed shall be deemed to be Originals; and all such Books shall be deposited with and kept by the Clerk to the Commissioner, and may be read as Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any thing done in relation to this Act.

Proprietors to pay their own Expences at Meetings.

XVI. Provided always, and be it enacted, That the several Persons interested in the said Inclosure, and their respective Agents, shall pay their own Expences whenever they shall attend any of the Meetings to be held in pursuance of this Act, or upon the said Commissioner or his Clerk, for the Purposes of the said Inclosure.

Accounts to be audited.

XVII. And be it enacted, That the Commissioner shall not at any Time permit any just Claim upon him as such Commissioner to remain unpaid for longer than Three Months, and shall once at least in every Twelve Months during the Execution of this Act, and until the Account of the Commissioner shall be finally allowed (the first of such Periods to be computed from the Day of the passing hereof), make out a true and accurate Account of all Sums of Money by him received and expended in the Execution of this Act, and of all Sums due to him for his own Trouble or Expences; and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid; and such Account, when so made out, together with the Vouchers relating thereto, shall be by the Commissioner laid before One or more of Her Majesty's Justices of the Peace acting for the said County, not interested in the Premises, to be by him or them examined and balanced; and the Balance of such Account shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the Commissioner; and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by such Justice or Justices, subject nevertheless to the Power of Appeal hereinafter contained.

Accounts to be published.

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

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

For shortening Boundaries.

XIX. And be it enacted, That for the Purpose of shortening or rendering straight any Boundary Fences between the Lands to be inclosed and the open Wastes or inclosed Lands adjoining thereto, in the same or any other Manor, it shall be lawful for the Commissioner (with the Consent of the Lord of any Manor in which the Lands are situate, and of the Owners of any such adjoining Lands, testified in Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate,) to set out and determine the Boundaries between the Lands to be inclosed and any adjoining Lands lying in the same or any adjoining Manor, as he shall judge proper for the Purposes aforesaid; and after such Boundaries shall have been so set out 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 Commissioner shall direct, and shall for ever thereafter be deemed the Boundaries between the allotted Lands and the open Waste or old inclosed Lands adjoining thereto (as the Case may be).

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

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

Power to stop up or divert Roads, &c.

XXI. And be it enacted, That in setting out the several public Carriage Roads, Highways, Bridle Roads, and Footpaths, in pursuance of this Act or of the first-recited Act, the Commissioner may, if he think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the Eastern Division of

of the County of *Sussex*, discontinue, stop up, divert, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footpaths passing through any of the Lands to be inclosed; and the Soil of such of the Roads and Ways so to be discontinued and stopped up as pass through allottable Lands shall be deemed Part of the Lands to be inclosed: Provided always, that nothing herein contained shall authorize the altering or diverting of any Turnpike Road unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first obtained.

Proceedings previously to stopping up and diverting Roads, &c.

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

Appeal to Quarter Sessions.

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

In case of Appeal, Jury at Sessions to determine.

XXIV. And be it enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether such public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be thereby injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath is

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

Expences of discontinuing or widening Roads.

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

Justices may declare any of the Carriage Roads completed.

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

Commissioner to appoint private Roads.

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

Commissioner empowered to

XXVIII. And be it enacted, That it shall be lawful for the Commissioner, at such Time as he shall think proper, and before the Execution of

suspend or extinguish Rights of Common.

of his Award, by Notice on the Church Door to order all or any Part of the Rights of Sheepwalk, Common, or other Rights in or over the Lands to be inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended during such Time as shall be expressed in such Notice, and from the Time mentioned in such Notice such Rights shall be extinguished or suspended accordingly.

Penalty for Violation of Commissioner's Order suspending or extinguishing Rights of Common.

XXIX. And be it enacted, That if during the Suspension or after the Extinguishment of any such Right of Common or other Rights as aforesaid any Person claiming a Right of Common shall exercise any Right of Common so suspended or extinguished without the previous Leave or Licence of the said Commissioner, or, having obtained such Licence, shall act in any Manner contrary thereto, or to the Rules, Orders, Regulations, and Restrictions therein contained, every such Person shall for every such Offence pay a Sum of Money not exceeding the Sum of Twenty Shillings; provided that nothing herein contained shall extend to prevent the Lord of the said Manor of *Waningore* for the Time being, or any Person duly authorized by him, from taking and carrying away, at any Time previously to the Execution of the Award, Brick and Tile Earth, Stone, Gravel, or Sand, from such Parts only of the said Commons or Waste Lands as the same have been usually taken from, unless the said Commissioner shall expressly prohibit the same by Notice in Writing under his Hand, left at the usual Place of Abode of the Lord of the said Manor for One Calendar Month previously to the Term therein fixed for such Prohibition to take effect.

Claims to be delivered to the Commissioner.

XXX. And be it enacted, That all Persons claiming any Interest in any of the Lands to be inclosed shall deliver their respective Claims, in Writing under their Hands or the Hands of their Agents, unto the Commissioner at the Meetings to be held for that Purpose, stating the several Particulars in respect whereof such Claims are made, and distinguishing Freehold, Copyhold, and Leasehold Property from each other, and no such Claim shall be received by the Commissioner after the last Meeting to be held for that Purpose of which due Notice shall have been given, and so expressed therein, except for some special Cause to be allowed by the Commissioner.

Adjudication upon Claims.

XXXI. And be it enacted, That after the said Claims shall be so received the Commissioner shall cause Notice on the Church Door and by Advertisement to be given of a Time, at least Ten Days distant, and a Place, for all Parties concerned to appear before him, and show Cause for or against the Allowance or Disallowance of the said Claims; and at such Meeting the Commissioner shall proceed to examine into and determine the same, and shall make such Order therein as to him shall appear just; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Differences shall happen between any of the said Proprietors touching their respective Rights or Claims, or touching the respective Shares which they ought to have in the Allotments, the Commissioner shall, by Examination of Witnesses upon Oath, which Oath the said Commissioner is hereby empowered to administer, and by such other Evidence as to him shall seem proper,

hear

hear and determine the same, and shall make such Order therein as to the Commissioner shall appear just, which Order shall be final, unless any Party shall be dissatisfied with the Determination of the Commissioner, and shall proceed to try his Rights by an Issue at Law as hereafter mentioned.

Commissioner not to determine Titles contrary to Possession.

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

Parties dissatisfied may try their Rights at Law.

XXXIII. Provided always, and be it enacted, That if any Party claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the said Commissioner touching any Claim, Right, or Interest in, over, or upon the Lands hereby authorized to be divided, allotted, and inclosed, or touching any Objection to any such Claim, it shall be lawful for such Party to bring an Action upon a feigned Issue against the Commissioner for the Time being, in Cases where such Determination shall involve a Question of Law only, or the Matter of such Determination shall be exclusively between the Party claiming or objecting and the Commissioner deciding on such Claim or Objection, and against the Party in whose Favour such Determination shall have been made in Cases where the Matter of such Determination shall be between Party and Party, within Three Calendar Months next after the Determination of the said Commissioner shall have been notified in Writing to the Party against whom such Determination shall have been made, or to his known Agent, and thereupon the Party so dissatisfied may proceed to Trial at Law at the then next Assizes or at the Assizes immediately following such next Assizes which may be held for the said County of *Sussex* after such Action shall have been commenced; and the Defendant in such Action is hereby required to name an Attorney, who shall appear thereto, and accept One or more Issue or Issues (such Issues to be settled by the proper Officers of the Court in which such Action shall be commenced in case the Parties shall differ about the same), whereby such Claims, and the Rights thereby insisted on or objected to, may be tried and determined; and the Verdict which shall be given in such Action shall be binding and conclusive upon all Parties thereto, and the Commissioner shall act in conformity thereto, and allow or disallow the said Claims as thereby determined, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial thereon, which it shall be lawful for the Court to do as in other Cases: Provided always, that it shall be lawful for the Parties in any such Action, by Consent, or by Order of any of the Judges of Her Majesty's Courts at *Westminster*, to state the Facts of the Case in the Form of a Special Case for the Opinion of the Court, and to agree

agree that Judgment shall be entered for the Plaintiff or Defendant by Confession or Nolle prosequi, and Judgment shall be entered accordingly: Provided also, that the Costs attending such Action shall abide the Event of such Trial or Decision; and that it shall be lawful for the said Commissioner, by and out of the Funds raised for paying the Expences of obtaining and carrying this Act into execution, to defray and discharge all such Costs and incidental Expences as the said Commissioner shall incur or be liable to pay in or about any such Actions, and also such Costs and Expences as the said Commissioner shall think fair and reasonable to allow to any Party or Parties against whom such Action shall be brought, in consequence of any Determination of the said Commissioner in the favour of such Party or Parties.

Deaths of Parties not to abate Proceedings.

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

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

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

XXXV. And be it enacted, That if any Person interested in the said Inclosure shall die before the same shall have been completed, the Powers and Authorities hereby vested in the Commissioner shall not be thereby determined or suspended, but they shall proceed in the Execution of such Powers and Authorities in such Manner as they might have done in case such Person had not died; and the Share of the Person so dying shall be allotted to such Person as by Law shall become entitled to the same, and shall be accepted and 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.

Actions not to impede Execution of the Act.

XXXVI. And be it enacted, That no Difference, Action, or Proceeding as aforesaid, nor any Difference touching the Title to any Lands

Lands in respect of which any Share or Interest may be claimed in the said Commons or Waste Lands, shall impede the Commissioner in the Execution of this Act, but the Inclosure by this Act authorized shall be proceeded in notwithstanding any such Difference, Action, or Proceeding, and the Allotments in respect of any disputed Property shall be taken and held by the Party or Parties who upon the Determination of such Difference by such Action or Proceeding shall become entitled thereto.

Commissioner to award Costs.

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

Leases at Rack-rent to be void.

XXXVIII. And be it enacted, That it shall be lawful for the said Commissioner, if he shall think fit, to determine any Lease or Agreement for any Term or from Year to Year, at Rack Rent now subsisting, so far as the same relate to the said Commons and Waste Lands, at such Time as the said Commissioner shall direct, and to determine what Satisfaction (if any) shall be made by any Lessors or Landlords to any such Lessees or Tenants for the Determination of their respective Interests therein, and when and by whom such Satisfaction shall be made; and upon Payment of the Sum which shall be adjudged as such Satisfaction as aforesaid such respective Interests shall accordingly cease and determine, but nothing herein contained shall be construed to authorize the said Commissioner to vacate any Lease or Leases for Lives; and in all Cases wherein the said Commissioner shall not determine any such Lease or Agreement, the Lessees shall hold and enjoy such Allotments as shall be made in lieu of their former Rights of Common during the Residue of their respective Holdings, paying therefor such further Rent to their Lessors as the said Commissioner shall think reasonable between Landlord and Tenant, and shall by Writing under his Hand direct such further Rent to be paid at such Times and to be recoverable by such Means as the Rent originally reserved.

Wills and Settlements not to be affected.

XXXIX. Provided also, and be it enacted, That nothing in this Act contained shall extend to revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower,

Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance, out of or affecting any of the Lands to be inclosed, or any of the Lands which may be exchanged or parted with, in pursuance of this Act, but that as well the Lands allotted and exchanged, as the Lands which shall be assigned in Partition or in Compensation for any other Estate or Right, by virtue of this Act, shall immediately after such Allotment, Exchange, or Partition be and enure, and the several Persons to whom the same shall be so allotted or given in Exchange or Partition as aforesaid shall be seised and possessed thereof respectively, to, for and upon the same Estates, Uses, Trusts, Intents, and Purposes, and subject to the same Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Partitions shall have been made would have stood limited for or been subject to in case the same respectively had not been allotted, exchanged, or parted with as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

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

XL. And be it enacted, That if at any Time before the Execution of the Award of the Commissioner any Person shall sell his Right or Interest in the Lands to be inclosed, or any Part thereof, to any Person, the Commissioner shall, upon any such Sale being made, make an Allotment of Land to the Purchaser, or to his Heirs or Assigns, in respect of the Right or Interest so sold; and every such Purchaser, or his Heirs or Assigns, shall, from the Execution of the said Award, hold and enjoy the Land so to be allotted to him in the same Manner as the Vendor might or ought to have done in case such Sale had not been made; and it shall be lawful for any Person who shall be entitled to any Allotment under this Act to devise, grant, surrender, mortgage, or otherwise convey and assure the same Allotment, or all or any Part of his Interest therein, at any Time before the Execution of the said Award; and every such Devise, Grant, Surrender, and other Assurance shall be of the same Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment to sell, dispose of, and convey the Estate in right of which he may be entitled to such Allotment separate from and retaining to himself such Allotment, Common Right, and Interest, and the Commissioner is hereby required to award such Allotment accordingly.

Encroachments.

XLI. And be it enacted, That all Encroachments and Inclosures which shall have been made by any Person from or upon any Part of the Soil, Commons, or Waste Lands, within Twenty Years next before the passing of this Act, unless authorized by Grant from the Lord of the said Manor of *Waningore*, with the Consent of the Homage, according to the Custom of the said Manor, shall be deemed Parcel of the Lands to be inclosed, and shall be divided, allotted, and inclosed accordingly.

Old Inclosures may be allotted, with Consent.

XLII. Provided always, and be it enacted, That it shall be lawful for the Commissioner, with the Consent in Writing and at the Request of any Proprietor of any Houses, Homesteads, Gardens, Orchards, or old inclosed Lands adjoining the said Commons or Waste Lands, whether

whether such Owner or Proprietor shall be a Corporation, Tenant in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Lives, with the Consent of the Lessor of any such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands, holden for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardian, Trustee, Feoffee for charitable or other Uses, Husband, Committee, or Attorney of or acting for any such Proprietor as aforesaid who shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself (such Consent to be respectively testified, in case of a Corporation, by Writing under their Common Seal, or by Writing under the Hand of the Agent of such Corporation, and in case of an Individual under his Hand), to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable, and Parcel of the Lands to be inclosed, and such Allowance shall be made to the Proprietors of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands, on account of the Situation or other beneficial Circumstances thereof, as the Commissioner shall adjudge to be just and reasonable, and he shall allot and award unto such Proprietors so much and such Part of the Land to be inclosed as he shall think reasonable and just.

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

XLIII. And be it enacted, That the Commissioner shall allot and award unto the Churchwardens and Overseers for the Time being of the said Parish of *Chailey*, in the most appropriate Situation, One Piece of Land not less than Seven Acres in the Whole as a Place of Exercise and Recreation of the neighbouring Population, and such Allotment shall be held by the Churchwardens and Overseers for the Time being of the said Parish for the Purposes aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Parish of *Chailey*, in such Proportions and Manner as shall be devised by the Award of the Commissioner.

Allotments for Sale to pay the Expences.

XLIV. And be it enacted, That the said Commissioner, as soon after the passing of this Act as conveniently may be, and from Time to Time as he shall see Occasion, before the Execution of his Award, shall allot and sell such Parts of the said Commons or Waste Lands as he shall deem proper and sufficient for the Purpose of raising Money for defraying the Expences of obtaining this Act, or in anywise attending the Execution thereof; and every Part of the said Commons and Waste Lands which shall be so sold by the Commissioner shall, upon Payment of the Purchase Money thereof to the said Commissioner, or to such Persons as he shall appoint, be conveyed by the Commissioner, by any Deed or Writing under his Hand and Seal, unto and to the Use of such Purchaser and his Heirs, or to such other Uses, Intents, and Purposes as the said Purchaser shall direct, subject to the Performance of the Directions of the said Commissioner relative to the making and repairing the Fences thereof.

Commissioner's Receipts

XLV. And be it enacted, That the Receipts of the Commissioner shall be a good and effectual Discharge to the Purchaser of such Parts of

to be good Discharges to Purchasers.

of the said Commons or Waste Lands as shall be sold as aforesaid, for his Purchase Money, and that such Purchaser shall not be liable to see to the Application thereof.

Situation of Lands to be sold.

XLVI. And be it enacted, That such Portions of the said Commons or Waste Lands as are situate on the Eastern Side of the present Turnpike Road from *Lewes* to *Chailey* shall be resorted to in the first instance, and in preference to any other Part of the said Commons and Waste Lands, for the Selection of appropriate Parcels of Lands for Sale for the Purpose of raising Money to defray such Expences as aforesaid, and such Parcels of Land shall be offered for Sale by public Auction in such Lots as in the Judgment of the said Commissioner shall be best calculated to invite Competition, but if not sold by Auction the same may be afterwards sold by private Contract at the best Prices that can be obtained for the same.

Allotments to the Devisees of Sir Henry Poole for Right of Soil.

XLVII. And be it enacted, That the Commissioner shall allot and award unto the said Devisees under the Will of Sir *Henry Poole* deceased, or unto such Persons as shall for the Time being be entitled to the Soil of the said Twenty-eight Acres Three Roods Five Perches, Part of the said Commons and Waste Lands, called *Chailey South Common*, so much and such Part of the Lands to be inclosed as in the Judgment of the Commissioner will produce a clear yearly Rental of Twenty-five Shillings, after paying all Expences of inclosing the same, and all Taxes and Assessments chargeable thereon, in lieu of their Right and Interest in the Soil of the said Twenty-eight Acres Three Roods Five Perches, Part of the said Commons and Waste Lands, exclusive of any other Allotments which may be made to such Persons in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Grounds.

Allotment to be set out for the Lord of the Manor for Right of Soil.

XLVIII. And be it enacted, That the Commissioner shall allot and award unto the Lord for the Time being of the said Manor of *Waningore*, or to such Person as shall be entitled to the Soil of the Commons and Waste Lands exclusively of the said Twenty-eight Acres Three Roods and Five Perches, Part of *Chailey South Common*, so much and such Part of the Lands to be inclosed as in the Judgment of the Commissioner will produce a clear Rental of Twenty-three Pounds and Fifteen Shillings, after paying all Expences of inclosing the same, and all Taxes and Assessments chargeable thereon, in lieu of his Right and Interest in the Soil of the said Commons and Waste Lands, exclusive of any other Allotments which may be made to such Lord in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Grounds.

Allotment of Residue.

XLIX. And be it enacted, That after the several Allotments hereinbefore directed shall have been set out and made, the Commissioner shall divide, allot, and award all the Remainder of the Lands to be inclosed unto and amongst the several Persons who shall be entitled to any Right of Common or Interest therein, in such Shares and Proportions as the Commissioner shall adjudge and determine to be proportionate to the Value of their respective Rights and Interests therein.

Tithes not to be affected.

L. Provided always, and be it enacted, That nothing in this Act contained shall in anywise affect the Right or Interest of any Tithe Owner to any Tithes, Rents-charge, or Payments in lieu of Tithes, out of or in respect of the said Commons or Waste Lands, but that such and no other Tithes, Rents-charge, and Payments shall be payable and paid at all Times thereafter in the same Manner as if this Act had not passed.

Trees to be paid for.

LI. And be it enacted, That the said Devisees under the Will of the said Sir *Henry Poole* deceased, or other the Owners of the Soil of the said Twenty-eight Acres Three Roods and Five Perches, Part of *Chailey South Common*, shall be entitled to the Value of the Timber and other Trees, Thorns, and Bushes upon the said Twenty-eight Acres Three Roods and Five Perches, and the said *James Henry Slater*, or other the Lord for the Time being of the said Manor of *Waningore*, shall be entitled to the Value of the Timber and other Trees, Thorns, and Bushes upon the Residue of the said Commons and Waste Lands.

Applications for Situations of Allotments.

LII. And be it enacted, That the Commissioner shall appoint a Meeting for receiving Applications from the several Proprietors of the Lands to be inclosed touching the Situations in which they would respectively choose to have their Allotments set out, and shall give Ten Days Notice of the Time and Place of such Meeting by Advertisement or on the Church Door.

For determining Objections to Allotments.

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

Surveys of inclosed Lands to be paid for by the Owners.

LIV. And be it enacted, That in case the said Commissioner shall deem it necessary to direct to be made any new Plans or Surveys of any inclosed Lands in respect whereof Claims shall be made for Allotments of the said Commons or Waste Lands, the Expences of such Plans and Surveys shall be paid by the Proprietors of the inclosed Lands of which such Plans or Surveys shall be made; and the said Commissioner shall cause the same to be levied by such Ways and Means as by the said first-recited Act are provided for levying the Expences of inclosing and fencing Allotments.

Allotments to be fenced.

LV. And be it enacted, That the several Allotments to be made in pursuance of this Act, except the Allotment for public Recreation, shall be inclosed, ditched, and fenced at the Expence of the respective Persons to whom the same shall be allotted, in such Manner and within such Times as the Commissioner shall by his Award or any Writing under his Hand direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the Commissioner shall by his Award direct: Provided nevertheless, that it shall be lawful for the Persons to whom any Allotments shall be made to suffer such Allotments to remain open and uninclosed, except in such Cases as the said Commissioner shall by his said Award direct to the contrary, but such Allotments shall be set out and distinguished by sufficient Metes and Bounds to identify the same.

Equalizing the Share of Fencing.

LVI. And be it enacted, That if from Situation or from any other Circumstance it shall happen that any of the Proprietors of the Lands to be inclosed, or any Person to whom any Allotments shall be made, shall not have a fair Proportion of the Boundary Hedges, Ditches, Mounds, or Fences assigned to him to make by virtue of this Act, it shall be lawful for the Commissioner to ascertain and appoint what Sum of Money shall be contributed by such Proprietor or Person towards making the Boundary Hedges, Ditches, Mounds, and Fences, and 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 Commissioner shall by any Writing under his Hand direct, and the same may be recovered by any of the Means which by the said first recited Act are 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 Commissioner shall be final.

No Sheep to be kept in the Inclosures.

LVII. And be it enacted, That no Sheep or Lambs shall be depastured or kept in any of the Allotments to be made by virtue of this Act, where Quick Fences shall be planted, during the Space of Seven Years next after the Execution of the said Award, unless the Person or Persons so keeping the same shall first at his or their own Expence make and maintain a Fence sufficient to guard the young Quick Fences to such Allotments from being cropped or damaged by such Sheep or Lambs.

Tenure of the Allotments.

LVIII. And be it enacted, That all and singular the Lands and other Premises which shall be allotted under or by virtue of this Act for or in respect of any Messuages, Lands, Tenements, or Hereditaments, of whatever Tenure or Title, shall immediately after such Allotment shall be made be held as Freehold, free from all Heriots, Fines, Rents, and Services, or other Claims and Demands by the Lord of the said Manor of *Waningore*, and shall for ever thereafter descend and be inherited, enjoyed, aliened, and disposed of as Freehold, notwithstanding the several Messuages, Lands, Tenements, or Hereditaments, for or in respect whereof such Allotments shall be made,

made, may be Copyhold of the said Manor of *Waningore*, the Compensation intended to be made to the Lord of the said Manor, for the Enfranchisement of all Copyhold Shares or Interests in the said Commons or Waste Lands, being included in the Allotment herein-before directed to be made to him.

Power for Commissioner to make Alterations in Allotments.

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

Separate Allotments for Land held by different Titles.

LX. And be it enacted, That when any Person to whom any Allotment shall be made by virtue of this Act shall hold the Lands in respect of which such Allotment shall be made under different Titles and for different Estates, the Commissioner shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall in his Award set out distinct and several Allotments for such respective Lands, and such Allotments shall go, remain, and be to the same or the like Uses, Trusts, Powers, and Limitations as the Lands in respect of which such Allotments shall be made.

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

LXI. And be it enacted, That where the Commissioner shall have omitted to distinguish in his Award the different Estates or Titles for or under which any of the said Lands shall be held, or to set out and award several and distinct Allotments, as by this Act directed, it shall be lawful for him, at any Time within Twelve Months after the Execution of his Award, and he is hereby required, upon Request in Writing to him made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if his Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish and set out the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as he is by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by his Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award; and such Instrument shall be enrolled and deposited with the Award of the Commissioner, and shall thenceforth be deemed to be Part thereof to all Intents and Purposes; and

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all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Party who shall have requested the Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

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

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

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

LXIII. And be it enacted, That if the Surplus of any such Monies shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, without Fee or Reward, and shall when so paid in there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Parties who would have been entitled to the Rents and Profits of the said Lands, be applied to either of the following Purposes; (that is to say,)

1 G. 4. c. 35.

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

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

LXIV. And

Payment of Dividends meanwhile.

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

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

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

When under 20*l.*

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

Provision for Payment of Expences of Inclosure to be borne rateably, if Money raised by Sale be insufficient.

LXVII. And be it enacted, That if the Monies produced by the Sales herein-before directed to be made shall not be sufficient to pay all the Expences of obtaining this Act, or in anywise attending the Execution thereof, the Deficiency shall be borne and defrayed by the several Persons interested in the Lands to be inclosed, except as herein-after excepted, in such Shares and Proportions, and shall be paid at such Time and Place, and to such Persons, as the Commissioner shall, by Notice on the Church Door, or delivered to the respective Persons liable to the Payment of such Costs and Expences, at least Fourteen

Fourteen Days before the Time appointed for such Payment, order; and the Commissioner shall from Time to Time make Estimates of all such Costs and Expences, and raise the Amount of such Estimates at such Time as he shall deem necessary or proper, either before or after the Execution of his Award.

Remedies in case of Non-Payment.

LXVIII. And be it enacted, That if any Person shall refuse or neglect to pay his Proportion of such Expences within the Time and to such Person as the Commissioner shall appoint, it shall be lawful for the Commissioner to recover the same, together with lawful Interest, to be computed from the Day on which the same ought to have been paid, and all Expences attending the Recovery thereof, either by Distress on the Allotment made to such Person, or by entering upon and demising the same by way of Mortgage, or by a Sale of the whole or any Part of such Allotment, in such Manner as is by this or the said recited Acts provided in respect of the Sale of Land for the Purpose of raising Expences.

Power for Commissioner to borrow Money.

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

Power to make additional Rate in case of Deficiency.

LXX. Provided always, and be it enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the Commissioner, either before or after the Execution of his Award, that the Money to arise by any Sales hereby directed to be made, or by any previous Rates, shall not be sufficient to defray the Expences aforesaid, 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 Lands to be inclosed (except as aforesaid), in such Shares and Proportions, within such Time, and to be paid to such Persons as the Commissioner shall from Time to Time direct; and in case any Persons herein-before made subject to the Payment of any Money towards such Expences shall neglect or refuse to pay his Share or Proportion of any such Rate within the Time appointed for that Purpose, or at any Time after such Demand, the same shall be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

Certain Allotments not to be liable to any Part of Expenses of Act.

LXXI. Provided also, and be it enacted, That the Allotments so to be made to the Owners of the Soil of the said Twenty-eight Acres Three Roods and Five Perches, Part of the said Commons and Waste Lands called *Chailey South Common*, in respect of such Ownership, and to the Lord of the said Manor of *Waningore* in respect of his Ownership of the Soil of the Residue of the said Commons and Waste Lands, and the said public Allotment

ment for the Purpose of Exercise and Recreation, and the Allotment sold by the Commissioner, shall not be deemed Allotments in respect of which any Liabilities to any Share of the Costs and Charges of obtaining this Act, or of carrying the same into execution, shall be incurred by the Parties entitled to such Allotments.

Monies may be recovered after Execution of Award.

LXXII. Provided always, and be it enacted and declared, 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 ordered to be paid by virtue of this Act, it shall be lawful for the Commissioner and he is hereby required to levy and raise the same in like Manner as he might have done before the Execution of his Award.

Application of Purchase Monies.

LXXIII. And be it enacted, That the Receipt of the Commissioner shall be a sufficient Discharge to the Purchaser for the said Purchase Money, and such Purchase Money shall be applied by the Commissioner in or towards defraying the Costs and Expences for raising which such Sale shall have been made; and the Surplus, if any, shall be paid to the Parties from whose Allotments such Sale shall have been 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 Proprjetors 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.

Application of surplus Money arising from the Sale of Lands.

LXXIV. And be it enacted, That in case any surplus Money shall remain after such Costs, Charges, and Expences as aforesaid shall have been fully paid and satisfied, such surplus Money shall be divided and apportioned among the several Persons interested in the said Commons and Waste Lands according to their several and respective Rights and Interests therein; and such proportional Parts and Shares of such surplus Money shall be paid to those Proprietors who are Tenants in Fee Simple or Customary Tenants entitled to an absolute Estate of Inheritance of the Estates in right of which they shall be entitled to such surplus Money; but the Share of such surplus Money to which any Proprietors not being Tenants in Fee Simple or Customary Tenants entitled to an absolute Estate of Inheritance may be entitled shall be applied and disposed of in the same Manner as any Money to be paid for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase or Exchange of other Lands, Tenements, or Hereditaments to be settled to the same Uses, is by the said first-recited Act directed to be applied and disposed of: Provided nevertheless, that if the aggregate Amount of such surplus Money shall not exceed the Sum of Twenty Pounds, it shall be lawful for the said Commissioner, at his Discretion, to apply and dispose of the same in support of any National School established in the said Parish of *Chailey* for the Education of the Poor upon the National System,

according

according to the Principles of the Church of *England*, or in aid of the Church Rate of the said Parish.

Award to be deposited in the Hands of the Clerk of the Peace.

LXXV. And be it enacted, That as soon as conveniently may be after the said Inclosure shall be completed the Commissioner shall draw up and execute an Award, and the Execution of the said Award shall be published upon the next or some subsequent *Sunday*, by affixing a Publication on or near the outer Door of the Church of the said Parish previously to Divine Service, from the Time of which Publication only, and not before, such Award shall be considered as complete; and within Three Calendar Months after the Commissioner shall have so made and executed the said Award he shall cause the same, together with the reduced Plan herein-after directed to be made annexed thereto, to be delivered to the Clerk of the Peace of the said County, 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 the Delivery thereof to the said Clerk of the Peace be deemed to be enrolled according to the Directions and within the Meaning of the said first-recited Act.

Copy of the Award to be deposited in the Parish Church.

LXXVI. And be it enacted, That a Copy of the said Award, fairly transcribed in a Book, on plain or unstamped Paper or Parchment, with a reduced Plan herein-after directed to be made, shall within the Time aforesaid be deposited in the Parish Church of *Chailey* aforesaid, and there kept in a Box to be provided for that Purpose by the Commissioner; and the said Award, and the said Copy thereof, and any other Copy of the said Award or of 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 thereafter be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

A reduced Plan to be annexed to the Award.

LXXVII. And be it enacted, That the Commissioner shall cause Two reduced Plans of the said Commons and Waste Lands hereby directed to be inclosed to be drawn upon Parchment or Vellum, on which the public and private Roads, Paths, and Drains, with the Boundary Fences of the several Allotments mentioned and described in the said Award, and such other Matters and Things as the Commissioner shall think fit, shall be fairly and distinctly delineated and expressed; and the Commissioner shall sign the said Plans, one of which shall be annexed to the said Award, and the other to the Copy thereof, and shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Power of Appeal.

LXXVIII. And be it enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act, except as to the Allotments, and except as to such other Determinations as are by this Act directed to be final, and except such Cases wherein an Issue at Law shall be tried as herein-before is mentioned, he may appeal to the

the General or Quarter Sessions of the Peace, which shall be held for the Eastern Division of the said County within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Commissioner and to the Party concerned Ten Days previous Notice in Writing of such Appeal and of the Matter thereof; 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 in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, they shall award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner aforesaid, and the Costs and Damages which shall be so awarded shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

Order on Appeal to be final.

LXXIX. And be it enacted, That every Order and Determination of the said Justices upon every such Appeal shall be final, and shall not be removed or removeable by Certiorari, or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere.

Saving Manorial Rights.

LXXX. Provided always, and be it enacted, That nothing in this Act contained shall be construed to defeat or prejudice the Right or Interest of the Lord of the Manor of *Waningore* aforesaid to the Seigniories, Customs, or Services incident or belonging to the said Manor (except such Rights and Royalties for which Compensation is directed to be made by this Act to the Lord of the said Manor, and are hereby declared to be extinguished).

General Saving.

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

Interpretation Clause.

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

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

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

The Word "Month" shall mean Calendar Month:

The Word "Lands" shall include Tenements and Hereditaments:

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

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

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

Act as printed by the Queen's Printers to be given in Evidence.

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

SCHEDULE referred to in the foregoing Act.

Form of Declaration by Commissioner, Umpire, or Surveyor.

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

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1841.