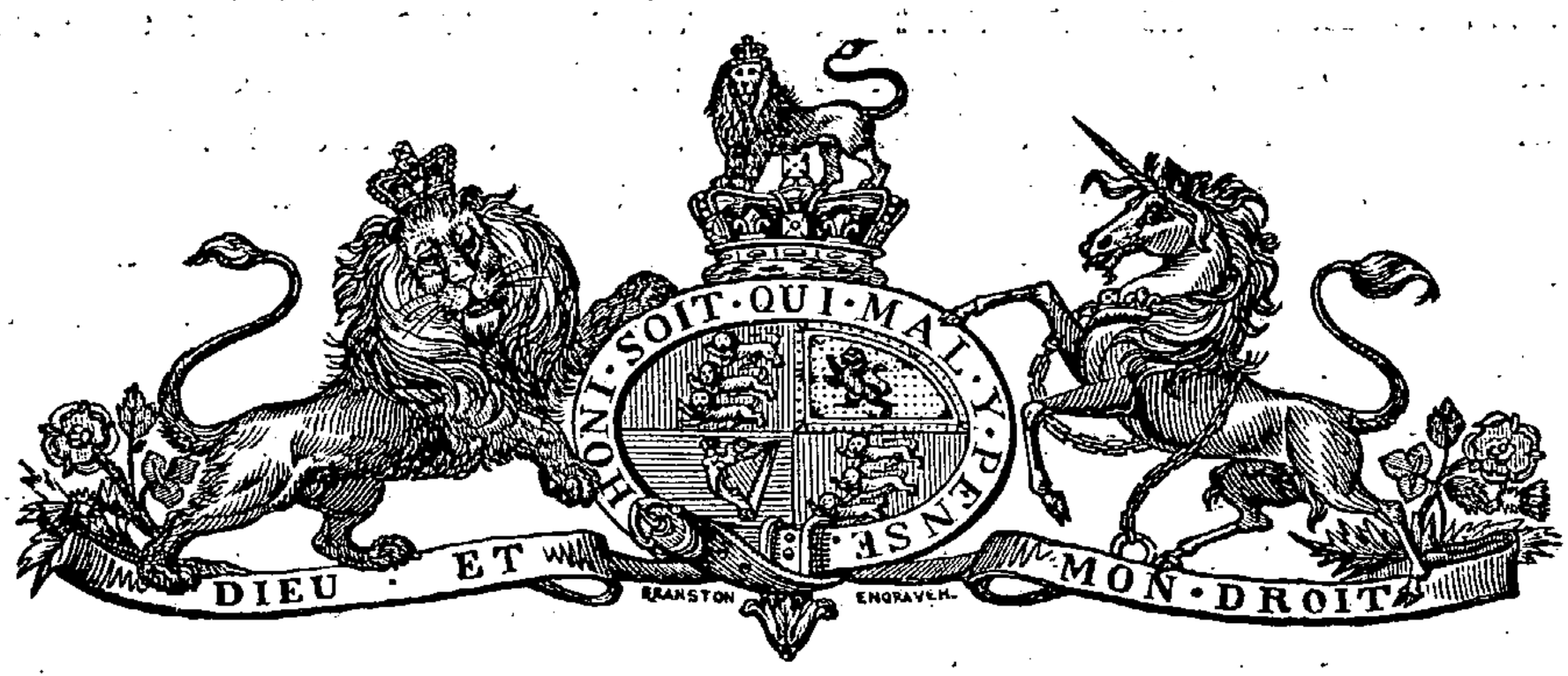



ANNO PRIMO

# VICTORIÆ REGINÆ.

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*and Waste Lands in* England: And whereas it would be of great Advantage to the Persons entitled to or interested in the said Open Fields, Commonable, Meadow, and Lammas Lands, and Waste Lands and Grounds, if the same were divided and allotted unto and amongst them according to their respective Rights and Interests therein, and inclosed and held in Severalty; but as the several Purposes aforesaid cannot be effected without the Authority of Parliament, May it therefore please Your Majesty that it may be enacted; and be it enacted by the 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 *John Josselyn* of *Sproughton* in the County of *Suffolk*, Gentleman, and his Successor, to be appointed in manner herein-after mentioned, shall be and he is hereby appointed sole Commissioner for dividing, allotting, and inclosing the said Open Fields, Commonable, Meadow, and Lammas Lands, and Waste Lands and Grounds, and for carrying this Act and the said recited Acts into execution, as far as relates to the Purposes of this Act.

Appointment of Commissioner.

Commissioner to make a Declaration.

II. And be it further enacted, That neither the said *John Josselyn* nor any other Person shall be capable of acting as a Commissioner in the Execution of this Act, except to make an Appointment for and to give Notice of his first Attendance to execute the same, until he shall have made and subscribed the Declaration following; (that is to say,)

Form of Declaration.

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

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

Appointment of new Commissioner.

III. And be it further enacted, That in case the said *John Josselyn* or any Person hereafter to be appointed in his Stead shall, before the finishing of the said Division, Allotment, or Inclosure, die, or neglect, refuse, or become incapable to act as a Commissioner in the Execution of this Act, then and in every such Case it shall be lawful for any Two or more of the Proprietors of or Persons interested in the Lands and Grounds by this Act authorized to be divided, allotted, and inclosed, by Advertisement in some Newspaper printed or usually circulated within the County of *Cambridge*, and by Writing under their Hands to be affixed on the principal outer Door of the Parish Church of *Witcham* aforesaid upon a *Sunday* before Divine Service, to give Notice of a Meeting to be held within the Parish of *Witcham* aforesaid, or within Eight Miles thereof, at least

least Fourteen Days before such Meeting, for the Purpose of appointing some Person to be a Commissioner in the Room of the said *John Josselyn*, or of such Person hereafter appointed in his Stead, as the Case may be; at which Meeting it shall be lawful for the Majority in Value, to be ascertained by the Land Tax Assessment, of the Proprietors or Persons interested in the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, or the known Agents or Attornies of any of them who shall be present at such Meeting, by Writing under their Hands, to nominate and appoint some proper Person (not interested in the said Division, Allotment, and Inclosure) to be a Commissioner in the Room and Stead of the said *John Josselyn*, or of such Person appointed in his Stead, so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and every new Commissioner so nominated and appointed shall, from and immediately after his Appointment and making the Declaration prescribed in that Behalf, have such and the like Powers and Authorities for carrying this Act and the said recited Acts into execution to all Intents and Purposes as if he had been named and appointed a Commissioner in and by this Act.

What shall be a Refusal to act.

IV. And be it further enacted, That if any Commissioner shall neglect to qualify himself by making the Declaration in that Behalf prescribed, or, not being prevented by Sickness or other reasonable Cause, shall at any Time after having qualified himself as aforesaid absent himself on Two successive Occasions from any Place appointed by him for an Attendance as a Commissioner for the Purposes of this Act, every such Absence or Nonattendance shall be deemed and taken to be a Refusal to act.

Appointment of Surveyor.

V. And be it further enacted, That it shall be lawful for any Commissioner for executing this Act to appoint a Surveyor for the Purposes of this Act and of the said recited Acts, and from Time to Time to make a new Appointment as often as the said Office shall be vacant by reason of the Death, Refusal, Neglect, or Incapacity to act of any Surveyor; but no such Commissioner shall be employed to act as Surveyor in the Execution of this Act or the said recited Acts during the Time he shall so act as Commissioner.

Allowance to Surveyor.

VI. And be it further enacted, That it shall be lawful for any such Commissioner to allow the Surveyor for the Time being acting under this Act, for his Time and Trouble, any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the said Lands, and also any Sum not exceeding Two Pounds for each and every Day he shall be actually and wholly 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 the Time, Trouble, and all the travelling and other Expences of such Surveyor in and about the Execution of this Act and the said recited Acts.

Surveyor to make a Declaration.

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

Form of Declaration.

'I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Duties, Authorities, and Trusts reposed

'in

'in me as Surveyor by virtue of an Act passed in the First Year of the 'Reign of Her Majesty Queen *Victoria*, intituled [*here set forth the Title 'to this Act*], according to Equity and good Conscience, and without Partiality, Favour, Affection, Prejudice, or Malice to any Person or Persons 'whomsoever.'

Which Declaration the Commissioner for the Time being, or any Justice of the Peace for the *Isle of Ely*, is hereby empowered and required to administer or receive; and the said Declaration, so made and subscribed by any such Surveyor, shall be annexed to and enrolled with the Award of any Commissioner under this Act.

Penalty on making a false Declaration.

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

Appointment of Clerk.

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

Allowance to Commissioner and Clerk.

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

For regulating the Duration of Meetings.

XI. And for regulating the Duration of all Meetings or Attendances for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the

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

Proprietors to pay their own Expences at Meetings.

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

Proceedings to be entered in a Book.

XIII. And be it further enacted, That all the Orders, Proceedings, and Determinations of any Commissioner at any Meeting or Attendance under this Act shall be entered in a Book to be provided for that Purpose, and shall be signed by the said Commissioner, 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 Commissioner, and shall and may be read in Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any Matter or Thing done in pursuance of or in relation to this Act.

Notices of Meetings to be given.

XIV. And be it further enacted, That any Commissioner appointed by or under the Powers of this Act shall cause Notice to be given in some Newspaper circulated in the said County of *Cambridge*, and also a Notice to be affixed upon the principal outer Door of the Parish Church of *Witcham* aforesaid on some *Sunday* before Divine Service, of the Time and Place of his first and every subsequent Meeting or Attendance for executing the Powers hereby and by the said recited Acts vested in him,

him, at least Seven Days before every such Meeting or Attendance shall be held (Meetings by Adjournment only excepted); and any such Commissioner may adjourn such Meetings from Time to Time as he shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings of any Commissioner for executing this Act shall be held at some convenient Place in the said Parish of *Witcham*, or within Eight Miles therefrom.

How other Notices are to be given.

XV. Provided always, and be it further enacted, That all other Notices necessary to be given by any such Commissioner (the Mode of giving which is not hereby particularly directed) shall be given by Advertisement to be inserted in some Newspaper circulated in the said County of *Cambridge*, and also by affixing such Notice on the principal outer Door of the Parish Church of *Witcham* aforesaid.

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

XVI. And be it further enacted, That it shall be lawful for any Commissioner under this Act to make use of, for the Purposes of the said Division, Allotment, and Inclosure, any Surveys, Maps, or Plans of the said Lands and Grounds or any of them, provided such Surveys, Maps, or Plans be properly authenticated to the Satisfaction of the said Commissioner.

Commissioner to settle Disputes.

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

Power to award Costs.

XVIII. And be it further enacted, That in case any such Commissioner shall upon the hearing or determining of any Claim or Claims, Objection or Objections to be delivered to him in pursuance of the said first-recited Act or of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made by the Party or Parties whose Claim or Claims, Objection or Objections shall be thereby disallowed or overruled; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs or Charges, shall refuse or neglect to pay the

same on Demand, then it shall be lawful for the said Commissioner and he is hereby authorized and required, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and if there shall not be any Goods or Chattels whereon to levy the same, or in case the Party ordered to pay such Costs be a Body Politic, Corporate, or Collegiate, then and in either of the said Cases it shall be lawful for the Party or Parties in whose Favour such Costs shall be awarded to recover the same by Action or Actions of Debt or on the Case, in which Action or Actions it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Allowing Parties to try their Rights at Law.

XIX. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said Division and Allotment, shall be dissatisfied with any Determination of any Commissioner for executing this Act touching or concerning any Claim or Claims of Right of Common or other Rights and Interests in, over, or upon or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part or Parts thereof, or touching or concerning any Matter or Thing whatsoever relating to the Division, Allotment, or Inclosure by this Act directed, except where the Determination of any Commissioner is hereby declared to be final, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with any such Determination, to cause an Action to be brought in One of Her Majesty's Courts of Record at *Westminster*, upon a feigned Issue, against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioner shall have been notified in Writing to the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, against whom such Determination shall have been made, or to his, her, or their known Agent or Attorney; and the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied as aforesaid, shall proceed to a Trial at Law of the Matter so determined by the said Commissioner at the next or the second Assizes to be holden for the said County of *Cambridge* after such Action or Actions shall have been so commenced; and the Defendant or Defendants in such Action or Actions shall name, and he, she, and they is and are hereby required to name, an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, Objection or Objections, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall

shall be final, binding, and conclusive upon all and every Persons and Person, Bodies and Body Politic, Corporate, and Collegiate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioner, and any other Commissioner for executing this Act, shall act in conformity thereto, and allow or disallow the Claim or Claims, Right or Rights, Interest or Interests, thereby determined, according to the Event of such Trial or Trials: Provided always, that if no such Action at Law as aforesaid shall be commenced within the Time herein-before limited, or if any such Action shall be commenced and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time and in manner herein-before mentioned, the Determination of the said Commissioner shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

Deaths of Parties not to abate Actions.

XX. Provided also, and be it further enacted, That if any Person being Plaintiff or Defendant in any Action to be brought as aforesaid shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened; and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Person who might have brought such Action to bring the same within the Time so limited as aforesaid against such Person as if actually living, and to serve any Commissioner for executing this Act for the Time being, or his Clerk, with Process for commencing such Action in the same Manner as the Party or Parties so dead might have been served therewith if living; and the said Clerk shall serve the Heir or other Person forthwith, or as soon as he may be ascertained or known; and on such Service being made by the said Clerk it shall be incumbent on the Heir or Devisee, or personal Representative of the Person so dead, 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 or Persons so dead; and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of every such Action.

Suits between Parties not to delay the Execution of this Act.

XXI. Provided always, and be it further enacted, That if any Action or Suit shall be commenced or prosecuted touching or concerning the Right, Title, or Interest of any Person or Persons, or Party or Parties, in or to any Lands, Tenements, or Hereditaments whatsoever for or in respect of which any Right or Interest in, over, or upon the said Lands hereby directed to be divided and allotted, or any Part thereof, shall be claimed, such Action or Suit shall not impede, delay, or hinder any Commissioner from proceeding in the Execution of the Powers vested in him by this Act or the said recited Acts, but the said Division and Allotment shall be proceeded in notwithstanding such Suit or Suits; and such Commissioner shall award the Allotment or Allotments in respect of the Hereditaments to which such Action or Suit shall relate to the Person

Person or Persons or Party or Parties who shall be in the actual Possession or Enjoyment of such Hereditaments, and the same Allotment or Allotments shall follow the Event of any such Action or Suit, and may be had and taken by the Person or Persons or Party or Parties who, upon the Determination of such Action or Suit, shall become entitled to the same.

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

XXII. And be it further enacted, That if any of the Parties interested in the said Division and Allotment shall die before the same shall be completed the Powers and Authorities hereby given shall not be thereby determined or suspended, but every Commissioner for executing this Act shall proceed in the Execution of the Powers given to him by this Act and the said recited Acts in such Manner as he might have done in case such Party or Parties were still living; and the Share or Shares of the Person or Persons so dead shall be allotted to the Person or Persons who shall by Law become entitled to the same, and shall be accepted and taken by him, her, or them, according to the Directions of this Act and the said recited Acts, and he, she, or they shall be liable to the Charges and Expences and the several Provisions of this Act and of the said recited Acts.

Extinguishment of Commonable Rights.

XXIII. And be it further enacted, That it shall be lawful for any Commissioner for executing this Act, at any Time after the Meeting herein directed to be held by him for giving Information of and hearing Objections to Allotments, by Notice for that Purpose under his Hand to be affixed on one of the principal Doors of the Parish Church of *Witcham* aforesaid, to order any Rights of Common, Rights of Sheep Walk, or other Commonable Rights in, upon, and over the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to be extinguished; and after the Time or respective Times mentioned and fixed in any such Notice all such Rights of Common, Rights of Sheep Walk, and other Commonable Rights as shall be thereby directed to be extinguished, shall cease and be extinguished accordingly, any Law, Usage, or Custom to the contrary thereof notwithstanding.

Power to shorten Boundary Fences.

XXIV. And be it further enacted, That for the Purpose of shortening or rendering straight the Boundary Fences between the Lands and Grounds by this Act directed to be divided and allotted and the old inclosed Lands in the said Parish of *Witcham*, or between the said allotable Lands and Grounds, or the said old inclosed Lands, or any of them, and the Lands and Grounds in any adjoining Manor, it shall be lawful for any Commissioner for executing this Act, with the Consent of the Lord of any Manor in which the Lands are respectively situate, and the Owners of the Lands adjoining to such Boundary Fences, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate, to alter and straighten or shorten the same Boundary Fences, or any of them, or any Part or Parts thereof, and to set out, ascertain, and determine such Boundaries, in such Manner as the said Commissioner shall think proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, and determined, the same shall be made, fenced, ditched, or mounded by such Person or

Persons in such Manner and at such Time or Times as the said Commissioner shall order and direct; and such Boundaries shall for ever thereafter be deemed and taken to be the Boundaries between the said allotted and old inclosed Lands respectively, or (as the Case may be) between the said allotted and old inclosed Lands and any adjoining Manor, any Law, Usage, or Custom to the contrary notwithstanding: Provided always, that nothing in this Act contained shall authorize or empower the said Commissioner to set out, ascertain, or determine the Boundary or Boundaries between the Parish of *Witcham*, or between any Lands or Grounds in the said Parish, and any adjoining Extra-parochial Place, or any adjoining Lands or Grounds claimed to be extra-parochial, without the previous Licence and Consent of Two of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings for the Time being signified in Writing under their Hands and Seals.

**Commissioner to set out Ponds, &c. and to enlarge and turn Watercourses.**

XXV. And be it further enacted, That it shall be lawful for any Commissioner for executing this Act to set out, appoint, and make any Common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges in, through, over, and upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and also to enlarge, widen, alter, turn, scour, and cleanse all or any of the present Drains, Ditches, Streams, or Watercourses, as well in, through, and over the said Lands and Grounds as in, through, and over any ancient Inclosures or other Lands and Grounds within the said Parish of *Witcham*, other than any Banks or Forelands maintained for Purposes of Drainage, in such Manner as to him the said Commissioner shall seem proper and necessary, making such Satisfaction to the Proprietors of such ancient Inclosures or other Lands or Grounds for the Damage done thereby as the said Commissioner shall think fair and reasonable; and the Costs and Expences of making, enlarging, widening, altering, turning, scouring, and cleansing of such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, shall be raised and levied by the said Commissioner 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, scoured, and maintained by such Person or Persons, Body or Bodies Politic, Corporate, or Collegate, and in such Manner, as the said Commissioner shall, in and by his said Award, order and direct; provided that no Stream or Watercourse through any Lands or Grounds already inclosed shall be diverted or turned without the Consent in Writing of the Person or Persons from whose Lands the same may be diverted, and of the Person or Persons into whose Lands the same may be turned, or to the Prejudice of any Person or Persons entitled to or interested in such Stream or Watercourse, except with their Consent in Writing.

**Power to stop up or divert Roads.**

XXVI. And be it further enacted, That in setting out and appointing any public Carriage Roads, Highways, Bridle Roads, and Footways in pursuance of this Act, or either of the said recited Acts, every Commissioner for executing this Act is hereby authorized and empowered, with the

the Consent and with the Order in Writing of any Two Justices of the Peace of the *Isle of Ely* or County of *Cambridge*, if he shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter any of the public Carriage Roads, Highways, Bridle Roads, or Footways 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 *Witcham;* and the Soil of the Roads and Ways so to be discontinued and stopped up shall, in all Cases where such Roads and Ways pass through or over any allottable Lands or Grounds, 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 *Witcham*, unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first had and obtained.

Proceedings previously to stopping up or diverting Highways.

XXVII. Provided always, and be it further enacted, That before any Order shall be made by such Two Justices as aforesaid, or any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, diverted, stopped up, or altered by the said Commissioner, he 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; and the said Commissioner shall also cause the same Notice to be inserted in some 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 Door of the Church of the said Parish of *Witcham* on Four successive *Sundays;* 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, 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 *Isle of Ely* 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.

XXVIII. 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 making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the said Commissioner or his 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.

XXIX. And

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

XXIX. 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 Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioner, 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 to 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 Commissioner, and shall be raised by him in such and the same Manner as he is hereby directed or empowered to raise the Money for discharging the Costs, Charges, and Expences of this Act.

Expences of discontinuing or altering Roads provided for.

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

Justices may certify Roads in part.

XXXI. And be it further enacted, That when and so soon as any Two or more of Her Majesty's Justices of the Peace for the said *Isle of Ely*, at any Special Sessions of the Peace, shall certify under their Hands and Seals that any public Carriage Road set out or made under the Authority of this Act, or either of the said recited Acts, has been fully and sufficiently formed and completed, such Road or Roads, or so much thereof as shall in any such Certificate be described or certified, shall thenceforth be supported and kept in repair by such Persons and in like Manner as

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

Commissioner to appoint private Roads.

XXXII. And be it further enacted, That the said Commissioner for the Time being shall and he is hereby empowered and required to set out and appoint such private Roads, Bridleways, and Footways through and over the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as he 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 Commissioner may think fit to incur or direct to be incurred prior to the Time of making his Award relative to the setting out or the Formation or Completion of such private Roads, Bridleways, and Footways, or any of them, shall be raised in like Manner as the Charges and Expences of obtaining and passing this Act and carrying the same into execution; and the said private Roads, Bridleways, and Footways shall thereafter be made, supported, and kept in repair by and at the Expence of the Owners and Proprietors for the Time being of any of the Lands and Grounds within the said Parish of *Witcham* in such Shares and Proportions and in such Manner as the said Commissioner shall in and by his 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 Commissioner shall by his said Award so direct.

To allot the Herbage of private Roads.

XXXIII. And be it further enacted, That the said Commissioner shall in and by his Award order and appoint the Grass and Herbage growing and renewing upon all and every the private Roads to be set out by him 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 Commissioner shall in his Judgment think best entitled to the same.

Encroachments within Twenty Years to be considered as allotable Land.

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

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

XXXV. Provided always, and be it further enacted, That the Lands comprised in any Encroachment which shall have been made within Twenty Years last past, and on which any Improvements shall have been made, shall (without regard to the Value of the Improvements since made thereon) be allotted to the Person in Possession thereof, so far as he shall be entitled to any Allotment of sufficient Value by virtue of this Act; and in that Case the Value of such Encroachment shall, as Circumstances require

require, be deducted from or deemed a Compensation for the Allotments to which such Person shall be entitled under this Act; but if the Person in Possession of such Encroachment shall not be entitled to any Allotment by virtue of this Act, or shall not be entitled to any Allotment equivalent to the Value of such Encroachment, then and in either of those Cases the whole or the surplus Quantities (as the Case may be) of such Encroachment shall be sold by the said Commissioner for such Sum of Money as he shall think proper to the Person in Possession thereof, or, in case of his Refusal or Inability to purchase within One Calendar Month after Offer thereof made to him, then to any other Person, and shall be conveyed by him the said Commissioner in Fee Simple to the Purchaser thereof; and the Money arising by such Sale shall be applied towards defraying the Expences of this Act: Provided always, that in estimating the Value of the said Encroachment the said Commissioner shall estimate the Value of the Land only, without regard to any Improvements thereon, and according to the Price *per* Acre of the Waste Lands immediately adjoining.

Commissioner to direct the Course of Husbandry.

XXXVI. And be it further enacted, That it shall be lawful for every Commissioner acting in execution of this Act from Time to Time as he shall think fit, by Writing under his Hand to be affixed on one of the outer Doors of the Parish Church of *Witcham* aforesaid, to order and direct what Course of Husbandry and what Stint or Rule of stocking and enjoying shall be respectively observed and used in, over, and upon the Lands to be divided, allotted, and inclosed by virtue of this Act, until such Time as he shall have completed the said Division and Inclosure, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking and feeding the Commonable Lands and Fallows or Stubbles upon the said Lands or Grounds, and to make such Recompence for the same as he shall think right; and shall and may make such further Orders and Regulations touching the Conduct of the Farmers and Occupiers within the said Parish of *Witcham* for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking any of the said Lands or Grounds to be divided, allotted, and inclosed until the said Division and Inclosure shall be completed, as to the said Commissioner shall seem proper and expedient; all which Orders and Regulations shall be binding and conclusive upon all Parties interested, their Farmers and Tenants; and the said Commissioner shall and may set and impose such pecuniary Penalties and Forfeitures on every Person not conforming to such Orders and Regulations as he 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 Manure left or given up by him; and such Penalties, Forfeitures, and other Sum and Sums of Money so to be settled, ordered, adjudged, and determined to be paid for or on account of the several Matters and Things aforesaid shall be recovered and recoverable in the Manner directed in and by the said first-recited Act with respect to the levying and Recovery of Penalties.

XXXVII. And

Satisfaction to be made for growing Crops.

XXXVII. And be it further enacted, That it shall be lawful for any such Commissioner, by Writing under his Hand, to ascertain, order, and appoint what Recompence or Satisfaction in Money shall be made to the Owner or Owners of any Crops growing upon the Lands or Grounds hereby directed to be divided, allotted, and inclosed, at the Time such Division and Allotment shall be made, for the said Crops by the Person or Persons to whom the Lands and 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 Tenants or Occupier or Occupiers of any Land, as well for ploughing, tilling, and manuring any of the Lands and Grounds which shall be divided and allotted by virtue of this Act, for the Benefit and Advantage accruing thereby to the Person or Persons to whom such Lands and Grounds shall be allotted, as for any Loss or Disadvantage which any such Tenant or Tenants, Occupier or Occupiers, shall or may sustain by the Loss of their following or way-going Crops upon the Lands or Grounds by this Act directed to be divided and allotted; 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 Commissioner it shall be lawful for the said Commissioner and he is hereby authorized and required to raise and levy the same for the Use of the Person or Persons 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.

Meeting to be appointed for Applications for Situations of Allotments.

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

Commissioner to set out Allotment to the Lords of the Manor for the Recreation of the Poor.

XXXIX. And be it further enacted, That the said Commissioner shall set out, allot, and award unto the Lords for the Time being of the said Manor of *Witcham*, 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 Five Acres nor less than Three Acres, as a Place of Exercise and Recreation for the Population of the said Parish, and such Allotment shall be held by the Lords of the said Manor for the Purposes aforesaid.

Allotment in lieu of Right of Soil to the Lords of the Manor.

XL. And be it further enacted, That the said Commissioner shall in the next place set out and allot unto and for the said Lords of the said Manor of *Witcham*, for and in lieu of and as a Compensation for their Right and Interest in the Soil of the Waste Lands within the said Parish, so much and such Part of the Lands hereby authorized to be divided, inclosed, and allotted as with the Piece of Land so directed to be allotted to the said Lords of the said Manor for the Recreation of the Poor shall in the Judgment of the said Commissioner be equal to One Twentieth Part of the said Waste Lands.

XLI. And

Allotment of Residue.

XLI. And be it further enacted, That the said Commissioner shall apportion, divide, set out, allot, and award the Residue and Remainder of the said Waste Lands, and also all other the Lands and Grounds by this Act authorized to be divided, allotted, and inclosed, unto and amongst the several Persons and Corporations and other Owners and Proprietors thereof who shall be entitled to any Estate, Right, or Interest therein, in such Quantities, Shares, Proportions, and Situations as the said Commissioner shall adjudge and determine to be proportionate to the Value of and a full Compensation and Satisfaction to them for their several and respective Rights and Interests in, to, over, and upon the said Waste Lands and the said other Lands and Grounds by this Act directed to be divided, allotted, and inclosed.

Allotment of old Inclosures with Consent of Proprietors.

XLII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioner, by and with the Consent in Writing and at the Request of the respective Owners or Proprietors of any Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parish of *Witcham*, whether such Owners or Proprietors shall be a Corporation or Tenant in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor of any such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds holden for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid who shall be Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, (such Consent to be respectively testified, in case of a Corporation, by Writing under their Common Seal, and in the Case of an Individual under his Hand,) and with the Consent of the Patron and Ordinary where such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds shall be held in right of any Benefice, or shall belong to any Ecclesiastical Corporation, to deem such Homesteads, Gardens, Orchards, and old inclosed Lands as allottable, and Part and Parcel of the Lands, Grounds, and Hereditaments hereby authorized to be divided, allotted, and inclosed, and to allot the same accordingly; and such Allowance shall be made to the Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation or other beneficial Circumstances thereof, as the said Commissioner shall adjudge to be just and reasonable; and the said Commissioner shall and he is hereby required to set out, allot, and award unto and for the Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, or other Hereditaments, in lieu thereof, so much and such Part or Parts of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as he shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said first-recited Act mentioned.

Power for Owners of Land not exceeding Five Acres to require their

XLIII. And be it further enacted, That in case Application in Writing shall be made to the said Commissioner for that Purpose at or before the Time to be fixed by him for receiving Applications for the Situation of Allotments by any Two or more Persons, being respectively Owners of

not more than Five Acres of Open Field Land in the said Parish, to have their Allotments set out without being required to make Partition Fences between them, then and in such Case the said Commissioner shall set out such Allotments adjoining each other in such Situation as he may think fit.

Lands to be laid together in One Allotment.

XLIV. And be it further enacted, That in case any Lands or Grounds upon which any Trees shall at the Time of setting out the Allotments be standing or growing shall be allotted to any Person other than such as was the Proprietor of such Trees at the Time such Allotments were so set out, then and in such Case it shall be lawful for such Proprietor and he and his Agents and Workmen is and are hereby empowered, at any seasonable Times within the Space of Six Calendar Months next after Possession of such Allotments shall be delivered, to enter into and upon the Lands and Grounds upon which the said Trees shall be standing, and to fell and cut down and with Horses and Carriages or otherwise to remove and carry away the same, doing no unnecessary Spoil or Damage thereby, and levelling any Land or Ground that may be broken or dug up for the Purpose.

For disposing of Trees.

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

Meeting for giving Information of Allotments and hearing Objections.

XLVI. 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 several Persons to whom the same shall be respectively allotted at such Time, in such Manner, and under and subject to such Regulations and Restrictions as the Commissioner for the Time being shall by Writing under his Hand or in or by his Award order or direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the said Commissioner shall by his Award order and direct.

Directions for fencing Allotments.

XLVII. 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

Equalizing the Share of fencing.

be lawful for the said Commissioner 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 Commissioner shall by any Writing under his Hand 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 Commissioner shall be final, binding, and conclusive on all Parties interested and concerned therein.

Cattle not to be depastured in the Highways for Seven Years

XLVIII. 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 Commissioner shall order and direct to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the making and executing of his Award; and any Owner of Land within the said Parish of *Witcham*, his Servants and Labourers, and also the Pindar, Peace Officers, and Parish Officers of the said Parish of *Witcham* for the Time being, are hereby respectively empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid as Cattle Damage feasant.

Commissioner may make Partitions.

XLIX. And be it further enacted, That it shall and may be lawful for the said Commissioner to make Partition of any Lands or Grounds by this Act authorized to be divided, allotted, and inclosed held by any Persons as Coparceners, Joint Tenants, or Tenants in Common, and of any Lands, Tenements, or Hereditaments within the said Parish of *Witcham* held therewith, and to make Allotments thereof in Severalty to the Parties respectively entitled thereto; provided that every such Partition be made upon the Request of any One or more of the Proprietors of the said Lands, Grounds, Tenements, or Hereditaments, signified in Writing under his Hand, or under the Hands respectively of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of any of the said several Proprietors who may be under Coverture, Minors, Lunatics, or beyond the Seas, or under any other legal Disability or Incapacity to act; and provided further, that every such Partition be specified in the Award of the said Commissioner, or some other Instrument under his Hand and Seal; and it is hereby declared that every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

For defraying Expences of Partitions.

L. 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 Commissioner 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.

LI. And

Power to make Exchanges.

LI. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Lands or Grounds hereby authorized to be divided, allotted, and inclosed, and any other Lands, Tenements, and Hereditaments within the said Parish of *Witcham*, in lieu of and in exchange for any Lands, Tenements, or Hereditaments within any adjoining Parish, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner shall be a Corporation, or a Tenant in Fee Simple or in Fee Tail, General or Special, or for Life, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, (by and with the Consent of the Lessor thereof, but not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owner as aforesaid who at the Time of making such Exchange or Exchanges 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 Exchange so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church or Chapel or other Ecclesiastical Benefice without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall be situate: Provided also, that all the Costs, Charges, and Expences attending the making of any Exchanges shall be paid, borne, and defrayed by the several Parties making such Exchanges in such Shares and Proportions and at such Time and to such Person or Persons as the said Commissioner shall by any Writing under his Hand direct or appoint.

Power to enfranchise Copyholds.

LII. And be it further enacted, That it shall be lawful for the Owner of any Lands, Tenements, or Hereditaments of Copyhold or Customary Tenure within and parcel of the said Manor of *Witcham*, whether such Owner shall be a Corporation, or Tenant in Fee Simple, or in Fee Tail, General or Special, or for Life, and for the Guardians, Husbands, Committees, or Attornies of or acting for any such Owner as aforesaid who shall happen to 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, and for Trustees or Feoffees for charitable or other Uses, to contract and agree with the Lords for the Time being of the said Manor for the absolute and perpetual Enfranchisement of all or any such Copyhold or Customary Lands, Tenements, or Hereditaments, and all Allotments in respect thereof, and for the Extinguishment of the Heriots, Quit Rents, and all other Rights of the said 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

LIII. 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 Commissioner shall and he is hereby required,

made for a Compensation in Land.

required, upon the Application of any of the Parties interested, to set out and allot unto and for the said Lords of the said Manor such Part or Parts of the Lands and Grounds hereby directed to be divided and inclosed, belonging to the Person or Persons contracting for such Enfranchisement and Extinguishment as aforesaid, as shall in the Judgment of the said Commissioner 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 Commissioner shall and he is 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 Commissioner, whose Receipt shall be an effectual Discharge for the same; and the said Commissioner shall pay such Monies in the Manner herein-after directed with respect to Monies to be paid for the Purchase or Exchange of Hereditaments, or of any Timber or Wood growing thereon; and all such Enfranchisements and Extinguishments, when completed, shall be specified in the Award of the said Commissioner; and an Entry of every such Enfranchisement and Extinguishment shall be made on the Court Rolls of the said Manor, and a Copy of such Entry, certified by the Steward or Deputy Steward of the said Manor, shall be admitted in all Cases as sufficient Evidence of such Enfranchisement and Extinguishment, and the Contract for the same, and of the Payment of the Consideration or Purchase Money, when the same shall have been paid in Money; and when and so soon as such Allotments and Payments shall be respectively made as the Consideration for such Enfranchisement and Extinguishment as aforesaid, the Lands and Hereditaments which shall be so agreed to be enfranchised as aforesaid shall be held in Free and Common 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 said Manor 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 of the said Manor for or in respect of the same Hereditaments as Copyholds of the same Manor if the same Hereditaments had not been so enfranchised; and the same Hereditaments shall (subject to any Charge or Mortgage which may be made under the Authority of the said recited Acts or of this Act) go, remain, and be to the same Uses, on the same Trusts, and subject to the same Powers and Limitations, (as near as the Difference of the Tenure will admit,) as would have been subsisting in such Hereditaments (as Copyhold) if the same had not been so enfranchised as aforesaid.

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

Incapacitated Persons may borrow Money for such Enfranchisements.

LIV. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees, Feoffees, or Trustees for charitable or other Uses, Committees, and Attornies of the Owner for the Time being of any such Copyhold Lands, Tenements, or Hereditaments so to be enfranchised as aforesaid who shall be under Coverture, or a Minor, Lunatic, beyond the Seas, or under any legal Disability, and for any such Owner or Owners being entitled for a particular or limited Estate only,

only, to mortgage and charge the Lands, Tenements, or Hereditaments 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 by this Act is provided for enabling Parties to borrow Money for defraying the Costs of this Act and other Purposes.

Tenure of Allotments to be the same as of the Lands in lieu of which they are allotted.

LV. And be it further enacted, That, subject to the Power of Enfranchisement herein-before contained, all such Lands as shall be allotted by virtue of this Act shall be held by the Persons or Corporations to whom they are allotted by and under the same Tenures (whether Freehold, Copyhold, or Leasehold), and subject to the same Rents, Payments, Heriots, Fines, Customs, and Services, by, under, and subject to which the several Lands in lieu or in respect of which the same Lands shall be so allotted and awarded were respectively held immediately before the passing of this Act, and all such Allotments shall thereupon become Freehold, Copyhold, or Leasehold, (as the Case may be,) and shall be so distinguished in the Award to be made by the said Commissioner, any Law or Custom to the contrary notwithstanding.

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

LVI. And be it further enacted, That if any Person has sold or shall at any Time before the Execution of the Award of the Commissioner for the Time being sell his Right, Interest, and Property in the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to any Person, then and in every such Case it shall be lawful for the said Commissioner and he is hereby required, upon such Sale being made, to make an Allotment of Land unto the Purchaser in every such Sale, or to his or her 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 this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same, 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 as aforesaid to sell, dispose of, and convey the Estate in Right of which he may be entitled to any such Allotment separate and apart from and retaining to himself such Allotment, Common Right, and Interest; and the said Commissioner is hereby required to award such Allotment accordingly.

Persons having limited Interests may raise

LVII. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees, or Committees of such of the Proprietors of any of the Lands and Grounds to be by virtue of this Act, divided,

Money by Mortgage for Expences.

divided, allotted, and inclosed, as shall be under Coverture, Infants, Lunatics, Idiots, or Persons beyond the Seas, or otherwise incapacitated, and also for any Tenants in Tail, or for Life only, or Feoffees for charitable or other Uses, or any of them, by and with the Consent of the said Commissioner, testified in Writing under his Hand and Seal, from Time to Time to charge the Lands and Grounds which shall be so set out and allotted to them respectively by virtue of this Act with any Sum or Sums of Money which the said Commissioner shall in his Discretion judge necessary, not exceeding Five Pounds for every Acre of such Lands and Grounds respectively, for or towards their respective Proportions of the Expences occasioned by obtaining and carrying this Act into execution, and for securing the Repayment of such Sum and Sums of Money, with Interest, to grant, mortgage, lease, or demise the Lands and Grounds so to be set out and allotted as aforesaid, or any Part thereof, to any Person who shall advance and lend the same respectively for any Term or Number of Years, but so that such Grant, Demise, Lease, or Mortgage be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or reassigned when the Money thereby secured, with the Interest thereof, shall be fully paid and satisfied, and so that in every such Grant, Demise, Lease, or Mortgage which shall be made by or on behalf of any Person or Persons 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 in such Manner 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 Possession shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Mortgages may be assigned.

LVIII. 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 or Sums 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, shall and may from Time to Time, by any Deed, Surrender, or Writing under his Hand and Seal, to be executed in the Presence of and attested by some credible Witness, assign and transfer the same Security, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his Estate, Right, Title, or 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, 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.

Directions for charging Copyhold

LIX. Provided always, and be it further enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of

any Copyhold Lands, Tenements, or Hereditaments, whether by Deed or otherwise, shall be presented and entered on the Court Rolls of the Manor under which 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 Repayment of the Principal Monies thereby respectively intended to be secured, with Interest thereon, as is herein provided in the Case of other Mortgages, instead of being demised to such Mortgagee or Mortgagees, and his, her, or their Executors, Administrators, and Assigns, for a Term of Years, as mentioned and prescribed in and by the said first-recited Act. Lands with Expences.

LX. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall be marked and staked out, and the Commissioner for the Time being shall have directed the same to be entered upon by the Persons respectively to or for whom the same shall be intended, every Lease and other Agreement at Rack Rent subsisting of all or any Part of the said Lands hereby directed to be divided, allotted, and inclosed, and of any Right of Common thereon, and of the Messuages or Tenements and Homesteads respectively belonging thereto, for any Term of Years not exceeding Twenty-one Years, (save and except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure,) shall cease, determine, and be void as to all such Lands and Rights of Common respectively, but not as to any other Hereditaments comprised therein, such Compensation being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated as the said Commissioner shall by Writing under his Hand 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 Commissioner is 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 Commissioner, by Writing under his Hand, to ascertain, direct, and appoint what Rent or Share or Proportion of Rent shall be paid by the several Tenants of the Lands to be divided, allotted, and inclosed by virtue of this Act, or the Rights of Common thereof in their respective Holdings, to their respective Landlords from the Time of passing this Act until such Lands shall be marked and staked out and be directed to be entered upon as aforesaid; and also to order and direct what Proportion and Amount of the whole Rent reserved upon such Leases or Agreements respectively shall be paid by such Tenants from the Time of passing this Act to their respective Landlords for the Messuages, Homesteads, or ancient Inclosures comprised in such Leases or Agreements respectively until the Expiration thereof, and which are not meant or intended to be made void as to such Messuages, Homesteads, or ancient Inclosures; provided that no Lease or Agreement comprising Messuages, Homesteads, or ancient Inclosures only shall be made void by this Act. Leases at Rack Rent to be void.

LXI. Pro-

Beneficial Leases not to be vacated.

LXI. Provided always, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease from any Corporation or Person of any Lands in the said Parish of *Witcham*, 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.

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

LXII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to revoke, annul, make void, or alter any Deed, Will, or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Rent, or Incumbrance out of, upon, or affecting any of the Lands or Grounds hereby directed to be divided and allotted and inclosed, 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 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, Partition, or Assignment, 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 Uses, Estates, Intents, Trusts, and Purposes, and subject and liable 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, and this Act had not been passed, and subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act, and to all the other Provisions of this Act.

Separate Allotments for Land held under different Titles.

LXIII. And be it further enacted, That when any Proprietor of Lands which shall be allotted 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 and for different Estates, the said Commissioner shall, so far as he may be enabled so to do, ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and in his Award set out and distinguish distinct and several Allotments for such respective Lands.

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

LXIV. And be it further enacted, That whenever any Sum of Money is under the Provisions of the said first-recited Act or 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, 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 and may lawful for the said Commissioner, out of such Money, to defray the Proportion (if any) of the Expences of

obtaining

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, draining, or planting, and the like, which shall in the Judgment of the said 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; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward; and shall, when so paid in, there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the 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 paid or discharged, or such Parts thereof as shall be necessary; or until the same shall, upon a like Application, in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, which shall be conveyed, limited, or settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands stood limited or settled, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime, and until such Purchase shall be made, the said Money may, by Order of the said Court, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or 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 the Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, and settled.

1 G. 4. c. 35.

LXV. 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,

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

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 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 the 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 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 Monies so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

Where under *20l.*

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

Power to make Alterations in the Allotments before the Award.

LXVII. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time before the Execution of his final Award, to make any Alterations in the Allotments or in the Fences which he 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 and Directions relating thereto which he may have made in pursuance of this Act or the said recited Acts, or as he 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 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 Monies to come to his 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.

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

LXVIII. And be it further enacted, That if from Want of Information or other Cause the said Commissioner shall have omitted to distinguish in his 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 is hereby required,

required, it shall be lawful for the said Commissioner at any Time within Twelve Calendar Months after the Date and Execution of his Award, upon Request in Writing to him made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agents, to do all such Acts as shall be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if 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 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 he is hereby 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 shall be deposited therewith, 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 Inrolment thereof, shall be paid by the Person who shall have requested the said Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

Provision for defraying the Expences of executing this Act.

LXIX. 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 Commissioner, Clerk, and Surveyor for Expences, Time, and Trouble, and the Costs and Charges that the Commissioner shall be put unto in respect of any Appeal against his Decision, or of any Suit or Suits at Law or in Equity, either before or after the Execution of his Award, and the Costs of preparing and enrolling the Award of the said Commissioner, and all other Costs, Charges, and Expences necessarily incurred in and about the carrying of this Act and the said recited Acts into execution, except where it is herein otherwise directed, 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 allotted, divided, and inclosed in such Shares and Proportions, and shall be paid at such Time and Place, and to such Person, as the said Commissioner shall by Writing under his Hand to be affixed upon the principal Church Door of the said Parish, or delivered to the 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 Commissioner is hereby empowered from Time to Time to make and form Estimates of all such Costs, Charges, and Expences, and to raise the Amount of such Estimates at such Time or Times as he shall deem necessary or proper, either before or after the Execution of his Award; and in case any Person or Persons shall refuse or neglect to pay his Proportion of such Costs, Charges, and Expences as aforesaid within the Time and to such Person as the said Commissioner shall appoint, it shall be lawful for the said Commissioner 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,

aforesaid, by Action at Law in his own Name in any of Her Majesty's Courts of Record at *Westminster*; or it shall be lawful for such Commissioner, by Warrant under his Hand and Seal 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 Commissioner, or any Person authorized by him, 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 Commissioner to borrow Money.

LXX. And be it further enacted, That if before the said Monies herein-before authorized to be raised by the said Commissioner can be raised and received by him he 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 Commissioner to borrow and take up at Interest from any Persons willing to advance the same such Sum or Sums of Money as he the said Commissioner shall from Time to Time think necessary for the Purposes aforesaid; which Money so to be borrowed shall be repaid by the said Commissioner, with Interest for the same, out of the Monies to be raised and received by him by any of the Ways or Means aforesaid.

Power to make additional Rate, in case of Deficiency.

LXXI. 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 Commissioner, either before or after the Execution of his 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 in such Shares and Proportions, not exceeding Five Pounds for every Acre of such Lands and Grounds respectively, within such Time, and to be paid to such Persons, as the said Commissioner shall from Time to Time direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid shall neglect or refuse to pay his Share or Proportion of any such Rate within the Time to be respectively appointed as aforesaid, or at any Time after, upon Demand, the same shall and may be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

Monies may be recovered after Execution of Award.

LXXII. Provided also, 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 Commissioner and he is hereby required to levy and raise the same in like Manner as he might or could have done before the Execution of his Award.

Directions for executing and depositing the Award.

LXXIII. And be it further enacted, That as soon as conveniently may be after the said Division or Allotment shall be completed the said Commissioner shall prepare and execute an Award, and shall annex thereto a proper Map or Plan on which the Lands, Roads, Paths, and Drains described in the Award shall be delineated; and the Execution of such Award shall be made known by affixing a Notice thereof on one of the principal Church Doors of the said Parish on some *Sunday* within One Calendar Month after the Execution thereof; and within Three Calendar Months afterwards he the said Commissioner shall cause the said Award, together with the said Map and Plan, to be delivered to the Clerk of the Peace for the *Isle of Ely*, who is hereby required to deposit and keep the same among the Records of the said Isle, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid, and for the Inspection and Perusal whereof the Sum of Two Shillings and Sixpence, 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 and Map or Plan, unstamped, and signed by the said Commissioner, shall, within Three Calendar Months from the Execution of the said Award, be deposited in the Parish Church of *Witcham* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award, and the said Copy thereof, and any other Copy of the said Award, or of any Part or Parts thereof, attested by the Clerk of the Peace for the Time being of the said Isle, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Accounts to be audited.

LXXIV. And be it further enacted, That once at least in every Twelve Calendar Months during the Execution of this Act, the first of such Periods to be computed from the Time of the first Receipt of any Sum of Money under this Act, the said Commissioner shall make a true Statement and Account of all Sums of Money by him received and expended or applied in the Execution of this Act, and therein shall be stated to whom and for what Purpose each Sum shall have been paid and disbursed; and the said Statement or Account, together with the Vouchers relating thereto, shall be laid before One of Her Majesty's Justices of the Peace for the *Isle of Ely*, not interested in the said Inclosure, to be by him examined and balanced, and such Balance shall be stated in the Book of Accounts to be kept in the Office of the Person acting as Clerk to the said Commissioner; and an Abstract of such Account shall, within Fourteen Days after the same shall have been so examined and balanced, be published in some Newspaper printed and circulated in the County of *Cambridge*; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justice, and until such Account, or the Abstract thereof, shall have been so published as aforesaid,

said, subject nevertheless to the Power of Appeal herein-after contained.

Power of Appeal.

LXXV. 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, Acts, and Proceedings as are by this Act or the said recited Acts, or either of them, directed to be binding and conclusive, and except in Cases where an Issue at Law shall be tried under the Provisions of this Act,) he may appeal to the General or Quarter Sessions of the Peace which shall be holden for the said *Isle of Ely* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and to the Party concerned Ten Days previous Notice in Writing of such Appeal, and the Matter thereof; (except with respect to the Accounts of the said Commissioner, which, notwithstanding the same shall have been examined and balanced as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award with the Clerk of the Peace for the said *Isle of Ely*, on giving to the said Commissioner such Notice as last aforesaid;) and the Justices (not interested in the Premises) at the said General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order and award such Costs as to them shall seem reasonable, and by their Order and Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner of such Goods and Chattels, after deducting the reasonable Charges of such Warrant of Distress and Sale; and every Order and Determination of such Justices shall be final and conclusive on all Parties concerned; and shall not be removed by Certiorari or any other Writ or Process whatsoever into any of Her Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous and vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner aforesaid.

Recited Inclosure Acts to form Part of this Act.

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

Meaning of certain Words in this Act.

LXXVII. And be it further enacted, That in the Construction of this Act every Word importing the Singular Number only shall mean and include several Persons or Parties as well as one Person or Party, and several Things as well as one Thing respectively, and the converse; and every Word importing the Masculine Gender only shall mean and include a Female as well as a Male; and the Word "Land" shall mean and include every Species of Land or Ground, whether Arable, Meadow, or Pasture, and whether Freehold, Copyhold, or Customary, or of any other

Tenure, and any Messuage or Cottage or Building; and the Word "Corporation" shall be understood to mean and include any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; and the Word "Commissioner" to mean and include any Commissioner for executing this Act; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

General Saving.

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

Act to be printed by the Queen's Printers.

LXXIX. 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.

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