



ANNO SECUNDO & TERTIO

VICTORIÆ REGINÆ.

Cap. 29.

An Act for inclosing Lands in the Parishes of *West Beckham* and *Alby* in the County of *Norfolk*.

[1st July 1839.]

WHEREAS there are within the Parish of *West Beckham* in the County of *Norfolk* divers Half Year Lands, Commons, and Waste Grounds, inclosed Fields, and other Lands and Grounds: And whereas there are within the Parish of *Alby* in the said County of *Norfolk* divers Field Lands, Commons, and Waste Grounds: And whereas *George Stanley Repton* Esquire and the Right Honourable Lady *Elizabeth Repton* his Wife are or claim to be Lord and Lady of the Manor of *West Beckham*, and as such claim to be entitled to the Soil of the Commons and Waste Grounds in the said Parish of *West Beckham*: And whereas *William Howe Windham* Esquire is or claims to be Lord of the Manor of *Colby*, and the Right Honourable *Edward Vernon Lord Suffield* is or claims to be Lord of the Manor of *Hanworth*, and the said *William Howe Windham* and *Edward Vernon Lord Suffield* claim, or one of them claims, to be entitled to the Soil of the Commons and Waste Grounds in the said Parish of *Alby*: And whereas the said *William Howe Windham* is entitled to certain Rights of Sheepwalk and Shackage over the Half Year Lands in the said Parish of *West Beckham*: And whereas the said *William Howe Windham*, *Dennis Gunton* Esquire, and divers other Persons, are respectively Proprietors of all the Messuages, Cottages, Lands, and other Hereditaments situate in *West Beckham*

[Private.]

and *Alby* aforesaid : And whereas an Act was passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts* : And whereas another Act was passed in the First and Second Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England* : And whereas the said Lands in the said Parishes of *West Beckham* and *Alby* are intermixed, and otherwise inconveniently situated for the respective Owners and Occupiers thereof, and the said Commons and Waste Grounds in their present State and Condition yield but little Profit to the several Persons interested therein : And whereas it would be advantageous to the several Persons entitled to and interested in the Premises if all Rights of Sheepwalk, Shackage, and Common were extinguished, and if the said Lands and Grounds within the said respective Parishes were divided, and specific Parts or Shares thereof allotted to the several Persons entitled thereto and interested therein, according to their respective Estates, Rights, and Interests : 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 Mitchell* of *Wymondham* in the County of *Norfolk*, Gentleman, and *Thomas Utton* of *Brome* in the County of *Suffolk*, General, and their Successors, to be appointed in manner hereinafter mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Lands and Grounds, and for carrying this Act into execution, subject to the Rules, Orders, and Directious contained in the said recited Acts, except such as are by this Act varied or altered.

Commis-
sioners.

Appointment
of new Com-
missioners.

II. And be it further enacted, That in case the said *John Mitchell* or *Thomas Utton*, or either of them, or any Person or Persons hereafter to be appointed in their or either of their 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 and inclosed, by Advertisement in the Newspaper called the *Norwich Mercury*, or in some other Newspaper printed or usually circulated within the County of *Norfolk*, and by Writing under their Hands to be affixed on the principal outer Doors of the Parish Churches of *West Beckham* and *Alby* aforesaid upon a *Sunday* before Divine Service, to give Notice of a Meeting to be held within either of the said Parishes of *West Beckham* and *Alby*, or within Eight Miles of one of them, at least Fourteen Days before such Meeting, for the Purpose of appointing some Person or Persons to be a Commissioner or Commissioners in the Room of the said *John Mitchell* or *Thomas Utton*, or either of them, or of such Person or Persons hereafter appointed in their or either of their 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 or Persons (not interested in the said Division, Allotment, and Inclosure,) to be a Commissioner or Commissioners in the Room and Stead of the said *John Mitchell* or *Thomas Utton*, or of such Person or Persons appointed in their or either of their 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.

III. Provided always, and be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act and the said recited Acts, except for the Purpose of signing and giving Notice of the First Meeting for the Purposes of this Act, unless he shall have made and subscribed the Declaration following; (that is to say,)

Declaration
to be made
by Commis-
sioners.

‘ I *A. B.* do solemnly and sincerely declare, That I will faithfully,
‘ impartially, and honestly, according to the best of my Skill and
‘ Ability, execute and perform the several Trusts, Powers, and
‘ Authorities vested and reposed in me as a Commissioner by virtue
‘ of an Act passed in the Year of the Reign of Queen
‘ *Victoria*, intituled [*insert 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.’

Which Declaration it shall be lawful for any Justice of the Peace acting for the said County of *Norfolk* to receive, and he is hereby required to receive the same; and which Declaration shall be in lieu of and a Substitution for the Oath or Affirmation required by the said first-recited Act 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; and the said Declaration, so made and subscribed, and also the Appointment of every new Commissioner, shall be annexed to and deposited with the Award to be made in pursuance of this and the said first-recited Act.

IV. Provided also, and be it further enacted, That if the Commis- sioners for the Time being for executing this Act and the said recited Acts shall disagree in their Opinion upon any Point or Matter relating to the Execution of this Act or the said recited Acts, *Clement William Unthank* of *Heigham* in the County of the City of *Norwich*, Gentleman, shall be and he is hereby appointed an Umpire to determine the Point

Umpire
appointed.

Point or Matter of such Disagreement or Disagreements in Opinion; and in case the said *Clement William Unthank* shall die, refuse to act, or become incapable of acting as such Umpire, it shall be lawful for the Commissioners for the Time being, by Writing under their Hands, at any Meeting to be holden for the Execution of this Act, to appoint another Person (not interested in the said Division and Inclosure) to be an Umpire in the Place and Stead of the said *Clement William Unthank*; and in case and when and so often as a Vacancy shall afterwards happen by the Death, Refusal, or Disability of such Umpire, such Vacancy shall be supplied from Time to Time by the said Commissioners in manner aforesaid, and such Umpire so to be appointed as aforesaid shall have the like Powers and Authorities to act in determining the Point or Matter of any Disagreement or Disagreements in Opinion of the said Commissioners as if he had been hereby and herein named and appointed Umpire; and in case the said Commissioners shall make Default in appointing a new Umpire within Fourteen Days next after such last-mentioned Vacancy, the said Commissioners shall, as soon as conveniently may be, give Notice thereof in One or more Newspaper or Newspapers published or circulated in the said County of *Norfolk*, and by Writing affixed upon the principal Church Doors of the Parishes of *West Beckham* and *Alby* aforesaid, and thereupon it shall and may be lawful to and for the major Part in Value of the said Proprietors, to be ascertained as aforesaid, at a Meeting to be holden in like Manner as is herein-before directed with respect to the Meeting to be held for the Appointment of a new Commissioner or new Commissioners, to appoint another Person (not interested in the said Division) to be an Umpire in the Place and Stead of the said *Clement William Unthank*, and so from Time to Time as Occasion shall require.

Umpire to
make a De-
claration.

V. Provided always, and be it further enacted, That no Person shall be capable of acting as such Umpire until he shall have made and subscribed the Declaration following; (that is to say,)

‘ 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 Autho-
‘ rities vested and reposed in me as an Umpire by virtue of an Act
‘ passed in the Year of the Reign of Her Majesty Queen
‘ *Victoria*, intituled [*here 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.’

Which Declaration it shall be lawful for the said Commissioners, or either of them, or any Justice of the Peace for the said County of *Norfolk*, to administer or receive; and such Declaration, so made and subscribed, shall be annexed to and deposited with the Award of the said Commissioners, and an Office Copy thereof shall be admitted as legal Evidence.

Appointment
of Surveyor.

VI. And be it further enacted, That *Robert Pratt* of the City of *Norwich*, Land Surveyor, or his Successor to be appointed in manner herein-after mentioned, shall be the Surveyor for the Purposes of this Act; and in case the said *Robert Pratt*, or any Person to be appointed in

in his Stead, shall, before the finishing of the said Division, Allotment, or Inclosure, die, or neglect, refuse, or become incapable to act, it shall be lawful for the said Commissioners to appoint some other fit and proper Person, not interested in the said Division, Allotment, and Inclosure, to succeed to such Office in the Room or Stead of the Surveyor so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and the said Commissioners are hereby authorized, out of the Money to be raised for defraying the Expences of obtaining and passing this Act and carrying the same into execution, to allow to every such Surveyor any Sum not exceeding Two Pounds and Two Shillings for each Day he shall be actually and wholly employed in the Business of the said Division, Allotment, or Inclosure, and which said Allowance shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by such Surveyor in and about the Execution of this Act.

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

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

Which Declaration it shall be lawful for the said Commissioners, or either of them, or any Justice of the Peace for the said County of *Norfolk*, to administer or receive; and such Declaration, so made and subscribed, shall be annexed to and deposited with the Award of the said Commissioners, and an Office Copy thereof shall be admitted as legal Evidence.

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 knowing the Allegations thereof, or any of them, to be untrue, shall be subject to the like Pains and Penalties to which Persons guilty of a Misdemeanor are or may be subject. Penalty on
making a
false Decla-
ration.

IX. And be it further enacted, That it shall be lawful for the said Commissioners to appoint a Clerk to assist them in carrying this Act into execution, and from Time to Time to remove such Clerk, and appoint another in his Stead. Appointment
of 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 Commissioners, and the Clerk to be appointed by them as herein-before directed, shall respectively be paid, for each and every Day they shall

[*Private.*]

9 *h*

travel Allowance to
Commis-
sioners and
Clerk.

travel or be employed in any Business relating to the Execution of this Act or the said recited Acts, during the first Three 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 Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, for each and every Day they may 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 in which the Meetings shall be holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of drawing, copying, engrossing, and enrolling the Award of the said Commissioners, and of Notices and Advertisements.

For regul-
ating 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 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 the said Commissioners and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk, in which shall be entered the several Days on which the said Commissioners attended, and at what Hour the Commissioners were present thereat, and at what Hour they left or adjourned the same, and such Book shall be signed by the Commissioners 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 the said Commissioners to retain or pay themselves or such Clerk, out of any Monies to be received by them, or over which they may have any Control, in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein directed to be made to the said Commissioners and Clerk respectively beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award to be made in pursuance of this Act, or in case the Accounts of such Commissioners shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of either of the said Commissioners or Clerk previous to the Execution of the said Award, the Commissioners for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts herein directed to be made and stated, pay to the Executors or Administrators of the deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due thereon.

XII. Pro-

XII. Provided also, and be it further enacted, That the said Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioners at any of the Meetings to be holden in pursuance of the said recited Acts or of this Act.

Proprietors
to pay their
own Ex-
pences.

XIII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice to be given in the Newspaper called the *Norwich Mercury*, or in some other Newspaper circulated in the said County of *Norfolk*, and also by a Notice affixed upon the principal outer Doors of the Parish Churches of *West Beckham* and *Alby* aforesaid, of the Time and Place of the first and every subsequent Meeting for executing the Powers hereby and by the said recited Acts vested in them, at least Seven Days before every such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioners shall and may adjourn such Meetings from Time to Time as they shall see Occasion, for the Execution of this Act and the said recited Acts: Provided always, that all Meetings for executing this Act, whereof such Notice is hereby directed to be given, shall be held within one of the said Parishes of *West Beckham* and *Alby*, or within Eight Miles of one of them.

Notice and
Adjournment
of Meetings.

XIV. And be it further enacted, That all Notices necessary or requisite to be given by the said Commissioners, in pursuance of this Act or the said recited Acts, for any Purpose whatsoever, (except such Notices as are in and by this Act authorized or particularly directed to be given in any other Manner,) shall be given by Advertisement in the *Norwich Mercury*, or some other Newspaper to be circulated in the said County of *Norfolk*; and all such Notices so given shall be deemed to be well and sufficiently published and given, and full and sufficient Notice to all Parties concerned, respecting all the Matters and Things to which such Notices respectively shall relate, any thing in the said recited Acts contained to the contrary thereof in anywise notwithstanding.

Other No-
tices how to
be given.

XV. And be it further enacted, That if any of the Parties interested in the Premises shall have any Objection to any of the Accounts or Claims which shall be delivered to the said Commissioners by virtue of the said recited Acts or this Act, such Objection shall, within such Time as the said Commissioners shall appoint by Notice to be inserted in any such Newspaper as aforesaid, be reduced into Writing, and Two Parts thereof shall be signed by the Party making the same, or by some Agent or Person on his Behalf, and one Part thereof shall be delivered to the said Commissioners, or left at the Office of the Clerk of the said Commissioners, and the other Part thereof shall be delivered to the Party whose Claim or Account shall be objected to, or to his Agent, or left at his last or usual Place of Abode, at such Time as the said Commissioners shall appoint for that Purpose; and no Objection to any of the said Accounts or Claims shall be afterwards received by the said Commissioners, unless for some special Cause to be allowed by them.

Objections
to Claims,
&c. how to
be made.

XVI. And

Commis-
sioners to
settle
Disputes ;

but not to
determine
Titles.

For com-
pelling the
Attendance
of Witnesses.

Power to
award Costs.

XVI. 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 the said Commissioners may be, interested in the said intended Division, Allotment, and Inclosure, touching their respective Rights and Interests in the said Lands to be divided and allotted by virtue of this Act, or any other Matter or Thing relating to the said intended Division or Allotment, it shall be lawful for the said Commissioners and they are hereby required, upon Examination of Witnesses on Oath (which Oath the said Commissioners are or either of them 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 the said Commissioners 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 the said Commissioners shall be of opinion against the Right of the Party so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by such Party, or recovered from such Party by Ejectment or other due Course of Law.

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

XVIII. And be it further enacted, That in case the said Commissioners shall, upon the hearing or determining of any Claim or Objection to be delivered to them in pursuance of the said recited Acts or this Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs

as they shall think reasonable to be paid to the Party in whose Favour any Determination of the said Commissioners shall be made, by the Person or Corporation whose Claim or Objection shall be thereby disallowed or overruled, or against whom the said Commissioners shall have determined as aforesaid; and in case the Person or Corporation who shall be liable to pay such Costs shall neglect or refuse to pay the same, upon Demand, it shall be lawful for the said Commissioners and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause such Costs to be levied by Distress and Sale of the Goods and Chattels of the Person or Corporation so neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to the Person or Corporation 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 Corporation, then and in either of the said Cases it shall be lawful for the Party in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Actions it shall be sufficient to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioners, and in consequence of such Order, without setting forth any other Proceedings under this Act.

XIX. Provided always, and be it further enacted, That in case any Person or Corporation interested or claiming to be interested in the said intended Division and Allotment shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Claim or Objection which shall be delivered to the said Commissioners in pursuance of the said recited Acts or this Act, or touching or concerning any Property, Right, or Interest intended to be affected by such Determination, except where the Determination of the said Commissioners is hereby declared to be final, it shall be lawful for the Person or Corporation so dissatisfied 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 Corporation in whose Favour any such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioners shall have been notified in Writing to the Party against whom such Determination shall have been so made, or his known Agent or Attorney, and thereupon the Person or Corporation so dissatisfied shall proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next Assizes to be held for the County of *Norfolk* after such Action shall have been commenced, unless such Assizes shall happen within Three Calendar Months next after such Action shall have been so commenced, and in that Case at the Second Assizes to be held for the said County next after such Action shall have been so commenced; and the Defendant in such Action shall and he is hereby required to name an Attorney, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim, and the Property, Right, or Interest thereby insisted upon, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action

Allowing
Parties to
try their
Rights at
Law.

[*Private.*]

shall be commenced, in case the Parties shall differ about the same; and the Verdict which shall be given upon the Trial of such Action shall be binding, final, and conclusive, unless the Court wherein such Action shall be brought shall set aside such Verdict and order a new Trial to be had therein, which it shall be lawful for the said Court to do in case the said Court shall think proper; and after such Verdict shall be obtained, and not set aside, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim thereby determined, according to the Event of such Trial: Provided always, that if no such Notice shall be given, or if any such Notice shall be given, and such Action at Law shall not be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then the Determination of the said Commissioners shall be final, binding, and conclusive to all Intents and Purposes whatsoever: Provided also, that if any of the Parties in any such Action to be commenced as aforesaid shall die before the Determination thereof, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

In case of
Death of
Parties
before Ac-
tion brought.

XX. Provided always, and be it further enacted, That 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 such Action, it shall be lawful for the Person or Corporation who might have brought such Action against the Person so dying to bring the same, within the Time so limited as aforesaid, against such Person as if actually living, and to serve the Clerk of the said Commissioners, and the Heir at Law or Devisee of the Person who shall have so died as aforesaid, with Process for commencing such Action, in the same Manner as the Party so dying might have been served therewith if living, and it shall thereupon be incumbent upon such Clerk to serve with such Process 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; and on such Process being served such Heir or other Person who shall claim the Benefit of such Determination as aforesaid, and who shall have been served with such Process to appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had therein in the same Manner as if such Person had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action.

Suits not to
delay the
Execution of
the Act.

XXI. Provided also, and be it further enacted, That no such Difference, Suit, or Proceeding as aforesaid, nor any Difference, Suit, or Proceeding respecting the Title to any Lands, Tenements, or Hereditaments, shall impede or delay the Proceedings of the said Commissioners in the Execution of this Act, but the Division, Allotment, and Inclosure by this Act directed to be made shall be proceeded in, notwithstanding any such Difference, Suit, or Proceeding; and the Allotment to which any such Difference, Suit, or Proceeding

respectively shall relate shall be taken by the Person or Corporation who, by the Determination of such Difference, Suit, or Proceeding respectively, shall become entitled to the same.

XXII. And be it further enacted, That in case any Person having in his Custody any actual Surveys, Maps, or Plans of the Lands and Grounds within the said Parishes, or either of them, shall deliver such Surveys, Maps, and Plans to the said Commissioners, it shall be lawful for the said Commissioners to inquire into the Authenticity and Accuracy thereof, on the Oath or solemn Affirmation as well of the Person producing and delivering such Surveys, Maps, and Plans respectively, as of any other Person, (which Oath or Affirmation the said Commissioners are or either of them is hereby authorized to administer,) or by such other Means as they shall think proper; and in case the said Commissioners shall be satisfied that the same are authentic and accurate, and will answer the Purpose of new Surveys, Maps, or Plans, then the said Commissioners are hereby authorized to make use of the same, as far as the same shall be available, for the Purpose of carrying this Act and the said recited Acts into execution, and also, out of the Monies to be raised for the general Purposes of this Act, to make unto the Owner of such Surveys, Maps, and Plans, or to the Person producing the same respectively, a just and fair Allowance for such Surveys, Maps, and Plans.

Existing Surveys, Maps, and Plans may be used.

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

For shortening Boundaries.

XXIV. And be it further enacted, That the said Commissioners shall and may set out, appoint, and make such Common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, in, through, over, and upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and also enlarge, widen, alter, turn, scour, and cleanse all or any of the present Drains, Ditches, Streams,

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

Streams, or Watercourses, as to them the said Commissioners shall seem proper and necessary; 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 Commissioners in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution; but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, scoured, and maintained by such Persons or Corporations and in such Manner as the said Commissioners shall, in and by their said Award, order and direct; provided that no Stream or Watercourse be diverted or turned without the Consent in Writing of the Person or Corporation from whose Lands the same may be diverted, and of the Person or Corporation into whose Lands the same may be turned, or to the Prejudice or Injury of any Person interested in such Stream or Watercourse, without his Consent in Writing.

Power to
stop up
Roads.

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

Proceedings
previously to
diverting and
stopping up
Roads.

XXVI. Provided always, and be it further enacted, That before any public Carriage Road, Highway, Bridle Road, or Footway shall be discontinued, stopped up, diverted, or altered by the said Commissioners the said Commissioners shall cause to be affixed, at each End of the said Highway so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footway is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the Commissioners acting under and by virtue of this Act; and the said Commissioners shall also cause the same Notice to be inserted in One Newspaper published or generally circulated in the said County of *Norfolk* for Four successive Weeks, and shall also cause a like Notice to be affixed on the principal outer Doors of the Churches of the said Parishes of *West Beckham* and *Alby* on the Four Sundays of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid, the said public
Carriage

Carriage Road, Highway, Bridle Road, or Footway shall be and shall be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject however to such Appeal to the Court of General Quarter Sessions for the County of *Norfolk* as is herein-after mentioned.

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

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

XXVIII. And be it further enacted, That in case of such Appeal the Justices at the said Quarter Sessions shall, for the Purpose of determining whether the public Highway so intended to be discontinued, stopped up, diverted, or altered shall be discontinued, stopped up, diverted, or altered, or whether the said Party appealing would be injured or aggrieved, impanel 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 Highway so discontinued, stopped up, diverted, or altered is unnecessary, or may beneficially to the Public be discontinued, altered, or diverted, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioners, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up is necessary, or that the Highway so diverted or altered could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved by the said Highway being discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of Quarter Sessions shall allow such Appeal, and shall make an Order for restoring the said Highway so discontinued and stopped up, diverted, or altered by the Order of the said Commissioners 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

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

[*Private.*]

Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal; and such Costs and Expences shall be paid by the said Commissioners, and shall be raised by the said Commissioners in such and the same Manner as they are hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

Power to widen Roads, making compensation to Land Owners.

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

Expences of discontinuing or widening Roads.

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

Justices may certify Roads in part.

XXXI. And be it further enacted, That when and so soon as any of the public Roads to be set out by virtue of the said recited Acts and this Act shall be made and completed, it shall be lawful for any Two or more of Her Majesty's Justices of the Peace for the said County of *Norfolk*, if they shall think fit, from Time to Time to certify and declare, under their Hands and Seals, any of the public Carriage Roads so to be set out to be fully and sufficiently formed, repaired, and completed, and such 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 Person and in like Manner as the public Roads within the said Parishes of *West Beckham* and *Alby* 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 County of *Norfolk* next after the Date thereof, be filed of Record by the Clerk of the Peace of the said County.

Commissioners to appoint private Roads.

XXXII. And be it further enacted, That the said Commissioners shall and they are hereby empowered and required to set out and appoint such private Roads, 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 said herein-before recited Act of the Forty-first Year of the Reign of King *George* the Third, in the Case of public Roads; and any Charges and Expences which the said Commissioners may think fit to incur or direct to be incurred prior to the Time of making their Award relative to the setting out or the Formation or Completion of such private Roads, Bridleways, and Footways, or any of them, shall be raised in like Manner as the Charges and Expences of obtaining and passing this Act and carrying the same into execution are directed to be raised; 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 Parishes of *West Beckham* and *Alby*, in such Shares and Proportions and in such Manner as the said Commissioners shall in and by their Award order and direct, or by the Inhabitants of the said Parish, in such Manner as the public Roads within the same are by Law liable to be supported and kept in repair, if the said Commissioners shall by their Award so direct.

XXXIII. And be it further enacted, That if any Person shall, after Notice given by the said Commissioners of the Enactment contained in this Clause, cut, dig, pare, grave, flag, or carry away any Turf, Flags, Whins, or Furze, in, upon, or from the said Commons and Waste Grounds, or any Part thereof, without the Licence of the said Commissioners first had and obtained in Writing for that Purpose, (which Licence the said Commissioners are hereby empowered to grant, under such Rules, Orders, Regulations, and Restrictions as they shall think proper to insert therein,) then in every such Case any One of Her Majesty's Justices of the Peace for the said County of *Norfolk*, upon due Proof made thereof before him upon Oath (which Oath such Justice is hereby authorized to administer), shall and he is hereby required, by Warrant under his Hand and Seal, directed to any Person whomsoever, to cause any Sum of Money, not exceeding Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of every Person so offending in the Premises, rendering the Overplus (if any), upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as aforesaid shall be applied towards defraying the Costs and Charges of obtaining and executing this Act; and for Want of sufficient Distress, and on Proof thereof, it shall be lawful to and for such Justice to commit the Person so offending as aforesaid to the House of Correction for any Term not exceeding Three Calendar Months.

Flags, &c.
not to be
cut after
Notice.

XXXIV. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized, at any Time before the Execution of their Award, by any Writing under their Hands to be affixed upon the principal Doors of the respective Churches of the said Parishes of *West Beckham* and *Alby*, to order and

For sus-
pending the
Exercise of
Common
Rights.

and direct all or any Rights of Sheepwalk, Shackage, and Common, or any other Commonable Rights whatsoever, in, over, or upon the said Lands and Grounds, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Writing, and that all such Rights as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall, from the Time of affixing such Writing on the said Church Doors respectively, or at any other Time to be appointed by the said Commissioners in or by such Writing, cease, determine, and be extinguished, or the Exercise thereof shall be suspended accordingly; any Law, Usage, or Custom to the contrary notwithstanding.

Commis-
sioners to
direct the
Course of the
Husbandry.

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

in the Manner directed in and by the said first-recited Act with respect to the levying and recovering of Penalties.

XXXVI. And be it further enacted, That all Encroachments which shall have been made within Twenty Years next before the passing of this Act upon the Commons and Waste Grounds by this Act directed to be divided and allotted, (except a Piece of Land in *West Beckham* aforesaid, containing by Survey One Rood and Six Perches, heretofore inclosed by *William Mann*, whereon a Cottage and Out-houses have been erected by him,) shall be deemed Part of the Commons and Waste Grounds to be so divided and allotted; and in case any Dispute shall arise touching any Encroachment, except as aforesaid, or the Extent thereof respectively, such Dispute shall be determined by the said Commissioners.

Certain Encroachments to be divided and allotted.

XXXVII. Provided always, and be it further enacted, That if any Encroachments or Inclosures shall have been made from the Common or Waste Grounds hereby directed to be inclosed, within Twenty Years next before the passing of this Act, upon which any Buildings or Improvements shall have been made, then and in such Case the said Commissioners shall and they are hereby required to allot and award such Encroachments or Inclosures, or such Part thereof as aforesaid, to the Person who shall at the Time of making the Award be in Possession thereof, or in the Receipt of the Rents thereof, provided such Person shall be willing to purchase the same; and in every such Case the said Commissioners shall ascertain and fix the Price thereof, and such Price shall be ascertained without regard to the Value of any Improvement which may have been made thereon, and be regulated by the Value of the Land only, and that at so much *per Acre* as the same shall, in the Estimation of the said Commissioners, be worth, having reference to the State of the Commons or Waste Grounds next adjoining; and upon such Person paying such Price to the said Commissioners at such Time as they shall appoint for that Purpose, and taking a Receipt for the same (which Receipt the said Commissioners are hereby required to sign and give), every such Encroachment or Inclosure, or such Part thereof as shall be so purchased, shall be awarded to such Person, and shall be holden and enjoyed by him and his Heirs accordingly; and the said Commissioners shall and they are hereby required to apply such Purchase Money in or towards the Expences of obtaining and passing this Act and carrying the same into full Execution; and in case any Surplus shall remain after Payment of such Expences, such surplus Monies shall be divided, apportioned, and paid by the said Commissioners amongst and unto the several and respective Parties entitled to or interested in the said Lands and Grounds, according to their several and respective Rights and Interests therein; and the Shares of such of them as shall be seised in Fee Simple of their Estates in right whereof they shall be so entitled shall be paid to them respectively, and the Shares of any other of such Proprietors and Persons shall be paid into the Bank of *England*, and applied in manner herein-after directed; and in case any Dispute or Difference whatsoever shall arise touching any such Encroachments, or the Extent thereof, such

Certain other Encroachments may be allotted to the Person in Possession.

[*Private.*]

Dispute or Difference shall be investigated and determined by the said Commissioners.

Allotment
for Right of
Sheepwalk.

XXXVIII. And be it further enacted, That the said Commissioners shall assign, set out, and allot unto the said *William Howe Windham*, or other the Owner for the Time being of the Right of Sheepwalk or Shackage and Feed for Sheep in *West Beckham* aforesaid, so much and such Part or Parts of the Lands and Grounds in the said Parish of *West Beckham* hereby directed to be divided and allotted as shall, in the Judgment of the said Commissioners, be of the annual Value of Eighteen Pounds; and the said Allotment or Allotments shall be a full Compensation and Satisfaction to the said *William Howe Windham*, or to such other Owner as aforesaid, for such Right of Sheepwalk, Shackage, and Feed for Sheep in and over the said Lands and Grounds, or any Part thereof.

Allotments
for Right of
Soil.

XXXIX. And be it further enacted, That the said Commissioners shall assign, set out, and allot unto the Lords or Ladies of any Manor or Manors, or such other Person or Persons as shall be entitled to the Soil of the said Commons and Waste Grounds in the said Parishes of *West Beckham* and *Alby* respectively, so much and such Parts of the said Commons and Waste Grounds as shall, in the Judgment of the said Commissioners, be equal in Value to One Eighteenth Part of the Value of all the said Commons and Waste Grounds; and such Allotment or Allotments shall be a full Compensation and Recompence to such Lords or Ladies, or such other Persons as aforesaid, for his, her, or their Right in and to the Soil of the said Commons and Waste Grounds.

Allotments
to be set out
for Repair of
Highways.

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

of Surveyor of the Highways, and shall be under and subject to the like Penalties for the Neglect thereof.

XLI. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby required to set out, allot, and award unto the Churchwardens and Overseers for the Time being of the Parishes of *West Beckham* and *Alby* aforesaid, out of the Commons and Waste Grounds to be allotted by virtue of this Act, a Piece of Land or Ground, not exceeding Three Acres nor less than Two Acres, in each of the said Parishes, as a Place of Exercise and Recreation for the Inhabitants of the said Parishes; and such Allotments shall be held by such Churchwardens and Overseers for the Purposes aforesaid, and shall be, in the first instance, fenced at the general Expence; and the Fences of such Allotments shall for ever afterwards be repaired and maintained by the said Churchwardens and Overseers by and out of the Poores Rates.

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

XLII. And be it further enacted, That the said Commissioners shall assign, set out, and allot the Residue and Remainder of the Lands and Grounds within the said Parishes of *West Beckham* and *Alby* hereby directed to be divided and allotted, unto and amongst all Persons and Corporations being the Owners of or having any Rights of Common or other Rights or Interests in, over, or upon the same, or any Part or Parts thereof, (save and except the Rights for which Compensation is hereby directed to be made as aforesaid,) in such Parts and Shares as the said Commissioners shall adjudge and determine to be proportionate to the Value of and a full Compensation to such Owners respectively for their respective Shares, Rights, or Interests in, over, and upon the said Lands and Grounds, or any Part or Parts thereof; and the said Allotments shall be fenced, and the several and respective Hedges and Fences for dividing and inclosing the same shall be made, within such Time and in such Manner as the said Commissioners shall in and by their Award, or in and by any Writing under their Hands before the Execution of the said Award, order, direct, or appoint; and the Hedges, Ditches, Drains, and Fences so to be made shall at all Times be maintained and kept in repair and cleansed by such Persons and Corporations as the said Commissioners shall by their said Award order or direct.

Allotment of the Residue.

XLIII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioners, by and with the Consent in Writing and at the Request of the respective Owners or Proprietors of any Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parish of *Alby*, whether such Owners or Proprietors shall be Corporations, or Tenants 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 Lessors of any such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds, holden for Years determinable as aforesaid, and not otherwise, and with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees,

Allotments of old Inclosures with Consent.

mittees, or Attornies of or acting for any such Owners or Proprietors as aforesaid who shall be Infants, Femmes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, (such Consent to be respectively testified by Writing under the Common Seal of the Corporation, and under the Hands of the other consenting Parties respectively,) to consider such Homesteads, Gardens, Orchards, and old inclosed Lands as allottable Lands, and Part and Parcel of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, and to divide and allot the same accordingly; and such Allowance shall be made to the respective Owners and Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation or the beneficial Circumstances thereof, as the said Commissioners shall adjudge to be just and reasonable; and the said Commissioners shall and they are hereby authorized and required to set out, allot, and award, unto and for the respective Owners and Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, in lieu thereof, so much and such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or which may become allottable by virtue of this present Clause, as he shall think reasonable and just, subject to the Rules, Orders, and Regulations in this Act and the said recited Acts mentioned.

Rights of
Common.

XLIV. And be it further enacted, That all the Owners and Proprietors of Houses or Cottages in the said Parishes of *West Beckham* and *Alby* which have been erected Sixty Years, or which have been erected upon the Site of old Houses or Cottages within Sixty Years, shall, on their delivering their respective Claims in manner mentioned in the said recited Act of the Forty-first Year of His late Majesty's Reign, have and be deemed to have Rights of Common or of cutting Whins and Furze in, over, and upon the Commons and Waste Grounds of the Parish within which such Houses or Cottages may be situate, for Fuel to be consumed therein; and all the Owners and Proprietors of Land in the said Parishes which have not within Sixty Years now last past been Part or Parcel of the said Commons and Waste Grounds shall, on delivering their respective Claims, in like Manner have and be deemed to have a Right of Common of Pasture at all Times of the Year in, over, and upon the Commons and Waste Grounds in the Parish within which such Lands may be situate for their Commonable Cattle levant and couchant upon such Lands.

Allotments
to be marked
on a Plan,
and produced
at a Meeting
for the In-
spection of
the Parties
interested.

XLV. And be it further enacted, That the said Commissioners, when and so soon as they shall have ascertained the Rights and Interests in the Lands and Grounds hereby directed to be divided and allotted, shall cause the Allotments proposed to be made by them to be distinctly laid down and delineated upon a Map or Plan, which shall be produced at a convenient Time and Place to be appointed by the said Commissioners, and published in the before-mentioned Newspapers, or one of them, for the Inspection and Examination of the several Parties interested in the said Allotments; and in case any
Objection

Objection shall be made to the proposed Allotments, the Party making the same shall sign and deliver a Statement thereof in Writing to the said Commissioners at such Time and Place as they shall appoint; and the said Commissioners shall immediately, or within a convenient Time afterwards, take the same into their Consideration and determine the Matter thereof, and the Determination of the said Commissioners with respect to such Allotments shall be final and conclusive.

XLVI. Provided always, and be it further enacted, That no Sheep or Lambs shall, during the Term of Seven Years next after the Execution of the said Award, be kept in any of the Allotments to be made by virtue of this Act, and which shall be bounded by any Fence to be raised by the Direction of the said Commissioners, unless the Person keeping the same shall, at his own Expence, guard and protect such Fence from being hurt or damaged by such Sheep or Lambs, whether such Fence be made by the Owner or Occupier of such Allotments, or by the Owner or Occupier of any Allotment adjoining thereto.

No Sheep or Lambs to be kept in the Allotments for Seven Years.

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

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

XLVIII. And be it further enacted, That it shall be lawful for the Rector for the Time being of the Parish of *Alby* aforesaid, by Indenture under his Hand and Seal, with the Consent and Approbation of the Patron of the said Rectory for the Time being, such Consent to be had previous to the Execution of such Indenture or Indentures by the other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part of the Allotment to be set out and allotted to such Rector in right of his said Rectory by virtue of this Act to any Person whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the passing of this Act, so that the Rent for the same shall be thereby reserved to the Rector for the Time being by quarterly Payments in every Year, and so that there be thereby also reserved and made payable to such Rector the best and most improved Rent that can be reasonably had or gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for making or granting such Lease or Demise, and

Power to Rector to lease his Allotment.

[*Private.*]

so that no such Lessee by any such Lease or Demise be made punishable for Waste by any express Words to be therein contained, and so that there be inserted in every such Lease such Power of Re-entry on Nonpayment of the Rent to be thereby reserved within a reasonable Time, to be therein limited, after the same shall become due, so that a Counterpart of each such Lease be duly executed by the Lessee to whom such Lease shall be so made as aforesaid: Provided always, that whenever any Lease to be so granted shall by any means become forfeited or void, or be surrendered before the Expiration by Effluxion of Time of the Term thereby granted, then and in such Case, and so often as the same shall happen, it shall be lawful for such Rector as aforesaid for the Time being, with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron of the said Rectory, to grant a new Lease of the Land so demised, for such Term of Years as shall at the Time of such Avoidance be then to come and unexpired of the original Term granted by such original Lease, subject nevertheless to the Provisoes and Conditions contained in such original Lease, and then remaining unperformed and capable of taking effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act or any Law or Usage to the contrary notwithstanding.

Power of
Enfranchise-
ment.

XLIX. And be it further enacted, That it shall be lawful for the Owners of any Lands, Tenements, or Hereditaments, of Copyhold or Customary Tenure, within the said Parishes of *West Beckham* and *Alby*, or either of them, whether such Owners shall be Tenants in Fee Simple or in Fee Tail, General or Special, or for Life, and for the Guardians, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who shall happen to be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, and for Trustees or Feoffees for charitable or other Uses, to contract and agree with the Lords of any Manors, whether such Lords shall be a Corporation, or shall hold the said Manors in Fee Simple or for any limited Estate or Interest, or as Trustees or otherwise, for the absolute and perpetual Enfranchisement of all or any such Copyhold or Customary Lands, Tenements, or Hereditaments, and all Allotments in respect thereof, and for the Extinction of the Heriots, Quit Rents, and all other Rights of the Lords in, over, and upon the same, for a Compensation, either in Money or Land, as in any such Contract shall be specified and declared.

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

L. And be it further enacted, That (subject to the Power of Enfranchisement herein-before contained) all Lands and Tenements which shall be allotted to any Person for or in exchange for or in respect of any Messuages, Lands, or Tenements of Copyhold or Customary Tenure, or for or in respect of any Leasehold Messuages, Lands, or Tenements, or of any Right of Common, or of any other Right appurtenant or appendant to any such Copyhold or Leasehold Premises, shall be deemed and taken to be of the same Tenure as the Messuages, Lands, or Tenements for or in respect whereof such

Allotments shall be made are now held, and that the Persons to whom such Copyhold Allotments shall be made as aforesaid shall, within Six Calendar Months next after the Execution of the said Award, be admitted Tenants to the same, upon which no Fine or other Charge to the Lords or Stewards of any Manor shall be payable (except the Stamp Duties and Parchments requisite for the Copies of such Admittances, and such reasonable Fees to the Stewards of the said Manors as the said Commissioners shall by the said Award order and direct); and after such first Admission as aforesaid the said Copyhold Premises so to be allotted shall at all Times be subject to such Fines or Payments as the Lands or Tenements in respect whereof such Lands and Premises shall be allotted are now held under and subject to; and the said Commissioners shall, by the said Award, and the Maps or Plans to be thereto annexed, determine, describe, and abut the Lands and Grounds respectively which are to be and remain Copyhold or Leasehold; and all other Lands and Tenements to be allotted by the said Commissioners (except what shall be so ascertained to be Copyhold or Leasehold) shall be from thenceforth deemed and taken as Freehold Lands and Tenements, subject nevertheless to such free Rents and Services as are now payable out of the Lands in respect whereof the same may be allotted.

LI. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever, within the said Parishes of *West Beckham* and *Alby*, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Parishes, or within any adjoining Parish, Township, or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent in Writing of the Owner of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner shall be a Body or Bodies Politic, Corporate, or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple, or for Life or Lives, 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 thereof, but not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and every such Exchange so to be made shall be good, valid, and effectual in the Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, 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 so to be exchanged shall lie or be situate:

Pro-

Provided also, that all Costs, Charges, and Expences attending the making and completing of any Exchanges shall be paid and borne by the several Parties making such Exchanges, in such Manner and in such Proportions as the said Commissioners shall by their Award order and direct, and in case of Nonpayment thereof shall be recovered in the Manner by the first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

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

1 G. 4. c. 35.

LII. And be it further enacted, That whenever any Money is, under the Provisions of the said first-recited Act or of this Act, directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, or Administrator, Husband, Guardian, Committee, or other Trustee, for or on behalf of any Infant, Idiot, Lunatic, Feme Covert or other Cestuique Trust, or to any Person whose Lands are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, to be settled to the same Uses, it shall be lawful for the said Commissioners out of such Money to defray the Proportion (if any) of the Expence of obtaining this Act, and of carrying the same and the said recited Acts into execution, which shall be charged upon any of the Lands of the respective Parties in possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, dividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioners be proper to be made upon any Lands to be by virtue of this Act allotted to such Parties; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there *ex parte* the Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, without Fee or Reward; and shall, when so paid in, there 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, to be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Discharge of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court shall authorize to be purchased, redeemed, or discharged, or such Parts as shall be necessary; or until the same shall, upon a like Application in a summary Way, be laid out, by
Order

Order of the said Court, in the Purchase of other Lands, which shall be conveyed, limited, or settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the aforesaid Lands stood limited or settled, or such of them as at the Time of making such Conveyance and Settlement shall be existing undeterminable or capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or of Government or Real Securities; and in the meantime, and until the said Annuities or Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interest and annual Produce of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, and settled.

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

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

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

When under 20*l.*

[*Private.*]

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LV. And

Wills and
Settlements
not to be
affected.

LV. And be it further enacted, That nothing in this Act contained shall extend to annul, revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance out of, upon, or affecting any of the Lands hereby authorized to be divided, allotted, or inclosed as aforesaid, or any of the Messuages, Lands, or Hereditaments which may be exchanged or parted with in pursuance of this Act, but that as well the Land allotted and exchanged, as the Land which shall be assigned in compensation for any other Estate by virtue or in pursuance of this Act, shall immediately after such Allotment, Exchange, or Assignment remain and enure, and the several Persons to whom the same shall be allotted, assigned, or given in exchange as aforesaid shall be seised and possessed thereof respectively, to, for, and upon such and the same Estates, Uses, Trusts, Intents, and Purposes, and subject to such and the same Wills, Settlements, Tenures, Limitations, Remainders, Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Assignments shall have been made should or would have stood severally limited, vested, settled, or been subject or liable to, or been held by, in case the same had not been allotted, exchanged, or assigned as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

Persons may
sell their
Common
Rights, and
Persons
entitled to
have Allot-
ments may
Mortgage,
&c. 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 said Commissioners sell, his Right, Interest, and Property in the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, or any Part thereof, to any Person, then and in every such Case it shall be lawful for the said Commissioners and they are hereby required, upon such Sale being made, to make an Allotment of Land unto the Purchaser in every such Sale, or to his Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold as aforesaid; and every such Purchaser, or his Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him as aforesaid in the same Manner, to all Intents and Purposes, as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person who shall be entitled to any Allotment under or by virtue of this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment, or all or any Part of his Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment as aforesaid to sell, dispose of, and convey the Estate in right of which he may be entitled to any such Allotment separate and apart from,

and retaining to himself, such Allotment, Common Right, and Interest, and the said Commissioners are hereby required to award such Allotment accordingly.

LVII. And be it further enacted, That it shall be lawful for the said Commissioners, on Application made to them in Writing by the Husbands, Guardians, Trustees, Committees, or Attornies of or for any Owners or Proprietors of Lands, Tenements, or Hereditaments in the said Parishes, or either of them, being under Coverture, Minors, Idiots, or Lunatics, or beyond the Seas, or under any other legal Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies, or by any other of the said Owners or Proprietors being Tenants in Tail or for Life or Lives, or on any other Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, to sell any Part of the Allotment or Allotments to be made by virtue of this Act or of the said first-recited Act, to the Persons by whom or in whose Behalf any such Application shall be made, for the Purpose of raising the Sum of Money which the said Commissioners shall by their said Award direct to be paid by such Persons as their Shares of the Costs, Charges, and Expences of obtaining this Act, and of carrying the same and the said recited Acts into execution, and also the Charges of inclosing and subdividing such Allotment or Allotments, and of making and completing such Sale, so that the Sum of Money to be raised by such Sale, together with the Sum to be raised by Mortgage as herein-after mentioned, shall not exceed the Proportion of Five Pounds for each Acre of the said Lands to be allotted to the Persons by or on whose Behalf such Application for a Sale shall be made; and such Sale shall be made by the said Commissioners in such and the same Manner and subject to the like Rules and Regulations as are mentioned and prescribed in the said first-recited Act in respect of the Sale of Lands towards the defraying the Expences of obtaining and carrying into execution any Act for dividing, allotting, and inclosing any Lands or Grounds; and every such Part of an Allotment for which the full Purchase Money shall be paid shall be vested in the said Commissioners, and shall be by them conveyed by Indenture of Bargain and Sale (of which no Inrolment shall be necessary), executed by such Commissioners, at the Expence of such Purchaser, unto and to the Use of or in Trust for such Purchaser and his Heirs, or as he shall appoint, and shall be held by such Purchaser in Severalty; and so much of the Allotment so to be sold as shall have been set out in respect of any Copyhold Messuages, Lands, or Tenements shall, in the Indenture of Bargain and Sale, be stated to have been by the said Award declared to be Copyhold, and shall be subject to the Provisions herein-before contained as to Allotments to be made in respect of Copyhold Hereditaments; and the Receipt of the said Commissioners shall be a good and sufficient Discharge to the Purchaser for the Purchase Money; and such Purchase Money shall be applied by the said Commissioners in or towards defraying such Costs, Charges, and Expences; and if any Surplus shall remain in the Hands of the said Commissioners the same shall be paid to the respective Parties of whose Allotment such Sales shall be made respectively, in case they shall

Empowering
Commis-
sioners, upon
Application,
to sell Part of
Allotments
to defray
Expences.

shall be Tenants in Fee Simple, and in case any of them shall not be Tenants in Fee Simple then their Shares of such surplus Money shall be applied and disposed of by the said Commissioners in the Manner herein-after directed in respect to Monies to be paid for the Purchase or Exchange of Hereditaments, or of any Timber or Wood growing thereon.

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

LVIII. And be it further enacted, That it shall be lawful for the respective Proprietors of Allotments to be made by virtue of this Act, being Tenants for Life or in Tail, or for any other Estate of Freehold or Inheritance, and also for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Proprietors, being under Coverture, Infants, Lunatics, Idiots, or beyond the Seas, or otherwise incapacitated, and for the Trustees or Feoffees for charitable, parochial, or other Uses, or a competent Number of them, in respect of any Lands held by them in Trust for any charitable, parochial, or other Uses, (by and with the Consent of the said Commissioners, testified in Writing under their Hands and Seals,) from Time to Time to charge their Allotments with any Money not exceeding Five Pounds forevery Acre of such Lands, for and towards their respective Proportions of the Costs and Expences of obtaining and carrying this Act into execution, and for securing the Repayment of such Money, with Interest, to grant, mortgage, lease, or demise or otherwise subject the said Allotments unto or in Trust for any Person who shall advance such Money, for any Term or Number of Years; but so that every such Grant, Mortgage, or Lease or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby to be secured, with all Interest thereon, shall have been fully paid and satisfied; and so that in every such Grant, Mortgage, Lease, or Demise which shall be made by or on behalf of any Person interested or entitled to any such mortgaged Premises, for the Term of his natural Life, there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his Life in such Manner that no Person afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months previous to the Time when the Title of such Person shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise shall be valid in the Law for the Purposes thereby intended.

Mortgages may be assigned.

LIX. And be it further enacted, That every Person to whom any Grant, Mortgage, Lease, or Demise shall be made, by virtue of this Act, as a Security for any Sum of Money by him lent and advanced on the Credit of and for the Purposes mentioned in this Act, or who shall be entitled to the Money thereby secured, 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 to be attested by some credible Witness, assign and transfer the same Security, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his Estate, Right, Title, and Interest and Term of Years then to come and unexpired of, in, and to the same, unto any Person

Person whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Assignee, and his Executors or Administrators, and all Persons claiming under him or them, shall and may use, take, and pursue all such lawful Methods, Causes, and Expedients, in Law or in 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.

LX. Provided always, and be it further enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of any Copyhold Lands, whether by Deed or otherwise, shall be presented and entered on the Court Rolls of the Manor under which such Copyhold Lands shall be held, whereupon the same Fees and other Payments shall be due and paid as in other Cases of 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 Mortgagees, instead of being demised to such Mortgagee, and his Executors, Administrators, and Assigns, for a Term of Years, as mentioned and prescribed in and by the said first-recited Act.

Directions for charging Copyhold Lands with Expences.

LXI. And be it further enacted, That when any Proprietor of Lands which shall be divided, allotted, inclosed, or exchanged, or any Person to whom any Allotment is made, by virtue of this Act, shall hold such Lands, or the Lands in respect of which such Allotment is made, under different Titles and for different Estates, the said Commissioners shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall accordingly in their Award set out and distinguish distinct and several Allotments for such respective Lands.

Separate Allotments for Lands held by different Titles.

LXII. And be it further enacted, That where, from the Want of necessary Information, or from any other Cause, the said Commissioners shall have omitted to distinguish in their Award the several Tenures under which any of the said Lands are or shall be holden, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments, as by this Act directed, it shall be lawful for the said Commissioners, at any Time within Two Years after the Date and Execution of their Award, upon Request in Writing to them made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if their Award had not been made, and by any Deed or Instrument under their Hands and Seals to distinguish and set out the Allotments and Lands held by different Tenures, and also

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

[Private.]

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

Directions
respecting
the Award.

LXIII. And be it further enacted, That the Award which by the said first-recited Act is directed to be made by the said Commissioners shall be executed by them in the Presence of the Proprietors who may attend at a Special Meeting to be held for that Purpose, and of which Meeting Ten Days Notice shall be given in the Newspapers herein-before mentioned, or in some other Newspaper then circulated in the said County of *Norfolk*, and, together with proper Maps or Plans thereto annexed, shall, within the Time by the said first-recited Act limited for the Enrolment thereof, be delivered to the Clerk of the Peace for the said County of *Norfolk*, who is hereby required to deposit and keep the same among the Records of the said County, so that recourse may be had thereto by any Person or Persons interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings shall be paid, and no more, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be complete; and the said Award, and any Copy of the said Award, or of any Part or Parts thereof, to be attested by the Clerk of the Peace for the Time being of the said County of *Norfolk*, 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.

Provision for
Payment of
Expences.

LXIV. 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 or allowed to the said Commissioners and Clerk for Expences, Time, and Trouble, and the Costs, Charges, and Expences of measuring, surveying, planning, valuing, dividing, and allotting any of the said Lands and Grounds by the said Commissioners and the several Persons employed by them, and of inclosing the Allotments which may be made to the Rector of *Alby* in respect of the Glebe Lands of the said Rectory, and of preparing and enrolling the Award of the said Commissioners, and all Costs and Charges that the said

Commissioners shall be put unto in respect of any Appeal against their Decision, or of any Suit at Law or in Equity that may be instituted by or against them as Commissioners in the Execution of this Act, either before or after the Execution of the said Award, and all other Charges and Expences whatsoever of carrying this Act into execution, shall be borne and defrayed by the several Owners and Proprietors of and Persons interested in the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, other than and except the Rector of *Alby* aforesaid for the Time being, in respect of any Allotment which shall be made to him in right of the said Rectory, and other than and except the Surveyors of the Highways for the Time being of the said Parishes of *West Beckham* and *Alby*, in respect of the Allotments herein-before authorized to be made to them, in such Shares and Proportions, at such Time and Place, and to such Persons, as the said Commissioners shall, by Writing under their Hands to be affixed upon the principal outer Doors of the Parish Churches of *West Beckham* and *Alby* aforesaid on some *Sunday* immediately before Divine Service, or delivered to the respective Persons liable to the Payment of such Costs, Charges, and Expences, at least Fourteen Days before the Time appointed for such Payment, order and direct; and the said Commissioners are hereby authorized and empowered from Time to Time to make and form Estimates of all such Costs, Charges, and Expences, and to raise the Amount of such Estimates at such Time or Times as they shall deem necessary or proper, either before or after the Execution of their Award; and in case any Person shall refuse or neglect to pay his Proportion of such Charges and Expences as aforesaid within the Time and to such Person as the said Commissioners shall appoint, it shall be lawful for the said Commissioners to recover the same, together with the lawful Interest, to be computed from the Day on which the same ought to have been paid as aforesaid, by Action at Law, in their own Names, in any of Her Majesty's Courts of Record at *Westminster*; or it shall be lawful for the said Commissioners, by Warrant under their Hands and Seals directed to any Person whomsoever, to cause the same, with such Interest thereon as aforesaid, to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Owner of such Goods and Chattels, after deducting the Costs and Charges of making and taking such Distress and Sale; or it shall be lawful for the said Commissioners, or any Person authorized by them, immediately after such Neglect or Refusal, to enter into or 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.

LXV. Provided always, and be it further enacted, That if at any Time after the Allotments shall have been staked out it shall appear
Power to
make addi-
to

tional Rate
in case of
Deficiency.

to the said Commissioners, either before or after the Execution of their Award, that the Money to arise by any previous Rates shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Rate to be made and levied upon the several Persons interested in the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, (other than and except as aforesaid,) in such Shares and Proportions, within such Time, and to be paid to such Persons as the said Commissioners shall from Time to Time direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid shall neglect or refuse to pay his Share or Proportion 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.

Persons ad-
vancing
Money to be
repaid with
Interest.

LXVI. And be it further enacted, That the Money which shall be advanced by any Person for the Purposes of defraying the Expences of applying for and obtaining this Act, and for carrying the same into execution, shall be repaid, with lawful Interest, to the Person advancing the same, his Executors, Administrators, or Assigns, out of the first Monies to be raised by virtue of this Act.

Accounts to
be audited.

LXVII. And be it further enacted, That once at least in every Twelve Calendar Months during the Execution of this Act (to be computed from the Time of passing thereof) the said Commissioners shall and they are hereby required to make a true and just Statement and Account of all the Sums of Money by them received and expended or applied in the Execution of this Act, and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed; and such Statement and Account, when so made, together with the Vouchers relating thereto, shall be by them laid before One of Her Majesty's Justices of the Peace for the County of *Norfolk*, not interested in the said Inclosure, to be by him examined and balanced, and such Balance shall be stated in the Books of Account to be kept in the Office of the Person acting as Clerk to the said Commissioners; 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, subject nevertheless to the Power of Appeal herein-after contained,

Appeal to the
Quarter
Sessions.

LXVIII. And be it further enacted, That if any Person or Corporation shall think himself or themselves aggrieved by any thing done or omitted to be done in pursuance of this or the said recited Acts, (other than and except such Orders or Determinations of the said Commissioners as are herein or by the said recited Acts directed to be final and conclusive, and except in such Cases as are directed or authorized to be tried, settled, or determined by an Issue at Law, as herein-before mentioned,) then and in every such Case he or they
may

may appeal to the Justices at the General Quarter Sessions of the Peace which shall be held for the said County of *Norfolk* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and the Party or Parties concerned Fourteen Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices (not interested in the Premises) in their said General 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 in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by Certiorari, or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, and without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, which shall be levied in manner aforesaid.

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

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

[*Private.*]

[9 p]

LXXI. And

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

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

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1839.