



ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

Cap. 14.

An Act for inclosing Lands in the Parish of *Marsh Gibbon* in the County of *Buckingham*.

[21st June 1841.]

WHEREAS there are within the Parish of *Marsh Gibbon* in the County of *Buckingham* several Open and Common Fields, Common Meadows, Common Pastures, and other Commonable and Waste Lands: And whereas the Two Chaplains and Thirteen Poor Men of *Erwelme* Almshouse in *Erwelme* in the County of *Oxford* are Lords of the Manor of *Marsh Gibbon*, and *Richard Ivens* Yeoman claims to be Lord of the Manor or reputed Manor of *Westbury* within the Parish of *Marsh Gibbon* aforesaid, and as such they claim to be respectively entitled to the Right of Soil in the Commons and Waste Lands within their said respective Manors: And whereas the said Two Chaplains and Thirteen Poor Men, and their Lessees, Sir *Alexander Croke* Knight, Doctor of Civil Laws, *Richard Ivens*, and divers other Persons, are the Owners or Proprietors of or interested in the said Open and Common Fields, Common Meadows, Common Pastures, and other Commonable and Waste Lands within the said Parish: And whereas it would be of great Advantage to the several Proprietors and Persons interested in the said Open and Common Fields, Common Meadows, Common Pastures, and other Commonable and Waste Lands, if the same were divided and inclosed, and specific Allotments made to them respectively, according to their

[*Private.*]

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several

several and respective Rights, Shares, and Interests therein; but the same cannot be effected without the Aid and Authority of Parliament: And whereas an Act was passed in the Forty-first Year of the Reign of King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required in the passing of such Acts*: And whereas another Act was passed in the First and Second Year 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*: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third and in the Second Year of King *George* the Fourth, and the several Enactments and Provisions thereof, shall from the passing of this Act be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

41 G. 3. c. 109.

1 & 2 G. 4.
c. 23.Recited Acts
to form Part
of this Act.Appointment
of Commis-
sioner.

II. And be it enacted, That *Henry Dixon* of the City of *Oxford*, Gentleman, and his Successors for the Time being, to be elected or appointed in manner herein-after mentioned, shall be sole Commissioner for carrying this Act and the said recited Acts into execution; and it shall be lawful for the said Commissioner and he is hereby required to divide, allot, and inclose the said Open and Common Fields, Common Meadows, Common Pastures, and other Commonable and Waste Lands in the said Parish, according to the Regulations and Provisions contained in the said recited Acts and this Act: Provided always, that no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the First Meeting of the Commissioner, and in receiving the Declaration herein-after directed,) until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration it shall be lawful for any Justice of the Peace for the Counties of *Buckingham* and *Oxford*; or either of them, to receive; and such Declaration shall be in lieu of the Oath or Affirmation required by the said Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds.

Penalty on
Persons
acting not
qualified.

III. And be it enacted, That if any Person, not having so qualified himself, shall act as a Commissioner, he shall for every such Offence forfeit the Sum of Fifty Pounds, with full Costs of Suit, to any Person who shall sue for the same, by Action of Debt or on the Case, in any of Her Majesty's Courts of Record at *Westminster*.

Penalty on
making false
Declaration.

IV. And be it enacted, That if any Person shall falsely or corruptly make and subscribe a Declaration under the Authority of this Act,

Act, knowing the same to be untrue in any material Particular, he shall be guilty of a Misdemeanor.

V. And be it enacted, That in case the said *Henry Dixon*, or any Person to be appointed a Commissioner in his Room, by virtue of this Act, shall die, or become incapacitated, or neglect or refuse for the Space of Two Months to act as such Commissioner, it shall be lawful for the said Two Chaplains and Thirteen Poor Men of *Ewelme* Almshouse, or their Successors, by any Writing under their Common Seal, to appoint some fit Person to be a Commissioner in the Room of the said *Henry Dixon*, or of any Commissioner appointed in his Place, and so from Time to Time as often as any such Commissioner shall die, neglect or refuse or become incapable to act.

Appointment of Commissioners on Vacancies.

VI. Provided always, and be it enacted, That in case the said Two Chaplains and Thirteen Poor Men shall not appoint a new Commissioner within the Space of Six Weeks next after Notice of such Death, Neglect, Refusal, or Incapacity as aforesaid, it shall be lawful for the major Part in Value (such Value to be ascertained by the Land Tax Assessment for the Time being) of the several Proprietors of Lands within the said Parish (exclusively of the said Two Chaplains and Thirteen Poor Men) who shall attend either personally or by their Agents at any Meeting to be held for that Purpose, of which Meeting Notice shall be given by some One or more of the Persons interested in the said Inclosure, by Advertisement, and also on the Church Door, as herein-after directed, at least Fourteen Days before such Meeting, to appoint, by Writing under their Hands, some fit Person to be a Commissioner in the Room of the said *Henry Dixon*; and every new Commissioner appointed under the Powers herein-before given shall be invested with the same Powers and Authorities for carrying this Act into execution, and shall be subject to the same Regulations, as if he had been originally named a Commissioner in this Act; and every such Appointment shall be annexed to and deposited with the Award of the Commissioner.

Directing how new Commissioners shall be appointed.

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

Appointment of Surveyor.

Surveyor to make a Declaration.

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

Appointment of Clerk.

IX. And

Appointment of Clerk.

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

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

Allowances to Commissioner and Clerk,

X. And be it enacted, That each of them the said Commissioner and Clerk shall be paid out of the Inclosure Expences Fund, for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act, the Sum of Three Pounds and Three Shillings for each Day they shall respectively be engaged as aforesaid, for the first Three Years after the passing of this Act, and Two Pounds and Two Shillings *per* Day afterwards, and such Payment shall be in full Satisfaction to the Commissioner and Clerk respectively for their Time and Trouble, and for the several Expences incurred by them during their several Journies and Attendance in the Execution of this Act, except the Expence of the Rooms in which the Meetings of the Commissioner shall be held, and the Expence of Appeals or other legal Proceedings against the Commissioner, and the Expence of Notices and Advertisements, and of preparing, proclaiming, and enrolling the Award, and such other like necessary Expences: Provided always, that it shall not be lawful for the Commissioner to retain or pay himself or the said Clerk any Money on account of the before-mentioned Allowances respectively beyond One Third of the Allowance to which they shall be respectively entitled until after the Expiration of Six Calendar Months from the Day of the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided.

Length of Day for estimating Allowances.

XI. And be it enacted, That in computing the aforesaid Allowance to the Commissioner and Clerk a Day shall be deemed to consist of Eight Hours during the Period between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and Six Hours during the Period between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*; and when the Time occupied in going to and attending at and returning from any Meeting to be holden, or on other Business to be transacted under the Provisions of this Act, shall be of less Duration than Eight Hours in the first of the Periods aforesaid, or of Six Hours in the last of the said Periods, then such Time shall be deemed and considered to be Half a Day only, and the Commissioner and Clerk shall be paid accordingly,

Allowances to Surveyor.

XII. And be it enacted, That it shall be lawful to the Commissioner to pay the Surveyor to be appointed by him, out of the Inclosure Expences Fund, a Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the Land requiring to be surveyed under the Provisions of this Act, and a Sum not exceeding Two Guineas for each Day that he shall be actually and wholly engaged in the Duties imposed by this Act, exclusive of the Time he may be engaged in surveying, measuring,

surveying, mapping, and planning as aforesaid, and such Payments shall be in full Satisfaction for the Time and Trouble of the Surveyor, and for all travelling and other Expences of every Description to be incurred by him whilst engaged in the Duties of surveying under this Act.

XIII. And be it enacted, That the Commissioner shall cause Notice to be given by Advertisement or on the Church Door of the Time and Place when and where his First and every subsequent Meeting shall be held (Meetings by Adjournment only excepted), and he may from Time to Time adjourn any such Meetings, and if at the Time and Place appointed for any such Meeting the Commissioner shall not attend it shall be lawful for his Clerk to adjourn such Meeting for not more than Twenty-one Days, to be held at the same or other convenient Place, giving timely Notice thereof to the Commissioner: Provided always, that all Meetings of the Commissioner for executing this Act shall be held within the said Parish, or within Eight Miles of the Boundaries thereof.

Meetings
and Notices
thereof.

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

Notices how
to be given.

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

What shall
be a Refusal
to act.

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XVI. And

Penalty on
Persons sum-
moned by
the Commis-
sioner re-
fusing to ap-
pear or to
give Evi-
dence.

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

For regulat-
ing Dis-
tresses.

XVII. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, shall be directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same, and the surplus Monies arising from such Sale, after satisfying such Sum of Money, and the Costs and Expences attending the Distress and Sale, shall, on Demand, be rendered to the Party whose Goods and Chattels shall have been distrained.

Proceedings
to be entered
in a Book.

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

Proprietors
to pay their
own Ex-
pences at
Meetings.

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

Debts to be
paid, and Ac-
counts to be
audited.

XX. And be it enacted, That the Commissioner shall not at any Time permit any just Claim or Demand upon him as such Commissioner to remain unpaid for a longer Period than Three Months, and once at least in every Twelve Months during the Execution of this Act, and until the Account of the Commissioner shall be finally allowed, (the first of such Periods to be computed from the Day of the passing hereof,) he shall make out a true and accurate Account of all Sums of Money by him received and expended in the Execution of this Act, and of all Sums due to him for his own Trouble or Expences, and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid; and such Account, when so made out, together with the Vouchers relating thereto, shall be by the Commissioner laid before One or more of Her Majesty's Justices of the

Peace acting for the said Counties of *Buckingham* and *Oxford*, or one of them, not interested in the Premises, to be by him or them examined and balanced.

XXI. And be it enacted, That the Balance of such Account shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the Commissioner; and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be published in some Newspaper printed or usually circulated within the said Counties of *Buckingham* and *Oxford*, or either of them; and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in the Law, unless the same shall have been allowed by such Justice or Justices, nor until such Abstract thereof shall have been published in some such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Accounts to be published.

XXII. And be it enacted, That for the Purpose of shortening or rendering straight any Boundary Fences between the Lands to be inclosed and the old inclosed Lands in the said Parish, or between such Allotments and inclosed Lands, or any of them, and any adjoining Lands, it shall be lawful for the Commissioner (with the Consent of the Lord of any Manor in which the Lands are situate), and of the Owners of any such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them, being a Corporation Aggregate, to set out and determine the Boundaries between the Lands to be inclosed and any adjoining Lands lying in the same Way or in any adjoining Manor, as he shall judge proper for the Purposes aforesaid; and after such Boundaries shall have been so set out and determined as aforesaid the same shall be made, fenced, ditched, or mounded by such Person, in such Manner, and at such Times, as the Commissioner shall direct, and shall for ever thereafter be deemed the Boundaries between the allotted and the old inclosed Lands respectively, or (as the Case may be) between the allotted or old inclosed Lands and such adjoining Lands.

For shortening Boundary Fences.

XXIII. And be it enacted, That it shall be lawful for the Commissioner to set out and make such Common Ponds, Ditches, Drains, Streams, Watercourses, Tunnels, Banks, and Bridges, of such Extent and Form, and in such Situations, as he shall deem necessary, in the Lands to be inclosed, and also to enlarge, widen, cleanse, or alter the Course of and improve any of the present Ponds, Ditches, Drains, Streams, Watercourses, Tunnels, Banks, or Bridges, as well in and over the same Lands, as also in any ancient Inclosures or other Lands within the said Parish, as the Commissioner shall deem necessary (making such Satisfaction to the Proprietors of such ancient Inclosures or Lands, for the Damage done thereby, as the Commissioner shall think just); and the Expences of making and enlarging, widening, altering, and cleansing, such Ponds, Ditches, Drains, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first done, in pursuance of this Act, if not otherwise provided for, shall be raised by the Commissioner in the same

Commissioner to set out Drains, and enlarge and turn Water-courses.

Manner

Manner as the other Expences of carrying this Act into execution, but all such Ponds, Ditches, Drains, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Persons and in such Manner as the Commissioner shall by his Award direct, provided that no Watercourse be diverted or turned without the Consent in Writing of the Persons from whose Lands the same may be diverted, and of the Persons into whose Lands the same may be turned, or to the Prejudice of any Person interested in such Watercourse, except with his Consent in Writing.

Power to
widen Roads,
making Com-
pensation
to Land
Owners.

XXIV. And be it enacted, That it shall be lawful for the Commissioner to widen any of the public Roads or Highways where he shall think it necessary within the said Parish, to any Extent he shall think fit, not exceeding Forty Feet, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands adjoining such Roads (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House), the Commissioner making a full Compensation for the Value of the Land so taken, either by allotting and awarding unto the Persons from whom any such inclosed Land shall be so taken an adequate Part of the Lands to be inclosed, or out of the Inclosure Expences Fund; and also making good and substantial Fences on each Side of all such widened public Roads and Highways in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to
stop up or
divert Roads.

XXV. And be it enacted, That in setting out the several public Carriage Roads, Highways, Bridle Roads, and Footpaths, in pursuance of this Act or of the said first-recited Act, the Commissioner may, if he thinks it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the Counties of *Buckingham* and *Oxford*, or either of them, discontinue, stop up, divert, or alter any of the Carriage Roads, Highways, Bridleways, or Footpaths passing through any of the Lands to be inclosed or any of the old Inclosures within the said Parish, and the Soil of such of the Roads and Ways so to be discontinued and stopped up as pass through allottable Lands shall be deemed Part of the Lands to be inclosed: Provided always, that nothing herein contained shall authorize the altering or diverting of any Turnpike Road, unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first obtained.

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

XXVI. Provided always, and be it enacted, That before any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, diverted, stopped up, or altered by the Commissioner, or any such Order of Two Justices shall be made, the Commissioner shall cause to be affixed at each End of such public Carriage Road, Highway, Bridle Road, or Footpath a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the Commissioner; and the Commissioner shall also cause the same Notice to be given by Advertisement for Four successive Weeks, and also on the Church Door on Four *Sundays*

days of the said Four successive Weeks, and after the said several Notices shall have been so given, and after such Order as herein-before mentioned shall have been made, such public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject, however, to such Appeal as is herein-after mentioned.

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

Appeal to
the Quarter
Sessions.

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

In case of
Appeal, Jury
at Sessions
to determine
whether the
Roads, &c.
shall be dis-
continued.

Expences of
discontinuing
or widening
Roads.

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

Justices may
declare any
of the Car-
riage Roads
completed.

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

Commis-
sioner to
appoint pri-
vate Roads;

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

and to allot
the Herbage
of private
Roads.

XXXII. And be it enacted, That the Commissioner shall by his Award order the Grass and Herbage growing upon the private Roads to be set out by him by virtue of this Act to be for ever thereafter for the Use of such Persons as he shall in his Judgment think best entitled to the same.

Commis-
sioner em-
powered to
suspend or
extinguish
Rights of
Common.

XXXIII. And be it enacted, That it shall be lawful for the Commissioner, at such Time as he shall think proper, and before the Execution of his Award, by Notice on the Church Door, to order all or any of the Rights of Common or other Rights in or over the Lands to be inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended during such Time as shall be expressed in such Notice, and from the Time mentioned in such Notice such Rights shall be extinguished or suspended accordingly.

Cattle de-
pasturing in
breach of
Commission.

XXXIV. And be it enacted, That if, during the Suspension or after the Extinguishment of any such Rights of Common or other Rights as aforesaid, any Owner or Occupier of Land, or of any
Commonable

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

er's Order
to be dis-
trained.

XXXV. And be it enacted, That it shall be lawful for the Commissioner, as soon after the passing of this Act as conveniently may be, and from Time to Time as he shall think fit, by Notice on the Church Door, to direct the Course of Husbandry, and the Stint or Rule of Stocking, that shall be observed upon the Lands to be inclosed, until the Time when he shall have completed the 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 as he shall think right to any Person injured by such Directions, all which Directions shall be binding upon all Parties interested, their Farmers and Tenants; and the Commissioner shall impose such pecuniary Penalties on every Person not conforming to such Directions as he shall think necessary, not exceeding the Sum of Five Pounds *per* Acre in case of cross cropping or withholding from the Land its due Proportion of Manure, or Ten Pounds in any other Case, for any One Offence, and shall also determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the Lands in his Occupation, by whom and in what Sum of Money such Tenant shall be compensated for any such Manure left or given up by him; and such Penalties and other Sums of Money shall be recovered in the Manner directed by the said first-recited Act with respect to the levying and recovering of Penalties.

Commis-
sioner to
direct the
Course of
Husbandry.

XXXVI. And be it enacted, That the Commissioner shall by Writing under his Hand order what Recompence in Money shall be made to the Owner of any Crops growing, according to the customary Mode

Satisfaction
to be made
for growing
Crops.

Mode of Cultivation within the said Parish, upon the Lands to be inclosed, at the Time such Division, Allotment, and Inclosure shall be made, for the said Crops, by the Person to whom the Lands upon which such Crops are growing shall be allotted, and also what Recompence in Money shall be paid, and by whom, to any Tenant or Occupier of any Land, as well for ploughing, tilling, cultivating, manuring, or folding any of the Lands to be inclosed, for the Benefit accruing thereby to the Person to whom such Lands shall be allotted, as for any Loss or Disadvantage which any such Tenant or Occupier may sustain by the Loss of his following or waygoing Crops upon the Lands to be inclosed, and if in any of the said Cases the Money to be paid for such Recompence be not paid at the Time and in the Manner ordered by the Commissioner, he shall raise and levy the same on the Party liable thereto, for the Use of the Person entitled thereto, in the same Manner as the Inclosure Expences are herein directed to be raised and levied.

Claims to be delivered to the Commissioner.

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

Adjudication upon Claims.

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

Commissioner not to determine Titles contrary to Possession.

XXXIX. And be it enacted, That this Act shall not authorize the Commissioner to determine the Title to any Lands, or to determine any Right between any Parties, contrary to the actual Possession of such Parties (except in respect of Encroachments as herein-after mentioned),

mentioned), but in case the Commissioner shall be of opinion against the Rights of the Party in possession he shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or recovered from him by due Course of Law.

XL. And be it enacted, That if any Person claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the Commissioner concerning any Claim, or any Right or Interest in or to the Lands to be inclosed, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action upon a feigned Issue against any Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent, and thereupon the Person so dissatisfied may proceed to a Trial at Law at the then next Assizes immediately following which may be holden for the said County of *Buckingham* after such Action shall have been commenced; and the Defendant in such Action shall, upon being served with the usual Process therein, appear and plead thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim, and the Right and Interest thereby insisted on, may be tried and determined (such Issues to be settled by the proper Officer of the Court in which such Action shall be commenced, in case the Parties differ); and the Verdict given upon the Trial of such Action shall be binding and conclusive upon all the Parties thereto, unless the Court shall set aside such Verdict, and order a new Trial to be had; and after such Verdict shall be given, and final Judgment obtained thereon, the Commissioner shall act in conformity thereto, and allow or disallow the Claim thereby determined according to the Event of such Trial, and the Costs attending any such Actions shall abide the Event of the Trial.

Parties dissatisfied authorized to try their Rights at Law.

XLI. Provided always, and be it enacted, That if no such Action shall be commenced, or if the Plaintiff therein shall not proceed to Trial within the Time herein-before limited for that Purpose (unless the Court for sufficient Cause put off such Trial), the Determination of the Commissioner shall be final.

If no Action within Time limited, Determination of Commissioner final.

XLII. And be it enacted, That if any Person, Plaintiff or Defendant in any Action to be brought as aforesaid, shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened (the Heir or Devisee or other Person entitled to the Interest of the deceased Party in the Matter in question being served with Process in the Action); and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before Action brought, it shall be lawful for the Person who might have brought such Action to bring the same, within the Time so limited as aforesaid, against such Person as if actually living, and to serve the Commissioner or his Clerk with the usual Process for commencing such Action, in the

Deaths of Parties not to abate Proceedings; and in case Parties die before Action brought, Suits to be carried on and defended in their Names.

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same

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

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

XLIII. And be it enacted, That if any Person interested in the said Inclosure shall die before the same shall have been completed, the Powers and Authorities hereby vested in the Commissioner shall not be thereby determined or suspended, but they shall proceed in the Execution of such Powers and Authorities in such Manner as they might have done in case such Person had not died, and the Share of the Person so dying shall be allotted to such Person as by Law shall become entitled to the same, and shall be accepted and fenced by such Party according to the Directions of this Act, and he shall be liable to the Charges and Expences and other Conditions of this Act.

Commissioner to award Costs.

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

Leases at Rack Rent to be void.

XLV. And be it enacted, That every Lease and other Agreement at Rack Rent subsisting of all or any Part of the Lands to be inclosed, or which shall be exchanged, by virtue of this or the said first-recited Act, and of all Messuages, Cottages, Lands, and Tenements in the said Parish of *Marsh Gibbon*, comprised in such Lease or Agreement for any Term of Years not exceeding Twenty-one Years (except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure),

Inclosure), shall determine and be void at such Time or Times as the Commissioner shall by Writing under his Hand order and direct, the respective Parties making such reasonable Satisfaction to each other for the Loss which shall be sustained by the Determination of such Leases or Agreements, and at such Times as shall be mutually settled and agreed upon between them, or as the Commissioner, on the Request of either of the Parties, shall by Writing under his Hand order in that Behalf; and if any Compensation so ordered by the Commissioner shall not be paid to the Party entitled to receive the same within One Month after Demand made in Writing under the Hand or Common Seal (as the Case may require) of the Party to whom the same shall be payable, the Commissioner shall raise and levy the same, for the Use of the Party entitled thereto, by such Ways and Means as the Rates to be levied for defraying the Inclosure Expences are directed to be raised and recovered; and the Commissioner, being so requested by either Party, shall direct what Proportion of the Rent reserved in such Leases or Agreements shall be paid for and in respect of the Time which shall have elapsed between the last Day on which any Payment of the said Rent shall have become due, and the Determination of any such Lease or Agreement, and such Part of the said Rent shall be recoverable by any of the usual Ways or Means used for the Recovery of Rent in arrear: Provided always, that if there shall be any Lease of Lands, Part of which shall be in the said Parish of *Marsh Gibbon*, and Part in any adjoining Parish or Place, all and every such Lease shall be vacated as aforesaid.

XLVI. Provided always, and be it enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease of any Lands within the said Parish, but the Party entitled to such beneficial Lease shall be entitled to hold and enjoy his Term under the Rents and Covenants specified in his Lease.

Beneficial Leases not to be vacated.

XLVII. Provided also, and be it enacted, That nothing in this Act contained shall extend to revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance out of or affecting any of the Lands to be inclosed, or any of the Lands which may be exchanged or parted with, in pursuance of this Act, but that as well the Lands allotted and exchanged, as the Lands which shall be assigned in Partition, or in Compensation for any other Estate or Right, by virtue of this Act, shall, immediately after such Allotment, Exchange, or Partition, be and enure, and the several Persons to whom the same shall be so allotted, or given in Exchange or Partition, as aforesaid, shall be seised and possessed thereof respectively to, for, and upon the same Estates, Uses, Trusts, Intents, and Purposes, and subject to the same Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Partitions shall have been made would have stood limited for or been subject to in case the same respectively had not been allotted, exchanged, or parted with as aforesaid, or as if this Act had not been passed; subject nevertheless

Wills and Settlements not to be affected.

theless to all such Mortgages and Sales as shall be made by virtue of this Act.

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

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

Encroachments.

XLIX. And be it enacted, That all Encroachments and Inclosures which shall have been made by any Person from or upon any Part of the Lands to be inclosed within Twenty Years next before the passing of this Act, whether any Amerciament, annual Rent, or any Money Payment or Acknowledgment hath or hath not been paid in respect of the same, to or for the Use of the Lord of the Soil or any other Person, shall be deemed Parcel of the Lands to be inclosed, and shall be divided, allotted, and inclosed accordingly.

Allotment of old Inclosures, with Consent of Proprietors.

L. Provided always, and be it enacted, That it shall be lawful for the Commissioner, with the Consent in Writing and at the Request of any Proprietor of any Houses, Homesteads, Gardens, Orchards, or old inclosed Lands within the said Parish, whether such Owner or Proprietor shall be a Corporation, Tenant in Fee Simple, or for Life or Lives, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Lives, with the Consent of the Lessor of any such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands holden for Life or Lives, or for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardian, Trustee, Feoffee for charitable or other Uses, Husbands, Committee, or Attorney of or acting for any such Proprietor as aforesaid who shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, (such Consent to be respectively testified, in case of a Corporation, by Writing under their Common Seal, or by Writing under the Hand of the Agent of such Corporation, and in case of an Individual under his Hand,) to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed
Lands

Lands to be considered as allottable, and Parcel of the Lands to be inclosed, and such Allowance shall be made to the Proprietors of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands, on account of the Situation or other beneficial Circumstances thereof, as the Commissioner shall adjudge to be just and reasonable, and he shall allot and award unto such Proprietors so much and such Part of the Lands to be inclosed as he shall think reasonable and just.

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

Insulated old Inclosures to be deemed allottable Lands.

LII. And be it enacted, That all small Parcels of uninclosed Waste or Common Land (the Soil whereof shall belong to the Lords of any Manor in right thereof) lying by the Side of any Turnpike Road or other public Road or Lane within the said Parish, and which in the Judgment of the Commissioner may be conveniently inclosed without incommoding the public Intercourse on such Road or Lane, or rendering such Turnpike Road of less Breadth than Forty-five Feet, and such other public Road or Lane of less Breadth than Thirty Feet respectively, shall be deemed Part of the Lands to be inclosed.

Pieces of Land by the Sides of Roads may be allotted.

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

Allotment to be set out for getting Materials for Repair of Highways.

LIV. And be it enacted, That the Commissioner shall allot and award unto the Churchwardens and Overseers for the Time being of the said Parish, in the most appropriate Situation, out of any Part of the Lands to be inclosed, One Piece of Land, not less than Five Acres, as a Place of Exercise and Recreation of the neighbouring Population, and such Allotment shall be held by the Churchwardens

Allotment to be set out for Recreation.

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and Overseers for the Time being for the Purposes aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Parish in such Manner as shall be directed by the Award of the Commissioner.

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

LV. And be it enacted, That the Commissioner shall allot and award unto the said Two Chaplains and Thirteen Poor Men of *Erwelme* Almshouse, as Lords of the Manor of *Marsh Gibbon* aforesaid, and their Successors, and unto the said *Richard Ivens*, as Lord of the said Manor of *Westbury*, his Heirs and Assigns, or to such Person as shall in the Judgment of the Commissioner be entitled to the Soil of the Commons and Waste Lands in the said Parish, or any Part thereof, so much and such Part of the Lands to be inclosed as shall in the Judgment of the Commissioner be a reasonable Compensation for their respective Rights and Interests in the Soil of the said Commons and Waste Lands, exclusive of any other Allotments which may be made to them respectively in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Grounds.

Allotment
to Trustees
of the Poor.

LVI. And whereas the Poor residing within the Parish of *Marsh Gibbon* have or claim to be entitled to and have used or exercised the Liberty of cutting Furze and other Fuel growing upon certain Parts of the Commonable Land hereby directed to be inclosed, and the Proprietors being desirous that some Provision shall be made for the said poor People in satisfaction of the Privileges to which they are so entitled; be it enacted, That the Commissioner shall allot and award unto the Rector, Churchwardens, and Overseers of the Poor for the Time being of the Parish of *Marsh Gibbon* such Plot of Land, Part of the Lands hereby directed to be inclosed, as in the Judgment of the Commissioner shall be equivalent to and a full Compensation for the Rights or Liberties to which the Poor are entitled as aforesaid; and such Plot of Land shall, on the Execution of the Award of the Commissioner, be vested in the Rector, Churchwardens, and Overseers for the Time being for ever, as Trustees for the Poor of the Parish of *Marsh Gibbon*, and shall in the first instance be fenced at the general Expence, and the Fences of such Allotments shall for ever afterwards be repaired and maintained by the said Rector, Churchwardens, and Overseers, in such Manner as shall be directed by the Award of the said Commissioner, out of the Rents to be received from the same, and in case such Rents shall be insufficient for that Purpose then out of the Poor Rates of the Parish; and the Trustees, or the major Part of them, shall, from Time to Time, as they shall think proper, let the same Plot of Land, or any Part thereof, from Year to Year; or otherwise, by Writing under their Hands, to lease and demise the whole, or such Part or Parts thereof as they shall think proper, to any Person, for any Term of Years not exceeding Seven Years; so that on every such Letting and in every such Lease there shall be reserved and made payable to the Trustees for the Time being, or the major Part of them, by Two equal half-yearly Payments, the most improved yearly Rent or Rents that can be reasonably obtained for the same, without taking any
Income,

Income, Fine, Premium, or Foregift in consideration of such Letting or of granting such Lease or Leases, and that on every such Letting and in every such Lease respectively the usual Stipulations or Covenants be entered into, and Security given for the Performance of the same; if the Trustees, or the major Part of them, shall require it; and the Rents and Profits arising from the said Plot shall from Time to Time be laid out in purchasing Fuel or Clothing, which shall be distributed among such of the poor Inhabitants (whether in the Receipt of Parochial Relief or not) of the Parish of *Marsh Gibbon*, in such Proportions and Quantities, at such Time in every Year, and according to such Rules and Orders, as the Trustees, or the major Part of them, shall prescribe: Provided always, that it shall be lawful for each or any of the Trustees for the Time being to act in the Execution of the Trusts hereby reposed in them by his Agent or Proxy, such Agent or Proxy being appointed by Writing under the Hand of the Person for whom he shall act, and producing such his Appointment, if required, at the Time of his acting by virtue thereof.

LVII. And be it enacted, That after the several Allotments herein-before directed shall have been set out and made the Commissioner shall divide, allot, and award all the Remainder of the Lands to be inclosed, which shall not be sold to defray the Inclosure Expences, as herein-after directed, unto and amongst the several Owners and Proprietors thereof, and Persons who shall be entitled to any Estate, Right, or Interest therein, in such Shares and Proportions as the Commissioner shall adjudge and determine to be proportionate to the Value of their respective Rights and Interests therein. Allotment of Residue.

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

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

LX. And

Allotments
to be fenced.

LX. And be it enacted, That the Allotments to be made in pursuance of this Act shall be inclosed, ditched, and fenced on the Boundaries thereof between the Estates of the several Proprietors of the Lands to be inclosed in such Manner and at such Time as the Commissioner shall direct; and the Expence thereof shall be raised and defrayed in the same Manner as the Costs, Charges, and Expences of obtaining and passing this Act, and carrying the same into execution, are herein-after directed to be raised and defrayed; and such Fences, when so made, shall for ever afterwards be repaired and maintained by such Persons as the Commissioner shall by his Award direct: Provided always, that all other Fences necessary for subdividing the several Estates of each Proprietor shall be made and maintained by such Persons, in such Manner, and at such Times as he the said Commissioner shall by his Award direct.

Cattle not
to be de-
pastured in
the Highways
for Seven
Years.

LXI. And be it enacted, That no Person shall graze or keep any Beast or Cattle, Sheep or Lambs, upon any of the Roads or Ways which the Commissioner shall order to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the Execution of the Award of the Commissioner; and every Owner of Lands within the said Parish, his Servants and Labourers, and also every Peace Officer and Parish Officer of the said Parish for the Time being, is hereby empowered to take and impound any such Beast or Cattle, Sheep or Lambs, which shall be found so grazing as aforesaid, as Cattle Damage feasant: Provided always, that nothing herein contained shall prevent the Proprietors of the Lands which shall next adjoin the said Roads and Ways from depasturing their Cattle thereon, so far as the Frontage of their respective Lands extends, and so that such Proprietor do sufficiently guard the young Fences from being cropped or injured in any Manner by such Cattle, Sheep, or Lambs.

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

LXII. And be it enacted, That all such Lands as shall be given in Exchange or on Partition, or be allotted, by virtue of this Act, shall be held by the Person to whom they are given in Exchange or on Partition, or allotted, under the same Tenures, Rents, Customs, and Services as the Lands in respect of which such Lands are given in Exchange or on Partition, or allotted, would have been held in case this Act had not been passed; and the Lands given in Exchange or on Partition, or allotted, in respect of Freeholds, shall be deemed Freehold, and the Lands given in Exchange or on Partition, or allotted, in respect of Copyhold or Customary Lands, shall be deemed Copyhold or Customary Lands, and shall be held of the Lords of the same Manors, under the same Rents, and by the same Customs and Services, as the Copyhold or Customary Lands in respect of which they may be given in Exchange or in Partition, or allotted, were or ought to have been held, and shall pass by the like Surrenders as the Copyhold or Customary Lands in respect whereof such Exchanges, Partitions, or Allotments shall be made now do; and the Lands given in Exchange or on Partition, or allotted, in respect of Leasehold Lands, shall in like Manner be deemed Leasehold, and shall be held under the same Rents and Covenants as the Lands in respect of
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which they may be allotted were held, and the Remainder or Reversion thereof shall be vested in the same Lessors respectively as the Remainder or Reversion of such other Lands was vested before the passing of this Act, except where otherwise particularly directed by this Act, any Law or Usage to the contrary notwithstanding.

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

Power for Commissioner to make Alterations in Allotments.

LXIV. And be it enacted, That when any Person to whom any Allotment shall be made, or Lands assigned in Exchange, by virtue of this Act, shall hold such Lands, or the Lands in respect of which such Allotment or Exchange is made, under different Titles and for different Estates, and as to Copyholds by separate Copies or Quit Rents, the Commissioner shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall accordingly in his Award set out distinct and several Allotments for such respective Lands, and also in the said Award, and the Map annexed thereto, set out and distinguish the several Estates holden by several and distinct Copies or Quit Rents.

Separate Allotments for Land held by different Titles.

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

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

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Force and Effect as if it were contained in the said Award; and such Instrument shall be enrolled and deposited with the Award of the Commissioner, and shall thenceforth be deemed to be Part thereof to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Party who shall have requested the Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

Partitions
may be made
in certain
Cases.

LXVI. And whereas it may happen that some of the Proprietors of Lands in the said Parish, and Persons entitled to Allotments to be made by virtue of this Act, may be seised or possessed thereof or entitled thereto in undivided Moieties, Joint Tenancy, or Coparcenary, or as Tenants in Common, and cannot, by reason of Infancy, Settlement, Absence beyond the Seas, or other Disability or Incapacity, make an effectual Division thereof; be it therefore enacted, That it shall be lawful for the Commissioner, upon the Request in Writing of any such Proprietors, being seised or possessed or entitled in undivided Moieties, or as Coparceners, Joint Tenants, or Tenants in Common, or of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of such of them as may be under Coverture, Minors, Lunatics, or beyond Seas, or under any other legal Disability or Incapacity, to make Partition and Division of the said Lands or Allotments coming to such of the said Proprietors as shall be so seised or possessed or entitled, save and except the Lands or Allotments, being Leasehold or Copyhold, unless with the Consent in Writing of the Lessors or Lords of the Manor, and to allot the same to such Owners and Proprietors in Severalty; and immediately after the said Allotments shall be so made and declared the same shall be holden and enjoyed by the Persons to whom the same shall be allotted in Severalty in the same Manner, and subject to the same Uses and Trusts, as the undivided Parts or Shares of such Estates would have been in case such Partition and Division had not been made; and every such Partition shall be specified in the Award of the Commissioner, or some other Instrument under his Hand and Seal; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Expences of
Partitions.

LXVII. And be it enacted, That all Costs and Expences attending any Partition to be made by virtue of this Act shall be borne and defrayed by the several Proprietors of or Persons interested in the Estates which shall be so parted in such Manner and Proportion as the Commissioner shall order, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power of
Exchange.

LXVIII. And be it enacted, That it shall be lawful for the Commissioner to allot and award any Lands within the said Parish in Exchange for any other Lands within the said Parish, or any adjoining Parish, Township, or Place, provided that all such Exchanges be specified and declared in the Award of the Commissioner,

sioner, and be made with the Consent in Writing of the Owner of the Lands so exchanged, whether such Owner shall be a Corporation, or a Tenant in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Lives, (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 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 shall be situate, nor shall any Exchange be made of any Lands, Tenements, or Hereditaments held by Lease under the said Two Chaplains and Thirteen Poor Men of *Erwelme* Alms-house without their Consent, testified by some Writing under their Common Seal: Provided also, that all Costs and Expences attending the making and completing of any Exchanges shall be borne by the several Parties making such Exchanges in such Manner and in such Proportions as the Commissioner shall by his Award, or any other Writing under his Hand, direct, and in case of Non-payment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

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

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

Direction, upon any Lands to be by virtue of this Act allotted to such Parties.

Investment
of the Sur-
plus when
amounting
to 200*l.*

1 G. 4. c. 35.

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

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

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

Payment of
Dividends
meanwhile.

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

When less
than 200*l.*
and amount-
ing to 20*l.*

LXXII. And be it enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Land, Timber, or Wood so purchased or exchanged, or their Guardians or Committees, in case of Infancy, Idiocy, Lunacy, or other Incapacity, with the Approbation of the Commissioner, to be signified in Writing under his Hand, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Parties
who

who for the Time being would be entitled to the Rents and Profits of the said Lands, Timber, or Wood, such Nomination to be approved of by the Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands (or Common Seal, as the Case may be,) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England*, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

LXXIII. And be it enacted, That in case the Surplus of such Monies shall be less than Twenty Pounds the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands, Timber, or Wood 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, for the Use and Benefit of the Parties respectively entitled thereto. When under 20l.

LXXIV. And be it enacted, That in order to defray the Inclosure Expences, that is to say, the Costs and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the Commissioner, Clerk, and Surveyor, for Expences, Time, and Trouble, and the Costs and Expences of preparing and enrolling the Award of the Commissioner, and all Costs and Expences that the Commissioner shall be put unto in respect of any Appeal against his Decision, or of any Suit at Law or in Equity that may be instituted by or against him as Commissioner in the Execution of this Act, either before or after the Execution of the said Award, and all other Costs and Expences whatsoever of carrying this Act into execution, (so far as the same relate to the Inclosure hereby authorized to be made,) it shall be lawful for the Commissioner, and he is hereby required, as soon after the passing of this Act as conveniently may be, and from Time to Time as he shall see Occasion, before the Execution of his Award, to sell, by public Auction or private Contract, such Part or Parts of the said Lands and Grounds hereby directed to be inclosed as he shall deem expedient for the Purposes aforesaid, such Sale or Sales to be subject to the Regulations and Directions mentioned in the said first-recited Act, and to apply the Money which shall arise by such Sale or Sales in or towards defraying such Costs and Expences as aforesaid; and upon the respective Purchaser or Purchasers thereof paying his, her, or their Purchase Money for the same to the Commissioner, or to such Person or Persons and at such Place and Time as the Commissioner shall for that Purpose appoint, the Commissioner shall and he is hereby empowered, by any Deed or Writing under his Hand and Seal, and duly executed by him, to convey the same, as Freehold of Inheritance, unto the Purchaser or Purchasers, his, her, or their Heirs and Assigns, or otherwise to such Uses, and to, for, and upon such Trusts, Intents, and Purposes, as he, she, or they shall direct or appoint, and every such Conveyance shall be valid and effectual in the Law; and immediately Power to sell Land to pay Expences.

[*Private.*]

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after

after the Execution of such Deeds the Lands therein described to be granted and conveyed shall become vested in such Purchaser or Purchasers, and his, her, or their respective Heirs and Assigns, or become settled to such Uses and upon and for such Trusts (if any) as shall by such Deed or Instrument in Writing be declared and expressed or referred to concerning the same.

Persons desirous of paying in Money to be exempt from the Power of Sale.

LXXV. And be it enacted, That in case any Proprietor shall be desirous of having the whole of his Allotment of the Lands hereby directed to be inclosed set out and allotted to him without any Abatement for or in respect of the Sales herein-before directed for the Purposes aforesaid, and shall, by himself, or his Agent or Agents, signify the same in Writing to the Commissioner at the Time of delivering in their respective Claims in the Manner herein-before directed, or within such Time afterwards as shall be limited or prescribed by the Commissioner, then the Commissioner (notwithstanding the Provisions for Sale of Land herein-before contained) shall allot to such Proprietor all such Shares and Proportions of the said Lands hereby directed to be inclosed as he would have been entitled to under and by virtue of this Act in case no Provision had been made for Sale of any Part of the same Lands, and without any Reduction or Abatement whatsoever on that Account, and shall adjust and settle what Sum or Sums of Money ought to be borne and paid by such Proprietor in respect of his proportionable Share of the Inclosure Expences, and the same shall be paid within such Time, to such Person, and at such Place as the Commissioner shall direct.

Deficiency to be made good by Rates.

LXXVI. Provided always, and be it enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the Commissioner that the Money to arise by any Sale or Sales to be made in pursuance of this Act, or any previous Rate or Sum to be paid as aforesaid, shall not be sufficient to defray the Inclosure Expences, then the Deficiency shall be made up and raised from Time to Time by a Rate or Rates to be made and levied upon the several Proprietors of the said Lands and Grounds hereby directed to be inclosed, in such Shares and Proportions, within such Time or Times, and to be paid to such Person or Persons, and in such Place or Places, as the Commissioner shall from Time to Time direct.

Remedies in case of Non-payment.

LXXVII. And be it enacted, That if any Person shall refuse or neglect to pay his Share or Proportion of any such Rate, or any Sum to be paid by him in respect of the Inclosure Expences, it shall be lawful for the Commissioner to recover the same, together with lawful Interest, to be computed from the Day on which the same ought to have been paid, by Action at Law in his own Name in any of Her Majesty's Courts of Record at *Westminster*, or it shall be lawful for him, by Warrant directed to any Person to cause the same, with such Interest thereon as aforesaid, to be levied by Distress, or it shall be lawful for the Commissioner, or any Person authorized by him, immediately after such Neglect or Refusal, to enter in and upon the Premises to be allotted to such Person, and to demise the same, and receive the Rents and Profits thereof, until thereby or otherwise such Share or Proportion, Rate or Sum, with Interest as aforesaid,

aforesaid, and also all the Costs and Expences attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

LXXVIII. And whereas the several Proprietors, being Lessees or Copyholders under the said Two Chaplains and Thirteen Poor Men of *Ewelme* Almshouse, may be desirous of having the whole of their respective Allotments of the Lands hereby directed to be inclosed allotted to them in respect of their several Estates without any Abatement in respect of the Sales herein-before directed for the Purposes aforesaid, and may also be desirous of raising Money for the Purpose of defraying their Proportion of any Rate which may be made for defraying the Inclosure Expences; be it therefore enacted, That it shall be lawful for the Commissioner, at the Request of any Proprietor to whom any Allotment shall be made, or who shall become interested in any such Allotment, by virtue of this Act, and holding under the Two Chaplains and Thirteen Poor Men of *Ewelme* Almshouse, Lords of the Manor of *Marsh Gibbon*, whether by Lease or Copy, or at the Request of any Guardian, Husband, Committee, Trustee, or Attorney of or for any Infant, Idiot, Lunatic, Feme Covert, Person beyond the Seas, or otherwise incapacitated, and holding as aforesaid, Trustee or Trustees in any Settlement, or any Mortgagee or other Creditor in Possession or in Receipt of the Rents and Profits of any Messuages or Tenements or old Inclosures, or of any new Allotment held as aforesaid, and allotted by virtue of this Act, to charge such Allotment, together with the Messuages or Tenements and old Inclosures held therewith under the same Lease or Copy, or any Part thereof, with such Sum of Money, not exceeding Five Pounds *per Acre*, in favour of any such Person holding by Lease or Copy as aforesaid, or of any other Person advancing the same by way of Loan, as the Commissioner, by Writing under his Hand, shall consent to direct or appoint, together with the Expence of any such Charge or Mortgage, and the Money so advanced (after deducting the Expence attending such Charge or Mortgage) shall be applied in defraying his Proportion of the Inclosure Expences, and the same shall carry Interest at a Rate not exceeding Five Pounds *per Centum per Annum*, and the Principal Money so to be charged or borrowed shall be paid off to the Person advancing the same, his Executors, Administrators, or Assigns, by such Person borrowing the same as aforesaid, or by the Person in Possession or Receipt of the Rents and Profits of the said respective Estates, in Sixteen Years, commencing from the Time of paying or advancing the same, by Sixteen equal Instalments of One Instalment in each Year, and the first of such Instalments shall become due and be paid on that Day Twelve Months on which such Principal Money shall have been advanced, together with the Interest thereof, and so yearly, with such Interest, and the Interest of all such Instalments as shall be then due and unpaid to the Time of Payment of each respective Instalment, until the whole Principal Sum to be so charged as aforesaid, and all Interest in respect thereof, shall be paid off and discharged; and the Person who shall advance such Monies, and his Executors and Administrators, shall have Power from Time to Time, in default of Payment of any Instalment due to him, or of any

Power for
Lessees and
Copyholders
under *Ewelme*
Almshouse
to borrow
Money.

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Interest thereof, or any Part thereof, to levy and recover the same on the respective Messuages and Lands charged therewith by Distress and Sale of the Corn, Cattle, or Effects from Time to Time to be found thereon, in the same Manner as Landlords may by Law recover Rent due to them on Leases or Demises at Rack Rent, together with all the Costs and Charges attending such Distress and Sale: Provided always, that no future Proprietor of the Estate so to be charged as aforesaid (or the said Two Chaplains and Thirteen Poor Men of *Ewelme* Almshouse, in case the same shall fall in before the whole of such Principal Money and Interest shall be paid off,) shall be burdened with more than One Year's Interest of the respective Sum or Sums of Money charged or remaining thereon which shall have accrued due in the Time of any former Proprietor, or with the Payment of any Instalment which shall have been neglected to be recovered for Six Months after the same shall have become payable,

Power for
Commis-
sioner to bor-
row Money.

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

Monies may
be recovered
after Execu-
tion of
Award.

LXXX. Provided always, and be it enacted, That if, at the Time of the Execution of the said Award, there shall remain due from any Person any Sum of Money which shall have been ordered to be paid by virtue of this Act, it shall be lawful for the Commissioner and he is hereby required to levy and raise the same in like Manner as he might have done before the Execution of his Award.

Award to be
deposited
with the
Clerk of the
Peace.

LXXXI. And be it enacted, That as soon as conveniently may be after the said Inclosure shall be completed the Commissioner shall draw up and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday* by affixing a Proclamation on or near the outer Door of the Church of the said Parish previously to Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered as complete; and within Three Calendar Months after the Commissioner shall have so made and executed the said Award he shall cause the same, together with one of the reduced Plans herein-after directed to be made annexed thereto, to be delivered to the Clerk of the Peace of the said County of *Buckingham*, who is hereby required to deposit and keep the same among the Records of the said County, so that recourse may be had thereto by any Person interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid, and

the said Award shall, from the Delivery thereof to the said Clerk of the Peace, be deemed to be enrolled according to the Directions and within the Meaning of the said first-recited Act.

LXXXII. And be it enacted, That a Copy of the said Award, fairly transcribed in a Book on plain or unstamped Paper or Parchment, with the other of the reduced Plans as herein-after directed to be made, shall, within the Time aforesaid, be deposited in the Parish Church of *Marsh Gibbon* aforesaid, and there kept in a Box to be provided for that Purpose by the Commissioner; and the said Award, and the said Copy thereof, and any other Copy of the said Award, or of any Part thereof, attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence and no more shall be paid,) shall thereafter be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Copy of the Award and a reduced Plan of the Parish to be deposited in the Parish Church.

LXXXIII. And be it enacted, That the Commissioner shall cause Two reduced Plans of the said Parish to be drawn upon Parchment or Vellum, on which the public and private Roads, Paths, and Drains, with the Boundary Fences of the several Allotments mentioned and described in the said Award, and such other Matters and Things as the Commissioner shall think fit, shall be fairly and distinctly delineated and expressed; and the Commissioner shall sign the said Plans, one of which shall be annexed to the said Award, and the other shall be annexed to or shall go and be kept with a Copy of the said Award to be deposited in the Parish Church of *Marsh Gibbon* aforesaid; and the Commissioner shall make and annex to the said Award a Schedule, describing and setting forth the Quantities of all the Homesteads, Gardens, Orchards, and ancient Inclosures in the said Parish; which said Plans, or either of them, shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

A reduced Plan to be annexed to Award, and a Schedule of old Inclosures.

LXXXIV. And be it enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act, except as to the Allotments, and except as to such other Determinations as are by this Act directed to be final, and except such Cases wherein an Issue at Law shall be tried, as herein-before is mentioned, he may appeal to the General or Quarter Sessions of the Peace which shall be held for the said County of *Buckingham* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Commissioner and to the Party concerned Ten Days previous Notice in Writing of such Appeal and of the Matter thereof, (except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within One Month after the Enrolment of the Award, on giving to the Commissioner such Notice as last aforesaid); and the Justices (not interested in the Premises) in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs and Damages, as to them shall seem reasonable; and in case any such Appeal shall appear

Power of Appeal.

[Private.]

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to the said Justices to be frivolous, vexatious, or without Foundation, they shall award such Costs to be paid by the Appellant as to them shall seem reasonable; and such Costs shall be levied in manner aforesaid, and the Costs and Damages which shall be so awarded shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

Order on
Appeal to be
final.

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

General
Saving.

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

Interpreta-
tion Clause.

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

Words importing the Singular Number shall include the Plural Number :

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

The Word " Month " shall mean Calendar Month :

The Word " Lands " shall include Tenements and Hereditaments :

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

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

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

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

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

SCHEDULE referred to by the foregoing Act.

Form of Declaration by Commissioner or Surveyor.

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

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

1875

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