



ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

Cap. 19.

An Act for dividing, allotting, and inclosing the Commons and Waste Lands lying within the Hamlet of *Coundon* in the County of *Warwick*, and the Hamlet of *Keresley* in the County of *Warwick* and County of the City of *Coventry*, or one of them. [21st June 1841.]

WHEREAS there are within the Hamlet of *Coundon* in the County of *Warwick*, and in the Hamlet of *Keresley* in the County of *Warwick* and County of the City of *Coventry*, or one of them, divers Commons and Waste Lands adjoining each other, containing by Estimation Eighty Acres or thereabouts: And whereas the Trustees of the Estates called Sir *Thomas White's* Charity Estates are or claim to be Lords of the Manor of *Coundon* aforesaid, and as such entitled to the Soil of the said Commons and Waste Lands within the same Manor: And whereas the Provost and Scholars of *Queen's College* in the University of *Oxford* are or claim to be Lords of the Manor of *Keresley* aforesaid, and as such entitled to the Soil of the said Commons and Waste Lands within the said Manor: And whereas the said Trustees, *William Wilson*, *Thomas Wilmot*, *Stephen Oldham*, the said Provost and Scholars, *Thomas Ball Troughton*, *Joseph Moggs*, and divers other Persons, are the Owners or Proprietors of the said Commons and Waste Lands within the said Hamlets, and in respect thereof or otherwise are or claim to be entitled to certain Rights of Common in and over the same or some Parts thereof, or are otherwise interested therein: And whereas it would be of great Advantage to the Proprietors

[Private.]

of and Persons interested in the said Commons and Waste Lands to have the same divided and inclosed, and specific Parts thereof allotted to them, to be held in Severalty, and all Rights of Common therein extinguished; but the Purposes aforesaid cannot be effected without the Authority of Parliament: And whereas an Act was passed in the Forty-first Year of the Reign of King *George* the Third, intituled
 41G.3.c.109. *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts:* And whereas an
 1&2G.4.c.23. *Act was passed in the First and Second Year of the Reign of His late Majesty King George the Fourth, intituled An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England:* May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third and in the Second Year of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall from the passing of this Act be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

Recited
 Acts to
 form Part
 of this Act.

Appoint-
 ment of
 Commis-
 sioner.

Qualifica-
 tion of
 Commis-
 sioner.

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

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*.

Appoint-
 ment on
 Vacancies.

IV. And be it enacted, That in case the said *William Phillips*, or any Person to be appointed a Commissioner in his Room by virtue of this Act, shall die, or become incapacitated, or neglect
 or

or refuse for the Space of Two Months to act as such Commissioner, 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 Hamlets who shall attend either personally or by their respective 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 Doors, 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 *William Phillips*, or of the 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.

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

Appoint-
ment of
Surveyor.

VI. And be it enacted, That if any Person shall falsely or corruptly make and subscribe a Declaration under the Authority of this Act, knowing the same to be untrue in any material Particular, he shall be guilty of a Misdemeanor.

Penalty on
making false
Declaration.

VII. 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, and which Clerk shall be paid for his Trouble such Sum and Sums of Money as the said Commissioner in his Discretion shall think reasonable.

Appoint-
ment of
Clerk.

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

No Party in-
terested to
be appointed
a Commis-
sioner, &c.

IX. And be it enacted, That out of the Inclosure Expences Fund there shall be paid to the Commissioner who shall act in the Execution of this Act the Sum of Eighty-four Pounds in full Satisfaction for his Time and Trouble and the Expences which he may incur in the Execution of this Act, except the Expence of the Room in which the Meetings shall be held, and the Costs and Expences of Appeal and other legal Proceedings against the Commissioner, and of preparing,

Allowance
to Commis-
sioner.

paring, proclaiming, and enrolling his Award, and of Notices and Advertisements, and other like necessary Expences: Provided always, that it shall not be lawful for the Commissioner to retain or pay himself any Money on account of the before-mentioned Allowances respectively beyond One Third of the Allowance to which he 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: Provided nevertheless, that in case of the Decease, ceasing to act, or Resignation of the Commissioner, or the Surveyor or Clerk, previous to the Execution of the said Award, the Commissioner for the Time being shall apportion the Compensation herein-before provided to be paid to such Party so dying or resigning, between such Party, his Executors or Administrators, and the Person who shall be appointed in his Place; and the like Apportionment shall be made as often as such Case shall happen, so that the before-mentioned Sums directed to be paid to such Commissioner shall not be increased by any such Decease, ceasing to act, or Resignation; and the Commissioner shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner, Surveyor, or Clerk, and their Successors, such Sum as shall appear by the said Accounts to be due to such deceased Commissioner, Surveyor, or Clerk, and Successors.

Allowance
to Surveyor.

X. And be it enacted, That the Surveyor so to be appointed as aforesaid shall be entitled to receive, and the Commissioner is hereby authorized, out of the Inclosure Expences Fund, to allow to such Surveyor, for his Time and Trouble, for surveying, measuring, mapping, and planning the said Commons and Waste Lands in the said Hamlets, and for attending the Commissioners Meetings, and for all other Work, Labour, and Employment which shall be required of him by the Commissioner in respect to the Execution of this Act, and for all Expences he may incur or be put unto in respect thereof, the Sum of Eighty-four Pounds, which shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by such Surveyor in and about the Execution of this Act, and the Matters aforesaid.

Meetings,
and Notices
thereof.

XI. 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 Place, giving timely Notice thereof to the Commissioner: Provided always, that all Meetings of the Commissioner for executing this Act shall be held within One of the said Hamlets, or within Three Miles thereof.

XII. And

XII. 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 City of *Coventry*, and all Notices directed to be given on the Church Doors shall be by Writing under the Hands of the Party giving such Notice, to be affixed on the principal outer Doors of each of the Parish Churches in which the said Hamlets respectively are situate, 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.

XIII. And be it enacted, That if the Commissioner shall not attend the First or Second Meeting appointed to be held for putting this Act into execution, and 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 Meetings, the Times of such Meetings being known to him by his 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 the Commissioner to be hereafter elected or appointed as aforesaid shall not attend and qualify himself at the First or Second Meeting to be held after his Appointment, or shall, after having qualified himself as aforesaid, wilfully absent himself in manner aforesaid, after such Notice, and without Cause of Excuse as aforesaid, every such Absence or Nonattendance shall be deemed to be a Refusal to act.

What shall
be a Refusal
to act.

XIV. 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.

Persons
summoned
by the Com-
missioner,
and refusing
to give Evi-
dence, to be
punished.

XV. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of a 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,

For regulat-
ing Dis-
tresses.

[Private.]

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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 en-
tered in a
Book.

XVI. 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.

XVII. 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
Accounts to
be audited.

XVIII. 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 Accounts 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 County not interested in the Premises, to be by him or them examined and balanced.

Accounts to
be pub-
lished.

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

Commis-
sioner to set
out Drains,
and enlarge
and turn

XX. And be it enacted, That it shall be lawful for the Commissioner to set out and make such common Ditches, Watercourses, Tunnels, Banks, and Bridges, of such Extent and Form, and in such Situations, as he shall deem necessary, in the Lands to be inclosed, and also to enlarge,

enlarge, cleanse, or alter the Course of and improve any of the present Ditches or Watercourses, Banks or Bridges, as well in and over the same Lands, as also in any ancient Inclosures or other Lands within the said Hamlets, 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, altering and cleansing, such Ditches, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first done, in pursuance of this Act, if not otherwise provided for, shall be raised by the Commissioner in the same Manner as the other Expences of carrying this Act into execution; but all such Ditches, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Persons and in such Manner as the Commissioner shall by his Award direct; provided that no Watercourse be diverted or turned without the Consent in Writing of the Persons from whose Lands the same may be diverted, and of the Persons into whose Lands the same may be turned, or to the Prejudice of any Person interested in such Watercourse, except with his Consent in Writing.

Water-
courses.

XXI. 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 maintained and kept in repair by and at the Expence of the Owners and Proprietors for the Time being of any of the Lands within the said Hamlets, in such Shares and Proportions, and in such Manner, as the Commissioner shall by his Award direct.

Commis-
sioner to
appoint
private
Roads.

XXII. 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 Doors as aforesaid, to order all or any Part 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.

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

XXIII. 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 Messuage or Cottage, or the Site of any Commonable Messuage or Cottage, within the said Hamlets, 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

Cattle de-
pasturing in
breach of
the Com-
missioner's
Order to be
distrained.

or

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 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, to be sold, for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress, rendering the Surplus (if any) to the Owner of such Cattle or Sheep.

Claims to be delivered to the Commissioner.

XXIV. And be it enacted, That all Persons claiming any Interest in any of the Lands to be inclosed shall deliver their respective Claims, in Writing under their Hands or the Hands of their Agents, unto the Commissioner, at the Meetings to be held for that Purpose, stating the several Particulars in respect whereof such Claims are made, and distinguishing Freehold, Copyhold, and Leasehold Property from each other, and 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.

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

Commissioner not to determine

XXVI. 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

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

Titles contrary to Possession.

XXVII. 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 the Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent; and thereupon the Person so dissatisfied may proceed to a Trial at Law at the next Assizes, or at the Assizes immediately following such next Assizes, which may be holden for the said County 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.

XXVIII. 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 such Action brought, &c. Determination final.

XXIX. 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 same Manner

Deaths of Parties not to abate Proceedings.

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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 dead ; and Proceedings shall be had therein in the same Manner as if such Person had been living ; and the Rights, Interests, and Claims of all Parties shall be equally bound by the event of any Action so brought or continued as aforesaid, as if the Death of any of the Persons interested therein had not occurred.

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

XXX. 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, Expences, and other Conditions of this Act.

Commissioner may award Costs.

XXXI. And be it enacted, That in case the Commissioner, upon the Determination of any Claim or Objection to be delivered to him in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for him, upon Application, to assess and award such Costs as he shall think reasonable to be paid by the Person whose Claim or Objection shall have been disallowed to the Person in whose Favour any Determination shall have been made ; and in case any Person liable to pay such Costs shall refuse or neglect to pay the same, upon Demand, the Commissioner shall, by Warrant directed to any Person whomsoever, cause the same to be levied by Distress ; and if there be no Goods or Chattels whereupon 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.

Wills and Settlements not to be affected.

XXXII. 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,

Exchange, or partitioned as aforesaid, shall be seised and possessed thereof respectively to, for, and upon the same Estates, Uses, Trusts, Intents, and Purposes, and subject to the same Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Partitions shall have been made would have stood limited for or been subject to in case the same respectively had not been allotted, exchanged, or parted with as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

XXXIII. 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.

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

XXXIV. 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.

Encroachments.

XXXV. And be it enacted, That the Commissioner shall allot and award unto the Overseers for the Time being of the said Hamlets, in the most appropriate Situation, out of any Part of the Lands to be inclosed, one Piece of Land, not less than Three Acres, as a place of Exercise and Recreation of the neighbouring Population; and such Allotment shall be held by the Overseers for the Time being of the said Hamlets 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 Hamlets in such Proportions and Manner as shall be directed by the Award of the Commissioner.

Allotment to be set out for the Recreation of Inhabitants.

XXXVI. And be it enacted, That the Commissioner shall allot and award unto the Lords for the Time being of the said Manors, 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 Hamlets,

Allotments to be set out for the Lord of the Manors for Right of Soil.

Hamlets, or any Part thereof, so much and such Part of the Lands to be inclosed as shall in the Judgment of the Commissioner be equal in Value of One Sixteenth Part of such Commons and Waste Lands, Quality and Value considered, in lieu of their Rights and Interests in the Soil of the said Commons and Waste Lands, exclusive of any other Allotments which may be made to such Lords in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Grounds.

Allotment
of Residue.

XXXVII. And be it enacted, That after the 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 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.

Applications
for Situa-
tions of
Allotments.

XXXVIII. 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 Doors as aforesaid.

For deter-
mining Ob-
jections to
Allotments.

XXXIX. 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 them 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 Doors as aforesaid, 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.

Allotments
to be fenced.

XL. And be it enacted, That the several Allotments to be made in pursuance of this Act (except the Allotment to the Overseers) shall be inclosed, ditched, and fenced at the Expence of the respective Persons to whom the same shall be allotted, in such Manner and within such Times as the Commissioner shall by his Award, or any Writing under his Hand, direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the Commissioner shall by his Award direct.

Equalizing
the Share
of Fencing.

XLI. And be it enacted, That if, from Situation or from any other Circumstance, it shall happen that any of the Proprietors of the Lands to be inclosed, or any Person to whom any Allotments shall be

be made, shall not have a fair Proportion of the Boundary Hedges, Ditches, Mounds, or Fences assigned to him to make by virtue of this Act, it shall be lawful for the Commissioner to ascertain and appoint what Sum of Money shall be contributed by such Proprietor or Person towards making the Boundary Hedges, Ditches, Mounds, and Fences of the Allotments of such other of the said Proprietors and Persons as shall have too great a Proportion thereof to make; and such Money shall be paid to such Persons and in such Manner as the Commissioner shall by any Writing under his Hand direct, and the same may be recovered by any of the Means which by the said first-recited Act are provided for raising and recovering the Expences of obtaining and executing Acts of Inclosure in Cases where such Expences are directed to be paid in proportion by the Proprietors of Lands to whom any Allotments shall be made; and every such Order of the Commissioner shall be final.

XLII. And be it enacted, That no Person shall graze or keep any Beast or Cattle 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 the Lands within the said Hamlets, his Servants and Labourers, and also every Peace Officer and Parish Officer of the said Hamlets for the Time being, is hereby empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid, as Cattle Damage feasant: Provided always, that nothing herein contained shall prevent the Proprietors of the Lands which shall next adjoin the said Roads and Ways from depasturing their Cattle thereon, so far as the Frontage of their respective Lands extends.

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

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

[Private.]

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the passing of this Act, except where otherwise particularly directed by this Act, any Law or Usage to the contrary notwithstanding.

Power for
Commis-
sioner to
make Alter-
ations in
Allotments.

XLIV. 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 Expenses Fund, or shall direct by whom and in what Manner such Recompence shall be made; and in case of Non-payment thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

Separate
Allotments
for Land
held by
different
Titles.

XLV. 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 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 Award and the Map annexed thereto set out and distinguish the several Estates holden by several and distinct Quit Rents.

Where
Allotments
are omitted
to be dis-
tinguished
by the
Award, the
Defect may
be remedied
by a sepa-
rate Instru-
ment.

XLVI. 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 the Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish and set out the Allotments and Lands held by different Tenures, and also the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as he is by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by his Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award, and such Instrument shall be enrolled, and deposited with the Award of the Commissioner, and shall thenceforth be deemed to be Part thereof to all Intents and Purposes; and all the
Expences

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.

XLVII. And whereas there is not any Church in the said Hamlets of *Cowdon* and *Keresley*, which adjoin each other, and the nearest Parts of which are distant upwards of Two Miles and the farthest Parts about Four Miles from their respective Parish Churches: And whereas it is intended to unite the said Hamlets into an Ecclesiastical District, under the Provisions of the Laws for that Purpose: And whereas many of the Persons who will be entitled to Allotments on the Inclosure of the Commons and Waste Lands in the said Hamlets have agreed to give up their respective Allotments, or the Value thereof, to be fixed by the Commissioner appointed by this Act, for and towards an Endowment for a Church, but some of the Persons entitled to such Allotments being Tenants for Life, the Provost and Scholars of *Queen's College, Oxford*, the Trustees of *Sir Thomas White's* Charity Estates and other Charities, have not Power to give up their respective Allotments for the Purposes aforesaid without the Authority of Parliament; be it therefore enacted, That, in consideration of the Occupiers of the present Houses on the Estates belonging to the said Tenants for Life, Provost and Scholars of *Queen's College, Oxford*, and Trustees, being for ever after the said Church shall be built provided with suitable Sittings in the said Church without paying any Seat Rent, it shall be lawful for the said Tenants for Life, with the Consent of all Persons in Remainder and Reversion, and for the said Provost and Scholars, and for the said Trustees, or the major Part of them, to give up their respective Allotments, or any Part or Parts thereof, or the Value thereof, or of any Part or Parts thereof, to be fixed by the said Commissioner, for and towards the Endowment of the said Church: Provided always, that the several Allotments that may be given up by the Provost and Scholars of *Queen's College, Oxford*, and the Trustees of *Sir Thomas White's* Charity Estates, shall not exceed Seven Acres each, and those of any other Trustees or Tenants for Life Three Acres each.

Tenants for Life may give up their Allotments towards the Endowment of a Church.

XLVIII. And be it enacted, That it shall be lawful for the Commissioner to allot and award any Lands within the said Hamlets in Exchange for any other Lands within the said Hamlets, or any adjoining Hamlet, Township, Parish, or Place, provided that all such Exchanges be specified and declared in the Award of the Commissioner, and be made with the Consent in Writing of the Owner of the Lands so exchanged, whether such Owner be a Corporation, or a Tenant in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Lives (with the Consent of the Lessor thereof, but not otherwise), or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbonds, 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

Power of Exchange.

abled 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 always, 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: 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 direct, 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 to apply Compensation Money coming to Parties under Disability towards Inclosure Expences and substantial Improvements.

XLIX. 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, Administrator, Husband, Guardian, Committee, or other Trustee, for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person whose Lands are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, to be settled to the same Uses, it shall be lawful for the Commissioner out of such Money to defray the Proportion, if any, of the Inclosure Expences which shall be charged upon any of the Lands of the respective Parties in possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, or on which such Timber or Wood actually grew, and also to defray the Expence of any permanent Improvement, such as building, subdividing, dividing, draining, or planting, and the like, which shall in the Judgment of the Commissioner be proper to be made, and shall be made, under his Direction, upon any Lands to be by virtue of this Act allotted to such Parties.

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

1.G. 4. c. 35.

L. 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, and without Fee or Reward; and shall, when so paid in, there remain until the same shall, by Order of the said Court, made upon a Petition to be preferred to
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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.

LI. 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.

Payment of
Dividends
meanwhile.

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

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

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

When under
20l.

[*Private.*]

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mittees,

mittees, or Trustees, for the Use and Benefit of the Parties respectively entitled thereto.

Provision for Payment of Expences of Inclosure by Sale of Land.

LIV. And be it enacted, That for defraying the Expences of the Inclosure, 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 to 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 Division, Allotment, and Inclosure hereby authorized to be made,) the Commissioner shall with all convenient Speed sell and dispose of such Part of the said Commons and Waste Lands as he shall think proper, by public Auction or by private Contract, in the Manner and subject to the Directions and Regulations prescribed and contained in the said first-recited Act, to any Person willing to become the Purchaser thereof, for the best Price he can get for the same; and the Purchaser of the said Commons and Waste Lands, on paying such Purchase Money to the said Commissioner, and taking his Receipt for the same, shall be thereupon discharged from his Purchase Money, and from any Obligation of seeing to the Application thereof, and become and be the actual Tenant of the Land so sold to him in Fee Simple.

Strips of Land on the Sides of Roads to be offered to Owners of adjoining Land.

LV. Provided always, and be it enacted, That the said Commissioner shall and he is hereby required, before he shall sell by public Auction or otherwise any Strips or small Quantities of Land, Parts of the Lands to be hereby inclosed, lying between any old Inclosures in the said Hamlets, or either of them, and any Lanes or Roads, to make an Offer in Writing of such last-mentioned Strips or small Quantities of Land for Sale by private Contract to the Proprietors of such last-mentioned Inclosures, at such Price or Value as the said Commissioner shall put thereon, and such Proprietors shall have the Option of taking the same at such Price or Value accordingly; and in case any such Proprietors shall, for the Space of Twenty-one Days after such Offer by the said Commissioner as aforesaid, neglect or refuse to take and purchase the same, at such Price or Prices or Value as aforesaid, then the said Commissioner shall and he is hereby empowered and required to sell the same in manner herein-before mentioned.

Surplus Money how to be applied.

LVI. Provided always, and be it enacted, That in case any Part of the said Commons or Waste Lands by this Act authorized or directed to be sold shall be sold for more Money than will be required to defray such Costs, Charges, and Expences as aforesaid, then and in such Case the surplus Money arising by such Sale shall be divided and apportioned between the several Proprietors of the Lands hereby directed to be divided and inclosed, according to their several and respective Interests therein, and paid to them respectively, in case they

they shall be seised in Fee Simple of their several Allotments, or otherwise such surplus Money shall be paid into the Bank of *England* in manner directed by this Act with respect to Money thereby directed to be paid into the Bank for the Purchase or Exchange of Lands, or any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands to be settled to the same Uses.

LVII. And be it enacted, That in case any of the Proprietors of Lands within the said Hamlets shall, in order to prevent the Sale of their Proportions of the Lands hereby authorized to be sold as aforesaid, be desirous of paying in Money their respective Shares of the Costs and Charges aforesaid, and of such their Desire shall give Notice to the said Commissioner within such Time as he shall for that Purpose appoint, before the Sale of the Land so authorized to be sold, then the Commissioner shall receive in Money the respective Shares of such Proprietors respectively of such Costs and Charges, and on Payment thereof at the Times appointed by the Commissioner shall allot and award to such Proprietors respectively the whole of their respective Proportions of and in the said Commons and Waste Lands, without any Deduction on account of such Costs and Charges, any thing herein contained to the contrary notwithstanding.

Proprietors may pay their Proportion of the general Expences in Money instead of selling Land.

LVIII. And be it enacted, That in case any Person shall be desirous of receiving a Compensation in Money for his Rights and Interests in the said Lands, in lieu of such Allotment in respect thereof as aforesaid, and shall signify such Desire to the Commissioner under his Hand, prior to such Allotment being made as aforesaid, and within such Time as the Commissioner shall appoint for that Purpose, then and in every such Case it shall be lawful for the Commissioner and he is hereby required to estimate what Sum of Money ought to be allowed to such Person as and for such Compensation as aforesaid; and in every such Case in which such Compensation shall not exceed Twenty Pounds it shall be lawful for the Commissioner, and he is hereby required, to pay the Sum of Money so to be estimated to the Person entitled thereto, out of the Inclosure Expences Fund.

Commissioner may make Compensation for small Allotments in Money.

LIX. 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 Churches of the said Hamlets, 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 County of *Warwick*, 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

An Award to be executed.

The Award and a reduced Plan of the Parish to be deposited in the Hands of the Clerk of the Peace.

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 inrolled according to the Directions and within the Meaning of the said first recited Act.

A Copy of the Award and of the Plan to be deposited in the Church of the Holy Trinity, Coventry.

LX. 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 herein-after directed to be made, shall within the Time aforesaid be deposited in the Parish Church of the *Holy Trinity, Coventry*, 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 of *Warwick*, 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.

Two reduced Plans to be drawn and annexed to the Award and Copy, and also a Schedule of the old Inclosures.

LXI. And be it enacted, That the Commissioner shall cause Two reduced Plans of the said Hamlets 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 the Copy of the said Award to be deposited in the Parish Church of the *Holy Trinity* 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 Hamlets; which said Plans, or either of them, shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Power of Appeal.

LXII. 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 County of *Warwick* 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

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

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

LXIV. 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, 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. General Saving.

LXV. 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,) Interpretation Clause.
 Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number:
 Words importing the Masculine Gender only shall extend to Females as well as Males:
 The Word "Month" shall mean Calendar Month:
 The Word "Lands" shall include Tenements and Hereditaments:
 The Expression "Lands to be inclosed" shall be understood to mean the Lands by this Act authorized to be divided, allotted, and inclosed:
 The Expression "the Inclosure Expences Fund" shall be understood to mean the Monies by this Act authorized to be raised for defraying the Expences of obtaining this Act and carrying the same into execution:
 The Expression "the Commissioner" shall mean the Commissioner appointed and for the Time being acting by virtue of this Act.

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

SCHEDULE referred to in 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.

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