



ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

Cap. 20.

An Act for inclosing Lands in the Parish of *Whitmore*
in the County of *Stafford*. [21st June 1841.]

WHEREAS there are within the Parish of *Whitmore* in the County of *Stafford* a certain Heath called *Whitmore Heath*, and certain other Waste Lands, containing altogether, by Estimation, One hundred and forty Acres, or thereabouts: And whereas *Rowland Mainwaring* Esquire, a Captain in Her Majesty's Navy, is Lord of the Manor of *Whitmore*, and as such is or claims to be entitled to the Soil of the said Heath and Waste Lands: And whereas the said *Rowland Mainwaring* and sundry other Persons claim to be entitled to Rights of Common in, over, and upon the said Heath and Waste Lands: And whereas the said Heath and Waste Lands in their present State yield little Profit, but are capable of considerable Improvement, and it would be advantageous if the same were divided and allotted unto and amongst the several Persons interested therein, according to their several and respective Estates, Rights, and Interests, and if such Allotments were inclosed; but such beneficial Purposes 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* 41G.3.c.109.
[*Private.*] Facts

1 & 2 G. 4.
c. 23.

Recited Acts
to form Part
of this Act.

Appointment
of Commis-
sioner.

Qualification
of Commis-
sioner.

Penalty on
Persons act-
ing not
qualified.

Penalty on
making a
false Decla-
ration.

Appointment
of Commis-
sioner on
Vacancy.

Facts usually required on the passing of such Acts: And whereas another Act was passed in the First and Second Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England:* 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.

II. And be it enacted, That *Joseph Lee* of *Redbrook* in the County of *Flint*, Gentleman, and his Successor for the Time being, to be elected or appointed in manner herein-after mentioned, shall be 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 Heath and Waste Lands in the said Parish of *Whitmore* 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 (A.) 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.

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*.

IV. 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.

V. And be it enacted, That in case the said *Joseph Lee*, 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 major Part in Value (such Value to be ascertained by the Land Tax Assessment for the Time being) of the several Proprietors of

of Lands within the said Parish 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 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 *Joseph Lee*, 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.

VI. And be it enacted, That *Samuel Harding Ashdown* of *Uppington* in the County of *Salop*, Land Surveyor, and his Successor for the Time being, shall be Surveyor for the Purposes of this Act, and in case of the Death, or Neglect or Refusal or Incapacity to act of the said *Samuel Harding Ashdown*, it shall be lawful for the Commissioner, from Time to Time, by Writing under his Hand, to appoint a fit Person to be Surveyor for the Purposes of this Act, during the Pleasure of such Commissioner, and on every future 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 (A.) to this Act, which Declaration it shall be lawful for any Commissioner for the Time being, or any Justice of the Peace for the said County, to administer and receive; and the said Declaration so made and subscribed shall be annexed to and deposited with the Award of the Commissioner.

Appointment
of Surveyor.

Surveyor to
make a De-
claration.

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.

Appointment
of Clerk.

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

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

IX. And be it enacted, That the Commissioner and the said Clerk shall be paid respectively out of the Inclosure Expences Fund, for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act, the Sum of Three Guineas for each Day they shall respectively be engaged as aforesaid, for the first Three Years after the passing of this Act, and Two Guineas *per* Day afterwards; and such Payment shall be in full Satisfaction to the Commissioner and Clerk respectively for their Time and Trouble, and for the several Expences incurred by them during their several Journies and 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,

Allowances
to Commis-
sioner and
Clerk.

ments, 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 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.

X. 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 where the Time occupied in going to and attending at and returning from any Meeting to be holden or on other Business to be transacted under the Provisions of this Act, shall be of less Duration than Eight Hours in the first of the Periods aforesaid, or of Six Hours in the second Period, the same shall be charged as only Half a Day, and the Commissioner and Clerk shall be paid accordingly.

Allowance to Surveyor.

XI. And be it enacted, That it shall be lawful to the Commissioner to pay to the Surveyor to be appointed as aforesaid, out of the Inclosure Expences Fund, the Sum of One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the Land required to be surveyed under the Provisions of this Act, and the Sum of Two Guineas for each Day that he shall travel or be actually and wholly engaged in the Duties imposed by this Act, exclusive of the Time he may be engaged in surveying, measuring, mapping, and planning as aforesaid; and such Payment 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,

Meetings, and Notices thereof.

XII. 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 the Clerk to adjourn such Meeting for not more than Twenty-one Days, to be held at the same Place, giving timely Notice thereof to the Commissioner: Provided always, that all Meetings of the Commissioner for executing this Act shall be held within the said Parish, or within Eight Miles thereof.

Notices how to be given.

XIII. And be it enacted, That all Notices by this Act directed to be given by Advertisement shall be given by Advertisement to be inserted in some Newspaper or Newspapers printed or usually circulated in the said County of *Stafford*; and all Notices directed to be given

given on the Church Door shall be by Writing under the Hand of the Party giving such Notice, to be affixed on the principal outer Door of the Parish Church of *Whitmore* 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.

XIV. 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 of such Commissioner, the Times of such Meetings being known to him by his having been present at the Appointment of the first thereof, or by a Notice thereof in Writing under the Hand of the Clerk of the Commissioner having been given to him, or left at his usual Place of Abode, (such Commissioner not being prevented by Sickness, or by other reasonable Cause,) or if any Commissioner to be hereafter elected or appointed as aforesaid shall not attend and qualify himself at the First or Second Meeting to be held after his Appointment, or shall, after having qualified himself as aforesaid, wilfully absent himself in manner aforesaid after such Notice, and without Cause or Excuse as aforesaid, every such Absence or Non-attendance shall be deemed to be a Refusal to act.

What shall be a Refusal to act.

XV. 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 Commissioner and refusing to give Evidence to be punished.

XVI. 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

For regulating Distresses.

[Private.]

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dered to the Party whose Goods and Chattels shall have been distrained.

Proceedings
to be entered
in a Book.

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

Proprietors to
pay their own
Expences at
Meetings.

XVIII. 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.

XIX. 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 County of *Stafford* not interested in the Premises, to be by him or them examined and balanced.

Accounts to
be published.

XX. And be it enacted, That the Balance of such Account shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the Commissioner; and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be inserted in some Newspaper printed or usually circulated within the said County of *Stafford*; 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.

Existing
Plans, &c.
may be used.

XXI. And be it enacted, That it shall be lawful for the Commissioner to adopt and make use of any Survey, Admeasurement, or Plan already made of the Lands to be inclosed, or of the old inclosed Lands within the said Parish, or any Part thereof respectively, without causing a new Survey, Admeasurement, or Plan to be made thereof:

thereof: Provided always, that nothing in the said first-recited Act or in this Act contained shall require the Commissioner to make or cause to be made any Survey, Admeasurement, Plan, or Valuation of any of the Messuages, Cottages, Gardens, and Inclosures in the said Parish, unless he shall deem the same expedient for the Purposes of this Act.

XXII. 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 Parish, in such Shares and Proportions and in such Manner as the Commissioner shall by his Award direct.

Commis-
sioner to ap-
point private
Roads;

XXIII. 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.

and to allot
the Herbage
thereof.

XXIV. 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 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.

XXV. 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 and Leasehold Property from each other; and no such Claim shall be received by the Commissioner after the last Meeting to be held for that Purpose of which due Notice shall have been given, and so expressed therein, except for some special Cause to be allowed by the Commissioner.

Claims to be
delivered to
the Commis-
sioner.

XXVI. 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 Meeting

Adjudication
upon Claims.

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 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.

Commis-
sioner not
to determine
Titles con-
trary to
Possession.

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

Parties dis-
satisfied
authorized to
try their
Rights at
Law.

XXVIII. 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 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, or at the Assizes immediately following such next Assizes which may be holden for the said County of *Stafford* 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.

XXIX. Pro-

XXIX. 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 brought, &c. Determination of Commissioner to be final.

XXX. 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 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 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.

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.

XXXI. 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 he shall proceed in the Execution of such Powers and Authorities in such Manner as he 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.

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

XXXII. And be it enacted, That in case the Commissioner, upon the Determination of any Claim or Objection to be delivered to be 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

Commissioner may award Costs.

[Private.]

same, upon Demand, the Commissioner shall, by Warrant directed to any Person whomsoever, cause the same to be levied by Distress; and if there be no Goods or Chattels whereon to levy such Costs it shall be lawful for the Person in whose Favour such Costs shall be awarded to recover the same, by Action of Debt or on the Case, in which Action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Wills and Settlements not to be affected.

XXXIII. Provided always, 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 partitioned as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

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

XXXIV. And be it enacted, That if at any Time before the Execution of the Award of the Commissioner any Person shall sell his Right of Common or other 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, 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,

Right, and Interest ; and the Commissioner is hereby required to award such Allotment accordingly.

XXXV. 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.

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

Allotment of old Inclosures with Consent of Proprietors.

XXXVII. And be it enacted, That the Commissioner shall, if he shall see fit, allot to the Surveyor for the Time being of the Highways 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 Gravel 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

Allotment to be set out for Repairs of Highways.

no

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 the Recreation of the Inhabitants.

XXXVIII. And be it enacted, That the Commissioner shall allot and award unto the Churchwardens and Overseers for the Time being of the said Parish, out of any Part of the Lands to be inclosed, One or more Piece or Pieces of Land, not exceeding Three Acres in the whole, nor less than Two Acres, as a Place of Exercise and Recreation for the Inhabitants of the said Parish and Neighbourhood, and such Allotment shall be held by the Churchwardens and Overseers for the Time being of the said Parish, for the Purposes aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Churchwardens and Overseers, in such Proportions and Manner as shall be devised by the Award of the Commissioner, out of the Rents to be received for the Herbage of the said Allotment, or out of the Poor Rates of the said Parish, or otherwise; and the Grass and Herbage growing upon such Allotment may be from Time to Time let by such Churchwardens and Overseers, and the Rent which shall be received by them for the same shall be by them from Time to Time applied, in the first place, in maintaining and repairing the Fences of the said Allotment, and subject thereto in aid of the Rates for the Repair of the public Highways in the said Parish.

Allotment to be set out for Right of Soil.

XXXIX. And be it enacted, That the Commissioner shall allot and award unto the Lord for the Time being of the said Manor, 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 equal in Value to One Fourteenth Part of such Commons and Waste Lands, Quality and Value considered, in lieu of his Right and Interest in the Soil of the said Commons and Waste Lands, exclusive of any other Allotments which may be made to such Lord in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Grounds.

Trees on the Commons to belong to the Lord of the Manor.

XL. Provided always, and be it enacted, That all Trees, Shrubs, and Bushes now growing on any of the uninclosed Parts of the said Heath and Waste Lands shall be and be deemed to be the Property of the Lord of the said Manor, and it shall be lawful for him to cause the same to be cut down and carried away for his own Use at any Time previous to the Execution of the Award of the Commissioner.

XLI. Pro-

XLI. Provided also, and be it enacted, That the Waste Lands next herein-after described (in case the same in the Judgment of the Commissioner shall not exceed the just Share and Proportion of the said *Rowland Mainwaring* in the Heath and Waste Lands hereby directed to be divided and inclosed) shall, subject to any Roads over the same which the said Commissioner shall set out in pursuance of the said firstly-recited Act and this Act, be set out and allotted to the said *Rowland Mainwaring*; (that is to say,) all those Two small Patches of Waste Lands respectively called *Whitmore Green* and *Dab Green*, computed to contain together about Two Statute Acres; and also all those Parts of the said Heath called *Whitmore Heath*, which lie on the South-western Side of the Grand Junction Railway, and are computed to contain about Thirty-one Statute Acres (except so much thereof as the Commissioner may think it just and fit to allot in lieu of any Rights of Common which may be found to belong to the Reverend *Henry Delves Broughton* Clerk); and also all those Parts of the said Heath called *Whitmore Heath* which are bounded on the South-western Side by the Grand Junction Railway, and on the North-western Side by the Turnpike Road from *Newcastle-under-Lyme* to *Market Drayton*, and are computed to contain about Twenty-one Statute Acres; and also all such Part of the said Heath called *Whitmore Heath* lying on the North-western Side of the said Turnpike Road, and computed to contain about Nine Statute Acres, as extends from the said Turnpike Road to a straight Line to be drawn from a Dwelling House in the Holding of *Mary Oliver* to the Northernmost Point of a Close of Land called the *Near Heath Croft*, late in the Holding of *Martha Birks* (except such Part of any of the before-described Plots as the Commissioner may consider suitable to be allotted as a Place for Exercise and Recreation, in case he shall consider any Part thereof so to be).

The Allotment to the Lord of the Manor to include certain specified Parts of the Commons.

XLII. And be it enacted, That it shall be lawful for the Commissioner, immediately after the passing of this Act, and from Time to Time, when in his Judgment it shall be requisite, to mark and stake out for Sale any Parts or Parcels of the Lands to be inclosed, sufficient for raising Monies for the Inclosure Expences Fund, and from Time to Time to sell the same by public Auction or private Contract, subject to the Regulations prescribed by the said first-recited Act in respect of such Sales, and upon Payment of the Purchase Money for any Land so sold to convey the same, by any Deed in Writing under his Hand and Seal, as Freehold of Inheritance, to the Purchaser, his Heirs and Assigns, or otherwise to such Uses and Purposes as the Purchaser shall direct or appoint; and such Conveyances may be according to the Form in the Schedule (B.) to this Act annexed, or as near thereto as the Circumstances of the Case will admit; and every such Conveyance shall be a valid and effectual Conveyance in Law of such Land according to the Form and Effect thereof, and the Receipt of the Commissioner shall be an effectual Discharge to the Purchaser from all Liabilities in respect of the Application of the Purchase Money.

Power to sell Land for Payment of Expences.

XLIII. And be it enacted, That if any Purchaser of any Land which shall be put up for Sale, or agreed to be sold as aforesaid, shall

Power of Resale, &c.

[Private.]

shall not, within the Time limited by the Commissioner, complete his Purchase, then and in such Case such Land may be again put up for Sale, and resold, or sold by private Contract, to any other Person, for the Purposes aforesaid, or shall be divided and allotted in the same Manner as the Residue of the Lands to be inclosed are by this Act directed to be divided and allotted.

Allotment of Residue.

XLIV. 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 unto and amongst the several Proprietors thereof and Persons who shall be entitled to any Estate, Right, or Interest therein, (save and except the Rights for which Compensation is hereby directed to be made as aforesaid,) 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 Situations of Allotments.

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

For determining Objections to Allotments.

XLVI. 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 which the Commissioner is hereby required to cause to be made for the Purpose; 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.

XLVII. And be it enacted, That the several Allotments to be made in pursuance of this Act (except the Allotment to the Rector in respect of Lands belonging to the Rectory, and the said Allotments to the Surveyor of the Highways, and Churchwardens and Overseers, respectively,) 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.

XLVIII. And

XLVIII. And be it enacted, That the Allotment to be made to the Rector of the Rectory of *Whitmore* in respect of Glebe Lands belonging to the said Rectory shall be well and sufficiently inclosed and fenced on all such Parts and Sides as shall not be directed to be fenced by any other Proprietor, or as shall not adjoin any inclosed Land, or be bounded by any sufficient Watercourse or other sufficient Fence in the Judgment of the Commissioner; and the Expence attending the inclosing and fencing the same shall be discharged out of the Inclosure Expences Fund; and all such Inclosures and Fences, when made, shall for ever thereafter be kept in repair by the said Rector, or by the Persons for the Time being entitled in possession to the said Allotment.

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

XLIX. And be it enacted, That if, from Situation, or from any other Circumstance, it shall happen that any of the Proprietors of the Lands to be inclosed, or any Person to whom any Allotments shall be made, shall not have a fair Proportion of the Boundary Hedges, Ditches, Mounds, or Fences assigned to him to make by virtue of this Act, it shall be lawful for the Commissioner to ascertain and appoint what Sum of Money shall be contributed by such Proprietor or Person towards making the Boundary Hedges, Ditches, Mounds, and Fences 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.

Equalizing the Share of Fencing.

L. And be it enacted, That it shall be lawful for the Rector for the Time being of the Rectory of *Whitmore* aforesaid, by Indenture under his Hand and Seal, with the Consent and Approbation of the Patron of the said Rectory for the Time being, such Consent to be had previous to the Execution of such Indenture by the other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part of the Allotment to be made to such Rector in right of his Rectory, to any Person whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Months next after the passing of this Act, so that the Rent for the same shall be thereby reserved to the Rector for the Time being by quarterly Payments in every Year, and so that there be thereby also reserved and made payable to such Rector the best and most improved Rent that can be reasonably gotten for the same, without taking any Fine, Foregift, or other Consideration for granting such Lease, and so that no such Lessee be made dispunishable for Waste by any express Words to be contained in such Lease, and so that there be inserted in every such Lease Power of Re-entry on Nonpayment of the Rent within a reasonable Time, to be therein limited, after the same shall become due, and so that a Counterpart of each such Lease be duly executed by the Lessee: Provided always, that whenever any such Lease

Power to Rector to lease his Allotment.

Lease shall by any Means become forfeited or void, or be surrendered before the Expiration by Effluxion of Time of the Term thereby granted, then and so often as the same shall happen it shall be lawful for such Rector for the Time being, with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron of the Rectory, to grant a new Lease of the Land so demised for such Term of Years as shall at the Time of such Avoidance be unexpired of the original Term, subject nevertheless to the Provisoes and Conditions contained in the original Lease, and then remaining unperformed and capable of taking effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act, or any Law or Usage, to the contrary notwithstanding.

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

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

Power for Commissioner to make Alterations in Allotments.

LII. 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.

LIII. 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, 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.

Separate Allotments for Land held by different Titles.

LIV. 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 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 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.

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

LV. 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, 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 Owner as aforesaid who at the Time of making such Exchange shall

Power of Exchange.

[Private.]

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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; 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.

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

Investment of the Surplus when amounting to 200l.

1 G. 4. c. 35.

LVII. 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,*

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.

LVIII. 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.

LIX. 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.

LX. 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

When under
20l.

Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit; or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, for the Use and Benefit of the Parties respectively entitled thereto.

Provision for
Payment of
Expences of
Inclosure.

LXI. And be it enacted, That 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 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 Division, Allotment, and Inclosure hereby authorized to be made), shall be paid out of the Monies to arise by Sale of Land as herein-before mentioned.

Application
of Surplus
Money
arising by
Sale of Lands.

LXII. And be it enacted, That in case any Surplus shall remain in the Hands of the Commissioner of the Monies by this Act authorized to be raised by the Sale of Land, after answering the several Purposes for which such Monies are applicable, such surplus Money shall be divided and apportioned between the several Proprietors of and Persons interested in the Lands to be inclosed according to their several and respective Interests therein; and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of the other Proprietors of such surplus Money shall be applied and disposed of in manner directed by this Act with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon.

Deficiency,
if any, to be
borne rate-
ably.

LXIII. And be it enacted, That in case the Monies to arise by Sale of Land as aforesaid shall be insufficient for Payment of all the Expences of the Inclosure aforesaid, then the Deficiency shall be borne and defrayed by the several Persons interested in the Lands to be inclosed (except the said Rector, Surveyors of Highways, Churchwardens, and Overseers, in respect of the Allotments herein-before authorized or directed to be made to them respectively) in such Shares and Proportions, and shall be paid at such Time and Place, and to such Persons, as the Commissioner shall, by Notice on the Church Door, or delivered to the respective Persons liable to the Payment of such Costs and Expences, at least Fourteen Days before the Time appointed for such Payment, order; and the Commissioner shall from Time to Time make Estimates of all such Costs and Expences, and raise the Amount of such Estimates at such Times as he shall deem necessary or proper, either before or after the Execution of his Award,

LXIV. And

LXIV. And be it enacted, That if any Person shall refuse or neglect to pay his Proportion of such Expences within the Time and to such Person as the Commissioner shall appoint, it shall be lawful for the Commissioner to recover the same, together with lawful Interest, to be computed from the Day on which the same ought to have been paid, 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 whomsoever, 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 into and upon the Premises so to be allotted to such Person, and demise the same, and receive the Rents and Profits thereof, until thereby or otherwise such Share or Proportion, with lawful Interest as 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.

Remedies in case of Non-payment.

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

Power for Commissioner to borrow Money.

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

Power to make additional Rate in case of Deficiency.

LXVII. Provided also, and be it enacted and declared, That if at the Time of the Execution of the Award of the Commissioner 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.

Monies may be recovered after Execution of Award.

[*Private.*]

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LXVIII. And

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

LXVIII. And be it enacted, That it shall be lawful for the respective Proprietors of Allotments to be made by virtue of this Act, being Tenants for Life or in Tail, or for any other Estate of Freehold or Inheritance, and also for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Proprietors, being under Coverture, Infants, Lunatics, Idiots, or beyond the Seas, or otherwise incapacitated, and for the Trustees or Feoffees for charitable, parochial, or other Uses, or a competent Number of them, in respect of any Lands held by them in Trust for any charitable, parochial, or other Uses, (with the Consent of the Commissioner, testified in Writing under his Hand and Seal,) from Time to Time to charge their Allotments with any Money not exceeding Five Pounds *per* Acre towards their respective Proportions of the Inclosure Expences, and for securing the Repayment of such Money, with Interest, to mortgage or demise the said Allotments unto or in Trust for any Person who shall advance such Money for any Term of Years, but so that every such Mortgage or Demise be made with a Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby to be secured, with all Interest thereon, shall have been fully paid and satisfied, and so that in every such Mortgage or Demise which shall be made by or on behalf of any Person entitled to any such Allotment for the Term of his natural Life there be contained a Covenant to pay and keep down the Interest of the Money to be secured during his Life in such Manner that no Person afterwards becoming possessed of such Lands shall be subject or liable to pay any larger Arrear of Interest than for Six Months previous to the Time when the Title of such Person shall accrue or commence; and every such Mortgage or Demise shall be valid in the Law for the Purposes thereby intended; and every such Mortgagee, and his Assigns, shall have the like Remedies in case of Nonpayment of the Monies thereby secured as in the Case of other Mortgages of the like Nature.

An Award to be executed.

LXIX. 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 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 *Stafford*, 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.

The Award, and a reduced Plan of the Parish to be delivered to the Clerk of the Peace.

LXX. 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 *Whitmore* 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 of *Stafford*, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall thereafter be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

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

LXXI. And be it enacted, That the Commissioners 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 the Copy of the said Award to be deposited in the Parish Church of *Whitmore* 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.

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

LXXII. 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 *Stafford* within Four 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 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

Power of Appeal.

Costs

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.

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

Saving cer-
tain Rights of
the Lord of
the Manor.

LXXIV. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to defeat, lessen, or prejudice the Right, Title, and Interest of the Lord of the said Manor of *Whitmore* for the Time being to hold and enjoy all Rents, Services, Courts, Perquisites and Profits of Courts, and all other Royalties, Jurisdictions, and Privileges whatsoever to the said Manor incident or appertaining, (other than and except the Right of the Soil of the said Heath and Waste Lands,) in as full, ample, and beneficial a Manner, to all Intents and Purposes, as the same might or could have been lawfully held and enjoyed in case this Act had not been passed.

General
Saving.

LXXV. 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.

Interpre-
tation of
Terms in this
Act.

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

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

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

The Word "Month" shall mean Calendar Month.

The Word "Land" shall include every Species of Land, whether Arable, Meadow, Pasture, or Woodland, and whether of Freehold or any other Tenure, and Tenements and Hereditaments :

The Word "Corporation" shall include every Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole :

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

The

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.

LXXVII. 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 Queen’s
Printers to
be Evidence.

The SCHEDULES referred to in the foregoing Act.

(A.)

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.

(B.)

FORM OF CONVEYANCE.

I _____ the Commissioner acting in the Execution of an Act passed in the _____ Year of the Reign of Her Majesty Queen Victoria, intituled [*here insert the Title of this Act*], by virtue of the Power and Authority to me given by the said Act, and in consideration of the Sum of _____ paid into my Hands by _____ which said Sum is the Purchase Money agreed to be paid by him to me for the Purchase of the Lands and Hereditaments herein-after described, being Part and Parcel of the Lands by the said Act authorized to be sold and disposed of by me, and which said Sum is to be by me applied and disposed of in the Manner directed by the said Act, and the Receipt of which said Sum I do hereby acknowledge, do by this Deed, under my Hand and Seal, by the Direction of the said _____ testified by his Execution of these Presents, grant and convey unto his Heirs and Assigns, all that [*here describe the Premises*], together with the Appurtenances to the said Premises belonging, and the Fee Simple and Inheritance thereof in possession, to have and to hold the same unto the said _____ his Heirs and Assigns [*here state the Uses, Trusts, or Purposes of the Conveyance, as the Case may require*]. Dated this _____ Day of _____ in the Year of our Lord One thousand eight hundred and forty _____.
