



ANNO QUARTO

# VICTORIÆ REGINÆ.

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## Cap. 4.

An Act for inclosing Lands in the Parish of *Bury*  
in the County of *Sussex*. [18th *May* 1841.]

**W**HEREAS there are within the Parish of *Bury* in the County of *Sussex* divers Open and Common Fields, Common Meadows, Common Pastures, Open and Common Downs, and other Commonable and Waste Lands and Grounds, and divers inclosed Lands and Homesteads: And whereas his Grace *Bernard Edward* Duke of *Norfolk* is or claims to be Lord of the Manor of *Bury*, and as such the sole Owner or Proprietor of the Soil of the Commons and Waste Lands lying within the said Parish: And whereas *Richard Holmes* is or claims to be entitled to a Warren called *Mallards Bury*, on *Mallards Bury Common* in the said Parish: And whereas *John Hawkins* Esquire, *George Wyndham* Esquire, *James Bisshopp*, *Charles Newland*, *Robert Upperton*, and *Edward Fuller Upperton*, and divers other Persons, are the Owners or Proprietors of the said Open and Common Fields, Common Meadows, and Common Pastures, and of the said inclosed Lands and Homesteads, and of ancient Commonable Messuages or Tofts within the said Parish, and in respect thereof or otherwise are or claim to be entitled to certain Rights of Sheepwalk, Common of Pasture for their Cattle, and other Rights and Interests in and over the same or some Parts thereof, and in and over the said Open and Common Downs and other Commonable and Waste Lands and Grounds, or are otherwise interested therein: And whereas the Lands of the said several  
[*Private.*] Owners



Owners or Proprietors are in their present State incapable of any considerable Improvement, and it would be of great Advantage to the Proprietors thereof and Persons interested therein to have the same divided and inclosed, and specific Parts thereof allotted to the Proprietors thereof, 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 *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas another Act was passed in the First and Second Year of the Reign of His late Majesty King George the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: 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.

41 G.3. c.109.

1 & 2 G. 4.  
c. 23.Recited Acts  
to form Part  
of this Act.Appointment  
of Commis-  
sioners.Commissioners  
to make  
a Declara-  
tion previous  
to acting.Appointment  
of Umpire.

II. And be it enacted, That *Charles Osborn of Fareham in the County of Southampton, and Thomas Boniface of Climping in the County of Sussex, Gentlemen, and their Successors for the Time being, to be elected or appointed in manner herein-after mentioned, shall be Commissioners for carrying this Act and the said recited Acts into execution; and it shall be lawful for the said Commissioners, and they are hereby required, to divide, allot, and inclose the said Open and Common Fields, Common Meadows, Common Pastures, Open and Common Downs, Commons, Waste Lands and Grounds, in the said Parish, according to the Regulations and Provisions contained in the said recited Acts and this Act: Provided always, that no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the First Meeting of the Commissioners, 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.*

III. And for the Purpose of settling and determining any Difference that may arise between the Commissioners concerning any of the Things to be done in pursuance of this Act, be it enacted, That



*Thomas Drewitt* of the Parish of *Saint Nicholas, Guildford*, in the County of *Surrey*, Surveyor, and his Successors, to be chosen as herein-after mentioned, shall be and he is hereby appointed Umpire, and authorized to hear and determine every such Difference as may arise between the Commissioners relating to any of the Purposes of this Act, and the Determination of such Umpire shall be considered to be the Determination of the Commissioners, and shall be final and conclusive upon the Commissioners and upon all other Persons concerned in the said Inclosure, so far as the Judgment and Acts of the Commissioners would in such Case have been final and conclusive: Provided always, that no Person shall act as Umpire in the Execution of this Act until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration it shall be lawful for any Commissioner for the Time being or any Justice of the Peace for the said County to administer, and the Declaration so made and subscribed shall be annexed to and deposited with the Award of the Commissioners.

Umpire to  
make a De-  
claration.

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

Penalty on  
Persons  
acting not  
qualified.

V. 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 a  
false De-  
claration.

VI. And be it enacted, That in case the said *Charles Osborn* and *Thomas Boniface*, or any Person to be appointed a Commissioner in his or their Room, or if the said *Thomas Drewitt*, or any Person to be appointed an Umpire 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 or Umpire, it shall be lawful for the major Part in Value (such Value to be ascertained by the Land Tax Assessment for the Time being) of the several Proprietors of Lands within the said Parish, 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 or Umpire, as the Case may be, in the Room of the said *Charles Osborn*, *Thomas Boniface*, or *Thomas Drewitt*, or of the Commissioner or Umpire appointed in his or any of their Place or Places, and so from Time to Time as often as any such Commissioner or Umpire shall die, neglect or refuse or become incapable to act.

Appointment  
of Commis-  
sioners and  
Umpire on  
Vacancies.

VII. Provided always, and be it enacted, That in case any of the Parties herein-before authorized to appoint a new Commissioner shall not appoint a new Commissioner within the Space of Six Weeks next after

In case  
Parties neg-  
lect to ap-  
point new



Commissioner, the remaining Commissioner may appoint.

after Notice of such Death, Neglect, Refusal, or Incapacity shall have been given as aforesaid, the other Commissioner shall, within Three Weeks next after the Expiration of the Time so allowed for appointing such new Commissioner, by Writing under his Hand, appoint some other fit Person to be a Commissioner in the Room of the Commissioner causing such Vacancy as aforesaid; and every new Commissioner appointed under either of the Powers herein-before given shall be invested with the same Powers and Authorities for carrying this Act into execution, and shall be subject to the same Regulations, as if he had been originally named a Commissioner in this Act; and every such Appointment shall be annexed to and deposited with the Award of the Commissioners.

Existing Surveys may be used.

VIII. Provided always, and be it enacted, That it shall be lawful for the said Commissioners to adopt and make use of any Survey, Admeasurement, or Plan already made of the Lands hereby authorized to be divided, allotted, and inclosed, or of the Inclosures heretofore made within the said Parish, or of any Part thereof respectively, without causing a new Survey, Admeasurement, or Plan to be made thereof: Provided also, that nothing in the said first-recited Act or in this Act contained shall require the said Commissioners 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 the said Commissioners shall deem such Survey, Admeasurement, Plan, or Valuation expedient for the Purposes of this Act.

Appointment of Surveyor.

Surveyor to make a Declaration.

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

Appointment of Clerk.

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

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

Allowances to Commissioners and Clerk.

XI. And be it enacted, That no Person shall be appointed or shall act as a Commissioner, Surveyor, or Umpire 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, Superintendance, or Management of the Estate of any Person so interested.

XII. And be it enacted, That each of the said Commissioners and the said Clerk and Umpire shall be paid respectively out of the Inclosure



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 Two Years after the passing of this Act, and Two Guineas *per* Day afterwards; and such Payment shall be in full Satisfaction to the Commissioners and Clerk and Umpire respectively, for their Time and Trouble, and for the several Expences incurred by them during their several Journeys and Attendance in the Execution of this Act, except the Expence of the Rooms in which the Meetings of the Commissioners shall be held, and the Expence of Appeals or other legal Proceedings against the Commissioners, and the Expence of Notices and Advertisements, and of preparing, proclaiming, and enrolling the Award, and such other like necessary Expences: Provided always, that it shall not be lawful for the Commissioners to retain or pay themselves or the said Clerk any Money on account of the before-mentioned Allowances respectively, beyond One Third of the Allowance to which they shall be respectively entitled, until after the Expiration of Six Calendar Months from the Day of the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the Commissioners shall be appealed against, then not until such Appeal shall have been heard and decided.

XIII. And be it enacted, That in computing the aforesaid Allowance to the Commissioners 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 Commissioners and Clerk shall be paid accordingly.

Length of  
Day for  
estimating  
Allowances.

XIV. And be it enacted, That it shall be lawful for the Commissioners to pay to the Surveyor appointed by them, out of the Inclosure Expences Fund, such a Sum of Money *per* Acre as they think fit, for surveying, measuring, mapping, and planning the Land requiring to be surveyed under the Provisions of this Act, and the Sum of Two Guineas for each Day that he shall be actually and wholly engaged in the Duties imposed by this Act, exclusive of the Time he may be engaged in surveying, measuring, 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.

Allowances  
to Surveyor.

XV. And be it enacted, That the Commissioners shall cause Notice to be given, by Advertisement or on the Church Door, of the Time and Place when and where their First and every subsequent Meeting shall be held (Meetings by Adjournment only excepted),

Meetings,  
and Notices  
thereof.

[*Private.*]

*a a*

and



and they may from Time to Time adjourn any such Meetings, and if at the Time and Place appointed for any such Meeting the Commissioners shall not attend, it shall be lawful for their 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 Commissioners: Provided always, that all Meetings of the Commissioners for executing this Act shall be held within the said Parish, or within Eight Miles thereof.

Notices how  
to be given.

XVI. 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, and all Notices directed to be given on the Church Door shall be by Writing under the Hands of the Party giving such Notice, to be affixed on the principal outer Door of the Parish Church of *Bury* aforesaid on *Sunday* before Divine Service; and all Notices necessary to be given by the Commissioners, 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.

What shall  
be a Refusal  
to act.

XVII. And be it enacted, That if either of the Commissioners 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 either of them shall at any Time, after having qualified himself as aforesaid, wilfully absent himself from any Two successive Meetings of such Commissioners, 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 Commissioners 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 to be allowed by the other Commissioner attending such Meetings,) 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 of Excuse as aforesaid, every such Absence or Non-attendance shall be deemed to be a Refusal to act.

Persons sum-  
moned by  
the Commis-  
sioners, not  
appearing  
and giving  
Evidence, to  
be punished.

XVIII. 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 Commissioners, to defray the Charges of his Attendance, shall not appear before the Commissioners 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 Commissioners, upon Proof of such Summons, and Tender made before them upon Oath (which Oath they 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.

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

For regul-  
ating Dis-  
tresses.

XX. And be it enacted, That all the Orders, Proceedings, and Determinations of the Commissioners 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 Commissioners, 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 Commissioners, 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.

Proceedings  
to be entered  
in a Book.

XXI. 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.

Proprietors to  
pay their own  
Expences at  
Meetings.

XXII. And be it enacted, That the Commissioners shall not at any Time permit any just Claim or Demand upon them, as such Commissioners, 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 Commissioners shall be finally allowed, (the first of such Periods to be computed from the Day of the passing hereof,) they shall make out a true and accurate Account of all Sums of Money by them received and expended in the Execution of this Act, and of all Sums due to them respectively for their 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 Commissioners 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.

Debts to be  
paid, and  
Accounts to  
be audited.

XXIII. 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 Commissioners, and an Abstract of such Account so examined and balanced shall, within Fourteen Days after the same shall have been so examined

Accounts to  
be published.



amined and balanced, be inserted in some Newspaper printed or usually circulated within the said County; 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.

For shorten-  
ing Boun-  
daries.

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

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

XXV. And be it enacted, That it shall be lawful for the Commissioners to set out and make such common Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, of such Extent and Form and in such Situations as they shall deem necessary, in the Lands to be inclosed, and also to 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 Parish, as the Commissioners shall deem necessary (making such Satisfaction to the Proprietors of such ancient Inclosures or Lands for the Damage done thereby as the Commissioners shall think just); and the Expences of making and enlarging, altering and cleansing, such Ponds, 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 Commissioners in the same Manner as the other Expences of carrying this Act into execution, but all such Ponds, 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 Commissioners shall by their 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.

XXVI. And



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

Power to  
widen Roads,  
making Com-  
pensation to  
Landowners.

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

Power to  
stop up or  
divert Roads.

XXVIII. Provided always, and be it enacted, That before any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, diverted, stopped up, or altered by the Commissioners, or any such Order of Two Justices shall be made, the Commissioners shall cause to be affixed at each End of such public Carriage Road, Highway, Bridle Road, or Footpath a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the Commissioners; and the Commissioners shall also cause the same Notice to be given by Advertisement for Four successive Weeks, and also on the Church Door on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so given, and after such Order as hereinbefore mentioned shall have been made, such public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject, however, to such Appeal as is herein-after mentioned.

Proceedings  
previously to  
stopping up  
and diverting  
Roads.

XXIX. Provided also, and be it enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footpath should be discontinued, stopped up, diverted, or altered, as the Case

Appeal to  
the Quarter  
Sessions.

[*Private.*]

*bb*

may



may be, within Four Months after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the Quarter Sessions for the said County, upon giving to the Commissioners or their Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been given as aforesaid, nor on any hearing of Appeal to go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of Appeal, Jury at Sessions to determine whether any Roads shall be discontinued.

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

Expences of discontinuing or widening Roads.

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

Justices may declare any of the Carriage Roads completed.

XXXII. And be it enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the said County shall certify any of the public Carriage Roads to be set out in pursuance of this Act to be sufficiently formed and completed, such Roads shall thenceforth be kept in repair by such Persons and in such Manner as the public Roads within the said Parish are or ought by Law to be kept in repair; and every such Certificate shall, at the Quarter Sessions



Sessions of the Peace to be holden for the said County next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County.

XXXIII. And be it enacted, That the Commissioners shall set out such private Roads, Bridle-ways and Footpaths through the Lands to be inclosed as they 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 Commissioners may think fit to incur prior to the Time of making their Award relative to the setting out or the Formation or Completion of such private Roads, Bridle-ways, and Footpaths, or any of them, shall be paid out of the Inclosure Expences Fund; and the said private Roads, Bridle-ways, 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 Commissioners shall by their Award direct.

Commis-  
sioners to ap-  
point private  
Roads;

XXXIV. And be it enacted, That the Commissioners shall by their Award order the Grass and Herbage growing upon the private Roads to be set out by them by virtue of this Act to be for ever thereafter for the Use of such Persons as they shall in their Judgment think best entitled to the same.

and to allot  
the Herbage  
thereof.

XXXV. And be it enacted, That it shall be lawful for the Commissioners, at such Time as they shall think proper, and before the Execution of their Award, by Notice on the Church Door, to order all or any Part of the Rights of Sheepwalk, 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-  
sioners en-  
powered to  
suspend or  
extinguish  
Rights of  
Common.

XXXVI. And be it enacted, That if, during the Suspension or after the Extinguishment of any such Rights of Sheepwalk, 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 Parish, or any other Person, shall permit his Cattle or Sheep to go or depasture upon any of the Lands over which such Rights shall be suspended or extinguished, it shall be lawful for the Commissioners, or any other Person by their Order (testified in Writing under their Hands), and also for any other of the said Owners or Occupiers, to distrain such Cattle or Sheep being upon such Lands or Grounds contrary to such Order, and to impound the same until the Person so offending shall pay to the Person so distraining such Sum of Money as the Commissioners shall, by Writing under their Hands, to be delivered to or left at the Place of Abode of the Person whose Cattle or Sheep shall be so distrained, have previously ordered, not exceeding Ten Shillings for each Head of Cattle and Five Shillings for each Sheep so distrained; and in case the same shall not be paid within Seven Days after the Delivery

Cattle de-  
pasturing in  
breach of  
the Commis-  
sioners Order  
to be dis-  
trained.



Delivery of such Writing, the Commissioners are 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 they 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.

Commissioners to direct the Course of Husbandry.

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

Satisfaction to be made for growing Crops.

XXXVIII. And be it enacted, That the Commissioners shall, by Writing under their Hands, order what Recompence in Money shall be made to the Owner of any Crops growing, according to the customary Mode of Cultivation, within the said Parish, upon the Lands to be inclosed, at the Time such Division, Allotment, and Inclosure shall be made, for the said Crops, by the Person to whom the Lands upon which such Crops are growing shall be allotted, and also what Recompence in Money shall be paid, and by whom, to any Tenant or Occupier of any Land, as well for ploughing, tilling, cultivating, manuring, or folding any of the Lands to be inclosed for the Benefit accruing thereby to the Person to whom such Lands shall be allotted, as for any Loss or Disadvantage which any such Tenant or Occupier may sustain by the Loss of his following or way-going Crops, upon the Lands to be inclosed; and if, in any of the said Cases, the Money to be paid for such Recompence be not paid at the Time and in the Manner ordered by the Commissioners, they shall raise and levy the same on the Party liable thereto, for the Use of the Person entitled thereto, in the same Manner as the Inclosure Expences are herein directed to be raised and levied.

XXXIX. And



XXXIX. 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 Commissioners, 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 Commissioners 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 Commissioners.

Claims to be delivered to the Commissioners.

XL. And be it enacted, That after the said Claims shall be so received, the Commissioners 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 them, and show Cause for or against the Allowance or Disallowance of the said Claims; and at such Meeting the Commissioners shall proceed and examine into and determine the same, and shall make such Order therein as to them 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 Commissioners shall, by Examination of Witnesses upon Oath (which Oath the said Commissioners are hereby empowered to administer), and by such other Evidence as to them shall seem proper, hear and determine the same, and shall make such Order therein as to the Commissioners shall appear just, which Order shall be final, unless any Party shall be dissatisfied with the Determination of the Commissioners, and shall proceed to try his Rights by an Issue at Law as hereafter mentioned.

Adjudication upon Claims.

XLI. And be it enacted, That this Act shall not authorize the Commissioners to determine the Title to any Lands, or to determine any Right between any Parties contrary to the actual Possession of such Parties, but in case the Commissioners shall be of opinion against the Rights of the Party in possession, they 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.

Commissioners not to determine Titles contrary to Possession.

XLII. And be it enacted, That if any Person claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the Commissioners 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 then next Assizes, or at the Assizes immediately following such next Assizes, which may

Parties dissatisfied authorized to try their Rights at Law.

[Private.]

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be



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 Commissioners 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.

In what Cases  
Determina-  
tion of Com-  
missioners to  
be final.

XLIII. 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 Commissioners shall be final.

Deaths of  
Parties not  
to abate Pro-  
ceedings.

In case  
Parties die  
before Action  
brought, Suits  
to be carried  
on and de-  
fended in  
their Names.

XLIV. 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 Commissioners or their Clerk with the usual Process for commencing such Action, in the same Manner as the deceased Person might have been served there-with 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.

If Parties die  
before In-  
closure, &c.  
is completed,  
Allotments  
to be made

XLV. 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 Commissioners 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



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.

to their Representatives.

XLVI. And be it enacted, That in case the Commissioners, upon the Determination of any Claim or Objection to be delivered to them in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for them, upon Application, to assess and award such Costs as they 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 Commissioners 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 Commissioners, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Commissioners to award Costs.

XLVII. And be it enacted, That all Tofts, Foundations, or Sites of ancient Commonable Messuages or Cottages in the said Parish shall, upon Proof being made to the Satisfaction of the Commissioners that Commonable Messuages or Cottages formerly stood thereon, be deemed Commonable Messuages or Cottages, and the respective Proprietors thereof shall be entitled to the same Compensation for the Rights of Common originally belonging thereto as if such Messuages or Cottages were still standing.

Tofts to be deemed Commonable Messuages.

XLVIII. And be it enacted, That immediately after the Allotments herein directed to be made shall have been marked and staked out, and the Commissioners shall have directed the same to be entered upon by the Persons respectively for whom the same shall be intended, every Lease and other Agreement at Rack Rent subsisting of all or any Part of the Lands to be inclosed for any Term of Years not exceeding Twenty-one Years (except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure) shall determine and be void as to all such Lands, but not as to any other Lands comprised therein, such Compensation as between Lessor and Lessee being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated as the Commissioners shall, by Writing under their Hands, order in that Behalf; and if any such Compensation shall not be paid to the Party entitled to receive the same within One Month after Demand made in Writing under the Hand or Common Seal (as the Case may require) of the Party to whom the same shall be payable, the Commissioners shall raise and levy the same, for the Use of the Party entitled thereto, by such Ways and Means as the Rates to be levied for defraying the Inclosure Expences

Leases at Rack Rent to be void.



Expences are directed to be raised and recovered; and it shall be lawful for the Commissioners, by Writing under their Hands, to ascertain and direct what Rent or Proportion of Rent shall be paid by the several Tenants of the Lands to be inclosed in their respective Holdings to their respective Landlords from the Time of the passing of this Act until such Lands shall be marked and staked out and be directed to be entered upon as aforesaid.

Beneficial  
Leases not to  
be vacated.

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

Wills and  
Settlements  
not to be  
affected.

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

Persons may  
sell their  
Common  
Rights, and  
Persons en-  
titled to have  
Allotments  
may mort-  
gage, &c.  
before Exe-  
cution of the  
Award.

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



Estate in right of which he may be entitled to such Allotment separate from and retaining to himself such Allotment, Common Right, and Interest, and the Commissioners are hereby required to award such Allotment accordingly.

LII. And for the better ascertaining what Lands shall be divided, allotted, and inclosed, pursuant to this Act, be it further enacted, That all Fields or Inclosures containing the Property of Two or more Persons within One Fence shall be deemed Part of the Lands to be divided, allotted, and inclosed by virtue of this Act, and shall be divided, allotted, and inclosed accordingly.

What Lands  
to be al-  
lotted.

LIII. And be it enacted, That all Encroachments and Inclosures which 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 Amerciaments, 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.

Encroach-  
ments within  
Twenty  
Years.

LIV. Provided always, and be it enacted, That it shall be lawful for the Commissioners, 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 Commissioners shall adjudge to be just and reasonable, and they shall allot and award unto such Proprietors so much and such Part of the Lands to be inclosed as they shall think reasonable and just.

Allotment of  
old Inclo-  
sures with  
Consent of  
Proprietors.

LV. And be it enacted, That all small Parcels of uninclosed Waste or Common Land (the Soil whereof shall belong to the Lords of any Manor in Right thereof) lying by the Side of any Turnpike Road, or other public Road or Lane, within the said Parish, and which, in the Judgment of the Commissioners, may be conveniently inclosed without

Pieces of  
Land by the  
Side of the  
Road may be  
allotted.

[*Private.*]

*d d*

incommoding



incommoding the public Intercourse on such Road or Lane, or rendering such Turnpike Road of less Breadth than Thirty Feet, and such other public Road or Lane of less Breadth than Twenty-five Feet respectively, shall be deemed Part of the Lands to be inclosed.

Allotment in lieu of Warren.

LVI. And be it further enacted, That the said Commissioners shall set out and allot to the said *Richard Holmes* so much of the Land hereby directed to be inclosed as shall be in the Opinion and Judgment of the said Commissioners a full and fair Compensation for the said Warren, and from thenceforth such Warren, and all Right and Title thereto, shall be destroyed and extinguished, and the said Lands so to be allotted in lieu thereof shall be held and enjoyed in the same Manner, and subject to the same Rent and Payment, as the said Warren now is.

Chalk, Sand, and Gravel Pits.

LVII. And be it further enacted, That the said Commissioners shall set out and allot so much of the Lands hereby directed to be inclosed within the said Parish as they shall think to be proper and sufficient, as and for Two Chalk Pits and One Sand Pit, not exceeding in all Three Acres, for the Use and Benefit for all Purposes (except for Sale) of all the Proprietors of Messuages, Lands, and Tenements within the said Parish of *Bury*, and their Tenants.

Allotment for a Wharf.

LVIII. And be it further enacted, That the said Commissioners shall set out and allot unto the Churchwardens and Overseers for the Time being of the said Parish, for a Wharf for the Use of the Inhabitants of the said Parish, a certain Piece or Parcel of Waste Land, containing Two Roods and Eighteen Perches, adjoining the River *Arun*, which is now used by the said Inhabitants as a Wharf.

Allotment to be set out for the Recreation of Inhabitants.

LIX. And be it enacted, That the Commissioners shall allot and award unto the Churchwardens and Overseers for the Time being of the said Parish, in the most appropriate Situation, out of any Part of the Lands to be inclosed, a Piece of Land, not less than Five Acres, as a Place of Exercise and Recreation of the neighbouring Population, and such Allotment shall be held by the Churchwardens and Overseers for the Time being of the said Parish for the Purpose aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Parish, in such Proportions and Manner as shall be devised by the Award of the Commissioners.

Allotment to the Lord of the Manor.

LX. And be it further enacted, That after all public Carriage Roads and Highways through and over the said Wastes and Commons are set out and appointed, and the Allotments herein-before directed and authorized are made, the said Commissioners shall set out and allot to the said Lord of the said Manor of *Bury* so much and such Part of the Lands to be inclosed as in the Opinion and Judgment of the said Commissioners shall be equal in Value (Quality and Quantity considered) to One Sixteenth Part of the Residue and Remainder of the Lands to be inclosed, except of the Open and Common Downs called *Bury Down* and *Westburton Down*, in respect of the Soil of which said Downs the said Lord of the said Manor of



*Bury* shall not as such be deemed to be entitled to any Claim or Allotment whatever.

LXI. And be it enacted, That after the several Allotments hereinbefore directed shall have been set out and made, the Commissioners 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 Commissioners shall adjudge and determine to be proportionate to the Value of their respective Rights and Interests therein.

Allotment of Residue.

LXII. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to hinder or deprive the said Lord of the said Manor from cutting down, taking, and carrying away, for the Space of Fourteen Calendar Months from the passing of this Act, the Timber and Wood growing on such Parts of the said uninclosed Commons, Downs, and Waste Lands as are hereby directed to be allotted, in such Manner as he or they might have done in case this Act had not been passed.

Reservation of Right to the Lord of the Manor.

LXIII. And be it enacted, That the Commissioners 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 and on the Church Door.

Applications for Situations of Allotments.

LXIV. And be it enacted, That as soon as the Commissioners 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, they shall hold a Meeting, of which Ten Days Notice shall be given by Advertisement and on the Church Door, where such Parties may be informed of the Situation of such intended Allotments, and see the same delineated upon a Map or Plan to be produced for their Inspection; and if any of such Parties upon such Inspection shall be dissatisfied with the proposed Allotments, the Commissioners shall, at such Meeting, or at some other Meeting to be appointed by them for that Purpose, receive Statements in Writing of Complaints and Objections thereto, and shall forthwith, or as soon after as conveniently may be, determine the same, and such Determination shall be final.

For determining Objections to Allotments.

LXV. And be it enacted, That the several Allotments to be made in pursuance of this Act, except the Allotment to the Churchwardens and 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 Commissioners shall by their Award or any Writing under their Hands direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the Commissioners shall by their Award direct.

Allotments to be fenced.

LXVI. And



Allotments  
may be  
thrown to-  
gether and  
not fenced.

LXVI. And be it further enacted, That in case any Number of the Proprietors or Persons entitled to any Allotments under the Authority of this Act shall deem it expedient and desire to have their Allotments thrown together and distinguished by Metes and Bounds, but not fenced from each other, and of such their Desire shall give Notice in Writing to the said Commissioners, such Commissioners shall set out the several Allotments of the said Person so giving Notice as aforesaid in One Plot or Parcel of Land, distinguishing the Portion of such Plot or Parcel of Land allotted to each of such Proprietors by Metes and Bounds, but not requiring them to make any Subdivision Fences or other Fences, save such ring or outer Fences as may be ordered by the said Commissioners to be made for dividing the said Plot or Parcel of Lands from the Residue of the Lands hereby directed to be divided and inclosed.

Equalizing  
the Share of  
Fencing.

LXVII. 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 Commissioners 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 Commissioners shall by any Writing under their Hands 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 Commissioners shall be final.

Cattle not to  
be depastured  
in the High-  
ways for  
Seven Years.

LXVIII. And be it enacted, That no Person shall graze or keep any Beast or Cattle upon any of the Roads or Ways which the Commissioners 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 Commissioners; and every Owner of Lands within the said Parish, his Servants and Labourers, and also every Peace Officer and Parish Officer of the said Parish for the Time being, is hereby empowered to take and impound any such Beast or Cattle 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.

The Allot-  
ments to be  
of the same  
Tenure as the  
Lands in lieu  
of which

LXIX. And be it enacted, That (subject to the Power of Enfranchisement herein-after contained) 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



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.

LXX. And be it enacted, That it shall be lawful for the Commissioners, at any Time before the Execution of their Award, to make any Alterations which they may think right and expedient in the Allotments, or in the Fences which they 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 they 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 Commissioners shall ascertain and determine what Recompence shall be made to him for such Injury, and shall either pay the Amount thereof out of the Inclosure Expences Fund, or shall direct by whom and in what Manner such Recompence shall be made; and in case of Nonpayment thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

Power for Commissioners to make Alterations in Allotments.

LXXI. 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 Commissioners shall ascertain and distinguish the Lands held for each of such Estates, and under each of such Titles respectively, and shall accordingly in their Award set out distinct and several Allotments for such respective Lands, and also in the said Award and the Map annexed thereto set out and distinguish the several Estates holden by several and distinct Quit Rents.

Separate Allotments for Land held by different Titles.

LXXII. Provided always, and be it further enacted, That if any Person is or shall be seised or possessed of any Copyhold Lands within the said Parish of *Bury*, held of the said Manor of *Bury*, being

[*Private.*]

*e e*

Where more than One Copyhold Estate is held by more One Person.



more than One Copyhold Estate, subject to the same Uses, in respect of which he shall be entitled to any Claim or Interest into or upon any of the Open and Common Downs, Commons, and Waste Lands hereby directed to be allotted and inclosed, it shall and may be lawful for the said Commissioners, (with the Consent of the Lord of the Manor,) instead of making an Allotment to such Person in respect of each of such his Copyhold Estates, to allot and award unto him One Allotment of Land in respect of all such Copyhold Lands subject as aforesaid, and to direct such Allotment to be held as Part and Parcel of any One of such Person's Copyhold Estates held of the said Manor, and the same Allotment shall for ever afterwards be so held accordingly, any thing herein-before contained to the contrary notwithstanding.

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

LXXIII. And be it enacted, That where the Commissioners shall have omitted to distinguish in their 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 them, at any Time within Twelve Months after the Execution of their Award, and they are hereby required, upon Request in Writing to them made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if their Award had not been made, and by any Deed or Instrument under their Hands and Seals to distinguish and set out the Allotments and Lands held by different Tenures, and also the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as they are by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by their Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award; and such Instrument shall be enrolled and deposited with the Award of the Commissioners, 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 Commissioners to make and execute the same, or by his Heirs, Executors, or Administrators.

Partitions may be made in certain Cases.

LXXIV. And whereas it may happen that some of the Proprietors of Lands in the said Parish, and Persons entitled to Allotments to be made by virtue of this Act, may be seised or possessed thereof or entitled thereto in undivided Moieties, Joint Tenancy, or as Coparceners or Tenants in Common, and cannot, by reason of Infancy, Settlement, Absence beyond the Seas, or other Disability or Incapacity, make an effectual Division thereof; be it therefore enacted, That it shall be lawful for the Commissioners, upon the Request in Writing of any such Proprietors, being seised or possessed or entitled in undivided Moieties or as Coparceners, Joint Tenants, or Tenants in Common, or of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of such of them as may be under Cover-  
ture,



ture, Minors, Lunatics, or beyond Seas, or under any other legal Disability or Incapacity, to make Partition and Division of the said Lands or Allotments coming to such of the said Proprietors as shall be so seised or possessed or entitled, and to allot the same to such Owners and Proprietors in Severalty; and immediately after the said Allotments shall be so made and declared, the same shall be holden and enjoyed by the Persons to whom the same shall be allotted in Severalty, in the same Manner and subject to the same Uses and Trusts as the undivided Parts or Shares of such Estates would have been in case such Partition and Division had not been made; and every such Partition shall be specified in the Award of the Commissioners or some other Instrument under their Hands and Seals; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

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

Expences of  
Partitions.

LXXVI. And be it enacted, That it shall be lawful for the Commissioners 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 Commissioners, 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 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, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas or otherwise disabled to act for himself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively, and every such Exchange so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands held in right of any Church or Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands shall be situate: 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 Commissioners shall by their 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 of  
Exchange.

LXXVII. And



Power to  
enfranchise  
Copyholds.

LXXVII. And be it enacted, That it shall be lawful for the Owners of any Lands of Copyhold or Customary Tenure within and Parcel of the said Manor of *Bury*, whether such Owners shall be Corporations or Tenants in Fee Simple, or in Fee Tail, General or Special, or for Life, and for the Guardians, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who shall happen to be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas or otherwise disabled to act for themselves, and for Trustees or Feoffees for charitable or other Uses, on giving Notice in Writing of such their Intention to the Lord for the Time being of the said Manor, to contract and agree with such Lord for the absolute and perpetual Enfranchisement of all or any such Copyhold or Customary Lands, and all Allotments in respect thereof, and for the Extinguishment of the Heriots, Quit Rents, and all other Rights of the Lords in or over the same, for a Compensation either in Money or Land, as in any such Contract shall be provided.

Where the  
Enfranchise-  
ment shall  
be made for  
a Compensa-  
tion in Land.

LXXVIII. And be it enacted, That in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Land the Commissioners shall, upon the Application of any of the Parties interested, to be made at any Meeting to be holden under the Powers of this Act before the setting out of the Allotments, set out and allot unto the Lord of the said Manor of *Bury* such Parts of the Lands to be inclosed belonging to the Persons contracting for such Enfranchisement and Extinguishment as aforesaid as shall in the Judgment of the Commissioners be a full Compensation and Satisfaction for such Enfranchisement and Extinguishment, according to the Terms which shall be agreed upon between the Parties.

Where the  
Enfranchise-  
ment shall be  
made for a  
Compensa-  
tion in  
Money.

LXXIX. And be it enacted, That in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Money, and which Contract may be made at any Time before the Execution of the Award of the Commissioners, the Commissioners shall, upon the like Application of any of the Parties interested as aforesaid, ascertain and determine the Amount of such Compensation according to the Terms which shall be agreed upon between the Parties; and all such Money Payments shall be made to the Commissioners, whose Receipt shall be an effectual Discharge for the same; and the Commissioners shall pay such Monies in the Manner herein-after directed with respect to Monies to be paid for the Purchase or Exchange of Lands, or of any Timber or Wood growing thereon, unless the Lord of the said Manor shall be absolutely and beneficially entitled to such Manor, in which Case (subject to a Deduction for his Proportion of the Inclosure Expences) the Commissioners shall pay the Consideration Monies for such Enfranchisement to such Lord for his own absolute Use.

Enfranchise-  
ments to be  
specified in  
the Award  
and entered

LXXX. And be it enacted, That all such Enfranchisements and Extinguishments when completed shall be specified in the Award of the Commissioners, and an Entry of every such Enfranchisement and Extinguishment shall be made on the Court Rolls of the said Manor; and



and a Copy of such Entry, certified by the Steward or Deputy Steward of the said Manor, shall be admitted in all Cases as sufficient Evidence of such Enfranchisement and Extinguishment, and the Contract for the same, and of the Payment of the Consideration Money when the same shall have been paid in Money. on the Court Roll.

LXXXI. And be it enacted, That so soon as such Allotments and Payments shall be respectively made as the Consideration for such Enfranchisement and Extinguishment as aforesaid, the Lands which shall be so agreed to be enfranchised shall be held in Free and Common Soccage, freed from all Customary Fines, Heriots, Rents, Fealty, Suit of Court, Amerciaments, Forfeitures, and other Customary Payments, Duties, Services, and Penalties whatsoever, which according to the Custom of the Manor whereof such Lands were Parcel they had or would have been subject to, or if such Lands had not been enfranchised; and such Lands shall (subject to any Charge or Mortgage which may be made under the Authority of the said recited Act or of this Act) go, remain, and be to the same Uses, on the same Trusts, and subject to the same Powers and Limitations (as near as the Difference of the Tenure will admit) as would have been subsisting if such Lands had not been enfranchised. Lands enfranchised to be held in Free and Common Soccage.

LXXXII. And be it enacted, That it shall be lawful for the respective Husbands, Guardians, Trustees, Feoffees, or Trustees for charitable or other Uses, Committees, and Attornies of the Owners for the Time being of any such Copyhold Lands so to be enfranchised as aforesaid, who shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any legal Disability, and for any such Owner, being entitled for a particular or limited Estate only, to mortgage and charge the Lands to which such Enfranchisement shall relate with the Monies to be paid as the Consideration for such Enfranchisement, and with Interest thereon, in the same Manner as is by this Act provided for enabling Parties to borrow Money for defraying the Inclosure Expences. Incapacitated Persons may borrow Money for such Enfranchisements.

LXXXIII. 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 Commissioners 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, Power to apply Compensation Money coming to Parties under Disability towards inclosure Expences and substantial Improvements.

[Private.] *ff* and



and the like, which shall in the Judgment of the Commissioners be proper to be made, and shall be made under their Direction, upon any Lands to be by virtue of this Act allotted to such Parties.

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

1 G. 4. c. 35.

LXXXIV. 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 Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of King George the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, without Fee or Reward; and shall when so paid in there remain until the same shall, by Order of the said Court, made upon a Petition to be preferred to the said Court in a summary Way by the Parties who would have been entitled to the Rents and Profits of the said Lands, be applied to either of the following Purposes; (that is to say,)

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

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

Payment of  
Dividends  
meanwhile.

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

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

LXXXVI. 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 Commissioners, to be signified in Writing under their Hands, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Appro-  
bation,



bation, 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 Commissioners, and such Nomination and Approbation to be signified in Writing under the Hands (or Common Seal, as the Case may be,) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising 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.

LXXXVII. 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, Committees, or Trustees, for the Use and Benefit of the Parties respectively entitled thereto. When under 20*l*.

LXXXVIII. 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 said Commissioners, Umpire, Clerk, and Surveyor for Expences, Time, and Trouble, and the Costs and Expences of preparing and enrolling the Award of the Commissioners, and all Costs and Expences that the Commissioners or Umpire shall be put unto in respect of any Appeal against their or his Decision, or of any Suit at Law or in Equity that may be instituted by or against them the said Commissioners or Umpire 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 borne and defrayed by the several Persons interested in the Lands to be inclosed, (except only the Owners of Cottages or Cottages and Land not exceeding together Three Acres for the Allotments which shall be made to them in respect thereof, and except the said 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 Commissioners shall, by Notice on the Church Door, and sent by Post 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 Commissioners shall from Time to Time make Estimates of all such Costs and Expences, and raise the Amount of such Estimates at such Times as they shall deem necessary or proper, either before or after the Execution of their Award. Provision for Payment of Expences of Inclosure to be borne rateably.

LXXXIX. And



Remedies in  
case of Non-  
payment.

LXXXIX. 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 Commissioners shall appoint, it shall be lawful for the Commissioners 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 their own Names in any of Her Majesty's Courts of Record at *Westminster*; or it shall be lawful for them, 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 Commissioners or any Person authorized by them, 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.

Power for  
Commission-  
ers to borrow  
Money.

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

Power to  
make addi-  
tional Rate  
in case of  
Deficiency.

XCI. Provided always, and be it enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the Commissioners, either before or after the Execution of their Award, that the Money to arise by any previous Rates shall not be sufficient to defray the 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 (except as aforesaid), in such Shares and Proportions, within such Time, and to be paid to such Persons, as the Commissioners shall from Time to Time direct; and in case any Persons 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.

Monies may  
be recovered  
after Execu-  
tion of  
Award.

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

XCIII. And



XCIH. 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 Commissioners testified in Writing under their Hands and Seals,) 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.

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

XCIH. Provided always, and be it enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of any Copyhold Land shall, instead of being devised to such Mortgagee, and his Executors, Administrators, and Assigns, for a Term of Years, as mentioned and prescribed in and by the said first-recited Act, be presented and entered on the Court Rolls of the Manor under which such Copyhold Lands shall be held, whereupon the same Fees and other Payments shall be due and paid as in other Cases of Surrender by way of Mortgage, and shall operate as a Surrender to the Use of the Mortgagee and his Heirs or Assigns respectively, according to the Custom of such Manor, subject nevertheless to Redemption on Repayment of the Principal Monies thereby respectively intended to be secured, with Interest thereon, as is herein provided in the Case of other Mortgages.

Direction for charging Copyhold Land with Expences.

XCV. And be it enacted, That it shall be lawful for the Commissioners, on Application made to them in Writing by any of the Proprietors of Allotments to be made by virtue of this Act, or by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any of such Proprietors, being under Coverture, Minors,

Empowering Commissioners, upon Application, to sell Part of Allotments to

[Private.]

g g

Idiots,



defray Ex-  
pences.

Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies respectively, or by any of the said Proprietors, being Tenants in Tail, or for Life or Lives, or on any other Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, to sell any Part of any such Allotment, for raising a Sum of Money sufficient to defray the proportionable Part of the Expences which shall in such Rates be charged upon such Parties, and of the Expences of making and completing such Sale: Provided always, that it shall not be lawful for any Proprietor of an Allotment to raise by any such Sale, or by Mortgage and Sale, any greater Sum of Money for the Purposes aforesaid than such Proprietor might have borrowed or charged upon his Allotment for such Purposes by virtue of the said first-recited Act, reckoning Five Pounds for each Acre thereof: Provided further, that in all Cases in which the Money so raised by any such Sale shall not be equal to the Money which might be borrowed or charged on such Allotment as aforesaid it shall be lawful for the Proprietor, Part of whose Allotment shall be sold as aforesaid, to charge his Allotment with any Sum not exceeding the Difference.

Sales to be  
made accord-  
ing to the  
first-recited  
Act.

XCVI. And be it enacted, That such Sales shall be made by the Commissioners in the same Manner and subject to the same Regulations as are prescribed by the said first-recited Act in respect of the Sale of Land towards defraying the Expences of obtaining and carrying into execution any Act for dividing, allotting, and inclosing any Lands or Grounds; and every such Allotment for which the full Purchase Money shall be paid shall be vested in the Commissioners, and be conveyed by Lease and Release, executed by them at the Expence of the Purchaser, unto and to the Use of or in Trust for such Purchaser and his Heirs, or as he shall appoint, and shall be inclosed, and held by such Purchaser in Severalty: Provided always, that nothing herein contained shall enable the Commissioners to convey any Allotments set out by them as Copyhold of the said Manor of *Bury* by Lease and Release as Freehold, but such Copyhold Allotments shall be conveyed by the Commissioners by Indenture of Bargain and Sale, and shall be held by the Purchaser thereof by, under, and subject to the same Rents, Suits, and Services as such Allotment would have been held in case no such Sale had been made.

Application  
of Purchase  
Monies.

XCVII. And be it enacted, That the Receipt of the Commissioners shall be a sufficient Discharge to the Purchaser for the said Purchase Money; and such Purchase Money shall be applied by the Commissioners in or towards defraying the Costs and Expences for raising which such Sale shall have been made; and the Surplus, if any, shall be paid to the Parties from whose Allotments such Sale shall have been so made respectively; 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 by this Act directed 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.

XCVIII. And



XCVIII. And be it enacted, That as soon as conveniently may be after the said Inclosure shall be completed the Commissioners shall draw up and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday*, by affixing a Proclamation on or near the outer Door of the Church of the said Parish previously to Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered as complete; and within Three Calendar Months after the Commissioners shall have so made and executed the said Award they 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, 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.

Award to be executed, and deposited in the Hands of the Clerk of the Peace.

XCIX. 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 *Bury* aforesaid, and there kept in a Box to be provided for that Purpose by the Commissioners; and the said Award, and the said Copy thereof, and any other Copy of the said Award, or of any Part thereof, attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which, containing One hundred Words, Sixpence and no more shall be paid,) shall thereafter be admitted as legal Evidence of the Matters and Things herein contained in all Courts whatsoever.

Copy of the Award to be deposited in the Parish Church.

C. 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 Commissioners shall think fit, shall be fairly and distinctly delineated and expressed, and the Commissioners 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 *Bury* aforesaid; and the Commissioners 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, allotted or exchanged by virtue of this Act, which said Plans, or either of them, shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

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

CI. And be it further enacted, That in case the said Commissioners shall inadvertently or accidentally omit to insert in their Award any Matter or Thing by this Act or by the said recited Act of the Forty-

Supplemental Award.

first



first Year of the Reign of His late Majesty King *George* the Third directed, it shall be lawful for them, and they are hereby required, at any Time or Times within Twelve Calendar Months next after making their original Award, to amend and rectify the same by their supplemental Award.

Power of  
Appeal.

CII. 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 within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Commissioners 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 Commissioners, 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 Commissioners 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 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.

CIII. 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.

General  
Saving.

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

Interpreta-  
tion Clause.

CV. 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,)

1

Words



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

CVI. 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  
Printer to be  
Evidence.



SCHEDULE referred to in the foregoing Act.

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*Form of Declaration by Commissioner, Umpire, 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 or Umpire, 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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LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,  
Printers to the Queen's most Excellent Majesty. 1841.