



ANNO SEPTIMO

GULIELMI IV. REGIS.

Cap. 3.

An Act for inclosing Lands in the Township of *Lofthouse-cum-Carlton* in the Parish of *Rothwell* in the West Riding of the County of *York*.

[18th March 1837.]

WHEREAS there are within the Hamlet of *Carlton*, in the Township of *Lofthouse-cum-Carlton* in the Parish of *Rothwell* in the County of *York*, divers Open Fields, containing by Estimation Three hundred Acres or thereabouts; and there are also within the several Hamlets of *Carlton* aforesaid and *Lofthouse*, forming together the Township of *Lofthouse-cum-Carlton* aforesaid, divers Commons and Waste Lands, containing by Estimation Eighty Acres or thereabouts: And whereas *John Blayds*, *John Dodgson Charlesworth*, *Joseph Charlesworth*, *Samuel Stocks*, and *William Wylde*, Esquires, are or claim to be Lords of the Manor of *Carlton* aforesaid, and *Benjamin Dealtry* Esquire is or claims to be Lord of the Manor of *Lofthouse* aforesaid: And whereas the said *Benjamin Dealtry* is or claims to be seised in Fee of the Rectorial or Great Tithes of the Commons and Waste Lands within the Hamlet of *Lofthouse* aforesaid: And whereas the said *John Blayds*, *John Dodgson Charlesworth*, *Joseph Charlesworth*, *Samuel Stocks*, and *William Wylde*, and *Joseph Hartley*, *William Hartley*, *Squire Bland*, and divers other Persons, are the Owners and Proprietors of or interested in the said Open Fields within the Hamlet of *Carlton* aforesaid: And whereas the said *John Blayds*, *Benjamin Dealtry*, *John Dodgson Charlesworth*, *Joseph Charlesworth*, *Samuel Stocks*, *William Wylde*, *Joseph Hartley*, *William Hartley*, and *Squire Bland*, and *John Harrison*,
[Private.]

rison, and divers other Persons, are the Owners and Proprietors of or interested in ancient Messuages, Cottages, Frontsteads, Lands, and Hereditaments within the said several Hamlets and Manors of *Carlton* and *Loft-house* aforesaid, and in respect thereof, and also of the said Open Fields in the said Hamlet of *Carlton*, severally claim to be entitled to Right of Common in and upon the said several Commons and Waste Grounds within the same Hamlets and Manors respectively: And whereas an Act was passed in the Forty-first Year of the Reign of His late Majesty King George the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas another Act was passed in the First and Second Years of the

41G.3.c.109. Reign of His late Majesty King George the Fourth, intituled *An Act to amend the Law respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: And whereas the several Lands of the respective Proprietors of the said Open Fields in the Hamlet of *Carlton* aforesaid are much intermixed and dispersed, and the said Lands, and also the said Commons and Waste Lands in the said Township of *Loft-house-cum-Carlton*, might be greatly improved if the same were divided, allotted, and inclosed; but the Purposes aforesaid cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in 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 First and Second Years of the Reign of King George the Fourth, and the several Enactments and Provisions of the said recited Acts, shall, from and after the passing of this Act, be deemed and taken to be and be applied and executed as Part of this Act for all Purposes and to all Intents whatsoever, except in those Cases in which the same Acts are hereby respectively repealed or varied, or in which the same shall by this Act or otherwise become or be inapplicable to any of the Purposes of this Act.

Powers of recited Acts to extend to this Act.

Rules for Interpretation of this Act.

II. And be it further enacted, That in the Construction of this Act (except when the Nature of the Provision or the Context of the Act exclude such Construction) every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as one Person or Thing; and every Word importing the Masculine Gender only shall extend and be applied to Females as well as Males; and the Words and Expressions herein-after mentioned which in their ordinary Signification have a more confined or different Meaning shall be interpreted as follows; (that is to say,) the Words "Proprietor," "Owner," and "Person" shall respectively extend as well to an Individual as a Body Politic, Corporate, or Collegiate, and to a Corporation as well Aggregate as Sole, whether such Corporation be Eleemosynary or Civil, Ecclesiastical or Lay; the Word "Benefice" shall extend to and be taken to comprehend Rectories, Vicarages, Donatives, Perpetual Curacies, Parochial and Consolidated Chapelries, having a District assigned thereto; and the Words "Lands" and "Land" shall extend to every Species of Land, whether Arable, Meadow, or Pasture, and whether Freehold, Copyhold, or Customary, or held by any other Tenure, and as well to One Piece or Parcel

Parcel as to any Number of Pieces or Parcels of Land, and shall include Messuages, Cottages, Frontsteads, Tenements, and Hereditaments as well as Lands; and the Words "the said Commissioner" shall be understood to mean *Christopher Paver* and his Successors to be from Time to Time appointed as herein directed.

III. And be it further enacted, That wherever the Consent or Concurrence of any Proprietor or Person interested in the Lands hereby directed to be divided, allotted, and inclosed is required for the Purposes of this Act, and wheresoever any Powers or Rights are hereby given or reserved to any such Proprietor or Person interested as aforesaid, or to any other Party whomsoever, it shall be lawful for such Proprietor or other Person whomsoever to give such Consent and Concurrence, and exercise and enjoy such Powers and Rights, whether such Proprietor or other Party shall be a Tenant in Fee Simple, or for Life, or in Fee Tail, Special or General, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, (by and with the Consent of the Lessor, but not otherwise,) and also whether such Proprietor or other Party shall be a Body Politic, Corporate, or Collegiate, Corporation Aggregate or Sole, Rector, Parson, Vicar, or other Ecclesiastical Person; and it shall be lawful for the Guardian, Husband, Committee, or Attorney of or acting for any such Proprietor or other Party who, at the Time of giving or testifying such Consent or Concurrence, or exercising such Powers or Rights, shall be respectively an Infant, Feme Covert, Idiot, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself or herself, and also for the Trustees or Feoffees for charitable, parochial, or other Uses or Trusts, and for any Person having Power to sell and dispose of the Lands to be affected by such Consent or Concurrence, or by the Exercise of such Rights or Powers, to give such Consent or Concurrence, and exercise and enjoy such Powers and Rights; and every Consent and Concurrence, Act and Deed whatsoever, under or in pursuance of the Powers herein-before given, shall, for the Purposes of this Act, be as good, valid, and effectual to all Intents and Purposes whatsoever as if the Party giving or testifying such Consent or Concurrence, or exercising such Rights or Powers, had been a Tenant in Fee Simple, or absolute Owner or Proprietor: Provided always, that such Consent shall be testified in Writing under the Common Seal of any Body Politic, Corporate, or Collegiate, and under the Hand of any other consenting Party.

Persons under Disability empowered to give Consent, &c.

IV. And be it further enacted, That *Christopher Paver* of *Peckfield* in the County of *York*, Gentleman, and his Successors for the Time being, to be elected or appointed in manner herein-after mentioned, shall be and each of them respectively is hereby appointed sole Commissioner for carrying this Act into execution.

Appointment of Commissioner.

V. And be it further enacted, That no Person shall be capable of acting as Commissioner in the Execution of this Act until he shall have made and subscribed the Declaration following before One of His Majesty's Justices of the Peace for the West Riding of the County of *York*; which Declaration the said Justice is hereby empowered to receive or administer; (that is to say,)

Commissioner to make a Declaration.

Form of
Declaration.

‘ I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as Commissioner by virtue of an Act passed in the Seventh Year of the Reign of King *William* the Fourth, intituled [here insert the Title of this Act], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person whomsoever.’

And such Declaration shall be in lieu of and as a Substitution for the Oath or Affirmation required by the said first-recited Act to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands; and such Declaration, when duly made and subscribed, shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

Appointment
of future
Commissioners.

VI. And be it further enacted, That if the said *Christopher Paver* or any future Commissioner to be appointed in his Stead (as herein-after mentioned) shall die, or neglect, refuse, or become incapable to act as Commissioner, before all the Powers of this Act shall be fully executed and performed, then and in every such Case and so often as the same shall happen a public Meeting of the Proprietors of or Persons interested in the Lands by this Act directed to be divided, allotted, and inclosed shall be called by any Two or more such Proprietors or Persons (of which Meeting and the Purport thereof Ten Days previous Notice, at the least shall be given in manner herein directed with respect to the Commissioners Notices of Meetings); and the Persons then and there assembled, or the major Part of them in Number and Value (such Value to be ascertained by the Poor Rate Assessment for the Time being), or their respective Agents duly authorized by Writing under the Hands of such respective Persons, shall and they are hereby required by Writing under their respective Hands to appoint some other Person (not being interested in the said Division, Allotment, and Inclosure) to be a Commissioner in the Room or Stead of the Commissioner occasioning such Vacancy; and every Person so appointed shall (after making and subscribing the Declaration herein-before prescribed) be invested with and have the same Powers and Authorities in all respects for carrying this Act into execution, and shall be subject to the same Regulations, as if he had been hereby originally nominated a Commissioner; and every such Appointment, together with the Declaration of such Commissioner, shall be enrolled in like Manner as the Award of the Commissioner for carrying this Act into execution is directed to be enrolled, and an Office Copy of the Enrolment thereof shall be admitted as legal Evidence thereof.

Appointment
of Clerk and
Surveyor.

VII. And be it further enacted, That it shall be lawful for the said Commissioner to appoint a Clerk and a Surveyor to assist him in carrying this Act into execution, and from Time to Time to remove such Clerk and Surveyor, or either of them, and appoint others in their Stead.

Surveyor to
make a Declaration.

VIII. Provided always, and be it further enacted, That no Person shall be capable of acting as Surveyor in the Execution of this Act

until he shall have made and subscribed the Declaration following; (that is to say,)

‘ I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Duties incumbent on me as Surveyor by virtue of an Act passed in the Seventh Year of the Reign of King *William* the Fourth, intituled [*here insert the Title of this Act*], according to Equity and good Conscience, and without Partiality, Favour, or Affection, Prejudice or Malice, to any Person whomsoever.’

Form of Declaration.

Which Declaration the Commissioner for the Time being, or any Justice of the Peace for the West Riding of the County of *York*, is hereby empowered and required to administer or receive, and the said Declaration so made and subscribed by any such Surveyor shall be annexed to and deposited with the Award of the said Commissioner.

IX. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, who shall wilfully and corruptly make and subscribe such Declaration, shall be subject to the like Pains and Penalties to which Persons guilty of wilful and corrupt Perjury are or may be liable.

Penalty on making false Declaration.

X. And be it further enacted, That out of the Money which shall be raised for the Purpose of defraying the Expence of obtaining and carrying this Act into execution the said Commissioner and Clerk for the Time being shall respectively be paid for every Day they shall be employed in travelling to, attending at, and returning from the Meetings to be holden for or otherwise engaged in the Execution of this Act, during the first Three Years after the passing of this Act, the Sum of Three Guineas, and no more, and after the Expiration of the said Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Guineas, and no more, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall respectively be put unto during their several Journeys and Attendances in the Execution of this Act, other than and except the Expences for the Use of Rooms in which the Meetings shall be holden for carrying this Act into execution, and the Costs and Expences of Notices and Advertisements, and of drawing, copying, ingrossing, and enrolling the Award, or attendant thereupon, or connected therewith.

Allowance to Commissioner and Clerk.

XI. And for regulating the Allowances to the said Commissioner and Clerk under the Provisions of this Act, be it further enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*; and that where the Time occupied in going to, attending at, and returning from any Meetings to be holden or other Business transacted for the Purposes of this Act, shall be of less Duration than Eight or Six Hours (as the Case may be), the same shall be charged as only Half a Day, and the said Commissioner and his Clerk shall be paid accordingly; and a Book shall be provided, and shall be kept by the Clerk of the said Commissioner, in which shall be entered the several Days on which the said Commissioner shall hold his Meetings,

For regulating Allowances to Commissioner and Clerk.

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and

and also at what Hour the said Commissioner and his Clerk were respectively present at such Meeting, and at what Hour they respectively left the same; and such Book shall be signed by such Commissioner and his Clerk at the Termination of each Meeting, and shall be open to the Inspection of any Person interested in the said Inclosure, or his Agent or Attorney, during any Meeting to be held in pursuance of this Act, and all such Persons may take Copies of or Extracts from such Book without paying any thing for the same.

Commis-
sioner and
Clerk not to
be paid more
than One
Half of Al-
lowance until
Six Months
after Execu-
tion of Award.

XII. And be it further enacted, That it shall not be lawful for the said Commissioner to retain or pay himself or his Clerk, out of any Monies to be received by him or over which he may have any Control by virtue of this Act, any Sum of Money on account of the Allowances herein-before directed to be made to such Commissioner and Clerk respectively, beyond One Half of such Allowance as they shall be respectively entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award herein-after directed to be made, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or his Clerk previous to the Execution of such Award the Commissioner for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due to them respectively.

Allowance to
Surveyor.

XIII. And be it further enacted, That the said Commissioner whilst acting as a Surveyor, or any other Person who may be appointed Surveyor for the Purposes of this Act, shall, out of the Monies to be raised for the Purpose of defraying the Expences of obtaining and carrying this Act into execution, be allowed for his Time and Trouble any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the said Lands, and also any Sum not exceeding Two Guineas for each and every Day he shall be actually and wholly employed as Surveyor in the Business of the said Inclosure (exclusive of the Survey aforesaid); which said several Allowances shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by the said Commissioner or other Person whilst acting as Surveyor in and about the Execution of this Act.

Notice of
Meetings.

XIV. And be it further enacted, That the said Commissioner shall and he is hereby required to cause public Notice to be given, in manner herein-after provided, of the Time and Place of his first and every subsequent Meeting for executing the Powers vested in him by virtue of this Act, Seven Days at least before every such Meeting shall be held (Meetings by Adjournment only excepted), and the said Commissioner may from Time to Time adjourn any such Meeting to such Time and Place as he shall think proper; and if the said Commissioner shall not attend at any such Meeting within One Hour after the Time appointed for the holding thereof, it shall be lawful for the Clerk to the said Commissioner, if present, to adjourn such Meeting for any Time not exceeding Twenty-one Days from the Day of such Adjournment, to be held at the same
Place;

Place; and the Clerk making such Adjournment is hereby required to give Notice thereof to the said Commissioner: Provided always, that if neither the said Commissioner or his Clerk shall attend at such Meeting within One Hour after the Time appointed for the holding thereof, such Meeting shall be considered as adjourned to the Seventh Day then next ensuing at the same Hour and Place.

XV. And be it further enacted, That all Meetings for the Purposes of this Act shall be held within the Parish of *Rothwell* aforesaid, or within Six Miles of the Boundary thereof. Place of Meetings.

XVI. And be it further enacted, That every Proprietor and other Person interested in the said Lands, and their respective Agents and Attornies, who shall attend any Meeting to be held by the said Commissioner, shall bear and pay his and their own Expences. Proprietors to pay their own Expences.

XVII. And be it further enacted, That in all Cases in which Notices are required to be given to any Persons under this Act, the Delivery of the same, so far as concerns the said Commissioner, at the usual known Place of Abode of such Commissioner, or at the Office or usual known Place of Abode of his Clerk, and so far as concerns all other Persons, the Delivery of the same at the usual known Places of Abode of such Persons respectively, shall be deemed good Service of the same; and that Notices of Meetings (except those of Adjournment) of the said Commissioner, and all other public Notices required by this Act, shall (unless otherwise directed by this Act) be given by Advertisement inserted in some One Newspaper published in the Town of *Leeds* aforesaid, and also by Affixion thereof upon the principal outer Door of the Parish Church of *Rothwell* aforesaid on some *Sunday* immediately before Divine Service. Publication and Service of Notices.

XVIII. And be it further enacted, That all Orders, Proceedings, and Determinations of the said Commissioner at any of their Meetings 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 said Commissioner, and being so signed shall be deemed and taken to be Originals; and every such Book shall be deposited with and kept by the Clerk of the said Commissioner, and shall and may be read in Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any Matter or Thing to be done in pursuance of or in relation to this Act. Proceedings to be entered in a Book.

XIX. And be it further enacted, That in case any Person having in his Custody any actual Survey, Map, or Plan of the Lands or any Part of the Lands within the said Township of *Lofthouse-cum-Carlton*, shall deliver such Survey, Map, and Plan to the said Commissioner at such Times as he may appoint for that Purpose, it shall be lawful for the said Commissioner thereupon to inquire into the Authenticity and Accuracy thereof on the solemn Declaration, as well of the Person producing and delivering the same, as of such other Person as he shall think fit (which Declaration the said Commissioner is hereby authorized to administer), or by such other Means as he shall think proper; and in case the said Commissioner shall be satisfied that the same are authentic and accurate, and will answer the Purpose of new Surveys, Maps, or Plans, he is hereby authorized to make use of the same so far as the same shall be available for the Purpose of carrying this Act into execution, and also, out of the Monies Existing Surveys may be adopted.

to be raised for the Purposes of this Act, to make unto the Owner of or Person producing such Survey, Map, or Plan a just and fair Allowance for any Damage which the same may receive by the Use thereof.

Encroach-
ments.

XX. And be it further enacted, That all Encroachments, Intakes, or Inclosures which may at any Time within the Space of Twenty Years previous to the First Day of *January* One thousand eight hundred and thirty-seven have been made in or upon the said Lands hereby directed to be divided, allotted, and inclosed, shall be deemed and considered Part of the Lands to be divided, allotted, and inclosed by virtue of this Act, as if the same were actually lying open and uninclosed; and in case any Difference or Dispute shall arise touching any such Encroachments, Intakes, or Inclosures, or the Extent thereof, every such Dispute or Difference shall be determined by the said Commissioner: Provided, that where any such Encroachment, Intake, or Inclosure shall have been made by any Person who shall be entitled to any Allotment upon the said Lands so intended to be divided, allotted, and inclosed, then and in all such Cases the said Commissioner (unless otherwise required in Writing by such Proprietor) shall and he is hereby required to allot and award such Encroachment, Intake, or Inclosure unto the Proprietor thereof for the Time being in full or part Satisfaction of his Right of Common or other Right in or upon the said Lands so intended to be divided, allotted, and inclosed: Provided also, that in case such Encroachment, Intake, or Inclosure shall exceed in Value the Allotment to which such Proprietor shall in the Judgment of the said Commissioner be entitled, then the said Commissioner shall and he is hereby authorized and required to fix a Sum of Money which shall in his Judgment be a full Equivalent for the Value of such Encroachment, Intake, or Inclosure, over and above the Value of the Allotment to which such Proprietor shall appear to him to be entitled as aforesaid, and shall deliver or cause to be delivered to such Proprietor, or to his Agent or Attorney, a Notice in Writing signed by the said Commissioner, specifying the Amount of such Equivalent in Money as aforesaid, and requiring such Proprietor to pay the same to the said Commissioner or as he shall appoint, to be applied by him for the general Purposes of this Act, within Two Calendar Months next after the Delivery of such Notice; and in case such Proprietor shall neglect or refuse to pay the Sum of Money therein to be specified agreeably to the Terms and Directions of such Notice, then and in such Case (but not otherwise) it shall be lawful for the said Commissioner to allot and award the Whole or any Part of such Encroachments and all Erections thereon to any other Person interested in the said Lands, or to sell and dispose of the same towards defraying the Expences of this Act and carrying the same into execution, and by Writing under his Hand and Seal to convey the same to the Purchaser thereof, his Heirs and Assigns, in Fee Simple or otherwise, as he or they shall direct.

Claims to be
made within
a limited
Time.

XXI. And be it further enacted, That all Persons claiming or having any Rights in or upon the said Lands hereby directed to be divided, allotted, and inclosed shall and they are hereby required by themselves or their Agents respectively, at such Meeting as the said Commissioner shall appoint, to give and deliver to the said Commissioner in Writing under their Hands an Account of their Claims, specifying in what respects severally claim such such Rights as aforesaid; and every Person so
neglecting

neglecting to give or deliver, or cause to be given or delivered, such Claims, with a full Description and Particular thereof, shall be and he is hereby excluded of and from all Right or Title of, in, or to the Land to be divided, allotted, and inclosed by virtue of this Act, and from any Allotment thereof, unless the said Commissioner shall see good Cause to prolong the Time for producing such Claims.

XXII. And be it further enacted, That if any of the Parties interested in the Lands hereby directed to be divided, allotted, and inclosed shall have any Objection to any of the Accounts or Claims which shall be delivered to the said Commissioner by virtue of this Act, such Objection shall be reduced into Writing, and Two Parts thereof shall be signed by the Party making the same, or by some Person on his Behalf, and One Part thereof shall be served, in the Manner by this Act directed, upon the Party whose Claim or Account shall be objected to, at such Time as the said Commissioner shall appoint for that Purpose, and the other Part shall be delivered to the said Commissioner.

Objections to Claims.

XXIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the Lands hereby directed to be divided, allotted, and inclosed, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have therein, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall be lawful for the said Commissioner and he is hereby required, upon Examination of Witnesses on their solemn Declaration (which Declaration the said Commissioner is hereby authorized to administer), or any other proper Evidence, to examine into, hear, and determine the same; provided that nothing herein contained shall authorize the said Commissioner to determine the Title to any Manors or Lands whatsoever, nor to determine any Right between any of the Parties in the said Lands, contrary to the Possession of such Parties (except in Cases of Encroachment, as herein-before mentioned).

Commissioner to settle Disputes;

but not to determine Titles contrary to Possession.

XXIV. And be it further enacted, That in case the said Commissioner shall, upon the hearing and determining of any Claim or Objection to be delivered in pursuance of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioner, upon Application made to him for that Purpose, to settle, assess, and award such Costs as he shall think reasonable to be paid either for the public Account, for or towards the Expences occasioned in or relating to the Investigation, settling, and determining of such Claim, if finally disallowed, or to the Party in whose Favour any Determination of the said Commissioner shall be made, by the Person whose Claim or Objection shall be thereby disallowed or overruled, or against whom the said Commissioner shall have determined as aforesaid; and in case the Person who shall be liable to pay such Costs shall neglect or refuse to pay the same on Demand it shall be lawful for the said Commissioner and he is hereby required, by Warrant under his Hand and Seal directed to any Person whomsoever, to cause such Costs to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to such Person whose Goods and

Power to award Costs.

[Private.]

Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Persons dissatisfied may try their Rights at Law.

XXV. Provided always, and be it further enacted, That in case any Person interested or claiming to be interested in the said intended Division, Allotment, and Inclosure shall be dissatisfied with any Determination of the said Commissioner touching or concerning any Claim or Objection which shall be delivered to the said Commissioner in pursuance of this Act, or touching or concerning any Property, Right, or Interest intended to be affected by such Determination, and shall cause Notice in Writing of such Dissatisfaction to be served in manner by this Act directed upon the said Commissioner and upon the Party in whose Favour any such Determination shall have been made (if there be any Party specially interested therein) within Three Calendar Months next after such Determination shall have been notified, it shall be lawful for the Person so dissatisfied and giving such Notice as aforesaid to bring an Action in One of His Majesty's Courts of Record at *Westminster* upon a feigned Issue against the Person in whose Favour such Determination shall have been made, and to proceed to a Trial at Law of the Matters so determined by the said Commissioner at the then First or Second Assizes to be holden for the said County of *York*; and the Defendant in such Action shall and he is hereby required to name an Attorney, who shall appear thereto, and file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Right in question, and the Property, Right, and Interest insisted upon, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action shall be commenced in case the Parties shall differ about the same; and the Verdict which shall be given upon the Trial of such Action shall be final, binding, and conclusive, unless the Court wherein such Action shall be brought shall set aside such Verdict and order a new Trial to be had therein, which it shall be lawful for the said Court to do, as is usual in other Cases, in case the said Court shall think proper; and after such Verdict shall be obtained, and not set aside, the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim, Property, Right, or Interest thereby determined according to the Event of such Trial: Provided always, that if no such Notice shall be given, and such Action shall not be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then the Determination of the said Commissioner shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

Actions not to abate by the Death of a Party.

XXVI. Provided also, and be it further enacted, That if any of the Parties in any such Action to be commenced as aforesaid shall die before the Determination thereof, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and if any Person in whose Favour such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action, it shall be lawful for the Person who might have brought such Action against the Person so dying to bring the same within the Time so limited as aforesaid against such Person as aforesaid as if actually living, and to serve

serve the Clerk of the said Commissioner with Process for commencing such Action, in the same Manner as the Party so dying might have been served therewith if living; and it shall thereupon be incumbent upon the Heir or other Person who shall claim the Benefit of such Determination as aforesaid to appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had therein in the same Manner as if such Person had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action.

XXVII. And be it further enacted, That no Difference, Dispute, or Proceeding touching the Title to any Lands within the said several Manors or Hamlets of *Carlton* and *Lofthouse*, or either of them, shall impede or delay the said Commissioner in the Execution of this Act; but the Division, Allotment, and Inclosure hereby directed to be made shall be proceeded in notwithstanding any such Difference, Dispute, or Proceeding.

Dispute as to Titles not to suspend the Execution of this Act.

XXVIII. And be it further enacted, That if any of the Parties interested in the said Division, Allotment, and Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioner shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers so given to him in such Manner as he might have done in case such Party were still living; and the Share of the Person so dying shall be allotted to the Party who shall by Law become entitled to the same, and shall be accepted and taken by him according to the Directions of this Act, and he shall be liable to the Charges and Expences and the several Provisions of this Act.

Deaths of Parties not to suspend the Execution of this Act.

XXIX. And be it further enacted, That it shall be lawful for the said Commissioner, at such Time before the Execution of his Award as he shall think proper, by Notice given in manner herein-before provided, to order the Rights of Common in, upon, and over the Lands hereby directed to be divided, allotted, and inclosed, or any of them, to be extinguished or suspended either in the whole or in part, and from and after the Time to be mentioned in and appointed by any such Notice all such Rights of Common as shall be thereby directed to be extinguished or suspended shall cease and be extinguished or suspended accordingly, any Law, Usage, or Custom to the contrary notwithstanding; and if any Person shall, after such Extinguishment or during such Suspension of Common Right as aforesaid, stock or depasture with Sheep or other Cattle any Part of the said Lands, contrary to such Notice as aforesaid, it shall be lawful for any Proprietor of the said Lands, or any Person to be appointed by the said Commissioner, from Time to Time to distrain all such Sheep and other Cattle found grazing or depasturing upon any of the said Lands contrary to such Notice, and to impound such Sheep or other Cattle until the Person offending shall have paid to the Person so distraining the Sum of Two Shillings *per* Head for every Sheep or Pig, and the Sum of Five Shillings *per* Head for every Beast and other Kind of Live Stock so distrained.

Commissioner may extinguish or suspend Rights of Common.

No Sheep to be depastured after Right of Common suspended.

XXX. And be it further enacted, That for the Purpose of shortening or rendering straight or otherwise improving any Boundary Fence between the

For shortening Boundary Fences.

the Lands hereby directed to be divided, allotted, and inclosed, or any of them, and the old inclosed or other Lands or any of them, in the said Township of *Lothouse-cum-Carlton*, or between such Allotments and inclosed or other Lands, or any of them, and the Lands in any adjoining Manor, Township, Parish, Liberty, or Place, it shall be lawful for the said Commissioner (with the Consent in Writing of the Lord of any Manor in which the Lands are respectively situate, and of the Owner of any such adjoining Lands,) to set out, ascertain, and determine the Boundary between the Lands hereby directed to be divided, allotted, and inclosed, and any adjoining Lands lying in the same or any adjoining Manor, Township, Parish, Liberty, or Place, in such Manner as the said Commissioner shall think proper, for the Purposes aforesaid; and after such Boundaries shall have been so set out, ascertained, and determined as aforesaid the same shall be made, fenced, ditched, or mounded by such Person, in such Manner, and at such Times as the said Commissioner shall direct, and shall for ever thereafter be deemed and taken to be the Boundaries between the said allotted and inclosed Lands respectively, or (as the Case may be) between the Allotments or inclosed or other Lands and such adjoining Manor, Township, Parish, Liberty, or Place; any Law, Usage, or Custom to the contrary notwithstanding.

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

XXXI. And be it further enacted, That it shall be lawful for the said Commissioner to set out, appoint, and make such Common Ponds, Drains, Ditches, Wells, Watering Places, Streams, Watercourses, Tunnels, Banks, and Bridges in, through, over, and upon the Lands hereby directed to be divided, allotted, and inclosed, and also to enlarge, widen, alter, turn, scour, and cleanse all or any of the present Drains, Ditches, Wells, Watering Places, Streams, or Watercourses, Tunnels, Banks, and Bridges, as well in, through, and over the same Lands, as in, through, and over any ancient Inclosures or other Lands within the said Township of *Lothouse-cum-Carlton*, as to the said Commissioner shall seem proper and necessary, making such Satisfaction to the Proprietors of such ancient Inclosures or other Lands for the Damage done thereby as the said Commissioner shall think fair and reasonable; and the said Commissioner is hereby required in particular to assign, set out, and allot unto the Surveyors of the Highways within the said Hamlet of *Carlton* aforesaid a sufficient and convenient public Watering Place at *West Beck* in the West Field of *Carlton* aforesaid and also at *Lee Moor Bridge* in the said Hamlet of *Carlton*, and unto the Surveyors of the Highways within the Hamlet of *Lothouse* aforesaid a sufficient and convenient public Watering Place at a certain Place called *Charlston Dike*, and also at *Lothouse Beck*, both in the said Hamlet of *Lothouse*; and the Costs of making, enlarging, widening, altering, turning, scouring, and cleansing such Ponds, Drains, Ditches, Wells, Watering Places, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, shall be raised and levied by the said Commissioner in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution; but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, scoured, and maintained by such Person and in such Manner as the said Commissioner shall in and by his said Award order and direct; provided that no Stream or Watercourse be diverted or turned without the Consent in Writing of the Person from

whose Lands the same may be diverted, and of the Person into whose Lands the same may be turned.

XXXII. And be it further enacted, That it shall be lawful for the said Commissioner, if he shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter, any of the Carriage Roads, Highways, Bridle Roads, or Footways (other than and except Turnpike Roads) passing or leading through or over any of the Lands to be divided and allotted by virtue of this Act, or passing or leading through or over any of the Lands in the Parish of *Rothwell* aforesaid; and the Soil of the Roads and Ways so to be discontinued and stopped up, and which may pass through or over any of the Lands to be inclosed by virtue of this Act, but not otherwise, shall be deemed and taken to be Part of the Lands to be divided, allotted, and inclosed by virtue of this Act.

Commissioner may discontinue or alter Roads.

XXXIII. And be it further enacted, That it shall be lawful for the said Commissioner, where he shall see it necessary, to widen any of the Highways within the said Township of *Loft-house-cum-Carlton*, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands adjoining to such Highways, (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House,) and to make a full Compensation for the Value of the Land so to be taken for the widening of such Highways by a Payment in Money, or by allotting and awarding unto the Person from whom any such ancient inclosed Land shall be so taken an adequate Part of the said Lands hereby directed to be divided, allotted, and inclosed, at the Option of the Person whose Lands shall be so taken, and also to make good and substantial Fences on each Side of all such widened Highways for and in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to widen Roads, making Compensation to the Owners.

XXXIV. Provided always, and be it further enacted, That before any Highway shall be discontinued, stopped up, diverted, or altered by the said Commissioner, the said Commissioner shall cause to be affixed at each End of the said Highway so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered (as the Case may be) by the said Commissioner; and the said Commissioner shall also cause the same Notice to be inserted in some one and the same Newspaper published in the Town of *Leeds* aforesaid for Four successive Weeks, and shall also cause a like Notice to be affixed on the principal outer Doors of the Parish Church of *Rothwell* aforesaid on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid the said Highway shall be and shall be deemed to be discontinued, stopped up, diverted, or altered (as the Case may be), subject however to such Appeal to the Court of General Quarter Sessions for the said West Riding of the County of *York* as is herein-after mentioned.

Proceedings previously to diverting and stopping up Highways.

XXXV. Provided always, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Highway should be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to the Justices at

Persons aggrieved by any Road being diverted, &c. may any appeal.

[Private.]

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any General or Quarter Sessions of the Peace to be holden for the said West Riding of the County of *York* within Four Calendar Months next after the Date of such Notice, giving to the said Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

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

XXXVI. And be it further enacted, That in case of such Appeal the Justices at the said Quarter Sessions shall, for the Purpose of determining whether the Highway so discontinued, stopped up, diverted, or altered, or intended to be discontinued, stopped up, diverted, or altered, shall remain, or shall be discontinued, stopped up, diverted, or altered (as the Case may be), or whether the Party appealing would be injured or aggrieved thereby, impanel a Jury of Twelve indifferent Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that the Highway so discontinued, stopped up, diverted, or altered, or intended so to be, is wholly 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 of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid to the said Commissioner by the Party appealing, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said first-recited Act; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up, or intended so to be, is not unnecessary, or that the said Highway so diverted or altered, or intended so to be, could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court of Quarter Sessions shall allow such Appeal, and the said Highway 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 in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party appealing such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioner, and shall be raised by him in such and the same Manner as he is hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

On Dismissal of Appeal, the Order of Commissioner to be final.

XXXVII. Provided always, and be it further enacted, That from and after the Dismissal of any such Appeal as aforesaid the Order or Award of the said Commissioner for discontinuing, stopping up, diverting, or altering any such Highway shall be final and conclusive, and be of full Force and Effect; any thing in this Act contained to the contrary notwithstanding.

XXXVIII. And

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

Expences of discontinuing or widening Roads.

XXXIX. And be it further enacted, That the said Commissioner shall apportion, divide, and set out, allot and award, the said several Open Fields within the Hamlet of *Carlton* aforesaid unto and amongst the several Proprietors thereof and Persons interested therein respectively in proportion to their respective Shares, Rights, Property, and Interests therein respectively, and in proportion to the true and real Value of their several Shares, Rights, Property, and Interests therein, in such Manner as the said Commissioner shall in his Judgment think most just and equitable (subject nevertheless and without Prejudice to the several other Provisions herein contained); and the same, when so apportioned, divided, set out, allotted, and awarded, shall be taken in lieu and full Satisfaction of and for such their said several Shares, Rights, Property, and Interests which previously thereto they severally had and enjoyed or were entitled to in and upon the said several Open Fields respectively.

Allotment of the Open Fields in Carlton.

XL. And be it further enacted, That the said Commissioner shall set out, allot, and award unto and for the said *Benjamin Dealtry*, his Heirs and Assigns, so much and such Part, Share, and Proportion of the Residue of the said Commons and Waste Grounds within the said Hamlet of *Lofthouse* as shall be equal in Value to One Ninth Part of the said Commons and Waste Grounds in lieu of and as a Compensation for the Great or Rectorial Tithes arising, renewing, or increasing, or which might arise, renew, or increase, out of or from the said Commons and Waste Grounds within the said Hamlet of *Lofthouse*.

Allotment in Lofthouse for Tithe to B. Dealtry, Esq.

XLI. And be it further enacted, That the said Commissioner shall set out, allot, and award unto the several Lords of the Manors of *Carlton* and *Lofthouse* aforesaid, in Severalty or otherwise, as they shall direct, in proportion to their respective Shares of and in the same Manors, for and in lieu of and as a Compensation for their Rights and Interests in and to the Soil of the said Commons and Waste Grounds within the same Manors respectively, (except Coal Mines, Ironstones, and other Minerals in and under the same,) such Part of the Residue of the same Commons and Waste Grounds as shall together, in the Judgment of the said Commissioner, be equal in Value to One Sixteenth Part of the said Commons and Waste Grounds, over and above and exclusive of such Shares, Proportions, and Allotments of the said Commons and Waste Grounds as they or any of them shall or may be entitled to in respect of any ancient Messuages, Cottages, Lands, and Hereditaments, in like Manner as other Proprietors.

Allotment to Lords of the Manors.

XLII. And be it further enacted, That the said Commissioner shall set out, allot, and award the Residue of the said Lands in the said several Manors and Hamlets of *Carlton* and *Lofthouse* in the Manner following; (that is to say,) such Part of the Residue of the said Commons and Waste Grounds in the said Manor and Hamlet of *Carlton* as shall be equal

Allotment of Residue.

equal in Value to One Half of such Residue shall be set out, allotted, and awarded unto and amongst all and singular the Proprietors of and Persons interested in ancient Houses and Frontsteads in the said Hamlet of *Carlton*, in proportion to the Number and without regard to the Value of such ancient Houses and Frontsteads; and the remaining Part of the said Residue of the said Lands in *Carlton* aforesaid shall be set out, allotted, and awarded unto and amongst all and singular the Proprietors of and Persons interested in Field Lands and ancient Inclosures within the said Hamlet of *Carlton*, in proportion to the Value of such Field Lands and ancient Inclosures; and such Part of the Residue of the said Lands in the said Manor and Hamlet of *Loftthouse* as shall be equal in Value to One Half of such Residue shall be set out, allotted, and awarded unto and amongst all and singular the Proprietors of and Persons interested in ancient Houses and Frontsteads in the said Hamlet of *Loftthouse*, in proportion to the Number and without regard to the Value of such ancient Houses and Frontsteads; and the remaining Part of the Residue of the said Lands in *Loftthouse* aforesaid shall be set out, allotted, and awarded unto and amongst all and singular the Proprietors of and Persons interested in ancient Inclosures within the said Hamlet of *Loftthouse*, in proportion to the Value of such ancient Inclosures.

Small Strips
of Waste to
be awarded
to the adjoining
Proprietor.

XLIII. Provided always, and be it further enacted, That all small Strips or Pieces of Common or Waste Ground lying between any Highway and any old Inclosures within the said Hamlets of *Carlton* and *Loftthouse*, or either of them, shall be set out, allotted, and awarded to the Proprietor of or Person interested in such Inclosures, in full or part Satisfaction of his Manorial or other Right or Interest in or upon the Lands hereby directed to be divided, allotted, and inclosed: Provided also, that in case the said Commissioner shall be of opinion that the Value of such Strips or Pieces of Land shall exceed the Value of the Allotment to which such Proprietor shall be entitled, then the said Commissioner shall and he is hereby authorized and required to fix a Sum of Money, which shall in his Judgment be a full Equivalent for the Value of such Strip or Parcel of Land over and above the Value of the Allotment to which such Proprietor shall appear to him to be entitled as aforesaid, and shall deliver or cause to be delivered to such Proprietor, or to his Agent or Attorney, a Notice in Writing signed by the said Commissioner, specifying the Amount of such Equivalent in Money as aforesaid, and requiring such Proprietor to pay the same to the said Commissioner, or as he shall appoint, to be applied by him for the general Purposes of this Act, within Two Calendar Months next after the Delivery of such Notice; and in case such Proprietor shall neglect or refuse to pay the Sum of Money therein to be specified, agreeably to the Terms and Directions of such Notice, then and in such Case (but not otherwise) it shall be lawful for the said Commissioner to allot and award the Whole or any Part of such Strip or Parcel of Land to any other Person interested in the said Lands, or to sell and dispose of the same, towards defraying the Expences of this Act and carrying the same into execution, and to convey the same by any Writing under his Hand and Seal to the Purchaser thereof, his Heirs and Assigns.

Power to
allot ancient
Inclosures,
with Consent.

XLIV. And be it further enacted, That it shall be lawful for the said Commissioner, by and with the Consent in Writing and at the Request of the respective Proprietors of any Homesteads, Gardens Orchards, and
old

old inclosed Lands within the said Township of *Lofthouse-cum-Carlton*, to order and direct such Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable Lands, and Part and Parcel of the Lands hereby authorized to be divided, allotted, and inclosed; and such Allowance shall be made to the respective Owners of such Homesteads, Gardens, and old inclosed Lands, on account of the Situation and other beneficial Circumstances thereof, as the said Commissioner shall adjudge to be just and reasonable; and the said Commissioner shall set out, allot, and award unto and for the respective Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands, in lieu thereof, so much and such Part of the Lands hereby directed to be divided, allotted, and inclosed as he shall think reasonable and just, subject to the Rules, Orders, and Directions in this and the said first-recited Act mentioued.

XLV. And be it further enacted, That when and so soon as the said Commissioner shall have ascertained the respective Rights and Interests of the said Proprietors in the Lands hereby directed to be divided, allotted, and inclosed, and also the respective Shares and Proportions by him proposed to be allotted to such Proprietors respectively in lieu thereof, the said Commissioner shall give at least Ten Days Notice in manner aforesaid of some convenient Time and Place when and where the Proprietors may be informed of such intended Allotments, and a Map or Plan thereof shall be produced for their Inspection; and the said Commissioner shall, at such Time and Place as last aforesaid, or at some other Time and Place to be appointed by him for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietor against such Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same, and such Determination therein as to the said Allotments shall be final and conclusive on all Parties.

Allotments to be delineated upon a Plan, and shown to the Proprietors.

XLVI. And be it further enacted, That the said Commissioner shall order and cause every Allotment which shall be made by the said Commissioner to any Rector, Vicar, Curate, or other Ecclesiastical Person, in respect of Lands belonging to his or their Benefice, or to any Trustees for or in respect of Lands belonging to any School or other Charity or charitable Foundation, to be inclosed and fenced on the outward Boundaries thereof with such Walls, Hedges, Ditches, Mounds, or other Fences as the said Commissioner shall think proper and direct; and (unless the Commissioner shall direct the same to be done by the Proprietor of any adjoining Allotments) the Expence thereof, and of maintaining any Quick Fences for the Space of Seven Years from the making thereof, shall be paid out of the Money to be raised for defraying the Expences of obtaining this Act and carrying the same into execution; and such several Walls, Hedges, Ditches, Mounds, and Fences shall for ever thereafter be maintained and supported by and at the Expence of such Person and in such Manner as the said Commissioner shall in and by his Award direct and appoint.

Allotments to Rectors and charitable Trustees to be fenced by Commissioner.

XLVII. And be it further enacted, That the several other Allotments to be made of the said Lands hereby directed to be divided, allotted, and inclosed, after the Division thereof, shall within Six Calendar Months, to be computed from the signing and sealing of the Award of the said Commissioner, or within any shorter or earlier Space of Time to be appointed by the said Commissioner either before or after the Execution

Directions for fencing other Allotments.

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of his Award, of which Notice shall be given by him in manner aforesaid, be inclosed with Stone or Brick Walls at least Four and a Half Feet in Height, or with Fences planted with young Quicksets; and such Fences where the same shall adjoin upon any public or private Road or Way, and in such other Places as the said Commissioner shall think fit, shall be guarded with good and substantial Posts and Rails, or otherwise, and with such Ditches on either or each Side thereof as the said Commissioner shall direct and appoint, and also with good and substantial Gates and Stiles to be made where necessary in the said Walls or Fences; all which said Walls or Fences shall be so planted and guarded as aforesaid, and the Gates and Stiles shall be made by and at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, in such Manner, Shares, and Proportions as the said Commissioner shall in and by his said Award, or sooner, order and direct.

Commis-
sioner in
certain Cases
to make Al-
lowances for
Excess of
Boundary
Fences.

XLVIII. Provided always, and be it further enacted, That in case, through the Necessity of Situation or on any other Account, the said Commissioner shall see fit to award to any of the said Proprietors more than an equal or proportionable Quantity of Boundary Mounds or Fences on the said intended Inclosure, it shall be lawful for the said Commissioner so to do, and to consider and allow for the same in setting out the Allotment of the Proprietor who shall or may have too great a Proportion of Mounding or Fencing allotted to him, and for that Purpose, if necessary, to diminish the Allotment of any Proprietor who shall or may have less than an equal or proportionate Quantity of Boundary Mounds or Fences allotted to him.

Commis-
sioner to
direct the
Course of
Husbandry.

XLIX. And be it further enacted, That from and after the passing of this Act, until such Division and Allotment shall be made as aforesaid, all Tillage and other Lands lying in the said Open Fields hereby directed to be divided, allotted, and inclosed shall be stocked with such Cattle, and planted, cropped, or sown, by the respective Owners or Occupiers thereof, with such Corn, Grain, and other Seeds, at such Times and in such Proportions and Manner, and shall be kept, ordered, and continued in such Course of Husbandry, and subject to such Regulations, as well with respect to the Management as to the quitting the same respectively, as the said Commissioner shall from Time to Time by Notice in Writing duly published in like Manner as other Notices in that Behalf order, direct, or appoint; and the said Commissioner shall set and impose such pecuniary Penalties and Forfeitures upon every Person not conforming to such Orders and Regulations as he shall think necessary, not exceeding the Rate 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; all which Penalties shall be paid to such Person and for such Uses and Purposes as the said Commissioner by any such Notice as aforesaid, or any Writing under his Hand, shall direct; and the several Owners or Occupiers of such Lands shall pay or receive such pecuniary or other Compensation on account of such Management, stocking, planting, sowing, or quitting, from such Person as the said Commissioner shall think just and equitable, and shall by any Writing under his Hand from Time to Time order, direct, or appoint, and which Order of the said Commissioner shall be final, binding, and conclusive on all Parties whomsoever; and in case such Compensation and other Penalties

Penalties shall not be paid to the Person entitled to receive the same at the Time and in manner to be appointed by the said Commissioner, it shall be lawful for the said Commissioner, and he is hereby authorized and required, to raise and levy the same for the Use of the Person entitled thereto by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are directed to be raised, levied, and recovered.

L. And be it further enacted, That the said Commissioner shall by Writing under his Hand ascertain, order, and appoint what Recompence and Satisfaction in Money shall be made to the Owner of any Crops growing upon the Lands hereby directed to be divided, allotted, and inclosed, at the Time of such Division and Allotment, for the said Crops, by the Person to whom the Lands on which such Crops are growing shall be allotted, unless such Owner shall, within the Time to be appointed by the said Commissioner for that Purpose, declare his Intention to cut, reap, and carry away the same; and in case of Nonpayment of such Recompence and Satisfaction for such Crops at the Time and Manner to be directed by the said Commissioner, or in case of such Election to cut, reap, and take away the same, then it shall be lawful for such Owner and his Servants and Workmen, with Horses, Carts, and Carriages, to enter into and upon the Lands whereon such Crops shall be growing, and reap, cut, and carry away the same for his own Use; and the said Commissioner shall also by any Writing under his Hand ascertain, order, and appoint what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Occupier of any Land to be inclosed as aforesaid, as well for ploughing, tilling, or manuring, or other Customary Tenantright in any of the Lands which shall be divided and allotted by virtue of this Act, for the Benefit and Advantage accruing thereby to the Person to whom such Lands shall be allotted, as for any Loss or Disadvantage which any such Tenant or Occupier shall or may sustain by the Loss of his fallowing or way-going Crops upon the Lands by this Act directed to be divided and allotted; and if in any of the said Cases the Money to be paid for such Recompence and Satisfaction shall not be paid at the Time and in manner to be appointed by the said Commissioner, it shall be lawful for the said Commissioner, and he is hereby authorized and required, to raise and levy the same for the Use of the Person entitled thereto by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are directed to be raised, levied, and recovered.

Satisfaction to be made for growing Crops.

LI. Provided also, and be it further enacted, That all Leases, Agreements, and Tenancies at Rack Rent subsisting at the Time of the passing of this Act of any Part of the Lands hereby directed to be divided, allotted, and inclosed, or which shall be exchanged in pursuance of this Act, shall, so far only as respects the Lands hereby authorized to be divided, allotted, and inclosed, or exchanged, cease and be void at such Time as the said Commissioner shall by Writing under his Hand direct or appoint, so as the respective Lessors or Landlords of such Lands do, before or at the respective Times at which such Leases or Tenancies shall be directed to cease, make and pay such Satisfaction to the respective Lessees or Tenants for the Loss which shall be sustained by them by the Determination of such Leases respectively, so far as regards the said Lands the Tenancies and Leases whereof are hereby authorized to be determined, as shall be mutually settled and agreed between them, or as

Leases at Rack Rent may be voided.

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the said Commissioner, being required by either of the Parties, shall ascertain and direct; and the said Commissioner, being so required, is hereby empowered and directed to apportion a reasonable and proportionable Part, according to the Season of the Year, of the Rent reserved on any such Lease or Agreement for or in respect of the Time which shall have elapsed between the last Day on which any Payment of the Rent shall have become due and the Determination of any such Lease or Agreement, and such Part of the Rent shall be recoverable by such Ways and Means as may by Law be used for the Recovery of Rent in arrear; and the said Commissioner is hereby empowered and directed, in every Case in which such Lands shall be held by virtue of such Lease or Agreement together with other Lands by One entire Rent, to apportion and determine what Part of such Rent shall be deducted in respect of such of the Lands in such Lease or Agreement comprised, as to which the same shall be determined as aforesaid, and from what Time such Deduction shall take place; and the rest of the Rent reserved on any such Lease or Agreement shall, during the Remainder of the Term thereof, be the Rent of and for the Residue of such Lands, and shall be payable and recoverable in like Manner as the entire Rent reserved by such Lease or Agreement shall, immediately before such Apportionment, be payable and recoverable.

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

Commissioner to distinguish Titles, &c.

LII. And be it further enacted, That all Lands to be allotted or exchanged by virtue of this Act shall be held of the same Manor, under and by virtue of the same Terms, Rents, Customs, and Services, and shall be thereafter deemed to be of the same Quality and Tenure, whether Freehold, Leasehold, or Copyhold, as the Lands in respect of which such Allotment or Exchange shall be made were respectively held or deemed to be of immediately before the making of every such Allotment or Exchange respectively; and the said Commissioner shall in and by his Award distinguish, express, and declare of what Tenure the said Lands so to be allotted or exchanged as aforesaid respectively are, and of or within what Manor the same shall in future be held or deemed to be: Provided always, that when the Tithes of any Lands in the said Open Fields hereby directed to be inclosed belong to different Persons, or do not extend over the whole of any such Lands, it shall be lawful for the said Commissioner to allot the Tithes as well as the Land, in order that all Persons may have Tithe-free Allotments in lieu of Lands which were before exempted from Tithes: Provided also, that all and every the Lands which by virtue of this Act shall be allotted to any Person for or in lieu or in respect of any Lands to which such Person shall have been duly admitted (other than as hereafter provided in Cases of Exchange and Partition) shall, from and immediately after the Execution of the said Award, be well and effectually vested in such Person without his being admitted thereto, and without paying any Fine or Heriot or other Customary Payment in respect of the same; but in case such Person shall not have been admitted to the Lands in lieu or in respect of which such Allotment shall be made, or before the Execution of the said Award shall die, or alienate the same, then the Person thereby becoming entitled to such Allotment or Lands shall be duly admitted to the same, and shall pay the Fines, Heriots, or other Customary Payments (if any) due in respect of such Admission.

Land held by different Tenures or

LIII. And be it further enacted, That where from any Cause the said Commissioner shall have omitted to distinguish in his Award the several Tenures

Tenures or Liabilities to or Exemption from Tithes under which any of the said Lands are or shall be holden, or the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same are or shall be subject, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments as is hereby required, it shall be lawful for the said Commissioner and he is hereby authorized, at any Time and from Time to Time within Five Years after the Date and Execution of his Award, upon Request in Writing to him made by the respective Proprietors of or Persons interested in any such Allotments or Lands, to do all such Acts as shall be necessary for supplying any such Omission, and for that Purpose to examine Witnesses, and to proceed as if his Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish, ascertain, and set out the Lands held by different Tenures, or for, by, or under different Estates or Titles respectively, and the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same respectively are subject, in the same Manner as he is hereby authorized and required to do in his Award; and every such separate Instrument shall be enrolled and deposited, and Evidence thereof shall be given in the same Manner as is hereby directed with respect to the Award of the said Commissioner, and such Instrument shall thenceforth be deemed and taken to be Part thereof to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry and separate Instrument as aforesaid shall be paid by the Person who shall have requested the said Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

Titles, omitted to be distinguished by the Award, may be distinguished by a separate Instrument.

LIV. And be it further enacted, That it shall be lawful for any Person interested in the said Allotments to be made by virtue of this Act to give, grant, bargain, sell, mortgage, demise, surrender, limit, convey, and assure all or any Part of his Estate, Right, Title, Interest, and Property which he shall have in or to the said Lands hereby directed to be divided, allotted, and inclosed, and the Allotment set out or to be set out in lieu thereof, before the Execution of the Award of the said Commissioner, and every such Gift, Grant, Bargain, Sale, Mortgage, Demise, Surrender, Limitation, Conveyance, and Assurance shall be of the same Force and Validity as if made after the Execution of the said Award; and it shall be lawful for any Owner of or Person interested in the Lands hereby directed to be divided, allotted, and inclosed, before the Execution of the said Award, to sell, dispose of, and convey his Common Right, or the Allotment set out or to be set out in respect thereof by virtue of this Act; separately and distinctly from the Estate in right of which he is entitled to the same, or to sell, dispose of, and convey the Estate in right of which he may be entitled to such Common Right or Allotment separate and apart from and retaining to himself such Allotment, Common Right, and Interest; and in all and every the Cases aforesaid it shall be lawful for the said Commissioner and he is hereby required to make the Allotment in question to the Vendee or Purchaser in every such Sale or otherwise, according as the Circumstances of each particular Case shall require; and in default thereof such Conveyance or other Instrument shall be valid and effectual in the Law for the particular Purpose for which the same is intended to all Intents and Purposes whatsoever.

Proprietors may convey or mortgage Allotments before the Award.

[Private.]

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LV. And

Commis-
sioner may
make Par-
titions.

LV. And be it further enacted, That it shall be lawful for the said Commissioner to make Partition of any Lands whatsoever within the said Township of *Loft-house-cum-Carlton* held by any Persons as Coparceners, Joint Tenants, or Tenants in Common, so as every such Partition be made upon Application from and with the Consent in Writing of any One or more of the several Proprietors thereof, and so as every such Partition be specified in the Award of the said Commissioner, or some other Instrument under his Hand and Seal; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Power to
make Ex-
changes.

LVI. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Parish of *Rothwell* in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Parish of *Rothwell*, or any adjoining Parish, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner of the Lands which shall be so exchanged, whether such Owner shall be a Body Politic, Corporate, or Collegiate, or a Tenant in Fee Simple, or in Fee Tail, General or Special, or for Life, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor thereof, but not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femmes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, 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 all and every Exchanges and Exchange so to be made shall be good, valid, and effectual in the Law to all Intents, Effects, 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 so to be exchanged shall be situate; Provided also, that no such Exchange shall be made of Copyhold Lands without the Consent of the Lord of the Manor whereof the same shall be holden.

Exchanges
and Parti-
tions of
Copyholds to
be perfected
by Admit-
tance.

LVII. And be it further enacted, That every Person to whom any Copyhold Lands shall be allotted in Exchange or upon any Partition as aforesaid shall, within Twelve Calendar Months next after the Execution of the said Award, or at the then next General Court Baron to be held for the Manor whereof such Copyhold Lands shall be holden, be admitted Tenant of the Copyhold Lands so allotted.

Expence of
Partitions
and Ex-
changes.

LVIII. And be it further enacted, That all Costs, Charges, and Expences attending any Partition or Exchange to be made by virtue of this Act shall be paid, borne, and defrayed by the several Persons whose Estates shall be partitioned or exchanged, in such Manner, Shares, and Proportions as the said Commissioner shall by any Writing under his Hand order and direct, and shall be recovered in the same Manner as by the said first-recited Act is directed respecting the Recovery of any Rate

to be made for defraying any Part of the Charges and Expences of obtaining and executing this Act.

LIX. Provided always, and be it further enacted, That nothing in this Act contained shall extend to revoke, make void, alter, or annul any Settlement, Deed, Will, or Lease, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Rent-charge, Debt, or Incumbrance whatsoever in, out of, upon, or affecting any of the Lands hereby directed to be divided, allotted, and inclosed, or which shall be exchanged or assigned in Compensation for any other Estate or Right in pursuance of this Act, but as well the Lands allotted as the Lands which shall be assigned in Exchange or as a Compensation for any other Estate or Right shall, immediately after such Allotment, Exchange, or Assignment shall have been made, be vested, remain, and enure, and the several Persons to whom the same shall be allotted, assigned, or given in Exchange as aforesaid shall thenceforth stand and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Deeds, Wills, Settlements, Limitations, and Remainders, Conditions, Charges, Tenures, Rents, Services, and Incumbrances, as the several Lands in respect whereof such Allotments, Assignments, and Exchanges shall have been made should or would have stood severally limited, settled, or subject or liable to, or been held by, in case the same had not been allotted, assigned, or exchanged, and this Act had not been passed or acted upon, save and except such Leases and Tenancies at Rack Rents as shall become void by virtue of this Act, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority of this Act.

Act not to affect Settlements.

LX. And be it further enacted, That no Sheep or Lambs shall be kept in any of the said new Inclosures during the Space of Seven Years from the Time the Fences thereof shall have been made and completed, unless the Person keeping such Sheep or Lambs shall first at his own Expence fence his Neighbour's Quicksets adjoining the Inclosures where such Sheep or Lambs shall be kept, so as to prevent any Damage being done to such Quicksets by such Sheep or Lambs; and every Person making default herein shall pay a Sum not exceeding Ten Pounds, to be recovered as directed by the said first-recited Act: Provided always, that convenient Gaps and Openings shall be left in the Fences and Inclosures to be made in pursuance of this Act, for the Passage of Persons, Cattle, Carts, and Carriages, in such Places and for such Period next ensuing the Execution of the said Award by the said Commissioner as he shall in and by the Award direct and appoint.

No Sheep to be kept for Seven Years.

LXI. And be it further enacted, That it shall be lawful for any Rector, Vicar, or other Incumbent of any Benefice who may be entitled to any Allotment in the said Lands hereby directed to be divided, allotted, and inclosed, and for his Successor, by Indenture under his Hand and Seal, with the Consent and Approbation of the Bishop of the Diocese for the Time being, to lease and demise all or any Part of the Allotments to be set out and allotted to him by virtue of this Act to any Person whomsoever, for any Term not exceeding Twenty-one Years, to be computed from the Expiration of Twelve Calendar Months from the passing of this Act, so that the Rent for the same shall be thereby reserved to such Rector, Vicar, or other Incumbent for the Time being by Four equal quarterly

Rectors, &c. with Consent of Bishop, may demise their Allotments.

quarterly Payments in every Year; and so that there be thereby reserved the best and most improved Rent that can be reasonably gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for granting any such Lease; and so that no such Lessee by any such Lease or Demise be made dispunishable for Waste by any express Words to be therein contained; and so that there be inserted in every such Lease Power of Re-entry on Nonpayment of the Rent to be thereby reserved within a reasonable Time, to be therein limited, after the same shall become due; and so that a Counterpart of such Lease be duly executed by the Lessee to whom such Lease shall be made as aforesaid: Provided always, that whenever any Lease so to be granted shall by any means become forfeited or void or be surrendered before the Expiration (by Effluxion of Time) of the Term thereby granted, then and in such Case, and as often as the same shall happen, it shall be lawful for the said Rector, Vicar, or Incumbent for the Time being, by and with such Consent as aforesaid, to grant a new Lease of the Lands so demised for such Term of Years as shall at the Time of such Avoidance be then to come and unexpired of the original Term granted by such original Lease, subject nevertheless to the Provisions and Conditions contained in such original Lease, and then remaining unperformed and capable of taking effect; and every such Lease as aforesaid shall be valid and effectual, any Law, Statute, or Usage to the contrary notwithstanding.

For defraying
the Expences
of this Act.

LXII. And be it further enacted, That all Costs, Charges, and Expences incident to and attending the obtaining of this Act, and of surveying, admeasuring, planning, valuing, dividing, and allotting the Lands hereby directed to be divided, allotted, and inclosed, and of preparing and enrolling the Award of the said Commissioner, and of the Copies thereof, and all Charges and Expences of the said Commissioner, his Assistants and Servants, and all other necessary Expences of the several Persons to be employed by the said Commissioner in and about the Premises, either before or after the Execution of the said Award, and all the Expences of forming, completing, and repairing the public Carriage Roads and Highways to be set out and appointed by the said Commissioner, and the Costs and Charges that the said Commissioner shall be put unto in respect of any Appeal against his Decision, and of any Suit at Law or in Equity that may be instituted by or against such Commissioner either before or after the Execution of his Award, and all other Costs, Charges, and Expences necessarily incurred in carrying this Act into execution, shall be paid, borne, and defrayed by the several and respective Proprietors of and Persons interested in the said Lands to be divided, allotted, and inclosed by virtue of this Act, (save and except any Rector, Vicar, or other Incumbent of any Benefice in respect of any Allotments made in right of Lands belonging to his Benefice, and the Surveyors of the Highways for the Time being in respect of the Allotments herein-before directed to be made to them,) in such Shares and Proportions, within such Time, in such Manner, and to such Person as the said Commissioner shall by Writing under his Hand from Time to Time direct; and in case any Person shall refuse or neglect to pay his Share or Proportion of such Costs, Charges, and Expences as aforesaid, or any Part thereof, within such Time and to such Person as the said Commissioner shall appoint, then and in every such Case the said Commissioner shall cause the same to be levied and recovered in manner directed by the said first-recited Act.

LXIII. And

LXIII. And be it further enacted, That if any Money shall have been advanced by any Person for the Purpose of defraying the Expences of applying for and obtaining this Act, or shall be advanced or lent to the said Commissioner for carrying the same into execution, (and which Monies he is hereby fully authorized and empowered from Time to Time to borrow as Occasion may require,) the same shall be repaid, with lawful Interest for the same, to the Person lending, advancing, or paying the same, out of the first Monies to be raised for defraying the Expences of obtaining and carrying this Act into execution.

Money advanced to be paid with Interest.

LXIV. And be it further enacted, That it shall be lawful for the Proprietor of any Allotment, or any Person interested in the Lands hereby directed to be divided, allotted, and inclosed, being Tenant in Tail or for Life or Lives only, and also for the Husband, Guardian, Trustee, Committee, or Attorney of any Proprietor being under Coverture, Minor, Idiot, Lunatic, or beyond the Seas, or otherwise incapable of acting for himself, by and with the Consent of the said Commissioner testified in Writing under his Hand and Seal, from Time to Time after such Allotment and Division shall have been made, and either before or after the Execution of his said Award, to charge the Lands which shall be so set out and allotted to such Proprietors respectively with any Sum of Money for or towards the Expence of inclosing, subdividing, draining, and fencing their Allotments, and for defraying the Expences of carrying this Act into execution, not exceeding the Proportion of Five Pounds for each Acre of the said Lands so to be allotted, and for securing the Repayment of such Sum of Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the said Lands or any Part thereof unto or in Trust for such Person as shall advance or lend the same respectively, his Executors, Administrators, and Assigns, for any Term or Number of Years, or other Estate or Interest, so that such Grant, Mortgage, Lease, or Demise be made with a Proviso or Condition for Cesser, Reconveyance, Resurrender, or Reassignment, on Payment of such Sum of Money, with the Interest thereof, to be therein limited; and every such Grant, Mortgage, Lease, or Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Power for Tenants for Life to borrow Money.

LXV. And be it further enacted, That every such Tenant for Life or Lives, or in Tail, and every other Person who shall be entitled to the said mortgaged Premises, shall pay and keep down the Interest of the Principal Money so to be borrowed as aforesaid during his Life, in such Manner that no Person entitled in Reversion or Remainder, becoming possessed of such mortgaged Premises, shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Period when his Title to such Possession shall accrue or commence.

Tenants for Life to keep down the Interest of Money borrowed.

LXVI. And be it further enacted, That once at least in every Year during the Execution of this Act (to be computed from the Day of the passing of this Act) the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him and any other Person to be employed by him in carrying this Act into execution, for their Trouble and Expences in the Execution of this Act; and in every

Settling Commissioner's Accounts.

[Private.]

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such

such Account shall be particularly stated and specified the several Items and Articles for which each particular Sum shall have been paid or disbursed, and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by him laid before some Justice of the Peace for the West Riding of the County of *York* (not interested in the Premises), to be by him examined and balanced; and such Balance shall be by such Justice stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner; and an Abstract of such Account so examined and balanced shall be from Time to Time published in some Newspaper published in the said West Riding; and no Charge or Items in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice, and until such Account or the Abstract thereof shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Award.

LXVII. And be it further enacted, That the Award to be made by the said Commissioner under the Authority of this Act shall be executed and published within Three Years from the passing of this Act, and, together with a proper Map or Plan of the said Lands hereby directed to be divided, allotted, and inclosed thereto annexed, shall, within Six Calendar Months after the Execution thereof, be enrolled at the Register Office at *Wakefield*, established by Act of Parliament for registering Deeds, Conveyances, and Wills concerning Lands in the West Riding of the County of *York*, and shall within the like Period be deposited with the Clerk of the Peace for the said West Riding of the County of *York*, who is hereby required to deposit and keep the same among the Records of the said Riding, so that Recourse may be had thereto by any Person interested therein, for the Reception whereof the Fee of Three Guineas shall be paid, and no more, and for the Inspection and Perusal thereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace for the said West Riding of the County of *York*, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said first-recited Act; and a Copy of the said Award, fairly transcribed in a Book with a Map or Plan, certified as true Copies of the said Award and Plan respectively by the Signature of the said Commissioner, shall within the Time aforesaid be deposited in the Parish Church of *Rothwell* aforesaid, and there kept for the Inspection of all Persons interested therein; and the said Award and Copies thereof, and any other Copy of the said Award or any Part thereof, attested by the Clerk of the Peace or Registrar of the said Register Office, or their respective Deputy, (for every Sheet of which Copy containing Seventy-two Words Four-pence, and no more, shall be paid,) shall be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Appeal.

LXVIII. And be it further enacted, That it shall be lawful for any Person who shall think himself aggrieved by any thing done by the said Commissioner in pursuance of this Act (except in Cases where the Act or Determination of the Commissioner is by this Act declared to be final, binding, and conclusive, and except in Cases where an Issue at Law may be tried as herein-before mentioned,) to appeal to any General Quarter

Sessions of the Peace to be holden for the West Riding of the said County of *York* within Six Calendar Months next after the Cause of Complaint shall have arisen, first giving to the said Commissioner and to the Party particularly concerned (if any) Notice in Writing of such Appeal and of the Matter thereof within Twenty-eight Days after the Cause of Complaint shall have arisen, and Twenty-one Days at the least before such General Quarter Sessions; and the Justices (not interested in the Premises) at their said Quarter Sessions assembled, or any Adjournment thereof, are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order therein and to award such Costs as they in their Discretion shall deem meet, and by their Warrant to levy the Costs awarded by Distress and Sale of the Goods and Chattels of the Party adjudged to pay the same, rendering the Overplus (if any) to the Owner of such Goods and Chattels after deducting the reasonable Charges of such Warrant, Distress, and Sale; and every Order and Determination of the said Justices upon every such Appeal shall be final and conclusive to all Parties concerned, and no such Complaint, Appeal, or Proceeding shall be removed or removeable by Certiorari, or any other Writ or Proceeding whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the said Appellant as to them in their Discretion shall seem reasonable, and such Costs shall be levied in manner aforesaid.

LXIX. And be it further enacted, That whenever any Sum of Money is, under the Provisions of this Act, to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Person under any Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands to be settled to the same Uses, it shall be lawful for the said Commissioner out of such Sums to defray such Proportion of the Expence of passing this Act and of carrying the same into execution as shall be charged upon any of the Lands of such Person as aforesaid, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioner be proper to be made and shall be made under his Direction upon any Lands to be by virtue of this Act allotted to such Person as aforesaid; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward, and shall when so paid in there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person who would have been entitled to the Rents and Profits of the said Lands, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or other

Application of Compensation if amounting to 200*l.*

1 G. 4. c. 35.

other Incumbrances affecting the same Lands, or affecting other Lands belonging to such Person, or settled therewith to the same Uses, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part thereof as shall be necessary; or until the same shall, upon the like Application in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the before-mentioned Lands stood limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities or Real Securities; and in the meantime, and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities or Government or Real Securities shall from Time to Time be paid, by Order of the said Court, to the Person who would for the Time have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, and settled.

Where less than 20*l.* and amounting to 20*l.*

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

Where under 20*l.*

LXXI. Provided also, and be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for his own Use and Benefit; or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to his Guardian, Committee, or Trustee, to and for the Use and Benefit of such Person entitled thereto.

LXXII. Pro-

LXXII. Provided always, and be it further enacted, That nothing in this Act contained shall or shall be construed or adjudged to defeat, lessen, and prejudice the Right, Title, or Interest of the Lords for the Time being of the said several Manors of *Carlton* and *Lofthouse* respectively of, in, or to the Coal, Ironstone, and other Mines, Minerals, or Metals within or under the Lands in the same Manors respectively by this Act directed to be divided, allotted, and inclosed as aforesaid, or of, in, or to any of the Royalties, Seigniories, Franchises, Jurisdictions, Liberties, Manorial and other Rights, Customs, and Services incident or belonging to the said Manors respectively; but that the Lords of the said Manors respectively, and all succeeding Lords thereof for the Time being, shall and may at all Times for ever hereafter have, hold, receive, take, use, exercise, and enjoy all Rents, Services, Courts, Perquisites and Profits of Courts, Piscaries, Fishings, Hunting, Hawking, and Fowling, Goods and Chattels of Felons and Fugitives, Felons of themselves and those put in Exigent, Deodands, Waifs, Estrays, Forfeitures, Escheats, and all other Rights, Powers, Royalties, Liberties, Franchises, and Jurisdictions whatsoever of their several and respective Manors to the respective Lords thereof for the Time being incident, belonging, or appertaining (except in respect of any Land or Estate for which Compensation is hereby authorized to be made), in as full, ample, and beneficial a Manner to all Intents and Purposes as the same could or might have been held and enjoyed in case this Act had not been passed; and the Lords of the said Manors respectively, and all future Lords and Owners thereof for the Time being, shall and may from Time to Time and at all Times hereafter have, hold, win, work, get, and enjoy all Coal, Ironstone, and other Mines and Minerals of what Nature or Kind soever within or under the said Lands hereby directed to be divided, allotted, and inclosed as aforesaid, as well those not opened as those already opened, and shall have, enjoy, and be vested with all convenient and necessary Ways, Way-leaves, and Liberties of making, laying, and repairing Waggonways and other Ways in, under, over, and along the same or any Part thereof, and of searching for, winning, getting, and working the said Mines and Minerals and the Mines and Minerals in any adjoining Lands, and leading and carrying away the Coals, Ironstone, and Minerals to be gotten thereout respectively, and of making Pits, Shafts, Air-pits, Pit-rooms, Stand-yards, Heap-rooms, Drifts, Levels, and Watercourses, as well as of continuing those already made, and of erecting and using Fire Engines and other Engines and necessary Buildings, and of altering, changing, pulling down, and carrying away the same or any of the Materials thereof, and all and every other Matters and Things now in use or hereafter to be used or invented for the Purposes aforesaid or any of them, in, upon, through, over, or along the said Lands, or any of them, or any Part thereof, and all other Powers, Privileges, and Authorities for all or any of the Purposes aforesaid, in such and the like Manner as if this Act had not been passed.

Saving of Manorial Rights to the Lords of the Manor.

LXXIII. Provided also, and be it further enacted; That if the Lords for the Time being of the said Manors respectively, or any Person claiming under them respectively, shall, after such Inclosure shall have been made as aforesaid, win, work, and carry away the Coal, Ironstone, Mines, or Minerals lying within or under any of the said Lands to be divided, allotted, and inclosed by virtue of this Act, or any adjoining Lands as aforesaid, then and in every such Case such Lords for the Time being,

Lords of the Manor to pay for any Damage done by working Mines, &c.

[Private.]

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or

or the Person so winning, working, and carrying away the same, shall make full and reasonable Satisfaction for the Damage done to the Crops growing thereon at the Time of Entry, and further Satisfaction after the Rate of Four Pounds *per Acre per Annum* for the Occupation or Spoil of Ground occasioned thereby, or in the making or using of Waggonways or other Ways, or otherwise in execution of the Powers herein reserved or granted to the said Lords, unto the Person who shall be in the Possession of such Ground at the Time of such Damage or Spoil; and when the Ground taken, used, or damaged by any of the Works or in exercise of any of the Privileges aforesaid shall cease to be used for the Purposes aforesaid, the said Lords for the Time being, or the Person exercising the said Privileges, or any of them, by Authority of or under the said Lords, or claiming so to do, shall within Twelve Calendar Months therefrom level and cover with Earth the Land so taken, used, or damaged, and dig, trench, and put the same into a good State fit for the Purposes of Husbandry, or otherwise, at the Option of the said Lords, pay to the Owner or Occupier thereof respectively at and after the Rate of One hundred Pounds *per Acre* for and in lieu of restoring such Land to a good State in manner aforesaid fit for the Purposes of Husbandry.

General
Saving.

LXXIV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person, Body Politic and Corporate, Ecclesiastical and Civil, his, her, or their Heirs, Successors, Executors, and Administrators, (other than and except the Persons to whom any Allotment or Compensation shall be made by virtue of this Act, in respect of the Interest or Property for which such Allotment or Compensation shall be made to them in respect of such Right, and except such other Rights and Interests as are not barred by this Act, or the Purposes hereby authorized shall absolutely require to be barred, destroyed, or extinguished,) and all Persons respectively claiming under them or in Remainder after them, all such Estate, Right, Title, Interest, Claim, and Demand as they or any of them had or enjoyed of, in, to, or out or in respect of the said Lands hereby directed to be divided, allotted, and inclosed previous to the passing of this Act, or could or might have had and enjoyed in case the same had not been passed.

Act to be
printed by
the King's
Printers.

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

LONDON : Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1837.