



ANNO SEPTIMO

# GULIELMI IV. REGIS.

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## Cap. 8.

An Act for inclosing Lands in the Parish of *Clapton*  
in the County of *Somerset*. [8th June 1837.]

**W**HEREAS there are within the Manor and Parish of *Clapton* in the County of *Somerset* certain Moors, Commons, and Waste Lands, and certain Common Fields and intermixed Lands: And whereas *James Adam Gordon* Esquire is or claims to be Lord of the said Manor of *Clapton*, and as such claims to be entitled to the Soil of the said Moors, Commons, and Waste Lands: And whereas the said *James Adam Gordon* and divers other Persons are the Owners and Proprietors of or interested in the said Moors, Commons, and Waste Lands, Common Fields and intermixed Lands, in the Parish of *Clapton* aforesaid: And whereas an Act was passed in the Forty-first Year of the Reign of His 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 an Act was passed in the First and Second Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: And whereas it would be of great Benefit and Advantage to the several Persons interested in the said Moors, Commons, and Waste Lands if the same were divided and inclosed, and specific Parts and Shares thereof allotted and assigned to the several Persons interested therein according to their several and

41G 3. c.109.

1&2G.4. c.23.

[*Private.*]

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respective

Commissioner appointed.

respective Estates, Rights, and Interests in the said Moors, Commons, and Waste Lands, and if the said Common Fields and intermixed Lands were allotted and inclosed in manner herein-after directed concerning the same; but such beneficial Purposes 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 this present Parliament assembled, and by the Authority of the same, That *George Emery* of *Banwell* in the County of *Somerset*, Esquire, and his Successor for the Time being to be appointed in manner herein-after mentioned, shall be and is hereby appointed the Commissioner for setting out, dividing, allotting, and inclosing the said Moors, Commons, and Waste Lands, Common Fields and intermixed Lands, and for putting this Act into execution, subject to the Rules, Orders, and Directions contained in the said recited Acts, except in such Cases where the same are by this Act varied or altered.

Commissioner to make a Declaration.

II. And be it further enacted, That no Person shall be capable of acting as a Commissioner 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 Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.’

And such Declaration shall be made before any Justice of the Peace acting for the said County of *Somerset*, and shall be in lieu of and in substitution for the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds; 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.

What shall be a Refusal to act.

III. And be it further enacted, That if the said Commissioner shall neglect to attend at one of the first Two Meetings appointed to be held for putting this Act into execution, and to qualify himself by making the Declaration in that Behalf prescribed, or if the said Commissioner shall at any Time after having qualified himself as aforesaid absent himself from any Two successive Meetings appointed to be held as aforesaid, he having first known of such Meetings by his Presence at the Appointment thereof, or having Notice thereof in Writing given him or left at his usual Place of Abode under the Hand of the Clerk of the said Commissioner, and such Commissioner not being prevented by Sickness or other reasonable Cause, or if any Commissioner to be nominated and appointed as aforesaid shall not attend and qualify himself at one of the first Two Meetings after his becoming a Commissioner, or shall, after having qualified himself as aforesaid, wilfully absent himself from any

Two successive Meetings, (having first known thereof, or after such Notice without such Cause as last aforesaid,) every such Absence or Nonattendance shall be deemed and taken to be a Refusal to act.

IV. And be it further enacted, That in case the said *George Emery* or any other Commissioner to be appointed in manner herein-after mentioned shall die, or shall refuse, neglect, or become incapable to act as a Commissioner in the Execution of this Act, then and in such Case, and as often as it shall so happen, the major Part in Value of the Proprietors of or Persons interested in or entitled to the Lands directed by this Act to be inclosed, or their respective Agents or Attornies, such Value to be ascertained by the Number of old auster or ancient Tenements belonging to them respectively, who shall be assembled at any Meeting of the said Proprietors convened for that Purpose by Notice signed by the Clerk of the said Commissioner, and inserted in the *Bristol Newspaper* called the *Bristol Mirror*, or some other Newspaper generally circulated in the County of *Somerset*, at least Fourteen Days previous to such Meeting, shall and may appoint any other Person not interested in the said intended Division and Inclosure to be a Commissioner in the Room and Place of the said *George Emery*, or any other Commissioner to be so appointed in his Stead respectively, who may die, refuse or neglect to act, or become incapable of acting as aforesaid; and every Person appointed in manner aforesaid shall be a Commissioner for the Execution of this Act and the said recited Acts, and shall, after making the Declaration prescribed by this Act, have and is hereby invested with the like Power and Authority for carrying this Act and the said recited Acts into execution, or so much as shall then remain to be carried into execution, as if he had been originally nominated and appointed a Commissioner in and by this Act; and every Instrument of such Appointment shall be annexed to and deposited with the Award of the said Commissioner, to be made by virtue and in pursuance of the said recited Acts or this Act.

Power of  
appointing  
new Com-  
missioner.

V. And be it further enacted, That the said Commissioner shall and he is hereby authorized and empowered to appoint some fit and proper Person to be his Clerk to assist him in carrying this Act and the said recited Acts into execution, and from Time to Time to remove such Clerk and appoint another in his Stead, as to the said Commissioner shall seem meet; and such Clerk so to be appointed shall be paid and allowed out of the Money to be raised for putting this Act in execution such Sum or Sums of Money as herein-after mentioned for his Trouble and Expences in the Assistance to be given by him as aforesaid.

Appointment  
of Clerk.

VI. And be it further enacted, That every Commissioner and his Clerk who shall act in the Execution of this Act shall respectively be allowed and paid the Sum of Three Pounds and Three Shillings, and no more, for each Day he shall actually attend and be employed as a Commissioner or Clerk in the Execution of this Act, or shall necessarily travel from Home to attend any Meeting held for the Purposes of this Act, or when returning Home after having attended such Meeting during the first Three Years after the passing of this Act, and after the Expiration of the said Three Years, until the Powers and Provisions of this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, for each Day he shall actually attend and be employed

Allowance to  
Commission-  
er and Clerk.

employed as a Commissioner or Clerk as aforesaid, in full Satisfaction for his Trouble and Expences in carrying this Act into execution; and that as well the said Commissioner as the said Clerk to the said Commissioner, and the Proprietors and others, who shall attend any of the Meetings of the said Commissioner to be held in pursuance of this Act, shall in all Cases defray their own Expences.

Commis-  
sioner to give  
Notice of  
Meetings.

VII. And be it further enacted, That the said Commissioner shall and he is hereby required to give or cause to be given public Notice in the Newspaper called the *Bristol Mirror*, or some other Newspaper generally circulated in the County of *Somerset*, and also Notice in Writing by affixing the same upon the principal outer Door of the Parish Church of *Clapton* aforesaid on some *Sunday* before Divine Service, of the Time and Place of his first and every other Meeting for the Execution of this Act or of the Powers contained in the said recited Acts, at least Ten Days before any such Meeting (Meetings by Adjournment only excepted), and the said Commissioner shall and may adjourn his Attendance or Meeting; or in case of his Absence the Clerk to the said Commissioner shall and may adjourn such Meeting, from Time to Time as there shall be Occasion for the Execution of this Act: Provided always, that all Attendances or Meetings of the said Commissioner for executing this Act shall be holden at some convenient Place in the Parish of *Clapton* aforesaid, or within the Distance of Ten Miles from the Boundaries thereof.

Other Notices  
how to be  
given.

VIII. Provided always, and be it further enacted, That all other public Notices necessary to be given by the said Commissioner in pursuance of this Act or the said recited Acts, and the Manner of giving which is not hereby otherwise particularly directed, shall be given by Advertisement in the *Bristol Mirror* or in some other Newspaper or Newspapers generally circulated in the County of *Somerset*.

Regulating  
the Duration  
of all Meet-  
ings.

IX. And for regulating the Duration of all Meetings to be holden for Purposes of this Act, be it 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 any Meetings to be holden for the Purposes of this Act of less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged as only Half a Day, and the said Commissioner and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioner or his Clerk in which shall be entered all Orders and Proceedings of the said Commissioner, and the several Days on which the said Commissioner shall hold his Meetings, and in such Book shall also be entered at what Hour the said Commissioner and his Clerk were respectively present at such Meetings, and at what Hour they respectively left the same; and such Book shall be signed by such Commissioner or his Clerk at the Termination of each Meeting, and shall be open to the Inspection of any Person or Persons interested in the Inclosure, or his, her, or their Agents or Attornies, during any of the Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same; and such Orders and Entries shall and may be read in Evidence in all Suits

Suits and Proceedings concerning any thing done in relation to or concerning the Execution of this Act: Provided also, that it shall not be lawful for the said Commissioner to retain or to repay himself or such Clerk, out of any Monies to be received by him or over which he may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-before directed to be made to such Commissioner and Clerk respectively, beyond One Third of such Allowance as they shall be 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 of the said Clerk previous to the Execution of the said 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 the said Commissioner or Clerk.

X. And be it further enacted, That such Survey and Admeasurement of the Lands and Grounds within the said Manor of *Clapton*, or any Part or Parts thereof, as in the Judgment of the said Commissioner shall be requisite and necessary for the Purposes of this Act, shall be made, and it shall and may be lawful to and for the said Commissioner to nominate and appoint any Person not interested in the said Division and Inclosure for the Purpose of making and completing such Survey and Admeasurement of the said Lands and Grounds. Lands to be valued and surveyed.

XI. Provided always, and be it further enacted, That no Person shall be capable of acting as a Surveyor in the Execution of the Powers given by this Act until he shall have made and subscribed a Declaration in the following Form: Surveyor to make a 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 Duties incumbent on me as a Surveyor by virtue of an Act passed in the \_\_\_\_\_ Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.’

Which Declaration it shall be lawful for the said Commissioner to administer, and he is hereby required to administer the same to every Surveyor; and the said Declaration so made and subscribed shall be annexed to and enrolled and deposited with the Award of the said Commissioner, and the same or an Office Copy thereof, or of the Enrolment thereof, shall be admitted as legal Evidence by all Judges, Justices, and others.

XII. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, shall be Penalty on making false Declaration.

[*Private.*]

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subject

subject to the Pains and Penalties to which Persons guilty of wilful and corrupt Perjury are or may be liable.

Commissioner to settle Disputes.

XIII. And be it further enacted, That in case any Dispute shall arise between any of the Parties interested touching their Rights or Claims, Estates or Interests, the said Commissioner is hereby authorized to determine the same; provided that nothing herein contained shall authorize or empower the said Commissioner to determine any Dispute that shall affect the Title to any Lands, Tenements, or Hereditaments whatsoever.

Right of Possession of Persons not to be determined by the Commissioner.

XIV. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioner to determine any Right between any Parties contrary to the Possession of any such Parties (except in Cases of Encroachments made within the Period of Twenty Years as herein-after mentioned); but in case the said Commissioner shall be of opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up or recovered from such Person or Persons by Ejectment or other due Course of Law.

Commissioner may award Costs.

XV. And be it further enacted, That it shall and may be lawful for the said Commissioner, at his Discretion, upon Request made to him by all or any of the Parties in whose Favour he shall make any such Determination or Award, to order and adjudge such Costs and Charges as he shall think fit and reasonable for the Use and Benefit of such Party or Parties upon or against the Party or Parties whose Claim or Claims, Objection or Objections, Complaint or Complaints, shall be thereupon disallowed, as the Case shall happen; and in case the Person who shall be ordered to pay such Costs and Charges shall refuse or neglect to pay the same on Demand, then the said Commissioner shall, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of such last-mentioned Party or Parties, together with the Costs and Charges of such Distress and Sale, returning the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels; and in case there shall be no Goods or Chattels whereby to levy the same, or in case the Party awarded to pay such Costs and Charges be a Body Politic, Corporate, or Collegiate, then and in either of the said Cases it shall and may be lawful for the Party or Parties in whose Favour such Costs shall be awarded to recover the same by Action or Actions of Debt or on the Case, in which Case it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioner, and in consequence of such Order of Adjudication, without setting forth any of the Proceedings therein had.

Allowing Parties to try their Rights at Law.

XVI. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with the Determination of the Commissioner

Commissioner for the Time being touching or concerning any Claim, Right of Common, or other Right or Interest in, over, or upon the Lands hereby authorized to be divided, allotted, and inclosed, or any Part thereof, or touching or concerning any Objection or Objections to such Claim or Claims, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied, to cause an Action to be brought upon a feigned Issue against the Party or Parties in whose Favour such Determination shall have been made within Three Calendar Months next after such Determination of the said Commissioner shall have been notified in Writing to the Party or Parties against whom such Determination shall have been made, or to his, her, or their known Agent or Attorney, and thereupon the Party or Parties so dissatisfied shall proceed to a Trial at Law at the next Assizes, or at the Assizes immediately following such next Assizes, which may be held for the said County of *Somerset* after such Action shall have been commenced, and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required, to appoint an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, (such Issue to be settled by the proper Officer of the Court in which such Action shall be commenced in case the Parties shall differ about the same,) whereby such Claim or Claims, and the Right or Rights, Interest or Interests, thereby insisted on or objected to, may be tried and determined; and the Verdict which shall be given in any such Action shall be final and conclusive upon all the Parties thereto, unless the Court in which 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 Court to do as in other Cases; and after such Verdict shall have been obtained, and not set aside by the said Court, the said Commissioner shall and he is hereby authorized and required to act in conformity thereto, and to allow or disallow the Claim or Claims, Right or Rights, Interest or Interests thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioner touching any such Claim or other Right or Interest as aforesaid which shall not be objected to in due Time, or which being objected to the Party or Parties objecting shall not cause such Action at Law to be brought within the Time herein-before limited or to be proceeded with as aforesaid, shall be final, binding, and conclusive: Provided also, that no Difference, Suit, or Proceeding as aforesaid, nor any Difference or Dispute touching the Title to any Lands, Tenements, or Hereditaments, shall impede or delay the said Commissioner in the Execution of the Act, but the Division, Allotment, and Inclosure hereby authorized to be made shall be proceeded in notwithstanding any such Difference, Dispute, Suit, or Proceeding, and the Allotment or Allotments in respect of such litigated Property shall be held and taken by the Party or Parties who, upon the Determination of such Difference, Suit, or Proceeding, shall become entitled to the same.

XVII. And be it further enacted, That if any of the Parties in any Action to be brought in pursuance of this Act shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

If any of the Parties die, Proceedings not to abate.

XVIII. Pro-

Proviso in  
case of Death  
of Parties  
before Ac-  
tions brought.

XVIII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any Determination as aforesaid shall have been made, and against whom any Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioner with Process for commencing such Action or Actions, in the like Manner as the Party or Parties so dying might have been served therewith if living, and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had in the same Manner as if such Person or Persons had been actually living, and the Right of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Rights of  
Common to  
be extin-  
guished.

XIX. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time or Times when he in his Judgment shall think it convenient and proper, by Notice under his Hand to be for that Purpose given and affixed on the principal outer Door of the Parish Church of *Clapton* aforesaid on some *Sunday* before Divine Service, to order the Rights of Common and all other Rights in, upon, and over the Lands and Grounds hereby intended to be divided and allotted, or any of them, to be extinguished either in the whole or in part, or to be suspended, and from and after the Time to be mentioned in and fixed 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 shall be suspended, according to and as shall be expressed in and directed by such Notice.

For shorten-  
ing Boundary  
Fences.

XX. And be it further enacted, That if the Commissioner shall deem it expedient or proper to shorten or alter the Boundary, Line or Fence between the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and any adjoining Parish or Parishes, so as to make the same more regular and convenient, it shall and may be lawful for the said Commissioner, with the Consent in Writing under the Hand or Hands of the Lord or Lords of the Manor or Manors in which the Land is situate, and of the Owner or Owners of the Land upon which any new Line or Fence shall or may be intended to be made or shortened, to set out the Boundary between the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and any adjoining Parish or Parishes, in such Manner as he shall judge proper for the Purposes aforesaid; and after such Boundaries shall be so set out as aforesaid the same shall be fenced by such Person or Persons 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 Lands and Grounds hereby directed to be divided, allotted, and inclosed in the said Parish of *Clapton* and such adjoining Parish or Parishes; any Law, Usage, or Custom to the contrary notwithstanding.

XXI. And



XXI. And be it further enacted, That all Encroachments which shall have been made upon or from the said Moors, Commons, or Waste Lands for Twenty Years or upwards before the passing of this Act shall be deemed to belong to the Person or Persons in his, her, or their own Right occupying or receiving Rent for the same, but he, she, or they shall in no Case be entitled in any Allotment or Allotments in respect thereof under this Act; but in all Cases where Encroachments have been made on the said Moors, Commons, or Waste Lands within the last Twenty Years, then and in such Case the same shall be deemed Part of the said Moors, Commons, and Waste Lands to be divided and allotted under and by virtue of this Act.

Encroachments.

XXII. And be it further enacted, That the said Commissioner shall and may scour out, deepen, widen, amend, and repair all such ancient Brooks, Rhines, Ditches, Banks, Sluices, Staunches, Tunnels, Watercourses, and Bridges, and make or cause to be made such other Rhines, Ditches, Drains, Banks, Sluices, Staunches, Tunnels, Watercourses, and Bridges and other Works, as well in, through, over, and across the said Lands and Grounds hereby directed to be divided and inclosed, as also in, over, and through any ancient Inclosures or other Lands and Grounds within the said Parish, as shall in the Judgment of the said Commissioner be necessary and proper, and of such Dimensions and in such Directions respectively as the said Commissioner shall think fit, making reasonable Satisfaction to all and every Persons and Person, Bodies or Body Politic, Corporate, or Collegiate, who may sustain any Damage thereby; and the said Commissioner shall and may and he is hereby directed and required in and by his Award to be made in pursuance of this Act to order and direct by whom and at whose Expence, and at what Time and in what Manner, all and every the said Brooks, Rhines, Ditches, Drains, Banks, Sluices, Staunches, Tunnels, Watercourses, Bridges, and other Works herein-before authorized to be made and performed within the said Parish of *Clapton* shall be thereafter repaired, scoured, supported, kept, and maintained: Provided always, that no such Brook, Rhine, Drain, or Watercourse shall be diverted or turned without the Consent in Writing of the respective Owners of the Lands from which and into which the same shall be diverted or turned, any thing herein-before contained to the contrary notwithstanding.

Drains and Watercourses.

XXIII. And be it further enacted, That all Homesteads, Gardens, Orchards, old Inclosures, and other Lands and Grounds within the said Parish, with the Consent of the respective Owners and Proprietors thereof, whether such Owners or Proprietors shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple or Fee Tail, General or Special, or for Life or Lives, or who shall be a Trustee or Trustees for charitable or other Purposes, or of the major Part of such Trustees, or with the Consent of the Guardians, Feoffees, Committees, Attornies, or known Agents of or acting for any such Owners or Proprietors as aforesaid who shall be under Coverture, Minors, Lunatics, or beyond the Seas, or under any other legal Disability of acting for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Bodies Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively, shall be

Old Inclosures may be allotted with Consent.

[*Private.*]

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deemed

deemed and considered to be Land to be divided and allotted under this Act for all the Purposes of this Act.

Allotments  
in right of  
Soil.

XXIV. And be it further enacted, That the said Commissioner shall and he is hereby required, before he shall sell any Part of the said Commons or Waste Lands, or allot any Part thereof for the Purposes herein-after mentioned, to set out, allot, and award to and for the said *James Adam Gordon*, Lord of the Manor of *Clapton* aforesaid, for and in lieu of his Right or Interest in the Soil of the said Moors, Commons, and Waste Lands hereby intended to be divided and inclosed as aforesaid, such Part and Parcel of the said Moors, Commons, and Waste Lands as the said Commissioner shall consider equal to One Sixteenth Part in Value of the said Moors, Commons, and Waste Lands.

Lands to be  
sold to defray  
Expences.

XXV. And be it further enacted, That the said Commissioner, after he shall have so set out and allotted the said One Sixteenth Part of the said Moors, Commons, and Waste Lands to the said *James Adam Gordon* as aforesaid, shall set out and allot such Parts and Parcels of the Residues of the said Moors, Commons, and Waste Lands by this Act directed to be inclosed as he shall judge sufficient in Value when sold to defray the Expences of and attending the obtaining this Act, and carrying the same and the said recited Acts into effect, and surveying, admeasuring, planning, valuing, draining, dividing, and allotting the said Moors, Commons, Waste Lands, Common Fields, and intermixed Lands, and of forming and making such public Roads and Ways into, over, and upon the same, and of inclosing and fencing such Part or Parts of the said Moors, Commons, and Waste Lands so intended to be sold in pursuance of this Act as aforesaid, if the said Commissioner shall deem it necessary so to do, and of making, scouring, widening, deepening, and repairing all such Bridges, Brooks, Rhines, Ditches, Watercourses, and other Works as are hereby or by the said recited Acts directed to be made, cut, built, or performed, and of preparing and depositing his Award, and all other the necessary Charges and Expences arising or accruing in the course of carrying the Powers herein and in the said recited Acts contained into full and complete Execution and Effect, (except such Part of the said Charges and Expences as shall be adjudged by the said Commissioner to be borne and defrayed by the Proprietors of or Persons interested in the said Common Fields and intermixed Lands as herein-after provided,) and shall expose the said Allotment or Allotments to public Sale by Auction or otherwise, in the Manner and subject to the Directions and Regulations mentioned and contained in the said first-recited Act; and the said Commissioner shall, on Payment of the Purchase Money for such Allotment or Allotments so to be sold for the Purposes aforesaid, by Indenture under his Hand and Seal to be by him executed in the Presence of and attested by One, Two, or more credible Witness or Witnesses, convey and assure by way of Lease and Release the same Allotment or Allotments unto and to the Use of the Purchaser or Purchasers thereof, his, her, or their Heirs or Assigns for ever, or unto such Person or Persons, for such Use or Uses, upon such Trust or Trusts, and for such Limitation or Limitations, and in such Manner and Form as such Purchaser or Purchasers shall direct or appoint, such Direction or Appointment to be expressed in the said Indentures under

the Common Seal of any Body Politic, Corporate, or Collegiate, and under the Hand and Seal or Hands and Seals of any other Person or Persons; and the Receipt of the said Commissioner for the Monies to arise from such Sale or Sales shall be a sufficient Discharge or Discharges to the Person or Persons paying the same; and such Person or Persons, his, her, or their Heirs, Executors, Administrators, or Assigns, shall not be liable or obliged to see to the Application of such Monies, or be answerable or accountable for the Misapplication or Nonapplication thereof respectively; and such Purchaser or Purchasers respectively shall be subject and liable to the due Observance and Performance of such Orders, Rules, and Regulations as the said Commissioner shall in and by his Award order and direct.

XXVI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out, allot, and award the Residue and Remainder of the said Moors, Commons, and Waste Lands by this Act directed to be divided, allotted, and inclosed, situate within the said Parish of *Clapton*, unto, for, and amongst the said *James Adam Gordon* and the several other Proprietors claiming and being entitled to Right of Common and other Rights and Interests therein, according and in proportion to the Value of their respective Rights and Interests, to be ascertained and determined by the Number of old auster or ancient Tenements of or belonging to such Persons respectively; and the said Commissioner shall and he is hereby required to set out, allot, and award the Common Fields and intermixed Lands, and the Lands and Grounds in and by this Act directed to be divided, allotted, and inclosed, unto, for, and amongst the several Proprietors and Persons interested in the same respectively in proportion and according to their several Rights and Interests therein; and it shall and may be lawful to and for the said Commissioner to set out, allot, and award to and for each and every the said Proprietors of old auster or ancient Tenements, and also to and for each and every of the Proprietors of the Common Fields, intermixed Lands, and other Lands and Grounds in and by this Act directed to be divided, allotted, and inclosed, his, her, and their respective Share and Proportion of the said Moors, Commons, and Waste Lands, Common Fields, intermixed Lands, and other Lands and Grounds, in such Part or Parts thereof as to the said Commissioner shall seem proper, Quantity, Quality, Situation, and Convenience considered.

Allotments  
of the Resi-  
due of Waste  
Lands.

XXVII. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footways, in pursuance of this Act or the said first-recited Act, the said Commissioner shall and he is hereby authorized and empowered, if he shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter, any of the Carriage Roads, Bridle Roads, or Footways passing or leading through or over any of the Lands or Grounds intended to be divided and allotted by virtue of this Act, or passing or leading through or over any of the Lands or Grounds within the said Parish of *Clapton*, and the Soil of the Roads and Ways so to be discontinued and stopped up shall be deemed and taken to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act: Provided always, that nothing herein contained shall authorize the diverting or altering of any Turnpike Road leading through the said Parish of *Clapton*

Power to stop  
up Roads.

unless

unless the Consent of the Majority of Three Trustees of such Turnpike Road, assembled at a public Meeting called for the Purpose on Ten Days Notice, shall be first had and obtained.

Proceedings previously to diverting and stopping up Highways.

XXVIII. Provided always, and be it further enacted, That before any public Carriage Road, Highway, Bridle Road, or Footway shall be discontinued, stopped up, diverted, or altered by the said Commissioner, the said Commissioner shall cause to be affixed on each End of the said Highway so proposed to be discontinued, stopped up, diverted, or altered a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footway is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the said Commissioner acting under or by virtue of this Act, and the said Commissioner shall also cause the same Notice to be inserted in One Newspaper published or generally circulated in the said County of *Somerset* for Four successive Weeks, and also cause a like Notice to be affixed on the Door of the Parish Church of *Clapton* on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall be so affixed and published as aforesaid the said public Carriage Road, Highway, Bridle Road, or Footway 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 County of *Somerset* as is herein-after mentioned.

Persons who may think themselves aggrieved if such Highway should be ordered to be stopped up or diverted may appeal.

XXIX. Provided also, 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 Carriage Road, Highway, Bridle Road, or Footway should be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions upon 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 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 shall be discontinued.

XXX. 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 public Highway so intended to be discontinued, stopped up, diverted, or altered is wholly unnecessary, or may beneficially to the Public be discontinued, altered, or diverted, or whether the said Party appealing would be injured or aggrieved, impanel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the public Highway so discontinued, stopped up, diverted, or altered is wholly unnecessary, or may beneficially to the Public be discontinued, altered, or diverted, and that the Party appealing would not be injured or aggrieved, 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 by the Party appealing to the said Commissioner, and the same shall be recoverable from the said Party in such and the

the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up is not unnecessary, or that the Highway so diverted or altered could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved by the said Highway being discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of Quarter Sessions shall allow such Appeal, and shall make an Order for restoring the said Highway so discontinued, stopped up, diverted, or altered by the Order of the said Commissioner to its original State, and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party or Parties giving Notice of Appeal 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 the said Commissioner 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.

XXXI. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said recited Act of the Forty-first Year of the Reign of His late Majesty or this Act, to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses, it shall and may be lawful to and for the said Commissioner out of such Sum to defray such Proportion of the Expence of passing this Act, and of carrying the same and the said recited Acts into execution, as shall, if any, be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee in Possession of the Lands, Tenements, or Hereditaments so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, or the like, which shall in the Judgment of the said Commissioner be proper to be made and shall be made under their Direction upon any Lands to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Husband, Guardian, Committee, or Trustee respectively; 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

Application  
of Compensation  
Money  
if amounting  
to 200*l.*

[*Private.*]

1 G. 4. c. 35.

Exchequer, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His present Majesty, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward, and shall when so paid 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 or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances affecting the same Lands, Tenements, or Hereditaments, or affecting any other Lands, Tenements, or Hereditaments standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part or Parts thereof as shall be necessary, or until the same shall upon the like Application be laid out in a summary Way, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments 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 afore-mentioned Lands, Tenements, or Hereditaments stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime and until such Order can 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 Government 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 or Interest 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 or Persons who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

When less than 200*l.* and amounting to 20*l.*

XXXII. 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 the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiocy, or 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 said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be appropriated in manner herein-before directed; or otherwise the same

same may be paid, at the like Option and with the like Approbation, to Two Trustees to be nominated by the Person or Corporation who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments, such Nomination to be approved of by the said Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties; 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 so 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.

XXXIII. 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 or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged for his, her, or their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, and to and for the Use and Benefit of such Person or Persons respectively entitled thereto. When under 20l.

XXXIV. And be it further enacted, That the several Parcels of Land and Allotments which shall be set out and allotted by virtue of this and the said recited Act shall be sufficiently inclosed and fenced in such Manner and within such Time as the said Commissioner by Notices in Writing under his Hand or by his Award shall order, direct, or appoint, and all such Walls and Fences as shall be so made shall at all Times for ever after the making thereof be supported, maintained, and kept in repair by such Person or Persons as the said Commissioner shall by his Award direct; and in case any Person or Persons shall neglect or refuse to fence his, her, or their Allotment or Allotments within the Time directed or appointed by the said Commissioner, it shall and may be lawful for the said Commissioner and he is hereby required to fence the same, and the Expence of such Fences shall be levied and recovered in like Manner as other Monies are hereby and by the said recited Act directed to be levied and recovered. Allotments to be fenced.

XXXV. And be it further enacted, That the said Commissioner shall and may from Time to Time as he shall find it convenient deliver to the several Persons, or Body or Bodies Politic, Corporate, or Collegiate, interested in the several Divisions or Allotments, or any Exchange or Exchanges to be made and set out under this Act, Possession of their respective Divisions, Allotments, and exchanged Lands hereby directed to be made and set out; and such Possession so delivered shall be kept and retained by the several Persons, or Body or Bodies Politic, Corporate, or Collegiate, entitled thereto, in such and the like Manner as if the Award of the said Commissioner at the Time of giving or delivering such Possession had been made and executed. Commissioner may deliver Possession of Lands allotted and exchanged before the Execution of the Award.

XXXVI. And

Proprietors may sell their Allotments before the Execution of the Award.

XXXVI. And be it further enacted, That it shall be lawful for any Person or Persons who shall be entitled to any Allotments to be made by virtue of this Act to sell, mortgage, demise, and dispose of all his, her, or their Estate, Right, Title, and Interest therein, at any Time before the Execution of the Award, and on a proper Conveyance, Surrender, or Disposition being executed or passed, every such Sale or Disposition shall be good, valid, and effectual in the Law; and also that it shall and may be lawful for any Person or Persons interested in the said Division and Inclosure to sell and dispose of all such Estate, Right, Title, Interest, and Property, or any Part or Parcel thereof, which he, she, or they shall have in or to the said Commons or Waste Lands, or in or to any Allotment or Allotments to be made in respect thereof by virtue of this Act, separate from the Estate in right of which he, she, or they shall be so entitled; and it shall be lawful for the said Commissioner, and he is hereby authorized and required, to allot the same to the Purchaser or Purchasers thereof respectively.

Allotments to enure to the same Tenure.

XXXVII. And be it further enacted, That all and singular the Lands and other Premises which shall be allotted under or by virtue of this or the said recited Acts shall, immediately after such Allotments are made, be held under and subject to the same Tenures, Customs, Heriots, Rents, and Services as the Messuages, Tenements, Lands, and Premises in respect of which they were so respectively allotted were held and enjoyed at the Time of passing this Act; any Law, Usage, or Custom to the contrary notwithstanding.

Exchanges.

XXXVIII. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Parish of *Clapton* in lieu of and Exchange for any other Lands, Tenements, or Hereditaments within the said Parish of *Clapton*, or within any adjoining Parish, Hamlet, 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 or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor or Lessors 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 or Proprietors as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any 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 such Exchange and Exchanges so to be made shall be good, valid, and effectual in Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church, Chapel, or other Ecclesiastical Benefice without the Consent, testified as aforesaid, of the Patron thereof and of the



the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

XXXIX. And be it further enacted, That all Costs, Charges, and Expences attending the making of any Sales, Exchanges, or Partitions to be made by virtue of this Act or the said recited Acts shall be paid, borne, and defrayed by the several Persons or Parties proposing or consenting to the making any such Sales, Exchanges, or Partitions, in such Manner and in such Proportions as the said Commissioner shall by his Award or any other Writing under his Hand order and direct; and such Costs, Charges, and Expences may be recovered in the same Manner as any other Costs, Charges, and Expences may be recovered by virtue of the said recited Act or of this Act.

Expences of Exchanges how to be paid.

XL. And be it further enacted, That all and every Leases and Lease, and all other Agreements for any Term or Terms at Rack Rent, or from Year to Year, or at Will, affecting the said Lands and Grounds by this Act directed to be divided, allotted, and inclosed, or any Lands exchanged under this Act, or any Part or Parts thereof, shall, in respect of such Lands and Grounds, at such Times as the said Commissioner shall direct, cease and be void; the Person or Persons, Party or Parties, entitled to the Lands, Tenements, and Hereditaments comprised in such Lease or Leases, Agreement or Agreements respectively, making such Satisfaction to such Lessee or Lessees, Tenant or Tenants, as the said Commissioner shall ascertain, direct, or appoint, as an Equivalent for the Loss or Losses he or they shall respectively suffer on account of the Determination of the same.

Leases at Rack Rent to be void.

XLI. Provided also, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease or Leases from any Body or Bodies Politic, Corporate, or Collégiate, or any Person or Persons, of any Lands, Tenements, or Hereditaments in the said Parish, but the Person or Persons entitled to such beneficial Lease or Leases shall and may hold and enjoy his, her, and their several and respective Terms at and under the same Rents and Covenants as are specified in his, her, or their respective Leases from the same Body or Bodies Politic, Corporate, or Collegiate, or other Person or Persons respectively.

Beneficial Leases not to be vacated.

XLII. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, Rent, or Incumbrance out of, upon, or affecting the Lands or Grounds to be divided, allotted, or inclosed or exchanged in pursuance of this or the said recited Acts, or any Part or Parcel thereof respectively, but that the respective Persons to whom any Lands or Hereditaments shall be allotted or given in Exchange by virtue of this or the said recited Acts shall be seised thereof to such and the same Uses and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, Charges, and Incumbrances, and no other, as the Lands, Grounds, and Hereditaments whereof such Person was seised or possessed at or immediately before the Execution of the Award of the said Commissioner, or for

Wills and Settlements not to be affected.

[Private.]

which, or in respect whereof such Allotments or Exchanges shall be made, would have been subject to and charged with or affected by if this Act had not been passed.

Expences of  
the Act, &c.  
how to be  
paid.

XLIII. And be it further enacted, That the Expences of obtaining this Act and of carrying the same and the said recited Acts into execution, and of surveying, admeasuring, planning, valuing, dividing, and allotting the said Lands and Grounds hereby intended to be divided and allotted, and of forming and making public Roads and Ways in, to, over, and upon the same under this or the said recited Acts, and of making, building, widening, deepening, and repairing all such Bridges, Brooks, Rhines, Ditches, Watercourses, and other Works as are by this Act or the said recited Acts directed to be made, and widened, deepened, repaired, built, or performed, and of preparing and depositing the Award or Instrument to be made in pursuance of this or the said recited Acts, and all other necessary Charges and Expences of the said Commissioner in, about, and concerning the carrying of this Act and the said recited Acts into full and complete Execution, shall be borne, paid, and defrayed by and out of the Money which shall be raised by Sale of Land as hereinbefore mentioned, except such Parts of the said Expences as are particularly provided for by this Act, or as the said Commissioner shall by virtue of this Act adjudge and apportion to be borne and defrayed by the Proprietors or Persons interested in the Common Fields, intermixed Lands, and other Lands to be allotted and divided under this Act: Provided always, that the Costs, Charges, and Expences of applying for and obtaining and passing this Act, and all other Expences preparatory or relating thereto, shall be paid in preference to all other Payments whatsoever.

Application  
of the sur-  
plus Money.

XLIV. And be it further enacted, That in case the Part or Parts of the said Moors, Commons, or Waste Lands which shall be allotted for Sale as hereinbefore directed shall be sold for more Money than will be requisite to defray such Charges and Expences as aforesaid, then and in such Case such surplus Money shall be divided and apportioned between the several Proprietors of Rights of Common and other Rights in the said Moors, Commons, or Waste Lands according to their several and respective Interests therein, and be paid to them in case they shall be seised in Fee Simple of the several Allotments; or otherwise such surplus Money shall be paid into the Bank of *England* in manner directed by the said recited Act with respect to Money thereby directed to be paid into the Bank the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses.

In case Lots  
sold shall not  
be sufficient,  
Persons in-  
terested to  
pay propor-  
tionally to  
make good  
the Defi-  
ciency.

XLV. Provided always, and be it further enacted, That if the Monies to be produced by such Sale or Sales as aforesaid shall not be sufficient to pay all the Charges and Expences aforesaid, then the Deficiency shall be borne by the Proprietors of the Lands hereby directed to be inclosed in proportion to the real Value of their respective Divisions and Allotments (such Proportion to be settled and ascertained by the said Commissioner), and shall be raised by a Rate or Rates, and be paid by such Person or Persons and at such Time or Times as the said Commissioner shall,

shall, by Notice in Writing to be affixed on the outer Door of the said Parish Church of *Clapton* at least Fourteen Days previous to the Day of Payment, order and direct; and in case any Person or Persons shall neglect or refuse to pay his, her, or their Share or Proportion of the said Deficiency as aforesaid, then the same shall be levied and recovered in the Manner directed by the said recited Acts in case the Expences of obtaining and executing this Act had been directed to be paid in proportion by the Proprietors of Lands or Grounds to whom Allotments shall be made, instead of being raised by Sale of Land as by this Act is directed.

XLVI. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered, to apportion and determine such Part and Share of the Charges and Expences attending the passing of this Act, the doing and performing the several Matters and Things hereby authorized to be done and performed, and of carrying this Act and the said recited Acts into full and complete Execution, as in his Judgment ought fairly and reasonably to attach upon the intermixed Lands and Common Fields to be allotted and divided by virtue of this Act, and to be borne and defrayed by the Proprietors interested therein; and the Part and Share of such Charges and Expences so adjudged and apportioned by the said Commissioner upon such intermixed Lands and Common Fields as aforesaid shall be paid, borne, and defrayed by the respective Proprietors and Persons interested in the several intermixed Lands and Common Fields so to be allotted as aforesaid, in such Proportions, at such Times, and by such Person or Persons, Party or Parties, as the said Commissioner shall by Writing under his Hand order and direct; and in all Cases where any Part of such Expences shall be payable in respect of any Tenements held by Lease determinable on any Life or Lives, the same shall be borne and defrayed in such Shares or Proportions between the Lord of the Fee of such Tenements and the Persons respectively holding the same, and paid at such Times and in such Manner as shall be directed by the said Commissioner; such Expences to be levied, in case of Default of Payment, as in the said recited Acts is directed.

For apportioning Part of the Expences on the Proprietors of the Common Fields.

XLVII. And be it further enacted, That it shall be lawful for the said Commissioner, on Application being made to him in Writing by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any of the said Proprietors or Persons interested in the Premises, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies respectively, or by any of the said Proprietors of Lands or Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, who are or shall be Tenant or Tenants in Tail for any Life or Lives, or any other Contingency, to sell any Part of the Allotment or Allotments to be made from and out of any of the said Moors, Commons, and Waste Lands by virtue of this Act, or to or for any such incapacitated Proprietor or Proprietors, or other Person or Persons by whom or in whose Behalf any such Application shall be made as aforesaid, for the Purpose of raising a Sum of Money sufficient to defray the Costs, Charges, and Expences of fencing and inclosing his, her, or their Allotment or Allotments, and of making and completing such Sale; and such Sale shall be made by the said Commissioner in

Power for certain Persons to sell Land for making Subdivision Fences, and for raising their Proportions of the Expences of obtaining of this Act.

in such and the same Manner, and subject to such and the like Rules and Regulations, as are mentioned and prescribed in and by the said recited Acts and this Act in respect to the Sale of any Lands authorized to be sold for paying the Expences of obtaining and carrying into execution any Act for dividing or allotting any Lands and Grounds; and each and every Allotment for which the full Purchase Money shall be paid shall be conveyed by the said Commissioner, at the Expence of such Purchaser or Purchasers, unto and to the Use of or in Trust for such Purchaser or Purchasers, and his, her, or their Heirs respectively, or as he, she, or they shall appoint, and shall be inclosed and held by such Purchaser or Purchasers respectively in Severalty, and the Receipt of the said Commissioner shall be a good and sufficient Discharge to such Purchaser or Purchasers for the said Purchase Money, which shall be applied by the said Commissioner in or towards defraying such last-mentioned Costs, Charges, and Expences; and if any Surplus shall remain in the Hands of the said Commissioner, such surplus Money shall be applied and disposed of in manner directed by the said recited Act with respect to Money which is thereby directed to be paid into the Bank of *England* for the Purchase or Exchange of any Lands, Tenements, or Hereditaments to be settled to the same Uses, or of any Timber or Wood growing thereon, and which ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, as therein mentioned: Provided always, that it shall not be lawful by virtue of this Act to raise by such Sale any further or greater Sum of Money for the Purpose of defraying the Costs, Charges, and Expences of fencing, inclosing, and subdividing such Allotment or Allotments as aforesaid than the Person or Persons Part of whose Allotment or Allotments shall be sold as aforesaid would have been empowered or authorized in the whole to borrow or charge upon his, her, or their Estate or Estates under or by virtue of the said recited Acts, for the Purpose of defraying the Costs, Charges, and Expences of obtaining and executing this Act, in case the Expences of obtaining and executing this Act had been directed to be paid in proportion by the Proprietors of Lands or Grounds to whom Allotments shall be made, instead of being raised by Sale of Land as by this Act directed: Provided always, that in all Cases where any Part of the Allotments of any of the said Proprietors or Persons shall be so sold for the Purposes last mentioned, it shall not be lawful for the Proprietors or other Persons Part of whose Allotments shall be sold as aforesaid to charge his or their Lands, Tenements, or Hereditaments by virtue of the said recited Acts or this Act with any Money towards Payment of any Costs, Charges, and Expences of obtaining and executing this Act; but in case the Sale so to be made of such Allotment or Allotments shall not be equal in Amount to the Sum of Money that such Proprietor or Proprietors is or are by the said recited Act or this Act empowered to borrow and charge on his, her, or their Allotment or Allotments, then and in such Cases it shall be lawful for the Proprietor or Person whose Land shall be sold as aforesaid to charge his, her, or their Lands, Tenements, or Hereditaments, by virtue of the said recited Acts or this Act, with any Sum of Money not exceeding the Excess or Difference, towards Payment of such Expences.

Power to borrow Money.

XLVIII. And be it further enacted, That it shall be lawful for the said Commissioner to borrow and take up at Interest of any Person or Persons

sons willing to advance and lend the same such Sum or Sums of Money as shall from Time to Time be necessary for defraying the Charges and Expences of passing this Act and carrying the same into execution until the same shall be raised as herein mentioned, which said Sum and Sums of Money so to be borrowed shall be repaid, with lawful Interest, to the Person or Persons advancing the same, out of the Monies to be raised for defraying the Expences of obtaining and executing this Act.

XLIX. And be it further enacted, That at least once in every Six Calendar Months during the Execution of this Act, to be computed from the Day of passing thereof, the said Commissioner shall and he is hereby required, by himself or his Clerk, to make a true and just Statement and Account of all Sums of Money by him received or expended or due to him and any Person or Persons to be employed by him in carrying this Act into execution, for his Trouble and Expence in the Execution of this Act; and such Statement and Account when so made, together with the Vouchers relating thereto, shall be by him laid before One or more of His Majesty's Justices of the Peace for the County of *Somerset* (not interested in the Premises), to be by him or them examined and balanced, and such Balance shall be by such Justice or Justices stated in the Book of Accounts to be kept in the Office of the Clerk of the said Commissioner; and no Charge or Item in such Account shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice or Justices, subject nevertheless to the Power of Appeal herein-after contained.

Commis-  
sioner to lay  
his Accounts  
before a  
Justice of the  
Peace.

L. And be it further enacted, That as soon as conveniently may be after the Division and Allotment of the said Moors, Common Fields, intermixed Lands, and other Commonable and Waste Lands shall be made and completed pursuant to the Directions of this Act, the said Commissioner shall form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, with a proper Plan thereto annexed, in the Manner prescribed by the said first-recited Act; which said Award or Instrument shall be fairly ingrossed or written on Parchment, and shall be executed by the said Commissioner, and shall, within Fourteen Days next after the same shall have been so executed, be delivered to the Clerk of the Peace of the said County of *Somerset*, who is hereby required to receive, keep, and deposit the same amongst the Records of the said County, for the Reception of which the Sum of Two Pounds and Two Shillings, and no more, shall be paid or demanded, to the end that Recourse may be had thereto by all Persons interested in the said Division or Allotment and Inclosure, for the Inspection of which said Award One Shilling shall be paid, and no more, and the Delivery of the said Award to the Clerk of the Peace as aforesaid shall be sufficient without the same being enrolled according to the Direction of the said first-recited Act; and the said Commissioner is hereby further required to deliver a Copy of the said award fairly written on Parchment, with a Plan thereto annexed, signed by the said Commissioner, unto the Churchwardens for the Time being of the said Parish of *Clapton*, to be by them deposited and kept in the Parish Chest of the Parish Church aforesaid, to the end that Recourse may be had thereto by the several and respective Proprietors or Parties interested therein at all seasonable

Award.

[*Private.*]

3 p

Times;

Times ; and the said Award and the Copy thereof so signed by the said Commissioner, and any other Copy of the said Award or of any Part or Parts thereof, attested by the Clerk of the Peace for the Time being of the said County or his Deputy, (for every Sheet of which containing One hundred Words Four-pence and no more, and for every Copy of such Plan or Plans Three-pence *per* Acre and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Appeal to the  
Quarter  
Sessions.

LI. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done in pursuance of the said recited Acts or this Act, other than and except such Claims, Matters, and Things as are herein-before directed or authorized to be ascertained, settled, tried, or determined by any Issue at Law, or where by the Provisions of the said recited Acts or of this Act the Determinations, Acts, or Proceedings of the said Commissioner are directed to be final or conclusive, he, she, or they may appeal to any General or Quarter Sessions of the Peace which shall be holden for the said County of *Somerset* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and to the Party or Parties concerned Fourteen Days Notice in Writing of such Appeal and the Matter thereof, except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined as aforesaid, may be appealed against at any Time within Six Calendar Months after the Date of the said Award, on giving the said Commissioner such Notice as last aforesaid; and the Justices (not interested in the Premises) at the said General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order and award such Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; but the Determination of the Justices shall not be final and conclusive to all Parties concerned, but the same may be removed by Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere, at the Instance of either of the said Parties; but in case such Appeal shall appear to the said Justices frivolous, vexatious, and without Foundation, then the said Justices shall award such Costs to be paid to the Appellant or Appellants as to them in their Discretion shall seem reasonable.

General  
Saving of the  
Rights of the  
Lord of the  
Manor.

LII. And be it further enacted, That nothing in this Act contained shall prejudice, lessen, or defeat the Right, Title, or Interest of the said *James Adam Gordon* in and to the Seigniories and Royalties incident and belonging to such Moors, Commons, and Waste Lands hereby intended to be inclosed, but that the said *James Adam Gordon*, and all and every the Persons and Person claiming or to claim under him or them as Lord or Lords of the said Manor, and all succeeding Lord or Lords for the Time being, shall and may from Time to Time and at all Times hereafter hold and enjoy all Rents, Chief Rents, Quit Rents, Heriots, Fines, Suits, Services,

Services, Courts, Perquisites and Profits of Courts, Waifs, Estrays, Deodands, and all other Royalties and Privileges whatsoever to such Manor or to the Lord or Lords thereof appertaining, (other than and except such Common of Pasture or Rights of Common as can or may be claimed by or belong to him or them in, over, and upon the said Moors, Commons, and Waste Lands hereby intended to be divided and inclosed as aforesaid, and all his and their Rights of Soil therein,) in as full, large, ample, and beneficial a Manner to all Intents and Purposes as they or any of them might have held and enjoyed the same before the passing of this Act, or in case the same had never been passed.

LIII. And be it further enacted, That nothing in this Act contained shall extend or be construed to defeat, lessen, or prejudice the Right, Title, and Interest of the Lord of the said Manor of *Clapton*, his Heirs or Assigns, or any of them, of, in, or to any Mines, Ores, Metals, Minerals, Coal, Slate, or Stone, or any other Matter or Thing whatsoever in or under the said Moors, Commons, or Waste Lands, but that it shall be lawful for the Lord of the said Manor for the Time being, and his and their Lessee or Lessees, Grantee or Grantees, Surveyors, Engineers, Servants, Miners, and Workmen, from Time to Time and at all Times hereafter to have, hold, win, work, and enjoy all Mines, Ores, Metals, Minerals, Coal, Slate, and Stone, and other Matters and Things, within or under the said Moors, Commons, and Waste Lands, together with all convenient and necessary Ways, Wayleaves, Roads, and Passages already made or hereafter to be made, and Liberty of laying, making, and repairing Waggonways and all other Ways in, over, and along the same, or any of them, or any Part thereof, and of searching for, winning, and working the said Mines, Ores, Metals, Minerals, Coal, Slate, and Stone, and loading and carrying away the same, and of making Pits, Shafts, Pit-rooms and Heap-rooms, Drifts, Levels, Ways, and Watercourses, and of erecting and using Fire Engines and other Engines, and of altering, changing, pulling down, and carrying away the same, or of any of the Materials thereof, at his and their own free Will and Pleasure, and to do all other Works, Acts, and Things, either now in use or hereafter to be invented, as may be necessary or convenient for the full and complete Enjoyment thereof, in as full, ample, and beneficial a Manner to all Intents and Purposes as he or they could or might have done in case this Act had not been passed.

Saving Rights of the Lord of the Manor to all Mines.

LIV. And be it further enacted, That in case the Lord of the said Manor for the Time being, or any Person or Persons claiming under him, shall, after such Inclosure, Division, or Allotment made as aforesaid, search for, win, or work any Mine or Mines, Minerals or Quarries, lying and being within or under any of the Allotments or Inclosures to be made as aforesaid, or land or carry away the Produce of or from any such Mines, Minerals, or Quarries, then and in such Case the Lord of the said Manor for the Time being, or such Person or Persons so claiming under him, shall make a reasonable Satisfaction for the Damage and Spoil of Ground and all other Damage occasioned thereby, or by the erecting or building any Houses, Erections, Buildings, or Engines, or by the altering, changing, repairing, amending, rebuilding, pulling down, or carrying away the same or any of the Materials thereof, to the Person or Persons who shall be in Possession of such Ground at the Time or Times of such Damage or Spoil.

Satisfaction to be made for Damage done by working Mines.

LV. Saving

General  
Saving.

LV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Persons or Person, Bodies or Body Politic, Corporate, or Collegiate, his, her, or their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest (other than and except such as is hereby meant and intended to be barred, destroyed, and extinguished,) as they, every or any of them, could or ought to have had or enjoyed into or out of the Moors, Commons, and Waste Lands hereby directed to be divided, allotted, and inclosed, in case this Act had not been passed.

Copy of the  
Act as printed  
by the King's  
Printers to  
be Evidence.

LVI. 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 a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

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