



ANNO QUINTO & SEXTO

GULIELMI IV. REGIS.

Cap. 13.

An Act for inclosing and allotting Lands in the Parish of *Stretham* in the *Isle of Ely* and County of *Cambridge*, and for the Commutation of Tithes. [21st July 1835.]

WHEREAS there are within the Parish of *Stretham* in the *Isle of Ely* and County of *Cambridge* divers Open Fields, Commons, and Commonable and Waste Lands and Grounds, and divers inclosed Lands and Homesteads: And whereas *George Gould Morgan* Esquire is or claims to be Lord of the Manor of *Stretham*: And whereas the Right Reverend *Bowyer Edward* Lord Bishop of *Ely* is Patron of the Rectory of *Stretham* aforesaid, and the Reverend *Henry Hervey Baber* Clerk is Rector of the said Rectory, and as such entitled to the Great and Small Tithes arising within the same: And whereas the said *George Gould Morgan*, *William Edwards Read*, *Thomas Waddelow Granger*, the Feoffees of *Parson's Charity* in *Ely*, the Feoffees of *Stretham*, *William Wright*, *William Blench*, *Thomas Archer*, and divers other Persons are the Owners and Proprietors of or interested in the said Open Fields, Commons, and Commonable and Waste Lands and Grounds, and the said inclosed Lands and Homesteads: 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

[Private.] 3 p passed

41G.3.c.109.

1 & 2 G. 4.
c. 23.

Appointment
of Commis-
sioners.

passed in the First and Second Year of the Reign of His late Majesty King George the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: And whereas it would be of advantage to the Persons entitled to or interested in the said Open Fields, Commons, and Commonable and Waste Lands and Grounds, if the same were divided and allotted unto and amongst them according to their respective Rights and Interests therein, and held in Severalty, and if the same or Parts thereof were inclosed, and as well as the said inclosed Lands and Homesteads or Parts thereof exonerated from Tithes; but the several Purposes aforesaid cannot be effected without the 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 *John Josselyn* of *Sproughton* in the County of *Suffolk*, Gentleman, and *Anthony Jackson* of *Barkway* in the County of *Hertford*, Gentleman, and their Successors to be appointed as herein-after mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, allotting, and inclosing the said Open Fields, Commons, and Commonable and Waste Lands and Grounds, and for carrying into execution the Provisions of this Act and also of the said recited Acts, except so far as the same are hereby varied or altered.

Appointment
of new Com-
missioners.

II. And be it further enacted, That in case the said *John Josselyn*, or any Person hereafter to be appointed in lieu of him or of any succeeding Commissioner appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act as aforesaid, then and in every such Case the surviving or remaining Commissioner, within One Calendar Month next after such last-mentioned Death, Neglect, Refusal, or Incapacity shall have been made known to him, or in case of his Death any Three Proprietors of Land to be divided and inclosed under the Authority this Act, shall, by Advertisement in some Newspaper printed and circulated within the County of *Cambridge*, and by Writing under the Hand or Hands of such Commissioner or Proprietors as aforesaid, to be affixed on the principal outer Door of the Parish Church of *Stretham* aforesaid upon a *Sunday* before Divine Service, give Notice of a Meeting to be held within the Parish of *Stretham* aforesaid or within Eight Miles thereof, at least Fourteen Days before such Meeting, for the Purpose of appointing some Person to be a Commissioner in the Room of the said *John Josselyn*, or of any Person appointed in lieu of him, or of any succeeding Commissioner appointed in his Stead, as the Case may be, at which Meeting it shall be lawful for the Majority in Value (to be ascertained by the Poor's Rate Assessment) of the Proprietors or Persons interested in the Lands and Grounds which shall be divided and inclosed under the Authority of this Act (other than the said Rector for the Time being and his Successors), or the known Agents or Attornies of any of them, who shall be present at such Meeting, by Writing under their Hands to nominate and appoint some proper Person (not interested in the said Division, Allotment, and Inclosure,) to be a Commissioner in the Room and Stead of the said *John Josselyn*, or of such Person appointed in lieu of him, or of any succeeding Commissioner appointed in his Stead, so dying, neglecting, refusing, or becoming
incapable

incapable to act as last aforesaid; and in case the said *Anthony Jackson*, or any Person hereafter to be appointed in lieu of him or of any succeeding Commissioner appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act as a Commissioner in the Execution of this Act, then and in every such Case it shall be lawful for the Rector for the Time being of the said Parish by Writing under his Hand and Seal, within Fourteen Days after such Death, Refusal, or Incapacity to act shall be made known to him, to nominate and appoint a proper Person (not interested in the said Division, Allotment, and Inclosure,) to be a Commissioner in the Room and Stead of the said *Anthony Jackson*, or of such other Person appointed in his Stead so dying, neglecting, refusing, or becoming incapable to act as aforesaid: Provided always, that if it shall happen that any Person or Persons herein-before respectively authorized and empowered to appoint such new Commissioner shall not make any such Appointment within the respective Times herein-before for that Purpose limited, then and so often as it shall so happen the surviving or remaining Commissioner from Time to Time shall, within Three Weeks next after the Expiration of such Time allowed for appointing such new or succeeding Commissioner as aforesaid, by Writing under his Hand nominate and appoint some other fit and proper Person to be a Commissioner in the Place and Stead of every such Commissioner so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and every new Commissioner so nominated and appointed under either of the Powers herein-before given shall, from and immediately after his Appointment and taking the Oath prescribed in that Behalf, have such and the like Powers and Authorities for carrying this and the said recited Acts into execution to all Intents and Purposes as if he had been named and appointed a Commissioner in and by this Act.

III. And be it further enacted, That if the Commissioners for the Time being for executing this Act and the said recited Acts shall disagree in their Opinion upon any Point or Matter relating to the Execution of this Act or the said recited Acts, *Edward Gibbons* of *Castor* in the County of *Northampton*, Gentleman, shall be and he is hereby appointed an Umpire to determine the Point or Matter in difference; and in case the said *Edward Gibbons* shall die, refuse to act, or become incapable of acting as such Umpire, it shall be lawful for the Commissioners for the Time being, by Writing under their Hands at any Meeting to be holden for the Execution of this Act, to appoint another Person (not interested in the said Division, Allotment, and Inclosure,) to be an Umpire in the Place and Stead of the said *Edward Gibbons*; and in case and when and so often as a Vacancy shall afterwards, happen by the Death, Refusal, or Disability of the Umpire, such Vacancy shall be supplied from Time to Time by the said Commissioners in manner aforesaid, and such Umpire so to be appointed as aforesaid shall have the like Powers and Authorities to act in determining any Point or Matter submitted to him by the said Commissioners as if he had been herein named and appointed Umpire; and in case the Commissioners for the Time being shall not appoint a new Umpire within Forty Days next after any Vacancy shall have arisen it shall be lawful for the major Part in Value of the said Proprietors or Persons interested in the said Inclosure as aforesaid, including the Rector for the Time being (such Value to be ascertained as aforesaid), at a

Umpire appointed.

Meeting

Meeting to be holden in like Manner as is herein-before directed with respect to the Meeting to be held for the Appointment of new Commissioners, to appoint another Person (not interested in the said Division, Allotment, or Inclosure,) to be an Umpire to supply such Vacancy.

Umpire to
take an Oath.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as Umpire in the Execution of the Powers given by this or the said recited Acts until he shall have taken and subscribed the Oath or Affirmation following; (that is to say,)

Umpire's
Oath.

‘ I *A. B.* do swear, [*or, being one of the People called Quakers, do solemnly affirm,*] That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the several Powers and Authorities vested and reposed in me as an Umpire by virtue of an Act passed in the Fifth Year of the Reign of His Majesty 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 or Persons whomsoever. So help me GOD.’
[*Or, being a Quaker, omit the Words ‘ So help me God.’*]

Which Oath or Affirmation it shall be lawful for the Commissioners for the Time being or either of them, or any Justice of the Peace for the *Isle of Ely*, to administer; and the said Oath or Affirmation so taken and subscribed shall be annexed to and enrolled with the Award of the said Commissioners, and a Copy of the Enrolment thereof shall be admitted as legal Evidence.

What shall
be a Refusal
of a Com-
missioner to
act.

V. And be it further enacted, That if any Commissioner named or appointed by or under the Authority of this Act, and not being prevented by Sickness or other unavoidable Cause, shall neglect to attend any Two successive Meetings appointed to be held under this Act by the Commissioners for the Time being, such Neglect shall be deemed an absolute Refusal on the Part of such Commissioner to act or proceed further in the Execution of this Act.

Appointment
of Surveyor.

VI. And be it further enacted, That it shall be lawful for the said Commissioners to appoint a Surveyor for the Purposes of this and the said recited Acts; and in case of the Death, Refusal, Neglect, or Incapacity of the Person so appointed to act as such Surveyor whilst the Powers of this and the said recited Acts are carrying into execution, then the Commissioners for the Time being shall be and they are hereby authorized to appoint another Surveyor in his Stead, and so from Time to Time to make a new Appointment as often as the said Office shall be vacant by reason of the Death, Refusal, Neglect, or Incapacity to act of any Surveyor; but no Commissioner acting in the Execution of the Powers hereby given shall be employed to act as Surveyor in the Execution of this or the said recited Acts during the Time he shall so act as Commissioner.

Allowance to
Surveyor.

VII. And be it further enacted, That it shall be lawful for the Commissioners for the Time being to allow the Surveyor for the Time being acting under this Act 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 Pounds Two Shillings for each and every Day he shall be actually and wholly employed

ployed in the Business of the said Division, Allotment, and Inclosure, exclusive of the said Survey; and which said several Allowances shall be in full Satisfaction for the Time, Trouble, and all the travelling and other Expences of such Surveyor in and about the Execution of this Act and the said recited Acts.

VIII. And be it further enacted, That no Person shall be capable of acting as a Surveyor in the Execution of this Act until he shall have taken and subscribed the Oath or Affirmation following; (that is to say,) Oath to be taken by Surveyor.

I do sincerely promise and swear, [*or, being one of the People called Quakers, do solemnly affirm,*] That I will act in the Execution of the Powers, Authorities, and Trusts reposed in me as Surveyor by virtue of an Act passed in the Fifth Year of the Reign of His Majesty King *William* the Fourth, intituled [*here insert the Title of this Act*], truly, impartially, and honestly, according to the best of my Skill, Judgment, and Ability, without Favour or Affection, Prejudice or Malice, to any Person or Persons whomsoever. So help me GOD.
[*Or, being a Quaker, omit the Words, 'So help me God.'*]

Which Oath or Affirmation the said Commissioners are hereby authorized to administer to the said Surveyor; and the Oath or Affirmation so taken and subscribed by such Surveyor shall be annexed to and enrolled with the Award of the said Commissioners.

IX. And be it further enacted, That it shall be lawful for the Commissioners for the Time being to make use of, for the Purposes of the said Division, Allotment, and Inclosure, any Surveys, Maps, or Plans of the said Lands and Grounds or any of them, provided such Surveys, Maps, or Plans be properly authenticated to the Satisfaction of the said Commissioners. Existing Surveys, Maps, &c. may be made use of.

X. And be it further enacted, That the Commissioners for the Time being shall have the Power and they are hereby authorized to appoint some proper Person to be their Clerk to assist them in the Execution of this Act and the said recited Acts, and from Time to Time to remove such Clerk and appoint another Person in his Stead as to the said Commissioners shall seem fit; and every such Clerk shall be paid and allowed, out of the Monies to be raised for putting this Act into execution, such Sum or Sums of Money as herein-after mentioned for his Time, Trouble, and Expences in the Assistance to be given by him as aforesaid. Appointment of Clerk.

XI. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same and the said recited Acts, the said Commissioners and Umpire and the Clerk to the said Commissioners shall respectively be paid for each Day they shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts the Sum of Three Pounds and Three Shillings, and no more, during the first Two Years next after the passing of this Act, and after the Expiration of the said Two Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, for each Day they shall respectively be employed as aforesaid, in full Satisfaction for their Time, Trouble, and Expences in carrying this Act
[*Private.*] Allowance to Commissioners, Umpire, and Clerk.

and the said recited Acts into execution, other than and except the Expences for the Use of Rooms in which the Meetings of the said Commissioners shall be holden, and the Costs and Expences of preparing the Award of the said Commissioners, and of Notices and Advertisements.

Regulating
the Duration
of Meetings.

XII. And for regulating the Duration of all Meetings to be holden for the Purposes 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 any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours (as the Case may be) shall be charged only as Half a Day, and the said Commissioners and Umpire and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk, in which shall be entered the several Days on which the said Commissioners and Umpire shall hold the Meetings, and at what Hours the said Commissioners and Umpire were respectively present thereat, and at what Hour they severally left and adjourned the same, and such Book shall be signed by the said Commissioners or Umpire at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the said Allotment and Inclosure, their Agents or Attornies, during the several 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: Provided always, that it shall not be lawful for the said Commissioners to retain or pay themselves or their Clerk, out of any Monies to be received by him, or over which they may have any Control, in the Execution of this Act, any Sum or Sums of Money on account of the Allowances herein-before directed to be made to such Commissioners 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 to be made in pursuance of this Act, or in case the Accounts of the said Commissioners 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 Commissioners or either of them, or of the said Clerk, previous to the Execution of the said Award, the Commissioners for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts hereinafter directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or Commissioners, or of such deceased Clerk, such Sum of Money as shall appear by the said Accounts to be due thereon.

Proprietors
to pay their
own Expences
at Meetings.

XIII. Provided always, and be it further enacted, That all Proprietors and Persons interested in the said Allotment and Inclosure, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend at any of the Meetings to be held in pursuance of this Act.

Notice and
Adjournment
of Meetings.

XIV. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice to be given in some One Newspaper printed and circulated in the said County of *Cambridge*, and also by a Notice affixed upon One of the principal Doors of the Parish Church of *Strettham* aforesaid on some *Sunday* before Divine Service, of the Time

and Place of their First and every subsequent Meeting for executing the Powers hereby and by the said recited Acts vested in them, at least Seven Days before any such Meeting shall be held (Meetings by Adjournment only excepted), and the said Commissioners shall and may adjourn such Meetings from Time to Time as they shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings of the said Commissioners for executing this Act shall be held at some convenient Place in the said Parish of *Stretham*, or in the City of *Ely* in the said *Isle of Ely*.

XV. Provided always, and be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioners (except in Cases where such Notice is directed to be given otherwise in and by this Act) shall be given by Advertisement to be inserted in some one Newspaper printed and circulated in the said County of *Cambridge*, or by affixing such Notice on the principal outer Door of the Parish Church of *Stretham* aforesaid.

How other Notices are to be given.

XVI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties who now are or before the Execution of the Award of the said Commissioners may be interested in the said intended Division and Allotment touching their respective Rights and Interests in the said Lands to be divided and inclosed or allotted by virtue of this Act, or any other Matter or Thing relating to the said intended Division, Inclosure, or Allotment, it shall be lawful for the said Commissioners and they are hereby required, upon Examination of Witnesses upon Oath (which Oath the said Commissioners are hereby authorized to administer), or of any other proper Evidence, to inquire into, hear, and determine the same: Provided always, that nothing herein contained shall authorize or empower the said Commissioners to determine the Title to any Lands, Tenements, Hereditaments whatsoever, nor to determine any Right between any of the Parties contrary to the Possession of such Parties, except in Cases of Encroachment as herein-after mentioned; but in case the said Commissioners shall be of opinion against the Right of the Party so in Possession they shall forbear to make any Determination thereupon until the Possession shall have been given up by such Party, or recovered from such Party by Ejectment or other due Course of Law.

Commissioners to settle Disputes.

XVII. And be it further enacted, That in case the said Commissioners shall, upon the hearing or determining of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of the said first-recited Act or of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made by the Party or Parties whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs or Charges, shall refuse or neglect to pay the same on Demand, then it shall be lawful for the said Commissioners and they are hereby authorized and required, by

Power to award Costs.

Warrant

Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and if there shall not be any Goods or Chattels whereon to levy the same, or in case the Party ordered to pay such Costs be a Body Politic, Corporate, or Collegiate, then and in either of the said Cases it shall 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 Action or Actions 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 Commissioners, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Allowing
Parties to
try their
Rights at
Law.

XVIII. 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 Division and Allotment, shall be dissatisfied with any Determination of the said Commissioners for the Time being touching or concerning any Claim or Claims of Right of Common, or other Rights and Interests, in, over, or upon or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part or Parts thereof, or touching or concerning any Matter or Thing whatsoever relating to the Division, Allotment, or Inclosure by this Act directed, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with any such Determination, to cause an Action to be brought in one of His Majesty's Courts of Record at *Westminster* upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioners shall have been notified in Writing to the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, against whom such Determination shall have been made, or to his, her, or their known Agent or Attorney; and the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied as aforesaid, shall proceed to a Trial at Law of the Matter so determined by the said Commissioners at the next or the second Assizes to be holden for the said County of *Cambridge* after such Action or Actions shall have been so commenced; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, Objection or Objections, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Persons and Person, Bodies and Body Politic, Corporate, and Collegiate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such

such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases ; and after such Verdict or Verdicts shall be obtained and not set aside by the Court the said Commissioners shall and they are hereby 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 if no such Action at Law as aforesaid shall be commenced within the Time herein-before limited, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time and in the Manner herein-before mentioned, then the Determination of the said Commissioners shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

XIX. Provided also, and be it further enacted, That if any of the Parties, Plaintiffs or Defendants, 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 ; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate respectively, who might have brought such Action against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action in the same 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 in the Name or Names of the Person or Persons so dead ; and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of every such Action.

Deaths of Parties not to abate Actions.

XX. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching or concerning the Right, Title, or Interest of any Person or Persons or Party or Parties in or to any Lands, Tenements, Tithes, or Hereditaments whatsoever for or in respect of which any Right of Common or other Rights or Interests in, over, or upon the said Lands hereby directed to be divided and inclosed or allotted, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, or hinder the said Commissioners from proceeding in the Execution of the Powers vested in them by this Act or the said recited Acts, but the said Division and Allotment shall be proceeded in notwithstanding such Suit or Suits, and the said Commissioners shall award the Allotment or Allotments in respect of the Hereditaments to which such Suit or Suits shall relate to the Person or Persons, Party or Parties, who shall be in the actual Possession or Enjoyment of such Hereditaments, and the same Allotment or Allotments shall follow the Event of any such Suit or Suits,

Suits not to delay the Execution of the Act.

[*Private.*]

and may be had and taken by the Person or Persons or Party or Parties who, upon the Determination of such Suit or Suits, shall become entitled to the same.

Deaths of Parties not to delay the Execution of the Act.

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

Extinguishment of Rights of Common.

XXII. And be it further enacted, That it shall be lawful for the said Commissioners, by Notice for that Purpose under their Hands to be affixed on One of the outer Doors of the Parish Church of *Stretbam* aforesaid on the *Sunday* previous to the Meeting by this Act appointed to be held for receiving Objections to Allotments, and before Divine Service, to order the Rights of Common in, upon, and over the Lands and Grounds hereby directed to be divided and inclosed or allotted, or any Part thereof, to be extinguished; 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 shall cease and be extinguished accordingly, any Law, Usage, or Custom to the contrary thereof notwithstanding.

Power to shorten Boundary Fences.

XXIII. And be it further enacted, That for the Purpose of shortening or rendering straight the Boundary Fences between the Lands and Grounds by this Act directed to be divided and inclosed or allotted and the old inclosed Lands in the said Parish of *Stretbam*, or between such Allotments and inclosed Lands, or any of them, and the Lands and Grounds in any adjoining Manor, Parish, or Place, it shall be lawful for the said Commissioners, with the Consent of the Lord or Lords, Lady or Ladies of the Manor or Manors in which the Lands are respectively situate, and the Owners of the Lands adjoining to such Boundary Fences, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate, to alter and straighten or shorten the same Boundary Fences or any of them, or any Part or Parts thereof, and to set out, ascertain, and determine such Boundaries as the said Commissioners shall think proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, and determined, the same shall be made, fenced, ditched, or mounded by such Person or Persons in such Manner and at such Time or Times as the said Commissioners shall order and direct; and such Boundaries shall for ever thereafter be deemed and taken to be the Boundaries between the said Allotments and inclosed Lands respectively, or (as the Case may be) between the said Parish of *Stretbam* and any adjoining Manor, Parish, or Place; any Law, Usage, or Custom to the contrary notwithstanding.

XXIV. And

XXIV. And be it further enacted, That the said Commissioners shall and may set out, appoint, and make such Common Ponds, Catchwater and other Drains, Ditches, Watercourses, Tunnels, and Banks, in, through, over, and upon the Lands and Grounds hereby directed to be divided and inclosed or allotted, and such Bridges over any Watercourses through or adjoining the same, and also enlarge, alter, turn, scour, and cleanse all or any of the present Drains, Ditches, or Watercourses, as to them the said Commissioners shall seem proper and necessary; and the Costs and Expences of making, enlarging, widening, altering, turning, scouring, and cleansing of such Ponds, Drains, Ditches, 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 Commissioners 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, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, scoured, and maintained by such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, and in such Manner, as the said Commissioners shall in and by their said Award order and direct.

Commis-
sioners to set
out Drains
and Water-
courses.

XXV. 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 Commissioners shall and they are hereby authorized and empowered, if they 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 passing or leading through or over any of the Lands or Grounds intended to be divided, inclosed, or allotted by virtue of this Act.

Power to stop
up Roads.

XXVI. And be it further enacted, That the Charges and Expences attending the stopping up, discontinuing, or diverting such Roads 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 how to
be defrayed.

XXVII. And be it further enacted, That when and so soon as any of the public Roads to be set out by virtue of the said first-recited Act and this Act shall be made and completed it shall be lawful for any Two or more of His Majesty's Justices of the Peace for the said *Isle of Ely*, if they shall think fit, from Time to Time to certify and declare under their Hands and Seals any of such public Carriage Roads so to be set out to be fully and sufficiently formed, repaired, and completed; and such Road or Roads, or so much thereof as shall in any such Certificate be described or certified, shall thenceforth be supported and kept in repair by such Persons and in like Manner as the public Roads within the said Parish of *Stretham* are or ought to be by Law amended and kept in repair; and every such Certificate shall, at the General Quarter Sessions of the Peace to be holden for the *Isle of Ely* after the Date thereof, be filed of Record by the Clerk of the Peace for the said *Isle of Ely*.

Justices may
certify Roads
in part.

XXVIII. And be it further enacted, That all Encroachments or Inclosures taken or made from or on any Part of the said Lands hereby directed to be divided and inclosed or allotted within Twenty Years next before

Encroach-
ments within
Twenty
Years to be
before

considered as
allotable
Land.

before the passing of this Act, and all other Encroachments or Inclosures at any Time taken or made from or on any Part of the said Lands, for which any annual Rent, or other Money Payment or Acknowledgment, shall have been assessed or made within Twenty Years next before the passing of this Act, shall be deemed Part and Parcel of the Lands by this Act directed to be divided and inclosed or allotted; and in case any Dispute shall arise touching any such Encroachments or Inclosures, or the Extent or Duration thereof, such Dispute shall be settled and determined by the said Commissioners.

Commis-
sioners to
direct the
Course of
Husbandry.

XXIX. And be it further enacted, That the said Commissioners shall, so soon after the passing of this Act as conveniently may be, and from Time to Time as they shall think fit, by Writing under their Hands to be affixed on One of the outer Doors of the Parish Church of *Stretham* aforesaid, order and direct what Course of Husbandry, and what Stint or Rule of stocking and enjoying, shall be respectively observed and used in, over, and upon the Lands to be divided, allotted, and inclosed by virtue of this Act, until such Time as they shall have completed the said Division, Allotment, and Inclosure, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking and feeding the Commonable Lands and Fallows or Stubbles upon the said Lands or Grounds, and to make such Recompence for the same as they shall think right, and shall and may make such further Orders and Regulations touching the Conduct of the Farmers and Occupiers within the said Parish of *Stretham* for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking any of the said Lands or Grounds to be divided, allotted, and inclosed, until the said Division, Allotment, and Inclosure shall be completed, as to the said Commissioners shall seem proper and expedient, all which Orders and Regulations shall be binding and conclusive upon all Parties interested therein, Farmers and Tenants; and the said Commissioners shall and may set and impose such pecuniary Penalties and Forfeitures on every Person not conforming to such Orders and Regulations as they shall think necessary, not exceeding the Sum of Five Pounds *per* Acre in case of cross-cropping or withholding from the Land its due Proportion of Manure, or Ten Pounds in any other Case, for any One Offence, and shall and may also settle, adjudge, and determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the Lands in his Occupation, by whom such Tenant shall be compensated for any such Manure left or given up by him; and such Penalties, Forfeitures, and other Sum and Sums of Money so to be settled, ordered, adjudged, and determined to be paid for or on account of the several Matters and Things aforesaid shall be recovered and recoverable in the Manner directed in and by the said first-recited Act with respect to the levying and Recovery of Penalties.

Satisfaction
to be made
for growing
Crops.

XXX. And be it further enacted, That the said Commissioners shall and they are hereby authorized by Writing under their Hands to ascertain, order, and appoint what Recompence or Satisfaction in Money shall be made to the Owner or Owners of any Crops growing, according to the customary Mode of Cultivation within the said Parish, upon the Lands or Grounds hereby directed to be divided, allotted, or inclosed, at the Time such Division and Allotment shall be made, for the said Crops, by the
Person

Person or Persons to whom the Lands and Grounds on which such Crops are growing shall be allotted, unless such Owner or Owners shall, within the Time to be appointed by the said Commissioners for that Purpose, declare his, her, or their 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 in manner to be directed by the said Commissioners, or in case of such Election to cut, reap, and take away the same, then it shall be lawful for such Owner or Owners, and his, her, or their Servants and Workmen, with Horses, Carts, and Carriages, to enter into and upon the Lands and Grounds whereon such Crops shall be growing, and reap, cut, and carry away the same for his, her, or their own Use; and the said Commissioners shall also and they are hereby empowered, by any Writing or Writings under their Hands, to ascertain, order, and appoint what Recompence and Satisfaction in Money shall be paid, and to whom, for the Standage of such Crops by the Owner or Owners electing to carry away the same as aforesaid, and also what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Tenants or Occupier or Occupiers of any Land, as well for ploughing, tilling, manuring, or folding any of the Lands and Grounds which shall be divided and inclosed or allotted by virtue of this Act, for the Benefit and Advantage accruing thereby to the Person or Persons to whom such Lands and Grounds shall be allotted, as for any Loss or Disadvantage which any such Tenant or Tenants, Occupier or Occupiers, shall or may sustain by the Loss of their following or way-going Crops upon the Lands or Grounds 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 as aforesaid by the said Commissioners, it shall be lawful for the said Commissioners and they are hereby authorized and required to raise and levy the same for the Use of the Person or Persons entitled thereto by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are herein directed to be raised, levied, and recovered.

XXXI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, in the first place, to set out and allot unto the said Lord of the Manor of *Stretham*, for and in lieu of and as a Compensation for his Right and Interest in the Soil of the Waste Lands and Grounds within the said Parish, so much and such Part or Parts of the said Lands hereby authorized to be divided and inclosed as in the Judgment of the said Commissioners shall be equal to One Twentieth Part of the said Waste Lands.

Allotment
in lieu of
Right of Soil.

XXXII. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next place, to set out and allot unto and for the said Rector of the said Rectory of *Stretham* such Parcels of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as in the Judgment of the said Commissioners shall be a full Equivalent and Compensation for the Glebe Lands and Right of Common respectively belonging to the said Rector; and that a Portion of the Lands and Grounds so to be set out and allotted shall consist of certain Lands in *Crouch* or *Berry Green Field* and *Whitecross* or *Kate Fisher's Field*, which abut North on a certain Way called *Millway*, East on a Mill next

Allotment to
the Rector in
lieu of Glebe
and Right of
Common.

[Private.]

the *Ely* Turnpike Road and a Cottage and Garden adjoining it, and West on a Mill belonging to *Read Tansley Camps* Gentleman; and that the Residue (if any) of the Lands and Grounds so to be set out and allotted shall be situate in *Crouch* or *Berry Green Field* aforesaid, or *Whitecross* or *Kate Fisher's Field* aforesaid, in such a Situation as the said Commissioners shall think fit.

In case Lands allotted to the Rector exceed the Value of the Glebe.

XXXIII. Provided always, and be it further enacted, That if the said Commissioners shall be of opinion that the Lands so to be set out and allotted to the said Rector shall exceed the Value of the Glebe Land and Right of Common belonging to the said Rectory, then the Allotment to be set out to the said Rector in lieu of Tithe shall be reduced according to such Excess in Value.

Allotment to Rector in lieu of Tithes.

XXXIV. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next place, to set out and allot unto and for the said Rector, for and in lieu and satisfaction of and for the Great and Small Tithes yearly arising, issuing, or renewing out of all and every the Commonable and other Lands and Grounds within the said Parish of *Strétham* which, under the Provisions of this Act, shall be divided and inclosed, and out of any Homesteads, Gardens, Orchards, and other ancient Inclosures, Lands, and Grounds within the same Parish, belonging to any Person being a Proprietor of Commonable or other Lands or Grounds which shall be divided and inclosed under the Provisions of this Act, (save and except the Plot of Land called the *Hundred Acres*, formerly Part of the Commons of the said Parish,) and all the old inclosed Fen Lands within the said Parish, (other than such Parts thereof as are mentioned in the Schedule to this Act,) such Plot or Plots, Parcel or Parcels of the said Lands so to be divided and inclosed as shall in the Judgment of the said Commissioners be equal to One Fifth Part in Value of all Arable Lands and Grounds, and One Eighth Part in Value of all Meadows, Pastures, Commonable and other Lands and Grounds subject to the Payment of Tithes in Kind, after deducting the Lands or Grounds to be set out for Roads; which said Plot or Plots, Parcel or Parcels of Land, shall be taken and deducted from and out of the said Lands so to be divided and inclosed, and shall be in full Satisfaction and Discharge of and for the several Great and Small Tithes arising, issuing, and renewing from and out of the same, and the said Homesteads, Gardens, Orchards, and other ancient Inclosures, Lands, or Grounds, except as aforesaid.

What shall be deemed Arable Land.

XXXV. Provided always, and be it further enacted, That the said Commissioners, in valuing and ascertaining the Amount of Tithes, shall not in any Case deem and consider as Meadow or Pasture Lands any Lands or Grounds which shall have been in Tillage at any Time within the Space of Seven Years immediately preceding the passing of this Act, save and except that, as to certain Lands called *Holt-fen-open-Severals*, one Moiety thereof shall be deemed to be Arable Land, and the remaining Moiety thereof Pasture Land, and save and except that, as to the several Parcels of Land described in the Schedule to this Act, One Third Part thereof respectively shall be deemed to be Arable Land, and the remaining Two Third Parts thereof respectively Pasture Land.

XXXVI. Pro-

XXXVI. Provided always, and be it further enacted, That until the said Allotments for and in lieu of Tithes shall be made and set out in pursuance of this Act, and until Possession thereof shall be authorized to be taken, or until such other Time as the said Commissioners shall appoint by Writing under their Hands, such Tithes or Payments and Compositions in lieu of Tithes shall continue payable to and be received and enjoyed in such Manner as they would or might have been payable, received, and enjoyed respectively in case this Act had not been passed; and if any Dispute or Difference shall arise between any Persons touching or concerning the Proportion of Tithes, or other Payments or Compositions in lieu of Tithes, which ought to be rendered or paid for or in respect of the Time which shall have elapsed between the last Day of rendering such Tithes or Payment of such Compositions and the Time of making and setting out and authorizing Possession to be taken of the Allotments to be made in lieu thereof in pursuance of this Act, the said Commissioners shall and they are hereby authorized and required, on Application to them made for that Purpose either before or after the Execution of their Award, to hear and finally determine the same.

Tithes and Compositions to be rendered and be payable until the Allotments are set set out and Possession authorized to be taken.

XXXVII. Provided also, and be it further enacted, That the said Commissioners, in setting out and allotting such Plots or Parcels of Land in satisfaction of the said Great and Small Tithes, shall take into consideration and deduct the Value of Two Pieces of Land called *Parson's Holt* and *Holt-fen Severals Allotment*, formerly decreed or given to the then Rector of the said Parish in lieu of or in part Compensation for the Tithes of such Commonable Lands as are situate in certain Fens called *Lazier Fen, Holt Fen, or Chear Fen*.

Allowance to be made for Land now enjoyed by Rector in lieu of Tithes.

XXXVIII. And be it further enacted, That in case there are any Homesteads, Mills, Gardens, Orchards, or inclosed Lands or Grounds in the said Parish, subject to or liable to the Payment of Tithes in Kind, the respective Proprietors whereof shall not happen to be entitled to any or a sufficient Quantity or Share of any Lands and Grounds divided and inclosed under the Authority of this Act to make Compensation for such Tithes, such Proprietors shall respectively pay or cause to be paid unto the Rector for the Time being (where such Proprietors shall not be entitled to any Lands or Grounds so divided and inclosed), and in other Cases to such Person or Persons and at such Time or Times as the said Commissioners shall direct or appoint, such Sum or Sums of Money as in the Judgment of the said Commissioners shall be a just and full Compensation and Satisfaction for the Tithes of such Homesteads, Mills, Gardens, Orchards, or inclosed Lands or Grounds respectively, or such Part of the same for which the Proprietors thereof may not be possessed of Land or Common Right sufficient to make such Compensation as aforesaid, and which Sum or Sums of Money so paid to the said Rector shall be applied by him in like Manner as is herein-after provided with respect to the Monies to be raised or borrowed for erecting Buildings or Subdivision Fences on the Allotments to be made to the said Rector, and the said Proprietors shall also pay such Sum and Sums of Money as the said Commissioners shall determine to be just and fair for the Proprietors of such old inclosed Lands to contribute towards defraying the Costs, Charges, and Expences of obtaining and passing this Act and carrying the same into execution; and in case any Person or Persons shall refuse or neglect to pay such Sum

Proprietors of old Inclosures, &c. not having sufficient Open Field Lands, to make Compensation in Money for Tithes.

or

or Sums of Money at the respective Days and Times to be appointed for Payment thereof it shall be lawful for the said Commissioners, by any Warrant or Warrants under their Hands and Seals directed to any Person or Persons whomsoever, to cause such Sum or Sums of Money to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so making default in payment as aforesaid, wheresoever the same shall be found, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, the reasonable Charges of such Warrant, Distress, and Sale being first deducted, together with Interest after the Rate of Five Pounds *per Centum per Annum*, to be computed on such Sum or Sums of Money from the Time the same shall be directed by the said Commissioners to be paid as aforesaid; or otherwise it shall be lawful for the said Commissioners, or any Person or Persons authorized by them, to enter upon and take possession of the Lands or Tenements belonging to the Person or Persons so refusing or neglecting to pay as aforesaid, and which shall have been discharged from Tithes by virtue of this Act, and to receive and take the Rents and Profits thereof until thereby or therewith or otherwise such Sum and Sums of Money, and the Costs and Charges so ordered and directed by the said Commissioners to be paid by such Person or Persons as aforesaid, and all Interest on such Sum and Sums of Money, to be computed from the Time the same shall be by the said Commissioners directed to be paid as aforesaid, and also all Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the same Premises, shall be fully paid and satisfied; and all and every such Sum and Sums of Money, except such Parts thereof as shall be payable to the said Rector, shall be applied in payment of such Parts and Proportions of the Expences of obtaining and executing this Act as ought to be paid by the respective Persons whose Lands may be set out for discharging from Tithes such Homesteads, Mills, Gardens, Orchards, or inclosed Lands or Grounds; and in case such last-mentioned Sums and Sum of Money shall be more than sufficient to pay and discharge the said respective Proportions of the Costs, Charges, and Expences of obtaining this Act and of carrying the same into execution, the Residue and Remainder of such Sums and Sum of Money shall be divided amongst and paid to the several Proprietors of the said Lands whose Lands shall have been taken or appropriated for the Purpose of discharging Homesteads, Mills, Orchards, Gardens, or inclosed Lands or Grounds from Tithes, in such Proportions as they shall be respectively entitled thereto; and if any of such last-mentioned Proprietors of the said Lands shall not be a Tenant or Tenants in Fee Simple of his, her, or their Estates therein, then such Surplus Money shall be applied and disposed of in the same Manner as any Sum of Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses as the Lands so purchased or exchanged is by this Act authorized or directed to be applied and disposed of: Provided always, that nothing hereinbefore contained shall extend or be construed to extend to entitle any Owners of uninclosed Rights of Common or of Open Field Land allotted, subject to Tithe, to commute the Tithes of any Homesteads, Mills, Gardens, Orchards, or inclosed Lands belonging to such Owners.

XXXIX. And be it further enacted, That it shall and may be lawful for the Husbands, Guardians, Trustees, and Committees, or Attornies of such Proprietors being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability, and for any of the said Proprietors being Tenants in Tail or for Life or Lives, or for Years determinable on any Life or Lives or any other Contingency, to charge the Lands or Grounds which shall be exonerated from Tithes as aforesaid with such Sum or Sums of Money so to be paid for such Exoneration, and the Proportion of the Costs and Expences incident to and attending this Act and carrying the same into execution in respect of such Exoneration, and to grant, mortgage, surrender, lease, or demise, or otherwise subject the Lands and Grounds so to be charged unto the Person or Persons who shall advance and lend such Sum or Sums of Money respectively, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money so advanced, thereby to be secured, with Interest for the same; or in case any Person or Persons in Possession who shall or may be liable to or charged with a Share of the Expences as aforesaid, or enabled by this or the said first-recited Act to charge such Lands and Grounds with the same, shall choose to advance, pay, and discharge such Sum and Sums of Money, then it shall be lawful for the said Commissioners, by any Deed or Writing under their Hands and Seals, to be attested by Two or more credible Witnesses, in like Manner to grant, mortgage, surrender, lease, or demise, or otherwise subject the said Lands, Tenements, and Hereditaments to such Person or Persons respectively paying and discharging the same, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money so advanced, paid, and discharged by him or them, with Interest for the same, to commence on the Termination of his, her, or their Right in the Premises, so that every such Grant, Mortgage, Surrender, Lease, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when such Sum or Sums of Money thereby to be secured shall be fully paid and satisfied, and also with a Covenant to pay and keep down the Interest, so that no Person or Persons afterwards becoming possessed of or entitled to any such Lands, Tenements, or Hereditaments shall be liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced; and every such Charge, Grant, Mortgage, Surrender, Lease, or Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Power for Tenants for Life, &c. of old Inclosures to charge their Estates with a Compensation for Tithes, &c.

XL. Provided nevertheless, and be it further enacted, That if the Owners or Proprietors of any such old Inclosures, not having any or sufficient Interest in the Lands and Grounds hereby directed to be divided and inclosed to discharge their Homesteads, Gardens, Orchards, or inclosed Lands or Grounds from the Payment of Tithes, shall be desirous of having a Part of such inclosed Lands or Grounds assigned or set apart to discharge their Homesteads, Gardens, Orchards, or inclosed Lands from the Payment of Tithes, it shall be lawful for the said Commissioners and they are hereby authorized and empowered, with the Consent of the Proprietors or Owners in Fee or in Tail or for Life, in Possession of such inclosed Lands, (to be signified in Writing under their Hands at or pre-

Part of the inclosed Lands, &c. may be given by consent to commute the Tithes of the Remainder.

[Private.]

viously to such Time as shall be appointed by the said Commissioners for receiving such Consents,) to deduct and set out so much and such Part or Parts of such old Inclosures as shall be equal in Value to the Tithes payable by the Owner or Owners of such inclosed Lands in respect of his, her, or their respective Homesteads, Gardens, Orchards, and inclosed Lands within the said Parish, or such Part or Parts of them for which Compensation cannot be made as before mentioned; which Part or Parts of such inclosed Lands so deducted and set apart shall be considered as Part of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and shall be divided, allotted, and inclosed accordingly as Part thereof; and such Deductions shall for ever thereafter be deemed, taken, and considered to be a full Satisfaction for and Discharge from the Payment of such Tithes.

Allotments to the Rector to be fenced at the general Expence.

XLI. And be it further enacted, That the Allotments herein directed to be made to the Rector of the said Parish in respect of and in lieu of Tithes, Glebe Land, or Right of Common shall be inclosed, mounded, and fenced round with such Hedges, Ditches, Mounds, or other Fences as the said Commissioners shall think proper; and the Expences thereof shall be raised and paid in like Manner as the Expences of obtaining this Act and carrying the same into execution are herein directed to be raised and paid; and such several Hedges, Ditches, Mounds, and Fences shall for ever thereafter be maintained and supported by and at the Expence of such Person or Persons and in such Manner as the said Commissioners shall in and by their Award direct and appoint.

Rector to be exonerated from Keep of Bull and Boar.

XLII. And be it further enacted, That after the Allotments for Glebe Lands and Right of Common and Tithes are set out the said Rector and his Successors shall be for ever exonerated from keeping a Bull and Boar for the Use of the present or future Owners or Occupiers of any Homesteads, Lands, or Grounds within the said Parish of *Stretbam*; and that the said Commissioners shall consider and determine what Compensation ought to be made to the Owners of any Rights of Common or Open Field Land which may remain uninclosed for being deprived of the Use of the said Bull and Boar, and shall make such Compensation by increasing the Portion of the Commons and Field Land to be set out for such Owners, or in such other Way as the said Commissioners may think fit, and reducing the Allotment to be made to the said Rector in lieu of Tithes in the same Proportion.

For erecting Buildings on the Rector's Allotment.

XLIII. And whereas, in order to the convenient and advantageous Occupation of the Allotment or Allotments to be set out to the Rector of the said Rectory as aforesaid, and to render the same of greater Value, it may be necessary that Farm Buildings and Conveniences should be erected thereon, and that the same Allotment or Allotments should be divided with proper Hedges, Ditches, Mounds, or other sufficient Fences, with Gates or Stiles in the said Fences, and Arches and Watercourses where requisite; And whereas the erecting of such Buildings and Conveniences, and the subdividing of the said Allotment or Allotments, will probably be more beneficial to the Successors of the said Rector than to himself; be it therefore further enacted, That it shall be lawful for the said Rector and his Successors, by and with the Consent in Writing of the Bishop of the Diocese for the Time being, to erect and make, or

cause to be erected and made, such Farm Buildings and Conveniences, Subdivision Fences, Ditches, Drains, Arches, and Watercourses, Gates and Stiles, upon the Allotment or Allotments so as aforesaid to be set out and allotted unto the said Rector and his Successors, as the said Rector for the Time being, with the Consent in Writing of the said Ordinary, shall think necessary and proper for the Occupation of the Lands to be allotted to the said Rector and his Successors (which Buildings and Conveniences the said Rector and his Successors are hereby required to cause to be insured equal to the Value thereof annually in some of the Offices in *London* established for Insurance from Fire); and for raising Money to defray the Expences thereby occasioned it shall be lawful for the said Commissioners and they are hereby required, upon the Request in Writing of the Rector for the Time being, and with the Consent in Writing of the said Bishop, to sell or dispose of, either by public Auction or private Contract, for the most Monies that can be reasonably obtained for the same, and to convey and assure, so much and such Part or Parts, not exceeding in the whole, in the Judgment of the said Commissioners, One Tenth Part in Value of the Lands and Grounds to be allotted to the said Rector and his Successors by virtue of this Act, as in the Judgment of the said Commissioners shall be deemed sufficient to raise a competent Sum for the Purposes aforesaid, and for paying the Expences attending such Sale; and the Purchaser or Purchasers paying such Purchase Monies shall not be obliged to see to the Application or be in anywise answerable for the Misapplication or Nonapplication thereof or of any Part thereof, but shall be effectually discharged by the Receipt or the Receipts of the said Commissioners for the same; and the Monies arising from such Sale or Sales shall be laid out and expended, under the Direction and with the Approbation of the said Commissioners, for the Purposes aforesaid; and thereupon and so soon as such Farm Buildings and Conveniences, Subdivision Fences, Ditches, Drains, Arches, and Watercourses, Gates and Stiles, shall have been completed respectively, the same shall be repaired, amended, maintained, upheld, and supported by the said Rector for the Time being, and, if necessary, rebuilt and reinstated by him and them, in the same Manner as other Buildings upon or belonging to the said Rectory; and in the meantime, and until the same Monies shall be so laid out and expended, the same or so much thereof as can shall be invested by the said Commissioners in Exchequer Bills, to be deposited in the Hands, Custody, and Possession of some *London* Banker or Bankers to be mutually named by the said Rector and the said Ordinary by some Writing addressed to the said Commissioners under the respective Hands of the said Rector and the said Ordinary, which shall from Time to Time be sold by Order of the said Commissioners as required; and upon Payment of the full Purchase Money or Purchase Monies for such Allotment or Allotments, or Part or Parts thereof, the Purchaser or Purchasers shall respectively have and take to himself, herself, or themselves, and his or their respective Heirs and Assigns, an absolute Estate of Inheritance in Fee Simple of and in the Land or Hereditaments which shall be comprised in such his, her, or their respective Purchase or Purchases, and for which such Consideration of Money shall have been paid as aforesaid; and the same Land or Hereditaments to be so sold as aforesaid shall be conveyed and assured unto the respective Purchaser or Purchasers thereof, and a Conveyance or Conveyances thereof made and executed by the said Commissioners shall be valid and effectual in Law to vest the same in such respective Purchaser or Purchasers

Purchasers thereof, his Heirs and Assigns, discharged of and from all other Titles, Charges, and Incumbrances whatsoever; and in case there shall be any Overplus of the said Purchase Monies remaining after answering all the Purposes aforesaid, the same shall be applied and disposed of in the same Manner as any Sum of Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands and Hereditaments to be settled to the same Uses as the Lands so purchased or exchanged, is by this Act authorized or directed to be applied and disposed of; but in case it shall appear to the said Rector for the Time being and the said Ordinary inexpedient or disadvantageous to the said Rectory that the Sale of any Part of such Allotment should be made for the Purposes aforesaid, then it shall and may be lawful to and for the said Rector and his Successors, by any Deed or Deeds, Writing or Writings, under his or their Hand and Seal or Hands and Seals, and attested by Two or more credible Witnesses, by and with the Consent in Writing of the said Ordinary, to charge such Allotment or Allotments so as aforesaid to be set out for the said Rector and his Successors, and the Buildings and Conveniences so to be erected thereon, with such Sum or Sums of Money, not exceeding Two Years clear Income, as the said Commissioners shall think necessary for the Purposes of and in order to be applied for paying and defraying the Charges and Expences of erecting and making the said Farm Buildings, Conveniences, Subdivision Fences, Ditches, Drains, Arches, and Watercourses, Gates and Stiles, and in applying for and obtaining the Consent of the Ordinary of the Diocese, and in the Exercise of the Powers given to and vested in the said Rector for the Time being by virtue of this Act and the said recited Acts, which Sum or Sums of Money shall be paid to such Person or Persons as the said Commissioners shall nominate or appoint, in order to be applied or disposed of accordingly, and for securing the Repayment of such Sum or Sums of Money, with Interest for the same, to grant, mortgage, lease, or demise the Allotment or Allotments so as aforesaid to be set out unto and for the said Rector and his Successors, and the Buildings and Conveniences so to be erected thereon, unto such Person or Persons who shall advance and lend the same, his, her, and their Executors, Administrators, and Assigns, for any Term or Number of Years, so as every such Grant, Mortgage, Lease, or Demise be made with a Proviso to cease and be void, or with an express Trust or Condition to be surrendered, when the Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be respectively paid and fully satisfied; and such Mortgagee or Mortgagees advancing and lending the Money so to be borrowed shall not be obliged to see to the Application or be anyways answerable for the Misapplication of such Monies or any Part thereof; and the said Rector and his Successors for the Time being shall be and is hereby required and made liable, at the End of every Year after the Commencement of the said Term of Years, to pay to the Person or Persons to whom such Grant, Mortgage, Lease, or Demise shall be made, his, her, or their Executors, Administrators, or Assigns, One Fortieth Part of the Principal Money so to be borrowed, until the whole thereof shall by such annual Payments be paid off and discharged, and also to pay and keep down the Interest of the said Monies so to be borrowed; and it shall and may be lawful to and for the Person or Persons who shall advance and lend such Monies, his or their Executors, Administrators,

nistrators, and Assigns, for the more easily recovering the said One Fortieth Part of the said Principal and the whole of the Interest which is required annually to be paid, to have, use, exercise, and take such and the same Powers and Remedies, by Entry and Distress upon the Premises so to be charged, mortgaged, and demised, and by Sale of such Distress, as by the Laws now in force are provided for and given to Landlords for Recovery of Rents in arrear: Provided always, that in case any such Entry shall be made in order to distrain for the said Principal and Interest, or any Part thereof, as last aforesaid, the respective Tenants of the said mortgaged Premises on which such Entry shall be made shall and may and they are hereby authorized to pay such Principal and Interest, and the reasonable Costs of such Entry, and deduct the same from the Rents payable by them to the said Rector and his Successors in respect of the said Premises.

XLIV. And be it further enacted, That the said Commissioners shall apportion, divide, set out, and allot the Residue and Remainder of the said Lands and Grounds by this Act directed or authorized to be divided and inclosed or allotted unto and amongst the several Persons, and Bodies Politic, Corporate, or Collegiate, who at the Time of making such Allotments shall be entitled to any Estate, Right, or Interest therein, in such Quantities, Shares, Proportions, and Situations as by the said Commissioners shall be adjudged and determined to be a just and equitable Compensation and Satisfaction for their several and respective Lands, Grounds, Rights of Common, and Interests therein, after making such Compensation for Tithes as is herein provided; and the said Allotments shall be fenced in, and the several and respective Mounds and Fences for dividing and inclosing the same shall be made, and for ever thereafter maintained and supported, in such Manner as the said Commissioners shall in and by their Award order and direct.

Allotment of
the Residue.

XLV. Provided always, and be it further enacted, That in case the Owners of any Rights of Common or other Commonable Rights over any of the Lands or Grounds by this Act authorized to be divided, inclosed, or allotted, being entitled altogether to not less than Ten entire Rights, and not having signed or sealed any Petition to Parliament in favour of this Act, or any Document testifying their Assent thereto, during its Progress through Parliament, shall be desirous of being excluded for and in respect of such Rights from the Provisions of this Act, and of such their Desire shall, within Three Calendar Months next after the passing of this Act, give Notices under their respective Hands to the said Commissioners or to their Clerk and to the Rector of the said Parish for the Time being, (and which said Notices to the said Commissioners they are hereby directed to enter in the Minute Book of their Proceedings, and also to set forth in their Award,) then and in such Case the said Commissioners shall set out and allot in One Plot or Parcel of Ground, in each of the several Commons or Commonable Tracts of Land in the said Parish, such Portions of the said Commonable Lands or Grounds as in their Judgment shall be equal in Value to the Rights or Interests of all the said Owners in the same, and such Plots or Parcels of Ground shall be held and enjoyed in common by such Owners in such Manner and under such Restrictions as the Rights of Common over all the said Commonable Lands or Grounds are now exercised and enjoyed.

Power for
certain Owners
of Rights
of Common
to retain
their Rights
uninclosed.

[Private.]

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XLVI. Pro-

Power for certain Owners of Open Field Land to have their Land allotted without being subject to Inclosure.

XLVI. Provided also, and be it further enacted, That in case the Owners of any Open Field Lands hereby authorized to be divided and inclosed or allotted, being entitled altogether to not less than One hundred Acres of Land, and not having signed or sealed such Petition or Document as aforesaid, shall be desirous of being excluded from the Provisions of this Act, so far as respects the inclosing their said Lands or the Commutation of Tithes thereof, and of such Desire shall give Notice within Three Calendar Months to the said Commissioners or their Clerk and the Rector for the Time being of the said Parish, in like Manner as is herein-before provided with respect to Notices to be given by Owners of Rights of Common, (and which Notices shall be entered in the Minute Book of the Proceedings of the said Commissioners, and set forth in their Award,) then and in such Case the said Commissioners shall set out and allot for each such Owner, in every Field in which his or her Land shall be situate, such Plots or Parcels of Land (not exceeding Two in each Field) as in their Judgment shall be equal in Value (Quantity, Quality, and Situation being considered,) to the Lands severally belonging to such Owners in such Fields respectively; and the Owners or Occupiers of the said Plots or Parcels of Lands shall have and be subject to the same Right of Passage thereto and therefrom, over Headlands and Joint Ways situate in the said uninclosed Plots or Parcels of Land, as are now exercised and enjoyed by the Owners and Occupiers of Open Field Land within the said Parish.

No Proprietor excluded from the Provisions of the Act as to Notices.

XLVII. Provided always, and be it further enacted, That no Person being a Proprietor either of Open Field Land or of Rights of Common, or of both Descriptions of Property, shall be entitled to be excluded from the Provisions of this Act under the Notice to be given as aforesaid, unless such Notice shall extend to the whole of the Field Land and Rights of Common to which such Person shall be entitled.

Owners to remain subject to the Tithes now payable.

XLVIII. And be it further enacted, That the several and respective Owners and Occupiers of the said Rights of Common and Open Field Land who shall elect to be so excluded as aforesaid, and all future Owners and Occupiers thereof, shall be subject and liable to render and pay to the Rector for the Time being of the said Rectory such and the same Tithes in Kind, or other Payments in lieu thereof, as they would have been subject or liable to in case this Act had not been passed.

As to the Tithes of Milk and mixed Tithes for Animals fed on the Land not discharged of Tithes, and on Tithe-free Land.

XLIX. And be it further enacted, That neither the present nor any future Occupier of any Land or Ground within the said Parish, the Tithes whereof shall not be exonerated or commuted under the Provisions of this Act, shall be entitled to the Exemption from the Payment of Tithe of Milk, or any other Species of mixt Tithe, for any Animals fed and depastured on any Land or Ground within the said Parish now subject to Tithes in Kind, the Tithes whereof shall not be so exonerated or commuted, by reason or on account of any such Occupier being also the Occupier of any Homestead, Land, or Ground the Tithes whereof shall be exonerated or commuted under the Provisions of this Act, or by reason of any such Tithe happening or accruing in or upon any Homestead, Land, or Ground the Tithes whereof shall be so exonerated or commuted, but that every such Occupier shall be liable to render a Proportion of such Tithes in Kind, or pay a proportionate Sum for the Value

Value of such Tithes, according to the Time for which the Cows or other Animals shall have been fed and depastured on such Lands or Grounds the Tithes whereof shall not be exonerated or commuted, and that the said Commissioners shall by their Award fix and determine the Method of ascertaining and regulating such proportionate Render or Payment.

L. And be it further enacted, That in case Application in Writing shall be made to the said Commissioners for that Purpose at the First or Second Meeting to be held by them under this Act, by any Owners in the said Parish entitled to Allotments, they the said Commissioners shall set out not less than Two Allotments in different Parts of the Parish unto each of the Owners making such Application; and that in case Application shall be made to them at the Time aforesaid by any Two or more Owners of not more than Five Acres of Open Field Land in the said Parish to have their Allotments made to them without being required to inclose the same, then and in such Case the said Commissioners shall set out such Allotments adjoining or near each other in some convenient Part of the said Parish.

Commissioners may place Allotments together or separate.

LI. And be it further enacted, That all Pieces and small Parcels of uninclosed Waste Land lying by the Side or Sides of any Turnpike Roads or other public Roads or Lanes within the said Parish of *Strettham*, which in the Judgment of the said Commissioners may be conveniently inclosed without incommoding the public Intercourse on such Roads or Lanes, or rendering such Turnpike Roads of less Breadth than Forty-five Feet, and such other public Roads or Lanes of less Breadth than Forty Feet respectively, shall be deemed Part of the Lands and Grounds intended to be divided, allotted, and inclosed under and by virtue of this Act.

Pieces of Land by the Sides of Roads may be allotted.

LII. And be it further enacted, That the said Commissioners shall set out any Allotments to which the Feoffees in Trust for the poor Inhabitants of the said Parish of *Strettham*, and the Churchwardens of the said Parish, may be entitled, in respect of the Rights of Common and Open Field Land belonging to such Feoffees and Churchwardens, in some Parts of the said Parish convenient for the Occupation of such poor Inhabitants in small Allotments, in order that the said Allotments may be let to the said poor Inhabitants on such Terms as the said Trustees and Churchwardens may think fit.

Allotments to the Feoffees of *Strettham* to be placed in convenient Situations.

LIII. And whereas the Owners of Commonable Rights over the Commons in the Hamlet of *Thetford* in the said *Isle of Ely* and County of *Cambridge* are entitled to certain Rights over such of the Commonable Lands and Grounds in the said Parish as are situate in the Fens called *Chear Fen*, *Lazier Fen*, and *Holt Fen*; be it further enacted, That the Allotments made by the said Commissioners in respect of the said Rights shall be situate in the said Fens, or some or one of them, and shall be held by the said Owners of Commonable Rights in the said Hamlet of *Thetford*, for their common Use and Enjoyment, in like Manner as the Rights over the Commons of *Thetford* aforesaid are enjoyed; and that this Act shall not extend to any other Lands or Grounds in the said Hamlet of *Thetford*, nor to exonerate or discharge the present or future Owners or Occupiers of the Allotments to be set out for the Owners of Commonable Rights

Commoners of *Thetford* to have Allotments in *Holt Fen* and *Chear Fen*.

Rights in the said Hamlet of *Thetford*, or the Owners or Occupiers of any Homesteads, Lands, or Grounds within the said Hamlet of *Thetford*, from the Payment of Tithes.

For disposing of Trees.

LIV. And be it further enacted, That in case any Lands or Grounds upon which any Trees shall at the Time of making the Allotments be standing, growing, or being shall be allotted or appointed to any Person or Persons other than such as was or were the Proprietor or Proprietors of such Trees at the Time when and immediately before such Allotments are made, then and in such Case it shall be lawful for such Proprietor or Proprietors, and he or they is and are hereby required, at any seasonable Times to be appointed by the said Commissioners within the Space of One Calendar Month next after such Allotments shall be made, to enter into and upon the Lands and Grounds upon which the said Trees shall be standing or being, and to fell, cut down, grub up, and with Horses and Carriages or otherwise to carry away the same, to and for his and their own Use and Benefit, he, she, or they levelling all such Lands or Grounds as shall be broken or dug up for the Purpose aforesaid.

For defraying Expences of the Act and of its Execution.

LV. And be it further enacted, That the Costs, Charges, and Expences incident to and attending the passing of this Act shall be paid out of the first Monies to be raised by the said Commissioners under the Authority of this Act; and that the same, and also the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioners, Umpire, Clerk, and Surveyor for their Expences, Time, and Trouble, and the Costs and Charges that the Commissioners shall be put unto in respect of any Appeal against their Decision, or of any Suit or Suits at Law or in Equity that may be instituted by or against them in the Execution of this Act either before or after the Execution of their Award, and all other Costs, Charges, and Expences necessarily incurred in and about the carrying this Act and the said recited Acts into execution, shall be borne and defrayed by the several Owners and Proprietors of and Persons interested in the said Lands and Grounds to be divided, inclosed, allotted, or exonerated from Tithes by virtue of this Act (other than and except the said Rector of the said Rectory), in such Shares and Proportions, and at such Time or Times, and shall be paid to such Person or Persons as the said Commissioners shall, by Writing or Writings under their Hands to be affixed upon the principal Church Door of the said Parish at least Twenty-one Days before the Time of Payment, order and direct; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Proportion of such Costs, Charges, and Expences as aforesaid within the Time limited for that Purpose, and to such Person or Persons as the said Commissioners shall appoint, then and in such Case the said Commissioners shall and may, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, cause the same, together with lawful Interest to be computed from the Day on which the same ought to have been paid as aforesaid, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale; or it shall and may be lawful to and for the said Commissioners, or any Person or Persons authorized by them, immediately

diately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person or Persons, and demise the same, and receive and take the Rents, Issues, and Profits thereof, until thereby or therewith or otherwise such Share or Proportion, Shares or Proportions, with lawful Interest for the same to be computed from the Time such Sum of Money shall be ordered to be paid, and also all the Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

LVI. Provided always, and be it further enacted, That the Owners of Commonable Rights in the Hamlet of *Thetford*, and the Persons who, under the Powers herein-before given, shall have their Rights of Common excluded from the Operation of this Act, or their Open Field Land allotted subject to Tithe, shall not be liable to bear any Portion of the Expences of obtaining and passing this Act, or to contribute to the Expences of carrying the same into execution, further than relates to the Survey of the said Parish, and to such Charges and Expences as the said Commissioners may deem to have been incurred for the Benefit of such Owners and Persons respectively, or in relation to the Allotments made to them.

Certain Owners not to contribute to the Expences of the Act, but to bear a proportionate Share of the Survey.

LVII. Provided always, and be it further enacted, That if at any Time after the Allotment shall have been staked out it shall appear to the said Commissioners, either before or after the Execution of their Award, that the Money to arise by the previous Rate or Rates shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Rate or Rates to be made and levied upon the several Persons interested in the said Lands and Grounds hereby directed to be divided, inclosed, allotted, or exonerated from Tithes, other than and except the said Rector of the said Rectory, in such Shares and Proportions, within such Time or Times, and to be paid to such Person or Persons as the said Commissioners shall from Time to Time direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid shall neglect or refuse to pay his or her Share or Proportion of any such Rate or Rates within the Time or Times to be respectively appointed as aforesaid, or at any Time after, upon Demand, the same shall and may be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

Power to make additional Rate in case of Deficiency.

LVIII. Provided always, and be it further enacted, That if at the Time of the Execution of the said Award there shall remain due from any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, any Sum or Sums of Money which shall have been adjudged, ordered, or directed to be paid by virtue of this Act, it shall be lawful for the said Commissioners, and they are hereby authorized and required, to levy and raise the same in like Manner as they might or could have done before the Execution of their Award.

Power to recover Monies due at the Execution of the Award.

LIX. And be it further enacted, That it shall be lawful for the said Commissioners from Time to Time, as they in their Discretion shall think fit, to borrow of any Person or Persons willing to lend the same such Sum or Sums of Money as may be deemed necessary for paying the Expences of applying for and obtaining and executing this Act; and the

Power for Commissioners to borrow Money.

[Private.]

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Person

Person or Persons who shall lend or advance any such Sum or Sums of Money shall be repaid the same out of the Monies which shall be raised or collected in pursuance of this Act, with Interest for the same from the Time of lending or advancing each such Sum respectively as aforesaid.

Notice to be given of Meeting for receiving Applications for Situation of Allotments.

LX. And be it further enacted, That the said Commissioners shall and they are hereby required to give Seven Days Notice of a Meeting for receiving Applications from the Owners and Proprietors of the Lands and Grounds hereby directed to be divided, inclosed, or allotted, touching the Situation in which they may be desirous of having their Allotments set out and allotted.

Meeting to be held to give Information of the Allotments.

LXI. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the said Proprietors in the Lands and Grounds to be divided, inclosed, or allotted by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively in lieu thereof, the said Commissioners shall hold a Meeting at some convenient Time and Place when and where the Proprietors may be informed of such Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and the said Commissioners shall adjourn such Meeting to some convenient Time, to be held at the same Place, for the Purpose of enabling the said Proprietors in the meantime to view their respective Allotments; and if any of the said Proprietors at such adjourned Meeting so to be held shall be dissatisfied with the proposed Allotments, the said Commissioners shall then, or at some other Time and Place to be appointed by them for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietor or Proprietors against any such Allotment or Allotments, and shall forthwith or as soon after as conveniently may be determine the same, and such Determination shall be binding and conclusive on all Parties interested in such Allotment or Allotments.

Directions for fencing Allotments.

LXII. And be it further enacted, That the several and respective Allotments to be made of the Lands hereby directed to be divided and inclosed within the said Parish of *Strettham*, after the Division thereof, shall, within Six Calendar Months, to be computed from the signing and sealing of the Award of the said Commissioners, or within any shorter Space of Time to be appointed by the said Commissioners, be inclosed and fenced, and the Hedges, Ditches, and Fences thereof shall be made in such Manner, and under and subject to such Regulations and Restrictions, as the said Commissioners shall by Writing under their Hands, or in or by their Award, direct or appoint; provided that no Person shall be required to fence any Allotment consisting of Fen Land otherwise than with proper Ditches; and the Fences of such Allotments as shall not consist of Fen Land, where the same shall adjoin any public or private Road or Way, and in such other Place or Places as the said Commissioners 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 Commissioners shall direct and appoint, all which said Fences shall be so planted and guarded as aforesaid by and at the proper Costs and Charges of the respective Persons to whom the same shall be respectively

respectively allotted, in such Manner, Shares, and Proportions as the said Commissioners shall in and by their said Award order and direct; and the said Commissioners shall be empowered, if they shall deem it just so to do, to charge any Portion of the Expences of making the Fences or Ditches of any Allotments adjoining any Plots or Parcels of Land which may be allotted and left uninclosed, and subject to Tithes under the Provisions herein contained, upon the Owners of such Plots or Parcels of Land, or to defray any Part of such Expences out of the Funds to be raised by them for carrying this Act into execution, and the Sums so charged upon such Owners shall be levied and recovered in the same Manner as the Expences of obtaining this Act and carrying it into execution.

LXIII. And be it further enacted, That it shall be lawful for the said Commissioners to make Partition of any Lands or Grounds intended to be divided, inclosed, or allotted under this Act, and 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 and Approbation of any One or more of the several Proprietors thereof, signified in Writing under his or their Hand or Hands, or under the Hands respectively of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of any of the said several Proprietors who may be under Coverture, Minors, Lunatics, or beyond Seas, or under any other legal Disability or Incapacity to act, and so as every such Partition be specified in the Award of the said Commissioners, or some other Instrument under their Hands and Seals; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Commis-
sioners may
make Parti-
tion between
Coparceners,
Tenants in
Common,&c.

LXIV. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Parish of *Stretbam* in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Parish of *Stretbam*, or any adjoining Parish, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants 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 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 as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females 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 and Purposes whatsoever: Provided nevertheless, that no Exchanges shall be made of any Lands, Tenements, or Hereditaments held in right of any Church or Chapel

Power to
make Ex-
changes.

Costs of Exchanges and Partitions by whom to be paid.

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, Tenements, or Hereditaments so to be exchanged shall be situate: Provided always, that all the Costs, Charges, and Expences attending the making of any Exchanges shall be paid, borne, and defrayed by the several Persons making such Exchanges in such Shares and Proportions, and at such Time, and to such Person or Persons as the said Commissioners shall by any Writing under their Hands direct or appoint.

Exchanges and Partition of Copyholds to be perfected by Admittance.

LXV. And be it further enacted, That every Person to whom any Copyhold Lands or Tenements shall be allotted in exchange or upon Partition as aforesaid shall as soon as conveniently may be, and at all events before the Expiration of Twelve Calendar Months after the Execution of the Award of the said Commissioners, or at the then next General Court Baron to be held for the Manor whereof such Copyhold Hereditaments shall be respectively held, be admitted Tenant of the Copyhold Lands or Tenements so allotted; but in no such Case of any Admission by virtue of this Act shall any Fine, Rent, Heriot, Fees, or other Payments be made to the Lord or Lords, Lady or Ladies of the said Manors respectively, or to his, her, or their Steward or Stewards, save only the Sum of Two Pounds and Two Shillings to such Steward or Stewards for the Fees of each Admission, over and besides the Stamp Duty payable by Law upon each such Admission.

The Rector, with Consent of the Bishop of the Diocese and Patron of the Living, may lease Allotments.

LXVI. And be it further enacted, That it shall be lawful for the Rector for the Time being of the said Rectory, and for all other Persons to whom any Allotment shall be made from the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, with respect to any Lands or Hereditaments belonging to any Church, Chapel, or other Ecclesiastical Living or Benefice, by Indenture under his or their Hand and Seal, with the Consent of the Bishop of the Diocese and of the Patron of the said Rectory, Church, Chapel, or other Ecclesiastical Living or Benefice, for the Time being respectively, to lease or demise all or any Part or Parts of the Allotment or Allotments to be set out and allotted to him or them by virtue of this Act to any Person or Persons whomsoever for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the passing of this Act, so that the Rent or Rents for the same shall be thereby reserved and made payable to the Rector or other Incumbent or Person entitled thereto for the Time being by equal quarterly Payments in every Year, and so that there be thereby also reserved and made payable the best and most improved Rent or Rents that can be reasonably had or gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for making or granting any such Lease or Demise, and so that no 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 or Demise a Power of Re-entry on Nonpayment of the Rent or Rents 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 or Leases, Demise or Demises, be duly executed by the Lessee or Lessees to whom such Lease or Demise shall be so made as aforesaid; and every such Lease or Demise shall be valid and effectual to all Intents and Purposes,

poses, any thing in this Act or the said recited Acts, or in any Law or Usage, to the contrary notwithstanding.

LXVII. Provided always, and be it further enacted, That in case any such Lease or Leases, Demise or Demises, so to be granted as aforesaid, shall by any means become void or forfeited or be surrendered before the Expiration of the Term granted by such Lease or Demise, then and in such Case and as often as the same shall happen it shall be lawful for the Rector of the said Rectory or other Person entitled to any Allotment as aforesaid for the Time being, by and with the Consent of the Bishop of the Diocese, and of the Patron of the said Rectory, Church, Chapel, or other Ecclesiastical Living or Benefice, for the Time being respectively, to grant a new Lease of or demise all or any Part or Parts of the Allotment or Allotments so to be set out and allotted to such Rector or other Person as aforesaid, such last-mentioned Lease or Demise to continue for such Term of Years as shall from the Time of such Avoidance, Forfeiture, or Surrender be then to come and unexpired of the Term granted by such original Lease or Demise, subject nevertheless to the Provisions, Conditions, and Covenants contained in such original Lease or Demise, and then remaining unperformed and capable of taking effect.

When Leases granted become void before the Expiration of the Term, the Rector may grant a new Lease.

LXVIII. And be it further enacted, That the several Lands, Grounds, and Hereditaments to be allotted and awarded upon the said Division, Allotment, and Inclosure to the several Persons, Body or Bodies Politic, Corporate, or Collegiate, interested therein, shall immediately after the same shall have been so allotted and awarded be holden by the said several Persons, Body or Bodies Politic, Corporate, or Collegiate respectively, by and under the same Tenures, (whether Freehold, Copyhold, or Leasehold,) and subject to the same Rents, Payments, Heriots, Fines, Customs, and Services, by, under, and subject to which the several Lands, Tenements, and Hereditaments in lieu or in respect of which the same Lands, Grounds, and Hereditaments shall be so allotted and awarded were respectively held immediately before the passing of this Act; and all such Allotments shall thereupon become Freehold, Copyhold, or Leasehold (as the Case may be), and shall be so distinguished in the Award to be made by the said Commissioners, any Law or Custom to the contrary notwithstanding.

Tenure of Allotments.

LXIX. And be it further enacted, That if any Person or Persons hath or have sold, or shall at any Time before the Execution of the Award of the said Commissioners sell, his, her, or their Right, Interest, and Property in the said Lands and Grounds hereby directed to be divided, inclosed, or allotted, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, upon such Sale being made, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs and Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Lands so to be allotted to him or her as aforesaid in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time

Lands sold before Execution of Award may be allotted to Purchasers.

[Private.]

of making such Allotments as aforesaid; and it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment or Allotments, or all or any Part of his, her, or their Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person or Persons entitled to any Allotment as aforesaid to sell, dispose of, and convey the Estate in right of which he, she, or they may be entitled to any such Allotment separate and apart from, and retaining to himself, herself, and themselves, such Allotment, Common Right, and Interest; and the said Commissioners are hereby required to award such Allotment or Allotments accordingly.

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

LXX. And be it further enacted, That it shall be lawful for all Husbands, Guardians, Trustees, or Committees of any of the Owners or Proprietors of any of the Lands and Grounds to be by virtue of this Act divided, inclosed, or allotted, being under Coverture, Infants, Lunatics, Idiots, or Persons beyond the Seas, or otherwise incapacitated, Tenants in Tail or for Life only, or Feoffees for charitable or other Uses, or any of them, by and with the Consent of the said Commissioners testified in Writing under their Hands and Seals, from Time to Time to charge the Lands and Grounds which shall be so set out and allotted to them respectively by virtue of this Act with any Sum or Sums of Money which the said Commissioners shall in their Discretion judge necessary for the Purpose of inclosing, fencing, and dividing his or their respective Allotments, and for defraying the Expences of carrying this Act into execution, not exceeding Five Pounds for every Acre of such Lands and Grounds respectively, and for securing the Repayment of any Sum and Sums of Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the Lands and Grounds so to be set out and allotted as aforesaid, or any Part thereof, to any Person or Persons who shall advance and lend the same respectively, his, her, or their respective Executors, Administrators, and Assigns, for any Term or Number of Years, so as such Grant, Demise, Lease, or Mortgage be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied, and so as in every such Grant, Demise, Lease, or Mortgage which shall be made by or on behalf of any Person or Persons interested in or entitled to any such mortgaged Premises for the Term of his, her, or their natural Life or Lives, there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his, her, or their respective Life or Lives, in such Manner as that no Person afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title of such Possession shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise so to be made in pursuance of this Act shall be good, valid, or effectual in the Law for the Purposes thereby intended.

LXXI. And

LXXI. And be it further enacted, That all and every Persons and Person to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum or Sums of Money by them, him, or her lent and advanced on the Credit of and for the Purposes mentioned in this Act, or who shall be entitled to the Money thereby secured, shall and may from Time to Time, by any Deed or Deeds, Surrender or Surrenders, Writing or Writings under their, his, or her Hands and Seals or Hand and Seal, to be executed in the Presence of and attested by One or more credible Witness or Witnesses, assign and transfer the same Security or Securities, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all their, his, or her Estate, Right, Title, or Interest and Term of Years then to come and unexpired of, in, and to the same, unto any Person or Persons whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Mortgagees, Assignee or Assignees, his, her, or their Executors or Administrators, and all Persons claiming under them or any of them, shall and may use, take, and pursue all such lawful Methods, Causes, and Expedients in Law or Equity for recovering or obtaining Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Nonpayment of the Principal Money and Interest to be thereby secured, or any Part thereof respectively, as is or are used, taken, and pursued in Cases of the like Nature.

Mortgages may be assigned.

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

Copyhold Mortgage Securities to be entered on the Court Rolls of the Manor.

LXXIII. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall be marked and staked out, and the said Commissioners shall have directed the same to be entered upon by the Persons respectively to or for whom the same shall be intended, all and every Leases and Lease and other Agreements and Agreement at Rack Rent subsisting of all or any Part or Parts of the said Lands hereby directed to be divided and inclosed or allotted, or to be discharged from Tithes as aforesaid, and of any Right of Common thereon, and of the Messuages or Tenements and Homesteads respectively belonging thereto, for any Term or Terms of Years not exceeding Twenty-one Years, save and except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure, shall cease, determine, and be void as to all such Lands and Rights of Common respectively, but not as to any other Hereditaments comprised

Leases at Rack Rent to be void.

comprised therein, such Compensation being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated, as the said Commissioners shall by Writing under their Hands order and direct in that Behalf; and it shall be lawful for the said Commissioners and they are hereby authorized by Writing under their Hands to ascertain, direct, and appoint what Rent or Share or Proportion of Rent shall be paid by the several Tenants of the Lands to be inclosed by virtue of this Act, or the Rights of Common thereof in their respective Holdings, to their respective Landlords, from the Time of passing this Act until such Lands shall be marked and staked out, and be directed to be entered upon as aforesaid, and also to order and direct what Proportion and Amount of the whole Rent reserved upon such Lease or Leases, Agreement or Agreements, shall be paid by such Tenants from the Time of passing this Act to their respective Landlords for the Messuages, Homesteads, or ancient Inclosures comprised in such Lease or Leases, Agreement or Agreements, until the Expiration thereof, and which are not meant or intended to be made void as to such Messuages, Homesteads, or ancient Inclosures; provided that no Lease or Agreement comprising Messuages, Homesteads, or ancient Inclosures only shall be made void by this Act.

Beneficial
Leases not to
be vacated.

LXXIV. 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 Collegiate, 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.

Deeds, Wills,
&c. not to
be affected.

LXXV. Provided always, and be it further enacted, That nothing in this Act contained shall extend to revoke, annul, make void, alter, vary, or in anywise affect any Grant, Assurance, Limitation of Use or Uses, Declaration of Trust, or any Deed or Will whatsoever (except such Leases and Agreements as are herein-before mentioned), or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Rent, Incumbrance, or other Claim or Demand, out of, upon, or affecting any of the Lands or Grounds hereby directed to be divided and inclosed or allotted, or any of the Messuages, Lands, or Hereditaments which shall be exchanged or parted with in pursuance of this Act, but that, as well the Lands allotted and exchanged, as the Hereditaments which shall be assigned in partition or in compensation for any other Estate or Right by virtue of this Act or the said recited Acts, or either of them, shall, immediately after such Allotment, Exchange, Partition, or Assignment, remain and enure, and the several Persons to whom the same shall be allotted, assigned, or given in exchange or on partition 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 Wills, Settlements, Limitations, and Remainders, Conditions, Charges, and Incumbrances in all respects, as the several
Lands,

Lands, Tenements, and Hereditaments in respect whereof such Allotments, Exchanges, Partitions, and Assignments shall have been made should or would have stood severally limited, settled, vested, or subject or liable to, or been held by, in case the same had not been allotted, exchanged, parted with, or assigned as aforesaid, and this Act had not been passed, save and except such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, and except where any other of the Provisions of this Act are to the contrary, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority hereof or of the said first-recited Act.

LXXVI. And be it further enacted, That when the Proprietor or Proprietors of Lands or other Hereditaments which shall be inclosed, allotted, or exchanged by virtue of this Act shall hold their said respective Lands or other Hereditaments under different Titles and for different Estates, the said Commissioners shall, upon the Request of the said respective Proprietors in Writing under their Hands, ascertain and distinguish the Lands or other Hereditaments held for each of such Estates and under each of such Titles respectively, and shall accordingly in their Award set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments; and in all Cases where it shall be necessary for the Purpose of enabling the Commissioners of Drainage under any Act of Parliament to levy and raise the Taxes payable to them in respect of any of the said Commonable Lands or Grounds, the Commissioners under this Act shall specify in their Award the Number of Common Rights and fractional Parts of Common Rights in lieu of or for which each Allotment of Commonable Lands liable to be taxed by such Commissioners of Drainage shall have been awarded, and the Commissioners under this Act shall be empowered to apportion any Drainage Taxes payable for the current Year, in which Possession may be delivered of any Allotments made by them under this Act, between the Owners of the Land so allotted and the Persons to whom such Allotments shall be made, in such Manner as they may deem just; and the Sums of Money to be paid by such Parties respectively, and also any Arrears of Taxes due in respect of such Lands at the Time fixed for delivering Possession of the Allotments by the said Commissioners, shall and may be levied and raised by the said Commissioners from the Parties or Persons deemed by them liable to pay the same, in like Manner as the Charges of carrying this Act into execution, and shall be paid over to the Parties or Persons deemed by them entitled to receive the same.

Separate Allotments for Lands under different Titles.

LXXVII. And be it further enacted, That every Owner or Occupier of Land allotted under this Act in respect of an entire or ancient Half Right of Common shall at all Times hereafter, so long as the Land so allotted for such entire or Half Right shall not be subdivided, have and be entitled to the same Right of Passage through any Turnpike Gate within the Bounds or Township of *Stretham* as the present Owner or Occupier of such entire or Half Right of Common is now entitled to claim or exercise; and that for the Purpose of qualifying the Owner of an Allotment in respect of an entire Right of Common to act as a Commissioner of Drainage under any Act of Parliament, every such Owner shall be deemed to be the Owner of a Right of Common within the said Parish.

Owners of Allotments for Rights of Common to have the same Right of Passage through Turnpike Gates in *Stretham* as the Owners of Rights of Common.

[*Private.*]

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LXXVIII. And

Application
of Monies
paid for Pur-
chase or Ex-
change if
amounting
to 200*l.*

1 G. 4. c. 35.

LXXVIII. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said first herein-before recited Act 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 or Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person 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 so to be settled to the same Uses, it shall and may be lawful to and for the said Commissioners out of such Sums 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 to 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, and the like, which shall in the Judgment of the said Commissioners be proper to be made and shall be made under their Direction upon any Lands to be by virtue of this Act allotted to such 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 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 Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward, and shall when so paid in there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons, Body or Bodies, 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, or in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments belonging to such Person or Persons, Body or Bodies, 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 or Parts thereof as shall be necessary; or until the same shall, upon the like Application in a summary Way,

Way, be laid out, 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 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 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 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, Body or Bodies, 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.

LXXIX. 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 or Persons, Body or Bodies, for the Time being entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so purchased or exchanged, and of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiocy, Lunacy, or other Incapacity, with the Approbation of the said Commissioners to be signified in Writing under their Hands, be paid into the Bank of *England* in the Name and with the Privity of the 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 or Persons, Body or Bodies, who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, such Nomination to be approved of by the said Commissioners, and such Nomination and Approbation to be signified in Writing under the Hands or Common Seal (as the Case may be) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and the 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.

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

LXXX. 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 or Persons, Body or Bodies, who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged,

When under 20*l.*

exchanged, for his, her, or their own Use and Benefit; or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person or Persons respectively entitled thereto.

Alterations may be made in the Allotments before the Award.

LXXXI. And be it further enacted, That it shall be lawful for the said Commissioners at any Time before the executing of their final Award to make any such Alterations in the Allotments or in the Fences which they may have set out and ordered, or in any of the Orders and Directions relating thereto which they have made in pursuance of this Act or the said recited Acts, as they may think right and expedient; and in case any Person or Persons shall be injured by any such Alteration on account of any Expences he, she, or they may have incurred, or otherwise, the said Commissioners shall ascertain and determine what Recompence shall be made to him, her, or them for such Injury, and shall either pay the Amount thereof out of the Monies to come to their Hands in the Execution of this Act, or shall order and direct by whom and in what Manner such Recompence shall be made, the same to be levied and recovered, in case of Nonpayment, in the same Manner as the Costs and Charges of obtaining and executing this Act may be levied and recovered by virtue of this or the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, in case the same are raised by a Rate upon the Proprietors.

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

LXXXII. And be it further enacted, That if from Want of Information or other Cause the said Commissioners shall have omitted to distinguish in their Award the several Tenures under which any of the said Lands or other Hereditaments 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 Commissioners and they are hereby authorized, at any Time within Twelve Calendar Months after the Date and Execution of their Award, upon Request in Writing to them made by the respective Proprietors of any such Allotments, Lands, or other Hereditaments, or other Persons interested therein, or their Agents, to do all such Acts as shall be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if their Award had not been made, and by any Deed or Instrument under their Hands and Seals to distinguish, ascertain, and set out the Allotments, Lands, and Hereditaments held by different Tenures, and the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same respectively are subject, and also the Allotments, Lands, and Hereditaments held by, for, or under different Estates or Titles respectively, in the same Manner as they are hereby authorized to do in their Award; and every such separate Instrument shall be enrolled and deposited with the Award of the said Commissioners, and shall thenceforth be deemed and taken to be Part thereof to all Intents and Purposes whatsoever; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Person or Persons who shall have requested the said Commissioners to make
and

and execute the same, or by his, her, or their Heirs, Executors, or Administrators.

LXXXIII. And be it further enacted, That as soon as conveniently may be after the said Division and Allotment shall be completed the said Commissioners shall form, draw up, and execute an Award, which, together with a proper Map or Plan thereto annexed, shall, within Ten Days after the Execution thereof, be delivered to the Clerk of the Peace for the *Isle of Ely*, who is hereby required to deposit and keep the same among the Records of the said Isle, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid, and for the Inspection and Perusal whereof 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, be deemed and taken to be enrolled within the Intent and Meaning of the said first-recited Act; and a Copy of the said Award and of the said Map or Plan, signed by the said Commissioners, shall within the Time aforesaid be deposited within the Parish Church of *Stretham* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award and the said Copy thereof, 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 Isle or his Deputy (for every Sheet of which containing One hundred Words Sixpence, 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.

Award to be made and deposited.

LXXXIV. And be it further enacted, That once at least in every Three Calendar Months during the Execution of this Act (to be computed from the Time of passing thereof) the said Commissioners shall and they are hereby required to make a true and just Statement and Account of all the Sums of Money by them received and expended or applied in the Execution of this Act, and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before One of His Majesty's Justices of the Peace for the *Isle of Ely*, not interested in the said Inclosure, to be by him examined and balanced, and such Balance shall be stated in the Book of Accounts to be kept in the Office of the Person acting as Clerk to the said Commissioners; and an Abstract of such Account shall, within Fourteen Days after the same shall have been so examined and balanced, be published in some Newspaper printed and circulated in the said County of *Cambridge*; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justice, and until such Account or the Abstract thereof shall have been so published as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Accounts to be audited.

LXXXV. 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 as to the Allotments, and except such Claims, Matters, and Things as are herein-before directed or authorized to be ascertained, settled, tried,

Power of Appeal.

[Private.]

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or

or determined by any Issue at Law, or where by any of the Provisions of the said recited Acts or of this Act the Determinations, Acts, or Proceedings of the said Commissioners 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 *Isle of Ely* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party or Parties concerned Ten Days Notice in Writing of such Appeal and the Matter thereof, except with respect to the Accounts of the Commissioners, which, notwithstanding the same shall have been examined and balanced as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award with the Clerk of the Peace for the said *Isle of Ely*, on giving to the said Commissioners 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 of Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by Certiorari, or any other Writ or Process 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 and vexatious or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

Saving the Rights of the Commissioners of Bedford Level under the Act of 15 Car. 2.

LXXXVI. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to invalidate, lessen, or diminish, alter or take away, any of the Rights, Powers, and Authorities vested in the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*, or in the said Governor, Bailiffs, and Conservators of the *Bedford Level* Corporation, by virtue of an Act passed in the Fifteenth Year of the Reign of King *Charles* the Second, intituled *An Act for settling the Drainage of the Great Level of the Fens called Bedford Level*, or by any other Act, Statute, or Charter, Law of Sewers, or otherwise howsoever; but that all Rights, Powers, and Authorities which are now vested in the said Governor, Bailiffs, and Conservators, and in every or any of them, shall for ever hereafter remain, continue, and be in the said Governor, Bailiffs, and Commonalty, and in the said Governor, Bailiffs, and Conservators, and every of them, as fully and amply to all Intents and Purposes as if this Act had not been made.

Grunty Fen excepted from the Powers of the Act.

LXXXVII. Provided always, and be it further enacted, That no Part of the District, Place, or Fen called *Grunty Fen* shall be included within the Powers and Provisions of this Act or the said recited Acts; and that the Rights and Interests of the King's Majesty, and all other Persons, Ecclesiastical or Civil, in and over the said District, Place, or Fen called
Grunty

Grunty Fen, shall be preserved whole and unimpaired, as if this Act had not been passed.

LXXXVIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Persons and Person, Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Right, Title, Estate, and Interest, Claim and Demand (other than and except such as are expressly barred and compensated for or intended to be barred and compensated for and extinguished by this Act), as they, every or any of them, could or might have had, held, and enjoyed of, into, or out of the said Lands authorized to be divided, allotted, and inclosed, or any Part thereof, in case this Act had not been passed.

General
Saving of
Rights.

LXXXIX. And be it further enacted, That this Act shall be printed by the 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.

Act to be
printed by
the King's
Printers.

The SCHEDULE referred to by the foregoing Act.

Sixty Acres (more or less) of Land called Dimock's Cote, belonging to William Edwards Read, Gentleman.

Twenty-six Acres (more or less) of Land adjoining Holt-fen Severals, Willowrow, and Holt-fen Common, and belonging to George Gould Morgan, Esquire.

Six Acres (more or less) of Land belonging to the said George Gould Morgan, Esquire, and adjoining Holt-fen Severals and Wash Lode and Holt-fen Common.

Three Acres (more or less) of Land belonging to the said William Edwards Read, and adjoining the last-described Piece of Land.

Seven Acres (more or less) of Land belonging to the Devises of Edward Tingey Granger deceased, and adjoining the Two last-described Pieces of Land.

A Tract of Land called Adventurer's Land, containing about One hundred and sixty-three Acres, and belonging to William Wright, Henry Bullen, Richard Norman, the Devises of the late King Charles, and David Clark, or others.

A Piece of Land called Webb's Holt, and belonging to James Pattison Twiss.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1835.