



ANNO TRICESIMO NONO

GEORGI III. REGIS.

Cap. 7.

An Act for dividing, allotting, and inclosing, the Arable Lands, Intermixed Pastures, Open Fields, Half Year Lands, Commons, and Waste Grounds, within the Parish of *Upton*, in the County of *Norfolk*, and such Parts of the Open Fields, called *Upton Field* and *Fishley Crofts*, as lie in the Parish of *Fishley*, in the said County, and for draining the same. [21st March 1799.]

WHEREAS there are within the Parish of *Upton*, in the County of *Norfolk*, sundry Tracts or Parcels of Arable Lands, Intermixed Pastures, Open Fields, Half Year Lands, Commons, and Waste Grounds, and certain Open Fields, called *Upton Field* and *Fishley Crofts*, lying within the said Parish of *Upton*, and within the adjoining Parish of *Fishley*, in the said County: And whereas the Dean and Chapter of the Cathedral Church of *Christ* in *Oxford*, of the Foundation of King *Henry* the Eighth, are Lords of the Manor of *Upton*, with the Members, and are entitled to certain Lands and Tenements lying within the said Parish of *Upton*; and *John Clarke* is the Lessee thereof: And whereas *Mauritius Adolphus Newton Stark* Esquire, is or claims to be Lord of the Manor of *Beighton* in *Upton*, in Right of his Wife: And whereas the Right Reverend the Lord Bishop of *Ely* is entitled, in Right of his Bishoprick, to the Rectory of *Upton* aforesaid, and is Patron of the Vicarage of *Upton* aforesaid, of which the Reverend *John Oldershaw* is Vicar, who as such Vicar is entitled to the Parsonage House, and certain

[Loc. & Per.] B b Glebe

Glebe Lands within the said Parish: And whereas the Arable Lands, Intermixed Pastures, and Open Fields, are inconveniently situated for the respective Owners thereof; and the said Half Year Lands, Commons, and Waste Grounds are frequently overflowed with Water, and in their present State and Condition yield but little Profit to the several Persons interested therein: And whereas it would be advantageous to the several Persons entitled to and interested in the Premises, if the said Arable Lands, Intermixed Pastures, Open Fields, Half Year Lands, Commons, and Waste Grounds were divided, and specifick Parts and Shares thereof allotted to the several Persons entitled to and interested therein, according to their respective Estates, Rights, and Interests, under the Directions in this Act contained, and if such Half Year Lands, Commons, and Waste Grounds were drained: But such Division, Allotments, and Drainage, cannot be made and effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *William Foster* and *Thomas Glover Ewen*, of the City of *Norwich*, and *John Dugmore*, of *Swaffham* in the County of *Norfolk*, Gentlemen, shall be, and they are hereby appointed General Commissioners for dividing and allotting the said Arable Lands, Intermixed Pastures, Open Fields, Half Year Lands, Commons, and Waste Grounds, and for the several other Purposes herein-after mentioned; and if any of the General Commissioners herein named, or to be appointed by virtue of this Act, shall, before the Execution of all the Powers and Authorities hereby vested in him or them, die, or refuse, or become incapable to act in the Execution of this Act, then and in every such Case it shall and may be lawful to and for the surviving or remaining General Commissioner or Commissioners, and he and they is and are hereby required, at any Time within Forty Days next after such Death, Refusal, or Incapacity, shall be known to him or them, by Writing under his or their Hand or Hands, to appoint another Person (not being interested in the Premises), to be a General Commissioner in the Place of each General Commissioner so dying, or refusing or becoming incapable to act; and every General Commissioner so to be appointed as aforesaid, shall, after taking and subscribing the Oath herein-after mentioned, have the like Powers and Authorities for carrying this Act into Execution, in all Respects, as if he had been named and appointed a General Commissioner in and by this Act.

General Commissioners.

Notice of General Commissioners Meetings.

II. And be it further enacted, That the said General Commissioners shall, and they are hereby required to cause Notice in Writing of the Time and Place of their first and every other Meeting for the Execution of this Act, to be inserted in the *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper printed and circulated within the said County of *Norfolk*, Eight Days at least before every such Meeting (Meetings by Adjournment only excepted); and all Acts, Matters, and Things, authorized or necessary to be done and executed by the said General Commissioners, may be done and executed by any Two of them, and the same shall be as valid and effectual, and shall have the same Force and Effect, as if such Acts, Matters, and Things, had been done and executed by all the said General Commissioners.

III. Provided

III. Provided always, That if at any Meeting appointed to be holden by the said General Commissioners, it shall happen that no more than One General Commissioner shall attend, such General Commissioner may adjourn such Meeting to such Time and Place as he shall think most convenient.

One General Commissioner may adjourn.

IV. Provided also, That no Person shall be capable of acting as a General Commissioner in the Execution of this Act, unless it be in the Power hereby given of appointing the First Meeting, and administering the following Oath to the other General Commissioners, until he shall have taken and subscribed the following Oath; (that is to say),

Qualification of General Commissioners.

‘ I *A. B.* do swear, That I will faithfully, impartially, and honestly examine into, hear, and determine, all such Matters and Things as shall be brought before me as a General Commissioner, by virtue of an Act of Parliament for dividing, allotting, and inclosing the Arable Lands, Intermixed Pastures, Open Fields, Half Year Lands, Commons, and Waste Grounds, within the Parish of Upton, in the County of Norfolk, and such Parts of the Open Fields, called Upton Field and Fishley Crofts, as lie in the Parish of Fishley, in the said County, and for draining the same; and otherwise execute the Powers thereby in me reposed, according to the best of my Skill and Judgement, and without Favour or Affection to any Person or Persons whomsoever.

General Commissioners Oath.

‘ So help me GOD.’

Which Oath it shall and may be lawful to and for any One of the said General Commissioners to administer, and he is hereby required to administer the same to any other of the said General Commissioners.

V. And be it further enacted, That with all convenient Speed, after the passing of this Act, a true and perfect Admeasurement of all the Lands and Grounds lying within the Parish of Upton aforesaid, and of such Parts of the said Open Fields, called Upton Field and Fishley Crofts, as lie within the said Parish of Fishley, shall be made and laid down as a Survey or Plan; and that a true and perfect Valuation of all the Messuages, Cottages, Lands, and Tenements situate, lying, and being within the said Parish of Upton, and of such Parts of the said Open Fields, called Upton Field and Fishley Crofts, as lie in the said Parish of Fishley, shall be made and reduced into Writing by the said General Commissioners, or by such Person or Persons (not interested in the Premises) as the said General Commissioners shall appoint; which said Plan or Survey and Valuation, shall contain and set forth the Number of Messuages, Cottages, Acres, Roods, and Perches, in Statute Measure, belonging to each Proprietor, with the Annual Value thereof respectively; and also the Number of Acres, Roods, and Perches, contained in the said Commons and Waste Grounds, together with the Annual Value thereof, and shall be used by the said General Commissioners as often as Occasion shall require; and the said Plan or Survey, and Valuation, together with all other Acts, Matters, and Things to be done by the Person or Persons so to be appointed as aforesaid, shall be verified by his or their Oath, which Oath any One of the said General Commissioners is hereby empowered to administer; and the said General Commissioners and Surveyor, their Assistants and Servants, and all and every other Person or Persons employed

Valuation and Survey to be made.

employed by the said General Commissioners, shall, and they hereby have full and free Liberty and Power, at any Time before the Execution of their Award, to enter into, view, examine, survey, admeasure, plan, and value the Lands and Grounds lying within the said Parish of *Upton*, and such Parts of the said Open Fields, called *Upton Field* and *Fishley Crofts*, as lie in the said Parish of *Fishley*, and to fix Stakes or Landmarks thereon, and to do all Matters and Things which shall, in the Judgement of the said General Commissioners, be requisite for carrying this Act into Execution.

For ascertain-
ing Bounda-
ries.

VI. And whereas Disputes may happen to arise touching the Boundaries of the said Parish of *Upton*, in order to settle such Disputes, be it therefore enacted, That the said General Commissioners shall, and they are hereby required to cause Notice of their Intention to perambulate the Boundaries of the said Parish of *Upton*, to be inserted in the said *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper printed and circulated within the said County of *Norfolk*, Ten Days at least before the Time of such Perambulation; and after the Expiration of the Time to be specified in such Notice, they the said General Commissioners are hereby authorized and required to enquire into, set out, ascertain, fix, and finally determine the Boundaries of the said Parish of *Upton*; and a Description of the said Boundaries shall, within Forty Days afterwards, be inserted in the said *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper printed and circulated within the said County of *Norfolk*.

Appeal to
Sessions
against Bounda-
ries.

VII. Provided always, That if any of the Proprietors of Estates within, or Inhabitants of any Parish or Parishes adjoining to the said Parish of *Upton*, shall be dissatisfied with the Determination of the said General Commissioners respecting the said Boundaries, such Proprietors or Inhabitants, or any of them, may appeal to the Justices of the Peace acting in and for the County of *Norfolk*, at any General Quarter Session of the Peace to be holden within Four Calendar Months next after the aforesaid Publication of the said Boundaries; and the Decision of the said Justices therein shall be final and conclusive.

For shorten-
ing the
Boundary
Fences,
against the
adjoining Pa-
rishes.

VIII. And whereas it may shorten the Boundary Fences between the Lands lying in the said Parish of *Upton*, and the Lands lying in the Parish or Parishes adjoining thereto, if the said General Commissioners were empowered to cause such Fences to be raised in such Direction as they shall think most proper and convenient for shortening and making the same regular, be it therefore enacted, That it shall and may be lawful to and for the said General Commissioners, with the Consent in Writing under the Hand or Hands of the major Part in Value of the Land Owners in any Parish or Parishes adjoining to the said Parish of *Upton*, and also under the Hand or Hands of the Lord or Lords, Lady or Ladies of the Manor or Manors in any such adjoining Parish or Parishes, and of the Owner or Owners of the Land upon which such Fence or Fences shall or may be intended to be made, to set out, ascertain, and determine the Boundary Fences to be made between the Lands and Grounds lying in the said Parish of *Upton*, and the Lands lying in such adjoining Parish or Parishes, as they shall judge proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, and determined as aforesaid

said, the same shall be fenced in such Manner, and at such Time or Times as the said General Commissioners shall direct, and shall for ever thereafter be deemed and taken to be the Boundaries between the said Parish of *Upton* and such adjoining Parish or Parishes; any Law, Usage, or Custom to the contrary notwithstanding.

IX. And be it further enacted, That all Encroachments which at any Time, within Five Years now last past, have been made upon the said Commons and Waste Grounds, shall be deemed Part of the Lands and Grounds to be divided and allotted by virtue of this Act, and shall be divided and allotted accordingly by the said General Commissioners; and in case any Dispute shall arise touching any such Encroachment, or the Extent thereof, such Dispute shall be finally determined by the said General Commissioners.

Encroachments made within Five Years to be deemed Part of the Lands to be inclosed.

X. And be it further enacted, That all and every Person and Persons, Body or Bodies Politick, Corporate, or Collegiate, having or claiming to have any Estate or Property, or any Right of Common, or other Right or Interest whatsoever in, to, over, or upon the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, shall, by himself, herself, or themselves, or by his, her, or their Guardians, Trustees, Agents, or Tenants, and he, she, and they is and are hereby respectively required, at the First or Second Meeting of the said General Commissioners to be held in pursuance of this Act, to deliver in Writing to the said General Commissioners a true and just Account of the Messuages, Cottages, Lands, and Tenements belonging to him, her, or them respectively, describing the Quantity of the Freehold, Copyhold, and Leasehold Parts thereof respectively, and the Manor or Manors of which such Copyhold Parts are holden, and also a true and just Account of his, her, and their respective Claims, Rights, and Interests in, to, over, or upon the said Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, and that no such Accounts or Claims shall be received by the said General Commissioners after such their Second Meeting, except for some special Cause to be allowed by them; and all and every Person and Persons, Body and Bodies Politick, Corporate, or Collegiate, neglecting or refusing to deliver such Accounts as aforesaid, shall be, and is and are hereby excluded and debarred from any Commonable Right or Interest whatsoever in, to, over, or upon the Lands and Grounds herein directed to be divided, allotted, and inclosed, or in, to, over, or upon the Lands and Grounds belonging, or to be assigned or allotted to any other Person or Persons by virtue of or under this Act; and if any One or more of the said Owners and Proprietors, or other Persons interested in the said intended Division and Allotments, shall have any Objection or Objections to the said Accounts or Claims, or any of them, such Objection or Objections shall be reduced into Writing, and delivered to the said General Commissioners, and to such other Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, whose Account or Accounts, Claim or Claims, shall be objected to, in such Manner, and at such Time or Times as the said General Commissioners shall appoint.

Claims to be delivered at the First or Second Meeting of the General Commissioners.

XI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested, or claiming to be interested in the said intended Division and Allotments, touching or concerning the Right

General Commissioners to settle Differences.

[Loc. & Per.]

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to

to the Soil of the said Commons and Waste Grounds, or touching or concerning the respective Rights, Interests, Shares, and Proportions which they or any of them shall claim to have of and in the Lands and Grounds hereby directed to be divided and allotted, or touching any Trees, Underwood, Bushes, Reeds, Thorns, Whins, or Furze, growing thereon; or concerning any Allowance claimed to be made for ploughing, sowing Turnips or Corn, laying down with Grass Seeds, manuring or improving the said Lands and Grounds, or any Part thereof, or touching or concerning any other Matter or Thing relating to the said Division and Allotments, it shall and may be lawful to and for the said General Commissioners, and they are hereby authorized and required, as well by Examination of Witnesses upon Oath, (which Oath any One of the said General Commissioners is hereby empowered to administer), as upon any other proper and sufficient Enquiry and Evidence, to examine into, hear, and determine the same.

General Commissioners
may summon
Witnesses.

XII. And be it further enacted, That it shall and may be lawful for the said General Commissioners, and they are hereby required, from Time to Time, as they shall see Occasion, by any Writing under their Hands, to summon and require any Person or Persons to appear before them, at any Time and Place in such Writing mentioned, and to testify the Truth, upon Oath, touching any Matter in Difference or Dispute between any of the said Proprietors or Persons interested, or concerning any Matter or Thing wherein any Doubt or Difficulty shall occur to the said General Commissioners, and to cause a Duplicate, or Copy of such Writing, to be delivered to every such Person required to testify, or left at his or her last or usual Place of Abode; and if any Person or Persons having been so summoned as aforesaid, and having been paid or tendered a sufficient Sum of Money, to be ascertained by the said General Commissioners, to defray the Charges of his, her, or their Attendance or Attendances, shall, without any just and reasonable Excuse, neglect or refuse to appear before the said General Commissioners, pursuant to such Summons or Writing, or shall refuse to be sworn, or to be examined and give Evidence touching the Premises; the said General Commissioners, upon due Proof thereof made before them upon Oath, (which Oath any One of the said General Commissioners is hereby empowered to administer), shall, and they are hereby required, by Warrant under their Hands and Seals, directed unto any Person or Persons whomsoever, cause any Sum of Money, not exceeding Ten Pounds, to be levied by Distress and Sale of the Goods and Chattels of every Person so neglecting or refusing to appear, or to be sworn, or to give Evidence, rendering the Overplus, (if any), upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as aforesaid shall be applied towards defraying the Costs and Charges of obtaining and executing this Act.

General Commissioners to
assess Costs.

XIII. And be it further enacted, That in case the said General Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this Act, see Cause to award any Costs, it shall and may be lawful to and for the said General Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award

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 General Commissioners shall be made, by the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said General Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus, (if any), upon Demand, to the Person or Persons, or Body or Bodies Corporate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

XIV. Provided always, and be it enacted, That in case any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, interested, or claiming to be interested, in the said intended Division and Allotments, shall be dissatisfied with any Determination of the said General Commissioners, touching or concerning any Claim or Claims of the Right to the Soil of the said Commons and Waste Grounds, or of any Rights of Common, or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, it shall and may be lawful to and for such Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, to proceed to a Trial at Law of the Matter so determined by the said General Commissioners, at the then next, or at the following Assizes to be holden for the said County of *Norfolk*, and for that Purpose the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, who shall be dissatisfied with the Determination of the said General Commissioners, shall cause an Action to be brought upon a feigned Issue against the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within One Calendar Month after such Determination of the said General Commissioners; and the Defendant or Defendants in such Action or Actions shall, and he, she, or 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, 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 the said Action or Actions shall be commenced, in case the Parties shall differ about the same); and that after such Trial or Trials the said General Commissioners shall, and they are hereby required to act in Conformity to the Verdict or Verdicts thereupon given, and to allow or disallow of the Claim or Claims thereby determined, according to the Event of such Trial or Trials:

Power to try
Rights by an
Issue at Law.

XV. Provided always, That nothing in this Act contained shall authorize the said General Commissioners to determine the Title to any Messuages, Cottages, Lands, or Tenements whatsoever.

Commissioners
not to determine
Titles.

XVI. And

Disputes about
Titles not to
impede the
Proceedings
or the Execu-
tion of this
Act.

XVI. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted, touching or concerning the Title of any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, in or to the Lands and Grounds hereby intended to be divided and allotted; or any Part thereof, such Suit or Suits shall not impede, delay, or hinder the said General Commissioners from proceeding in the Execution of the Powers vested in them by this Act; but the said Division and Allotments shall be proceeded in notwithstanding such Dispute or Suit, and may be had and taken by the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, who, upon the Determination of such Difference or Suit, shall become entitled to the same.

No Turf or
Flags to be
cut, after
passing this
Act, without
Leave of the
General Com-
missioners.

XVII. And be it further enacted, That if any Person or Persons shall, after the passing of this Act, cut, dig, pare, grave, flay, or carry away any Reed, Turf, or Flags, in, upon, or from the said Commons and Waste Grounds, or any Part thereof, without or contrary to the Licence of the said General Commissioners, first had and obtained in Writing for that Purpose (which Licence the said General Commissioners are hereby empowered to grant, under such Rules, Orders, Regulations, and Restrictions, as they shall think proper to insert therein); then and in every such Case the said General Commissioners, upon due Proof thereof made before them, upon Oath, (which Oath any One of the said General Commissioners is hereby authorized to administer), shall, and they are hereby required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause any Sum of Money, not exceeding Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of every Person so offending in the Premises, rendering the Overplus, (if any), upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as aforesaid, shall be applied towards defraying the Costs and Charges of obtaining and executing this Act.

For extin-
guishing or
suspending
Rights of
Common be-
fore the
Award.

XVIII. And be it further enacted, That it shall and may be lawful for the said General Commissioners, and they are hereby authorized, at any Time before the Execution of the said Award, by Writing under their Hands, to be affixed upon the principal Door of the Church of *Upton* aforesaid, to order and direct all or any Part of the Commonable Rights in, over, and upon the said Half Year Lands, Commons, and Waste Grounds, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Writing; and that all such Rights as the said General Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall, from the Time of affixing such Writing on the said Church Door, cease, determine, and be extinguished, or the Exercise thereof shall be suspended accordingly; any Law, Usage, or Custom, to the contrary notwithstanding.

Drainage
Clause.

XIX. And be it further enacted, That the said General Commissioners shall, and they are hereby authorized and required, by such Agents, Workmen, and Labourers, as they shall think fit to employ, to make and erect all such Drains, Dams, Banks, Mills, Sluices, Engines, Bridges, and other Works, in, through, upon, and over the Lands and Grounds

within the said Parish of *Upton*, and such Parts of the said Open Fields, called *Upton Field* and *Fishley Crofts*, as lie in the said Parish of *Fishley*, such Rate to be made and assessed by the said General Commissioners either before or after the Execution of the said Award, or by any Justice of the Peace for the County of *Norfolk*, upon Application made for that Purpose by the said Surveyor, and to be collected and received by such Person or Persons as the said General Commissioners, or Justice, by whom such Rate shall be made and assessed, shall by Writing appoint; and that none of the Inhabitants of the said Parishes of *Upton* and *Fishley*, or either of them, other than the several Persons, and Body or Bodies Politick, Corporate, or Collegiate, who is and are hereby charged with or made liable to the Costs, Charges, and Expences of obtaining and executing this Act, or any Part thereof, shall be charged or chargeable (over and above the Statute Duty) towards the forming or repairing such new publick Roads, until the same shall be made fit for the Passage of Travellers and Carriages, and shall have been certified so to be by such Surveyor, by Writing under his Hand, to be delivered to the Justices at some General Quarter Sessions of the Peace to be holden for the said County, and such Certificate shall have been allowed and confirmed by them; which said Certificate shall be delivered to the said Justices at their General Quarter Session to be holden next after the said new Roads shall be formed and put in Repair as aforesaid, and within the Space of Two Years next after the Execution of the said Award, unless sufficient Reason be given, to the Satisfaction of the said Justices, that a further Time is necessary for that Purpose, in which Case the said Justices may, and they are hereby empowered to allow such further Time for the Delivery of the said Certificate as they shall think proper, not exceeding One Year; and in case the said Surveyor shall neglect or refuse to deliver the said Certificate within the Time before limited, such Surveyor shall forfeit and pay the Sum of Twenty Pounds, to be recovered by Distress and Sale of his Goods and Chattels, by Warrant under the Hand and Seal of any Justice of the Peace of the said County, rendering the Overplus (if any) to the said Surveyor, after deducting the Charges and Expences of such Warrant, Distress, and Sale; and such Penalty, when recovered, shall be applied in Aid of the Rate to be made as aforesaid; and that when such Certificate shall have been delivered to the said Justices by the said Surveyor as aforesaid, and shall have been by them allowed and confirmed, the said Roads shall be for ever thereafter repaired and kept in Repair, in such Manner as other publick Highways are by Law to be repaired; and that when the said publick Roads and Ways shall be so set out, appointed, and made as aforesaid, it shall not be lawful for any Person or Persons to use any other Roads or Ways, either publick or private, in the said Parish of *Upton*, or in such Parts of the said Open Fields, called *Upton Field* and *Fishley Crofts*, as lie in the said Parish of *Fishley*, on Foot, or with Horses, Cattle, or Carriages; and all Roads and Ways which shall not be so set out and appointed as the Roads and Ways in the said Parish of *Upton*, and in such Parts of the last mentioned Fields as aforesaid, shall be deemed to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act, and shall be divided and allotted accordingly; and all the publick Bridle or Footways, and all private Ways, and also the Fences next the said publick Highways or Roads, shall be made and raised, and at all Times hereafter maintained and kept in Repair in such Manner and Form, at such Charges and Expences, and by such Person and Persons as

the said General Commissioners shall, by their said Award, order, direct, and appoint; and all and every Owner and Owners of Lands so charged with such Repairs, shall respectively be liable and deemed chargeable therewith, by reason of the Tenure of his, her, or their respective Lands; and the Grass and Herbage growing and renewing on all the said publick Roads or Ways, shall be taken and enjoyed by such Person or Persons as the said General Commissioners shall appoint, and by no other Person or Persons whomsoever.

XXI. Provided always, That none of the present Roads shall be shut up and discontinued, until the said General Commissioners shall have caused the said publick Roads to be set out as aforesaid, and until the same shall be properly formed, and made safe and convenient for Horses, Cattle, and Carriages.

None of the present Roads to be shut up, until others are set out.

XXII. Provided also, That the said General Commissioners shall, before the setting out of any publick Roads or Highways in pursuance of this Act, cause a Notice of their Intention in that Behalf, and a Description of all the publick Highways and Roads intended to be set out and appointed by them, to be inserted in the said *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper printed and circulated in the said County of *Norfolk*; and if any Person shall have any Objection to the said publick Roads or Highways, or any of them, or shall propose any other publick Roads or Highways, such Person shall deliver his or her Objections or Proposals in Writing to the said General Commissioners, or any One of them, within Fourteen Days, or at the First Meeting of the said General Commissioners after the Publication of the said Notice; and the said General Commissioners shall thereupon hear the Allegations and Evidence offered and produced to them in Support of the said Objections or Proposals, and after due Consideration thereof, shall set out and appoint all or any Part of the publick Roads or Highways described in the said Notice, or such other publick Highways or Roads in lieu thereof, as they shall think fit.

Notice to be given of setting out Roads,

XXIII. And be it further enacted, That the said General Commissioners shall then assign, set out, and allot unto the Surveyors of the Highways within the said Parish of *Upton*, such Parts of the Lands and Grounds hereby directed to be divided and allotted, as the said General Commissioners shall think necessary, as and for publick Watering Places for Cattle, and as and for publick Sand, Gravel, Clay, and Chalk Pits, and the same Allotment or Allotments when set out, shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Lands and Estates within the said Parish of *Upton*, and their Tenants for the Time being, in such Manner, and under such Rules and Regulations as the Commissioners for Drainage herein-after appointed shall from Time to Time direct or appoint.

Allotment for publick Sand and Gravel Pits.

XXIV. And be it further enacted, That the said General Commissioners shall, in the next Place, assign, set out, and allot unto and for the Lord or Lords of the Soil of the said Commons and Waste Grounds, such Part of the same as, in the Judgement of the said General Commissioners, shall be a full Recompence and Compensation for his, her, or their

Allotment for Right of Soil.

their Right or Rights in and to the Soil of the said Commons and Waste Grounds.

Allotment out of Commons and Waste Grounds to the Value of One Acre and a Half to each Commonable House.

XXV. And be it further enacted, That the said General Commissioners shall assign, set out, and allot, unto the several Owners of Messuages or Cottages having Right of Common upon the said Commons and Waste Grounds, such Parts and Parcels of the Lands and Grounds hereby directed to be divided and allotted, as the said General Commissioners shall, in their Judgement, deem and consider to be equal in Value *per Annum* to the Annual Average Value of One Acre and a Half of the said Commons and Waste Grounds, to and for each and every such Common Right Messuage or Cottage, over and above the Allotments to which the Owners of such Messuages or Cottages respectively shall be entitled by virtue of this Act: Provided always, That every Messuage or Cottage, for or in respect of which any Right of Common over or upon the said Commons and Waste Grounds, or any Part thereof, shall have been exercised or enjoyed without Interruption during the Space of Thirty Years now last past, shall be deemed to be a Common Right Messuage for the Purposes of this Act.

Allotment of the Residue.

XXVI. And be it further enacted, That the said General Commissioners shall then assign, set out, and allot the Residue and Remainder of the Lands and Grounds hereby directed to be divided and allotted, unto and among the several Owners and Proprietors thereof, and unto and among all and every Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, interested therein, in such Shares or Proportions as the said General Commissioners shall adjudge and determine to be the Value of, and a full Satisfaction and Compensation to him, her, or them respectively, for his, her, or their respective Parts and Shares of such Lands and Grounds, and his, her, or their respective Rights and Interests therein.

For laying the Allotments conveniently together.

XXVII. Provided always, That in making the said Allotments the said General Commissioners shall have a due Regard, as well to the Quality and Quantity of the Lands and Grounds so to be divided and allotted as aforesaid, as also to the Situation and Contiguity of the same, to the respective Habitations, Messuages, Barns, and other Property of the several Parties to or for whom such Lands and Grounds shall respectively be assigned and allotted.

In case any Person shall sell his Common Right, the Allotment is to be made to the Purchaser.

XXVIII. Provided also, That if any Person or Persons (save and except the said Vicar in respect of the said Vicarage) hath sold, or contracted or agreed to sell, or shall, at any Time before the Execution of the said Award, sell, or contract or agree to sell, his, her, or their Right, Interest, and Property in the said Commons and Waste Grounds, or any Part thereof, to any other Person or Persons, then and in every such Case it shall and may be lawful for the said General Commissioners, and they are hereby authorized and required, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, Contract, or Agreement, or to his or her Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold, or contracted or agreed to be sold, as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may,

may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him, her, or them as aforesaid, in the same Manner, to all Intents and Purposes, as the Vendor in every such Sale, Contract, or Agreement, might, could, or ought to have held and enjoyed the same, in case such Sale, Contract, or Agreement, had not been made, or such Rights, Interest, or Property, had been vested in such Vendor at the Time of making such Allotment as aforesaid.

XXIX. And be it further enacted, That it shall and may be lawful to and for the said General Commissioners, to make Partition of any Messuages, Tenements, Lands, or other Hereditaments, within the said Parish of *Upton*, and such Parts of the said Open Fields, called *Upton Field* and *Fisbley Crofts*, as lie in the said Parish of *Fisbley*, belonging to any Persons as Coparceners, or as Joint Tenants, or as Tenants in Common, so as every such Partition be made upon Application from, and by and with the Consent and Approbation of the several Proprietors thereof, and Persons interested therein, to be signified in Writing under their Hands, or under the Hands of the Guardians, Trustees, Committees, or Attornies, duly authorized, of such of the said Proprietors as are under Coverture, Minors, Lunatics, or beyond the Seas; or under any other Disability or Incapacity of acting for themselves, and be specified and declared in the Award of the said General Commissioners, or by any Instrument signed by them, to be enrolled with the said Award; and every such Partition shall be good, valid, and effectual, to all Intents and Purposes whatsoever.

General Commissioners may make Partition of undivided Estates.

XXX. And be it further enacted, That, from and after the passing of this Act, until the Execution of the said Award, no Part of the Pasture or Marsh Grounds, hereby directed to be divided and allotted, shall be ploughed up or converted into Tillage, without the Consent of the said General Commissioners first had and obtained in Writing for that Purpose; and that all the Arable Lands hereby directed to be divided and allotted, shall, during that Time, be subject and liable to such Directions and Regulations as the said General Commissioners shall, from Time to Time, by Writing under their Hands, appoint, as well with regard to the stocking as to the ploughing, folding, tilling, sowing, and laying down the same; and it shall be lawful for the said General Commissioners to order and direct such Sum or Sums of Money, in respect thereof, to be paid by any Person or Persons interested in the said Arable Lands, or any Part thereof, or his, her, or their Tenant or Tenants, to any other Person or Persons in like Manner interested therein, or his, her, or their Tenant or Tenants, as they the said General Commissioners shall think reasonable; and in case any Person or Persons, who shall be directed to pay any Sum or Sums of Money on any of the Accounts aforesaid, shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said General Commissioners, and they are hereby authorized and required to raise and levy the same, for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raised and levied.

General Commissioners to direct the Course of Husbandry.

XXXI. And be it further enacted, That it shall be lawful for the Vicar of the said Vicarage of *Upton*, with the Consent of the Lord Bishop

For exchanging Lands.

[*Loc. & Per.*]

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of

of *Norwich*, and of the Patron of the said Vicarage of *Upton* for the Time being, given in Writing under their Hands, and for the Trustee or Trustees, Feoffee or Feoffees, and also for any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, who is, are, or shall be Owner or Owners of any Messuages, Buildings, Lands, and Grounds within the said Parish of *Upton*, or in any Parish or Parishes adjoining thereto; and also for the Husbands, Guardians, Committees, and Trustees of any of the said Owners, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or otherwise incapable to act for themselves; and also for all Persons acting as Guardians, Trustees, or Committees of such Owners respectively, being under any Disability whatsoever, whether such Owner or Owners be Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, to exchange all or any of his, her, or their Messuages, Cottages, Buildings, Lands, and Grounds, for any other Messuages, Cottages, Buildings, Lands, or Grounds, within the said Parish of *Upton*, or any adjoining Parish or Parishes, so that all and every such Exchange and Exchanges be made with the Consent and Approbation of the said General Commissioners, and be described and ascertained in their said Award; and all and every such Exchange and Exchanges shall be valid in the Law, to all Intents and Purposes whatsoever.

Vicar to grant
Leases.

XXXII. And be it further enacted, That it shall and may be lawful to and for the said *John Oldershaw*, and his Successors, Vicars of *Upton* aforesaid, by and with the Consent of the Lord Bishop of *Norwich*, and of the Patron of the said Vicarage, given in Writing under their Hands and Seals, to lease or demise all or any Part of the Lands and Grounds to be allotted to the said Vicar and his Successors, as Vicars as aforesaid, to any Person or Persons, for any Term not exceeding Fourteen Years, to commence within Twelve Calendar Months next after the Execution of the Award herein directed to be made by the said Commissioners, so as in every such Lease there be reserved and made payable to the said Vicar and his Successors, the best and most improved Rent or Rents that can be reasonably had or gotten for the same, without taking any Fine, Premium, or Foregift, in Consideration of granting any such Lease or Leases, but nevertheless with such Abatement of Rent, or with such Allowance as may be reasonable, for or on Account of the Expence which the said Vicar, or his Tenant or Tenants, may be at or be put unto in subdividing the said Allotments, and improving the same; and so as the Lessees in any such Leases be not thereby made dispunishable of Waste; and so as in every such Lease there be contained a Power of Re-entry for Nonpayment of such Rents to be thereby reserved, within a reasonable Time to be therein limited after the same shall become due; and so as a Counterpart of every such Lease be made and executed by the Lessee or Lessees; and so as the Rents thereby to be reserved be made payable to the Vicar of the said Parish half-yearly, and other necessary and usual Clauses and Covenants be contained in every such Lease; and every such Lease so to be made shall be good, valid, and effectual, to all Intents and Purposes whatsoever; any Law, Statute, Usage, or Custom, to the contrary thereof notwithstanding.

XXXIII. And

XXXIII. And be it further enacted, That so soon as conveniently may be, after the said General Commissioners shall have completed the Division and Allotments of the Lands and Grounds hereby directed to be divided and allotted, and the Works which they shall deem necessary for draining the same; pursuant to the Directions of this Act, they shall form and draw up an Award or Instrument in Writing, which shall express and denote the Quantity, in Statute Measure, of Acres, Roods, and Perches, of the said Lands and Grounds, and the Quantity of each and every Part and Parcel thereof, which shall be assigned and allotted to or exchanged with each of the Parties entitled to or interested in the same, and of the Parts thereof which shall be allotted for the said Surveyor of the Highways and Commissioners for Drainage respectively, in pursuance of the Directions herein contained; and shall contain a Description of the Situation, Abuttals, and Boundaries of the same Parcels and Allotments respectively; and shall ascertain and describe such Parts of the Lands and Grounds hereby directed to be divided and allotted, as shall, in the Judgement of the said General Commissioners, be drained by virtue of this Act; which Parts of the said Lands and Grounds, so to be ascertained and described as last mentioned, shall be for ever thereafter deemed to be the Lands and Grounds to be drained by virtue of this Act; and the said Award shall also contain such Orders and Directions for raising and maintaining Fences on the Lands and Grounds hereby directed to be divided and allotted, and for laying out, making, and maintaining proper Roads, Ways, Passages, Bridges, Ditches, Gates, Stiles, and Drains, within the said Parish of *Upton*, and also such other Orders and Regulations as the said General Commissioners shall think proper and necessary to be inserted in such Award, conformable to the Purport and Tenor of this Act; and Two Parts of the said Award, with a reduced Map or Plan of the said Parish of *Upton*, and of such Parts of the said Open Fields, called *Upton Field* and *Fishley Crofts*, as are situate in the said Parish of *Fishley*, thereto respectively annexed, shall be fairly engrossed or written on Parchment, and signed, sealed, and delivered by the said General Commissioners; and the said Award shall, within Six Calendar Months after the Execution thereof, be enrolled in One of His Majesty's Courts of Record at *Westminster*, or by the Clerk of the Peace for the said County of *Norfolk*, so that Recourse may be had to such Inrolment by any Person or Persons interested in the Premises (for the Inspection and Perusal whereof the Sum of One Shilling, and no more shall be paid); and both Parts of the said Award, or a true Copy thereof, or of any Part thereof, attested by the said General Commissioners, or by the said Clerk of the Peace, or his Deputy, or by the proper Officer of the Court where the same shall be inrolled, for which Copy no more shall be paid than Two-pence *per* Sheet, each Sheet containing Seventy-two Words, 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; and One Part of the said Award, so enrolled as aforesaid, shall be delivered to the said Dean and Chapter of the Cathedral Church of *Christ* in *Oxford*, and the other Part thereof shall be deposited and kept in the Parish Church of *Upton* aforesaid, or in such other Place as the said General Commissioners shall appoint; and the said Award, and the several Allotments, Partitions, Exchanges, Orders, Directions, Matters, and Things therein contained, shall be, and are hereby declared to be binding and conclusive unto and upon all and every Person and Persons,

Award to be made.

Persons, Body and Bodies Politick, Corporate, or Collegiate, interested in and entitled unto the said Premises so to be divided, allotted, and exchanged as aforesaid.

Allotments to be in Bar of former Rights.

XXXIV. And be it further enacted, That the several Allotments to be made unto and for the several Persons, and Body or Bodies Politick, Corporate, or Collegiate, who by virtue of this Act shall be entitled to the same, shall be in full Satisfaction and Compensation for his, her, and their several Parts and Shares of the Lands and Grounds hereby directed to be divided and allotted, and also for all their respective Rights and Interests which are hereby meant and intended to be barred and destroyed; and that, from and immediately after the Execution of the said Award, all Rights of Common and other Interests whatsoever belonging to or claimed by any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, out of, in, over, or upon the Lands and Grounds hereby directed to be divided and allotted, shall cease, determine, and be for ever extinguished.

For obliging Persons to accept Allotments within a limited Time.

XXXV. And be it further enacted, That the several Persons, and Body or Bodies Politick, Corporate, or Collegiate, to whom any Lands or Grounds shall be allotted by virtue of this Act, shall accept of their respective Allotments, by taking Possession thereof within the Space of Six Calendar Months next after the Execution of the said Award, and Notice thereof in Writing to them respectively given by the said General Commissioners, or left at their respective usual or last Places of Abode, or given to or left at the usual Place of Abode of the known Agent or Clerk of any Body Politick, Corporate, or Collegiate; and in case any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, shall neglect or refuse to accept his, her, or their Allotment or Allotments within the Time herein for that Purpose mentioned, such Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, shall be totally excluded from, and debarred of any Estate, Interest, Right of Common, or any other Property whatsoever, in, to, over, or upon any Lands or Grounds which shall be assigned or allotted to any other Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, in pursuance of this Act.

Guardians, &c. may accept for Persons incapable.

XXXVI. Provided always, That the Guardians, Husbands, Committees, Trustees, or Attornies, of any Person or Persons, being Minors, under Coverture, Lunatics, or beyond the Seas, or otherwise incapable by Law to accept such Shares and Allotments as aforesaid, shall, and they are hereby enabled and required to accept thereof, for the Use of such Person or Persons so incapacitated as aforesaid; and such Acceptance shall be, and is hereby declared to be as valid and effectual, as if the Person or Persons for or to whom such Allotments shall be made respectively, were capable of acting for himself, herself, or themselves, and had accepted such Shares and Allotments as aforesaid; any Law or Usage to the contrary notwithstanding.

But their Non-acceptance shall not prejudice Persons who shall accept within

XXXVII. Provided also, That the Non-claim or Non-acceptance of any Guardian, Husband, Executor, Committee, or Trustee, shall not exclude or prejudice the Right or Claim of any Infant, Feme Covert, or Person under any Disability as aforesaid, who shall claim or accept his

his or her Share or Allotment within the Space of Twelve Calendar Months next after such Disability or Incapacity shall be removed; nor shall any such Non-claim or Non-acceptance exclude or prejudice the Claim or Right of any Person entitled as Heir or in Remainder, after the Death of any Person dying under such Disability or Incapacity, the Person or Persons so entitled, claiming or accepting his, her, or their Share or Allotment within the Space of Six Calendar Months next after his, her, or their Right, Title, or Interest, shall have descended or accrued.

a certain
Time after
their Disabili-
ties are re-
moved.

XXXVIII. And be it further enacted, That the Lands and Grounds hereby directed to be divided and allotted shall be inclosed, hedged, ditched, and fenced, by such Person or Persons, and Body and Bodies Politick, Corporate, or Collegiate, (save and except the Vicar of the said Vicarage for the Time being, in respect of any Allotment or Allotments to be made to him in Right of the said Vicarage, and save and except the said Surveyors of the Highways and Commissioners for Drainage, for and in respect of the Allotments hereby directed to be made to them respectively as aforesaid), within such Time and in such Manner as the said General Commissioners shall, in and by their said Award, order, direct, and appoint; and the Hedges, Ditches, Drains, and Fences, which shall be made pursuant to the said Award, shall at all Times thereafter be maintained and kept in Repair, and cleansed, by such Persons, Body or Bodies Corporate, as the said General Commissioners shall, by their said Award, order and direct; and if any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, shall neglect or refuse to make and raise such Hedges, Ditches, Drains, or Fences, according to the Award of the said General Commissioners, it shall and may be lawful for the said General Commissioners, and they are hereby empowered and required to cause such Hedges, Ditches, Drains, or Fences, to be raised and made by such Person or Persons, in such Manner, and at such Time or Times, as they the said General Commissioners shall think proper; and if the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, who ought to have raised and made such Hedges, Ditches, or Fences, shall neglect or refuse to pay the Costs and Expences of raising and making the same (such Costs and Expences being settled by the said General Commissioners) within Ten Days after Demand made thereof, then and in such Case it shall be lawful for the said General Commissioners, and they are hereby required to raise and levy the same, by such Ways and Means as the Costs, Charges, and Expences, of obtaining and executing this Act, or any Part thereof, can or may be raised and levied; and for better preserving the Ditches, Banks, Plants, Quicksets, and Fences, of the said intended Inclosures, it shall and may be lawful to and for the respective Persons, and Body or Bodies Politick, Corporate, or Collegiate, to whom any Allotment or Allotments shall be made by virtue of this Act, from Time to Time and at all Times, during the Term of Seven Years next after the Execution of the said Award, to set or fix Posts or Rails, or any other Guards, on the Outside of the Ditches, Banks, and Fences, bounding their respective Allotments, not exceeding Three Feet from such Ditches, Banks, and Fences, and at all seasonable Times, before the End of the said Term, to remove, take, and carry away such Posts, Rails, and other Guards, and to convert the same to their respective Uses.

For fencing
Allotments.

[Loc. & Per.]

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XXXIX. And

Fences may be made before the Execution of the Award.

XXXIX. And be it further enacted, That when the said General Commissioners shall have staked out the several Allotments intended to be made by them by virtue of this Act, it shall and may be lawful for any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, to whom any Allotment or Allotments is or are intended to be made, to inclose or fence such Allotment or Allotments, in such Manner as the said General Commissioners shall, by Writing under their Hands, appoint, although the said Award shall not then have been executed.

For leaving Gaps.

XL. Provided always, That convenient Gaps and Openings shall be left in the Fences and Inclosures to be made in pursuance of this Act, for the Space of Twelve Calendar Months next after the Execution of the said Award, for the Passage of Cattle, Carts, and Carriages, into and through the same, unless the several Parties interested shall agree that the same shall be sooner fenced in, made up, and inclosed.

Former Proprietors may enter upon Allotments, and cut down Trees.

XLI. And be it further enacted, That in case any Part of the Lands and Grounds hereby directed to be divided and allotted, upon which any Trees, Woods, Underwoods, Thorns, Hedges, Bushes, Whins, Furze, or Shrubs, are or shall be standing or growing, shall, by virtue of or under this Act, be allotted and assigned to any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, other than such as was or were the Proprietor or Proprietors thereof, at or immediately before the making such Allotments respectively; then and in such Case it shall be lawful for the Owner or Owners of such Trees, Woods, Underwoods, Thorns, Hedges, Bushes, Whins, Furze, or Shrubs, at any reasonable Time within the Space of Six Calendar Months after the Execution of the said Award, or within any shorter Space of Time, to be appointed by the said General Commissioners, to enter into and upon such Lands and Grounds whereon such Trees, Woods, Underwoods, Thorns, Hedges, Bushes, Whins, Furze, or Shrubs, shall be so standing or growing, and to fell, cut down, and with Servants, Cattle, and Carriages, or otherwise, to take and carry away the same, at his, her, and their free Will and Pleasure, to and for his, her, and their own Use and Benefit, unless such Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, to whom the Land and Ground whereon the same shall stand or grow, shall be allotted, do pay or cause to be paid unto the former Proprietor or Proprietors thereof, such Sum or Sums of Money, as and for the Purchase of the same, or any Part thereof, at such Time and in such Manner as the said General Commissioners shall, either before or after the Execution of the said Award, by Writing under their Hands, order and appoint.

Leases and other Agreements to be void on making Tenants a Satisfaction.

XLII. And be it further enacted, That all Leases and other Agreements at Rack or extended Rent, which are now subsisting, or respect all or any Part of the Messuages, Buildings, Lands, and Grounds, within the said Parish of *Upton*, either alone, or together with any other Lands, Tenements, or Hereditaments, shall cease, determine, and be void immediately on such Allotments being made, and such Award being executed as herein-before mentioned, or within such further Time as the said General Commissioners shall appoint; the respective Tenants or Lessees of the same Premises receiving from the respective Owners and Proprietors thereof, such Sum of Money as the said General Commissioners shall ascertain as reasonable to be paid to such Tenant or Tenants, as an Equivalent

valent for the same; and if the Money so to be ascertained as aforesaid shall not be paid to the Person or Persons entitled to receive the same, within Ten Days after Demand made thereof; it shall be lawful for the said General Commissioners, and they are hereby required to raise and levy the same, for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raised and levied.

XLIII. And be it further enacted, That all the Messuages, Cottages, Lands, and Grounds, which shall be allotted or exchanged by virtue of this Act, to or with any Person or Persons; for or in lieu or in respect of any Messuages, Cottages, Lands, and Grounds, holden of any Manor or Manors by Copy of Court Roll, or for or in respect of any Leasehold Messuages, Lands, or Tenements, or for or in respect of any Right of Common, or any other Right or Interest appurtenant or appendant to any such Copyhold or Leasehold Premises; shall, from and after the Execution of the said Award, be deemed and taken to be Copyhold or Leasehold; and shall be held as such, by and under the same Tenure, Rents, Payments, Fines, Customs; and Services, as the Copyhold or Leasehold Messuages, Cottages, Lands, or Tenements respectively, for or in lieu or in respect whereof such Allotments or Exchanges shall be made, are now held; and that such Parts of the said Lands and Grounds as shall be allotted unto any Person or Persons by virtue of this Act, in respect of any Commonable Messuages or Cottages which are Copyhold; shall be deemed and taken to be Copyhold, and shall be subject to, and the Owner or Owners thereof shall pay to the Lord or Lady, Lords or Ladies of the Manor or Manors of which such Copyhold Messuages or Cottages are held, a Quit Rent of One Penny for every Acre of such Land, over and above the present Quit Rents now paid for such Copyhold Messuages or Cottages; and that all and every Person or Persons, to or with whom such Copyhold Lands and Premises shall be allotted or exchanged as aforesaid, shall, within Six Calendar Months next after the Execution of the said Award, be admitted Tenant or Tenants to the same, without paying any Fine or other Charge to the Lord or Lords, Lady or Ladies, or to the Steward or Stewards of the said Manor or Manors (save and except for the Stamp Duties and Parchment requisite to be used for the Copies of such Admissions respectively, and such reasonable Fees to the respective Steward or Stewards of the said Manor or Manors, as the said General Commissioners shall by their said Award order and direct); but in case any Person or Persons to whom such Lands and Premises shall be allotted, shall die without Admission within the said Six Calendar Months, then the customary Fines and other Payments shall be due and payable on the Admission of the Person or Persons entitled to such Lands and Premises; and after every such First Admission, the Copyhold Premises so to be allotted as aforesaid, shall at all Times be held under and subject to the same Tenure, Fines, and other Payments, as the present Copyhold Messuages, Cottages, Lands, or Tenements, in lieu or in respect whereof such Lands and Premises shall be allotted, are now held under and subject to, together with the said Quit Rent of One Penny yearly, for every Acre of Land allotted in respect of such Copyhold Messuages or Cottages as aforesaid; and the said General Commissioners shall, by their said Award, determine, de-

Allotments shall be of the same Tenure as the Lands for which they are allotted.

scribe,

scribe, and abut, the Messuages, Buildings, Lands, and Grounds respectively, which are to be and remain Copyhold or Leasehold, and all other Messuages, Buildings, Lands, and Grounds, to be allotted or exchanged by virtue of this Act, (except what shall be so ascertained by the said General Commissioners to be Copyhold or Leasehold), shall be from thenceforth deemed, taken, and enjoyed as Freehold Messuages, Buildings, Lands, and Grounds, subject nevertheless to such Free Rents and Services as are now payable out of the respective Lands, Tenements, or Hereditaments, for or in respect whereof the same shall or may be allotted or exchanged.

Wills and Settlements not to be affected.

XLIV. Provided always, That nothing in this Act contained shall extend, or be construed to extend, to revoke, make void, alter, or annul, any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, or Incumbrance out of, upon, or affecting any of the Messuages, Buildings, Lands, and Grounds to be divided, allotted, or exchanged by virtue of this Act, or any Part thereof; but that each and every Proprietor shall stand and be seised of the several Messuages, Buildings, Lands, and Grounds, to be allotted to or exchanged with him or her as aforesaid, to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, and Charges, and no other, as the Messuages, Buildings, Lands, and Grounds, whereof such Proprietor was seised or possessed at or immediately before the Execution of the said Award, or for which, or in respect whereof such Allotments or Exchanges shall be made, would have been subject to, charged with, or affected by, in case this Act had not been made.

Directions for defraying the Expences of the Act.

XLV. And be it further enacted, That all the Costs, Charges, and Expences of enclosing the Lands which shall, by virtue of this Act, be allotted to the said Vicar in respect of the said Vicarage, and of enclosing the Allotment or Allotments hereby directed to be made to the Surveyors of the Highways within the said Parish of *Upton*, and to the Commissioners for Drainage herein-after appointed, and all the Costs and Charges incident to and attending the obtaining and passing of this Act, and of surveying, admeasuring, planning, valuing, dividing, allotting, draining, and exchanging, the Lands and Premises hereby directed to be surveyed, measured, planned, valued, divided, allotted, drained, and exchanged, and of preparing and enrolling the said Award, and of the Copies thereof, and all the Charges and Expences of the said General Commissioners, their Assistants and Servants, and all other necessary Expences of the several Persons to be employed by the said General Commissioners in and about the Premises, and all other Expences of carrying this Act into Execution, (save and except such Charges and Expences as shall be incurred, by virtue of this Act, after making the said Award), shall be borne, defrayed, and paid, by the several Persons, and Body or Bodies Politick, Corporate, or Collegiate, interested in the Premises, (save and except the said Vicar of the said Vicarage for the Time being, for or in respect of any Allotment or Allotments which shall be made to him in Right of the said Vicarage, and also save and except the Surveyors of the Highways within the said Parish of *Upton*, and the said Commissioners for Drainage for the Time being, for or in respect of the Allotment or Allotments hereby directed to be made to them respectively as aforesaid.

aforesaid, and also save and except such Person or Persons whose Property within the said Parish of *Upton* shall not, in the Judgement of the said General Commissioners, exceed the Yearly Value of Five Pounds at the Time of making the said Allotments), in such Shares and Proportions, at such Time or Times, and to such Person or Persons, as the said General Commissioners shall appoint; and if any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, shall refuse or neglect to pay his, her, or their Share or Shares of the said Costs, Charges, and Expences, to the Person or Persons authorized to receive the same, at the Time or Times which shall be appointed by the said General Commissioners for Payment thereof, then and in such Case the said General Commissioners shall and may, by Warrant under their Hands and Seals, directed unto any Person or Persons whomsoever, cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, so neglecting or refusing as aforesaid, rendering the Overplus (if any) after deducting the Charges and Expences attending such Warrant, Distress, and Sale, to the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold; or otherwise it shall be lawful for the said General Commissioners, by Writing under their Hands and Seals, to authorize and empower One or more Person or Persons to enter into and upon the Lands and Grounds to be allotted, or belonging to the Person or Persons, or Body or Bodies Corporate or Collegiate, so refusing or neglecting as aforesaid, and to take and receive the Rents, Issues, and Profits of the same Premises, until thereby or therewith the Share or Shares of the said Costs, Charges, and Expences, so appointed to be paid by such Person or Persons, or Body or Bodies Corporate, so neglecting or refusing as aforesaid, with lawful Interest thereupon from the Time the same shall have become due, and also all the Costs and Expences occasioned by or attending such Entry on, and Perception of the Rents and Profits of the said Premises, shall respectively be fully paid and satisfied.

XLVI. Provided nevertheless, and be it enacted, That so much of the Charges and Expences as shall become payable in respect of the Lands to be allotted unto and for the said Dean and Chapter of the Cathedral Church of *Christ* in *Oxford*, for or on Account of any Messuages, Cottages, Lands, Tenements, or Hereditaments, now holden under a Lease or Leases from them, shall be borne, defrayed, and paid, by the said *John Clarke*, their Lessee, or his Executors or Administrators.

Such Expences as become payable in respect of Lands which are Leasehold of *Christ Church, Oxford*, to be paid by Lessee.

XLVII. Provided also, That the said Proprietors, their Attornies and Agents, shall pay their own Expences when they, or any of them, shall attend the said General Commissioners at any of their Meetings to be held in pursuance of this Act.

Proprietors and their Agents to pay their own Expences.

XLVIII. Provided also, That if any of the Proprietors or Persons interested in the Lands and Grounds hereby directed to be divided and allotted, or any other Person or Persons, shall advance and pay any Money in Discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said General Commissioners, together with lawful Interest for the same.

Money advanced to be repaid with Interest.

[*Loc. & Per.*]

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XLIX. And

For borrow-
ing Money.

XLIX. And be it further enacted, That it shall and may be lawful for the Trustee or Trustees, Feoffee or Feoffees, and to and for the respective Owners and Proprietors of any Messuages, Lands, Tenements, or Hereditaments, within the said Parish of *Upton*, and such Parts of the said Open Fields, called *Upton Field* and *Fishley Crofts*, as lie in the said Parish of *Fishley*, (save and except the Vicar of the said Vicarage for the Time being, the Lessee of the said Dean and Chapter, and the Surveyors of the Highways, and Commissioners for Drainage, in respect of any Allotment or Allotments made to them as Commissioners for Drainage), and also to and for the Husbands, Guardians, Trustees, and Committees of any of the said Owners or Proprietors being under Coverture, Minors, Idiots, Lunaticks, or beyond the Seas, or labouring under any other Disability whatever, and also to and for all Persons acting as Guardians, Trustees, or Committees, of any Owners or Proprietors, being under any Disability or Incapacity whatsoever, whether such Owners and Proprietors respectively be Tenants for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, by any Deed or Deeds, Writing or Writings under their respective Hands and Seals, to be duly executed in the Presence of, and attested by Two or more credible Witnesses, to charge the Lands and Grounds exchanged with or allotted to them respectively by virtue and in pursuance of this Act, with any Sum or Sums of Money, not exceeding Three Pounds for every Acre thereof, for defraying their respective Proportions of the Costs, Charges, and Expences incident to and attending the obtaining and executing of this Act, and of enclosing and fencing their respective Lands; and for securing the Repayment of such Sum or Sums of Money, with Interest for the same, to grant, mortgage, lease, demise, surrender, or otherwise subject the said Premises, or any Part thereof, unto any Person or Persons who shall advance and lend such Sum or Sums of Money respectively, his, her, or their Heirs, Executors, Administrators, or Assigns, for any Term or Number of Years, so as every such Grant, Demise, or Surrender, 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 satisfied and paid; and so as in every such Grant, Mortgage, Demise, or Surrender, which shall be made by such Trustee or Trustees, Feoffee or Feoffees, or by any Person or Persons interested in or entitled unto the Premises for the Term of their natural Lives only, or by his, her, or their Guardian or Guardians, Trustee or Trustees, Committee or Committees, there be contained a Proviso or Covenant that the Proprietor or Proprietors of the said Premises shall duly pay and keep down the Interest of any Sum or Sums of Money to be thereby secured, during their respective Lives, or the Lives of the Tenants in Possession of such Premises; and no Person afterwards becoming possessed of the Premises shall be liable to pay any further or larger Arrear of Interest, than for One Year preceding the Time that the Title to such Possession shall commence; and every such Grant, Mortgage, Demise, or Surrender of the said Premises, or any Part thereof, shall be good, valid, and effectual in the Law, for the Purposes thereby intended, notwithstanding the Want of Title in such Trustee or Trustees, Feoffee or Feoffees, Owner or Owners, or in the said Husbands, Guardians, or Committees, or in the Persons acting as such, or in the Tenants in Tail or for Life, and notwithstanding any Settlement, Will, Trust,

Use,

Use, Remainder, or Limitation of or concerning the same Premises, or any Part thereof, then in being or capable of taking Effect to the contrary.

L. And be it further enacted, That the said General Commissioners shall, and they are hereby required to make out an Account of the Costs and Expences of obtaining and executing this Act; and the said Account, with the proper Vouchers, shall be produced when the said General Commissioners shall be thereunto required by the said Proprietors, or the major Part of them in Value. Commissioners to produce Accounts.

LI. And be it further enacted, That the Reverend the Dean of the Cathedral Church of *Christ* in *Oxford* for the Time being, the Vicar of the said Vicarage of *Upton* for the Time being, and each and every Owner or Proprietor of Twenty Acres of Land, to be drained by virtue of this Act, shall, from and after the Execution of the Award herein directed to be made by the said General Commissioners, be, and are hereby appointed Commissioners for the Purpose of draining the Lands and Grounds directed to be drained by virtue of this Act. Commissioners for Drainage appointed.

LII. Provided always, and be it enacted, That it shall and may be lawful to and for each and every such Commissioner for Drainage, by Writing under his or her Hand, from Time to Time, and for such Time as he or she shall think fit, to nominate and appoint an Agent or Deputy to act in his or her Absence as a Commissioner for Drainage; and such Agent or Deputy shall and may, in the Absence of the Person by whom he shall be so nominated and appointed, act as a Commissioner for Drainage, and shall have the like Power and Authority as if the Person by whom such Agent or Deputy shall be appointed were present; but no such Agent or Deputy shall be capable of acting as Agent or Deputy, for the Purposes of this Act, for any more than One Commissioner for Drainage at any One Time. Appointment of Deputy Commissioners for Drainage.

LIII. And be it further enacted, That no Person shall be capable of acting as a Commissioner for Drainage (except it be in administering the Oath or Affirmation herein-after mentioned to any of the other Commissioners) until he shall have taken the Oath following, or being of the People called *Quakers*, made Affirmation; *videlicet*, Commissioners to take an Oath or Affirmation.

‘ I *A. B.* do swear, [*or*, being of the People called *Quakers*, do solemnly affirm], That I will, without Favour or Affection, Hatred or Malice, truly and impartially, according to the best of my Skill and Knowledge, execute and perform all and every the Powers and Authorities, in the Execution whereof I shall at any Time act as a Commissioner appointed in and by an Act, made in the Thirty-ninth Year of the Reign of His Majesty King *George* the Third, intituled, *An Act for dividing, allotting, and inclosing, the Arable Lands, Intermixed Pastures, Half Year Lands, Commons, and Waste Grounds, within the Parish of Upton, in the County of Norfolk, and such Parts of the Open Fields, called Upton Field and Fishley Crofts, as lie in the Parish of Fishley, in the said County, and for draining the same.*

‘ So help me GOD.’

Which

Which Oath it shall and may be lawful to and for any of the said Commissioners for Drainage to administer, and he is hereby required to administer the same to the other Commissioners.

Persons acting
not being qua-
lified to forfeit
20 l.

LIV. And be it further enacted, That in case any Person shall presume to act as a Commissioner for Drainage before he or she shall have taken the said Oath or made Affirmation, or if any Person, not being duly qualified as required by this Act, shall have acted, or shall have appointed an Agent or Deputy, who shall have acted as such Agent or Deputy in the Execution of this Act, every such Person shall forfeit and pay the Sum of Twenty Pounds to any Person or Persons who shall sue for the same, to be recovered, with full Costs of Suit, by Action of Debt, or on the Case, Bill, Plaint, or Information, in any of His Majesty's Courts of Record at *Westminster*, wherein no *Essoign*, Protection, or Wager of Law, or any more than One *Imparlance*, shall be allowed; and the Person so prosecuted shall prove that he or she has taken such Oath, or made such Affirmation, and is qualified as aforesaid, or otherwise shall pay the said Sum of Twenty Pounds, without any other Proof or Evidence on the Part of the Prosecutor, than that such Person has acted as a Commissioner for Drainage, in the Execution of this Act, or has appointed an Agent or Deputy; One Moiety of which Penalty shall be paid to the Prosecutor, and the other Moiety shall be applied to the Purposes of this Act.

Times and
Places of hold-
ing Meetings.

LV. And be it further enacted, That the said Commissioners for Drainage shall, and they are hereby required to hold their First Meeting for carrying this Act into Execution, in the Parish of *Upton* aforesaid, on the First *Monday* in the Month, which shall next happen after the Execution of the said Award by the said General Commissioners, between the Hours of Ten and Twelve in the Forenoon; and the said Commissioners for Drainage shall and may from Time to Time adjourn themselves, to meet at any convenient Place within the said Parish, or within Five Miles thereof, which they the said Commissioners for Drainage, or the major Part of them then present, shall appoint; and if it shall so happen that there shall not appear a sufficient Number of the said Commissioners for Drainage at any such Meeting to act, or to adjourn to another Day, (Two Commissioners for Drainage to be deemed sufficient for the Purpose of Adjournment), or if they shall refuse or neglect to adjourn, or if a sufficient Number of Commissioners for Drainage shall not be present to adjourn, then and in every such Case the Clerk to the said Commissioners for Drainage, or any Two or more of the said Commissioners for Drainage, shall and may call a Meeting to be holden within the said Parish of *Upton*, by Writing under his Hand or their Hands, affixed to the principal Door of the Parish Church of *Upton* aforesaid, and by publishing the same in One of the *Norwich* Weekly Newspapers Ten Days at the least previous to the Time of such Meeting; and no Act of the said Commissioners for Drainage shall be good or valid, unless done at some publick Meeting to be holden by virtue of this Act (save as may be herein excepted); and that all Powers and Authorities granted to or vested in the said Commissioners shall and may, from Time to Time, be exercised by the major Part of them present at any Meeting, the whole Number present at such Meeting not being less than Three, and the said Commissioners for Drainage shall, at all their Meetings in pursuance of this Act, be allowed Five Shillings each *per* Day, out of the Monies to arise by virtue of this Act, and no more,

more, towards their Expences, so that such Allowance do not in the whole exceed the Sum of Two Pounds *per* Day at every such Meeting of the said Commissioners for Drainage.

LVI. And be it further enacted, That the said Commissioners for Drainage shall meet on the First *Monday* in the Month of *March* in each and every Year, between the Hours of Ten and Twelve in the Forenoon, in the said Parish of *Upton*; which Meeting shall be called *The General Annual Meeting of the said Commissioners for Drainage.* Annual Meeting.

LVII. And be it further enacted, That fair and regular Entries shall be made, in a Book or Books to be provided for that Purpose; of all the Acts, Orders, Rules, Regulations, Directions, and Proceedings of the said Commissioners for Drainage, relative to the Execution of this Act, and of the Names of the Commissioners for Drainage who shall be present at the respective Meetings; and the same shall be subscribed with the Names of the Commissioners for Drainage of each respective Meeting; and all such Entries, being so signed, shall be deemed Originals, and shall be allowed to be read in Evidence in all Courts whatsoever, in all Cases, Suits, and Actions, touching any Thing done in pursuance of this Act. Entries of Proceedings good Evidence.

LVIII. And be it further enacted, That the said Commissioners for Drainage shall and may sue and be sued in the Name of their Clerk; and that no Action that may be brought or commenced by or against the said Commissioners for Drainage, or any of them, by virtue or on Account of this Act, in the Name of their Clerk, shall abate or be discontinued by the Death or Removal of such Clerk, or by the Act of such Clerk, without the Consent of the said Commissioners for Drainage; but the Clerk to the said Commissioners for Drainage for the Time being shall always be deemed Plaintiff or Defendant in such Action, as the Case may be: Provided always, That every such Clerk, in whose Name any Action or Suit shall be commenced, prosecuted, or defended, in pursuance of this Act, shall always be reimbursed and paid, out of the Monies to arise by virtue of this Act, all such Costs and Charges as by the Event of any such Proceedings he shall be put to, or become chargeable with, by reason of his being so made Plaintiff or Defendant therein. Actions to be in the Name of the Clerk.

LIX. And be it further enacted, That the said Commissioners for Drainage shall and may, at their First or any subsequent Meeting, appoint a Clerk or Clerks, Treasurer, Surveyor, and such other Officer or Officers, for the Execution of this Act, as the said Commissioners for Drainage shall think proper; and from Time to Time remove him or them, and appoint others, as they shall find necessary or convenient; and by and out of the Monies to be raised by virtue of this Act, may and are hereby empowered to appoint and pay such Salaries and Allowances to such Officers, and to all other Persons by them the said Commissioners for Drainage employed in the Execution of this Act, as they shall think reasonable; and the said Commissioners for Drainage shall and may take such Security for the due Execution of the respective Offices by such Person and Persons as aforesaid, as the said Commissioners for Drainage shall think proper; and all such Officers and Persons so to be appointed as aforesaid shall, under their Hands, at such Time and Times, and in such Manner as the said Commissioners for Drainage shall direct, deliver [Loc. & Per.] H. b. to

to such Commissioners for Drainage, or to such Person or Persons as they shall appoint, true and perfect Accounts in Writing of all Matters and Things committed to their Charge by virtue of this Act, and also of all Monies which shall have been by such Officer or Officers, and Person or Persons, respectively received by virtue and for the Purposes of this Act, and how much thereof hath been paid and disbursed, and for what Purposes, together with the proper and legal Receipts or Vouchers for such Payments, and shall pay all such Monies as shall remain in their respective Hands to the said Commissioners for Drainage, or to such Person or Persons as they shall appoint; and all the said Officers or Persons so accounting as aforesaid, shall, upon Oath, if thereunto required by the said Commissioners for Drainage, verify their said Accounts (which Oath any One of the said Commissioners for Drainage is hereby enabled to administer); and if any such Officer or Person shall not make and render, or shall refuse to verify upon Oath any such Account, or to produce or deliver up the Receipts or Vouchers relating to the same, or to make Payment as aforesaid, or shall not deliver to the said Commissioners for Drainage, or to such Person or Persons as they shall appoint, within Ten Days after being thereunto required by such Commissioners for Drainage, all Books, Papers, and Writings in his or their Custody or Power, relating to the Execution of this Act, or shall refuse or neglect to pay such Monies as upon the Balance of any Account or Accounts shall appear to be in their respective Hands, to the said Commissioners for Drainage, or as they shall direct or appoint, then and in any of the Cases aforesaid, such Commissioners for Drainage may and are hereby authorized and empowered to bring or cause to be brought any Action or Actions against the Officer or Officers, Person or Persons, so neglecting or refusing as aforesaid, in order for the Recovery of the Monies that shall be in the Hands of such Officer or Officers, Person or Persons respectively; or if Complaint shall be made by the said Commissioners for Drainage, or by such Person or Persons as they shall appoint for that Purpose, of any such Refusal or Neglect as aforesaid, to any Two or more of the Justices of the Peace for the County or Place wherein such Officer or Officers, Person or Persons so neglecting or refusing, shall be or reside, such Justices may and are hereby authorized and required, by a Warrant or Warrants under their Hands and Seals, to cause the Officer or Officers, Person or Persons so refusing or neglecting, to be brought before them, and upon his or their appearing, or not being to be found, to hear and determine the Matter in a summary Way; and if upon the Confession of the Party or Parties, or by the Testimony of any credible Witness or Witnesses upon Oath, it shall appear to such Justices that any of the Monies that shall have been collected or raised by virtue of this Act shall be in the Hands of such Officer or Officers, Person or Persons, such Justices may and are hereby authorized and required, upon Non-payment thereof, by a Warrant or Warrants under their Hands and Seals, to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Officer or Officers, Person or Persons respectively; and if no Goods or Chattels of such Officer or Officers, Person or Persons, can be found, sufficient to answer and satisfy the said Money, and the Charges of distraining and selling the same, then and in any or either of the Cases aforesaid, such Justices shall commit every such Offender to the Common Gaol or House of Correction for the said County of *Norfolk*, there to remain, without Bail or Mainprize, until he shall give and make a true
and

and perfect Account and Payment as aforesaid, or until he shall compound with the said Commissioners for Drainage, and shall have paid such Composition in such Manner as they shall appoint, which Composition the said Commissioners for Drainage are hereby empowered to make, and until he shall deliver up such Books, Papers, and Writings as aforesaid, or give Satisfaction in respect thereof to the said Commissioners for Drainage.

LX. And be it further enacted, That the said Commissioners for Drainage shall be, and they are hereby fully empowered, from Time to Time, by such Agents or Persons as they shall think proper to employ, to support, maintain, repair, and improve all such Drains, Dams, Banks, Mills, Sluices, Engines, Bridges, and other Works, as shall be made or erected by the said General Commissioners, in, through, over, and upon the Lands and Grounds to be drained by virtue of this Act, for the Purpose of draining the same, and from Time to Time to renew such of them as shall fall into Decay, and become incapable of being repaired; and also to make and erect all such other Drains, Dams, Banks, Mills, Sluices, Engines, Bridges, and other Works, as shall appear to the said Commissioners for Drainage to be necessary for effectually draining the said Lands and Grounds; and also to cleanse and maintain, and keep in good Repair and Condition, the Boat Dike, and Staith or Staiths to be set out and allotted by the said General Commissioners, and from Time to Time to make such Rules, Orders, and Regulations, respecting the Use of the said Boat Dike, and Staith or Staiths, as to them the said Commissioners for Drainage shall seem proper; all which Drains, Dams, Banks, Mills, Sluices, Engines, Bridges, and other Works, to be made or erected by the said General Commissioners, or by the said Commissioners for Drainage, for the Purpose of draining the Lands and Grounds to be drained by virtue of this Act, the Piece or Pieces of Land to be set out and allotted by the said General Commissioners to the said Commissioners for Drainage for maintaining, repairing, and preserving the same, and the said publick Boat Dike, and Staith or Staiths, and the Right and Property to and in the same, and the Materials of which the same shall consist, shall be, and the same are hereby vested in the said Commissioners for Drainage for the Time being, and they are hereby authorized and required to insure from Fire all and every such Mills or Engines, Edifices and Buildings, as shall at any Time or Times be erected by virtue of this Act.

Works of
Drainage to
be kept in
Repair.

LXI. And be it further enacted, That the said Commissioners for Drainage shall and may, from Time to Time, and at all Times after the said Award of the said General Commissioners shall be made and executed, at any of their Meetings to be holden in pursuance of this Act, assess, rate, tax, and charge, all and every the Owners and Occupiers of the said Lands and Grounds to be drained by virtue of this Act, with such equal and proportionate Rates and Assessments upon their respective Parts and Shares thereof, as they the said Commissioners for Draining shall judge necessary for the maintaining, repairing, and supporting of the several Works which shall be made for the Drainage thereof, or for any Part thereof, and for making any necessary Alterations or Enlargements therein or thereto, as Occasion shall require, all which said Rates, Taxes, and Assessments, shall be collected by and paid to such Collector or Collectors, or other Person or Persons, and at such Times as they the said Commissioners

To raise Mo-
ney for main-
taining
Works.

missioners for Drainage shall appoint, and shall be applied by them in Discharge of all such Expences as they shall incur in the Execution of this Act.

Tenants to
pay Taxes.

LXII. And be it further enacted, That all Tenants and Occupiers of all and singular the Lands and Grounds drained by virtue of this Act shall, and are hereby authorized and required to pay such Sums of Money, as shall be so assessed on the Lands in their respective Occupations, by the said Commissioners for Drainage, to the Collector or Collectors, or other Person or Persons appointed by the said Commissioners for Drainage, for the Purpose of receiving the same; and it shall and may be lawful to and for every such Tenant and Occupier (save and except the Lessee or Lessees of the said Dean and Chapter) to deduct and retain the same out of his, her, or their Rent or Rents, and the several Owners are hereby required to allow such Deduction; and every such Tenant paying such Rate or Assessment shall be discharged of so much Money as the same shall amount to, as fully as if the same had been paid to his or her Landlord.

For Recovery
of Taxes.

LXIII. And be it further enacted, That in case any Owner or Owners, Tenant or Tenants, or Occupier or Occupiers of any Lands or Grounds to be drained by virtue of this Act, shall make Default in Payment of the Whole or any Part of the Sum or Sums of Money to be assessed, rated, taxed, or charged upon him, her, or them, for or in respect of such Lands or Grounds, or any Part thereof, and shall continue in such Default by the Space of Fourteen Days next after the Time appointed by the said Commissioners for Drainage for such Payment, and after Demand of such Rates or Assessments in Writing made by the Collector or Collectors, or other Person or Persons authorized to collect such Rates and Assessments, and left at the usual Place or Places of Abode of such Owner or Owners, Tenant or Tenants, or Occupier or Occupiers, who is, are, or ought to pay the same, or if such Owner or Owners, Tenant or Tenants, or Occupier or Occupiers, shall not have any Place of Abode within the said Parish of *Upton*, or within Two Miles of the same, then after Demand made by the said Collector or Collectors, or other Person or Persons authorized to collect such Rates and Assessments, by Notice in Writing affixed on some conspicuous Part of the Premises chargeable with such Rates and Assessments, it shall and may be lawful to and for such Collector or Collectors, or other Person or Persons authorized as aforesaid, by virtue of any Warrant or Precept under the Hands and Seals of any Two or more of the said Commissioners for Drainage, (which Warrant or Precept such Two or more Commissioners for Drainage are hereby empowered and required to make and give, as there shall be Occasion, though not assembled at any Meeting in pursuance of this Act), to enter into and upon all or any Part of the Lands or Grounds so rated and assessed as aforesaid, and into and upon all or any Messuages or Tenements thereupon standing, and there, or in any Part or Parts of the Lands, Grounds, Messuages, or Tenements, upon which such Entry shall be made, to distrain all or any such Goods, Chattels, or Cattle, as shall be there found; and it shall and may be lawful for such Collector or Collectors, or other Person or Persons authorized as aforesaid, to impound the Goods, Chattels, or Cattle, so distrained on any Part of the Messuages or Lands whereon the same shall be found, or otherwise to take, lead, drive,

drive, or carry away, and keep the same, for the Space of Five Days; leaving Notice in Writing of the Cause of such Distress or Distresses, at the Messuage or Tenement, Messuages or Tenements, or on some conspicuous Part of the Lands or Grounds upon which such Distress shall be taken, or otherwise at the usual Place or Places of Abode of the Owner or Owners of such Goods, Chattels, or Cattle; and if the Owner or Owners of such Goods, Chattels, or Cattle, so distrained, shall not pay the Sum or Sums of Money so assessed, rated, and distrained for as aforesaid, together with the Costs and Charges of such Warrant; and taking such Distress, and of keeping and maintaining the same, or replevy the Goods, Chattels, and Cattle so distrained, according to the Laws now in Force for Non-payment of Rent, within the said Five Days, that then the said Goods, Chattels, or Cattle so distrained, shall be appraised by Two or more indifferent Persons, to be sworn by the Constable or Headborough of the Parish or Place where such Distress shall be made, (who is hereby authorized and required to administer an Oath for that Purpose), to appraise the same according to the best of their Judgement, and that after such Appraisement as aforesaid, the said Goods, Chattels, or Cattle, shall be sold by the said Collector or Collectors, or other Person or Persons as aforesaid, for Payment of the said Sum or Sums of Money so assessed, rated, and distrained for, and of the said Costs and Charges, and also of the said Costs and Charges of appraising and selling such Distress; and that the Overplus arising from such Sale (if any) after Payment of the said Sum or Sums of Money, shall be returned, on Demand, to the Owner or Owners of such Goods, Chattels, or Cattle.

LXIV. Provided always, and be it enacted, That in case any of the said Lands or Grounds to be drained as aforesaid, shall at any Time hereafter be untenanted or unoccupied, so that no sufficient Distress can be made for levying the said Rates and Assessments, then the Lands and Grounds chargeable therewith shall remain a Security for Payment of such Rates and Assessments, and all Goods, Chattels, and Cattle, which shall at any Time thereafter be found thereon, shall and may be distrained, impounded, kept, and sold in Manner aforesaid, until such Rates and Assessments, and all Arrears thereof, and the Charges incident to such Distress, shall be fully paid and satisfied.

Lands untenanted to remain a Security for the Rates.

LXV. And be it further enacted, That if any Person or Persons shall wilfully and maliciously cut, break down, demolish, or destroy any Bank, Mill, Engine, Dam, Flood Gate, Bridge, Sluice, or Tunnel, already made, or which shall at any Time hereafter be made or erected, supported, maintained, or used, for answering the Purposes of this Act, every Person so offending, and being convicted, shall be guilty of Felony, and the Court before whom such Person shall be tried and convicted, shall have Power and Authority to cause such Person or Persons to be transported for Seven Years, or in Mitigation of such Punishment may award such Sentence as the Law directs in Cases of Petty Larceny.

Punishment for destroying Works.

LXVI. And be it further enacted, That if any Person or Persons shall wilfully or maliciously stop, dam up, or damage any Drain, Watercourse, Dam, Bridge, Stile, or other Work or Works already made or erected, or which shall at any Time hereafter be making or erecting, or made or erected,

Persons damaging Works to forfeit a Sum not exceeding 50*l*.

[*Loc. & Per.*]

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erected, supported, maintained, or used for the Purposes of this Act, every Person or Persons so offending, and being thereof convicted before any Two or more Justices of the Peace for the said County of *Norfolk*, (who are hereby required to hear and determine the same on the Oath of One or more credible Witnesses or Witnessess) shall forfeit and pay any Sum not exceeding Fifty Pounds, to be levied by Distress and Sale of the Goods and Chattels of every such Offender or Offenders, by Warrant under the Hands and Seals of such Justices; and such Money, when so levied, shall be paid to any One or more of the said Commissioners for Drainage, or to their Clerk, and shall be applied towards the Discharge of the Expences attending the Execution of this Act; and for Want of sufficient Distress, such Offender or Offenders shall, by the said Justices, be committed to the Common Gaol of the said County of *Norfolk*, for any Time not exceeding Twelve Calendar Months, at the Discretion of the said Justices.

Penalty on
Neglect to
cleanse Dikes.

LXVII. And be it further enacted, That if the Owner or Owners, Occupier or Occupiers, of any Part or Parts of the Lands and Grounds to be drained by virtue of this Act, to which any Ditch or Ditches, Drain or Drains shall belong, shall neglect or refuse sufficiently to scour, cleanse, open, or repair, any such Ditch or Drain, or to make the same of a sufficient Depth and Width, after Fourteen Days Notice in Writing given to him, her, or them, or left at his, her, or their usual Place or Places of Abode, from Time to Time for that Purpose, by the Collector or other Officer to be appointed under and by virtue of this Act, (such Collector or other Officer having an Order in Writing for that Purpose under the Hands of Two or more of the said Commissioners for Drainage), every such Owner or Occupier shall, for every such Neglect or Refusal, forfeit and pay the Sum of Two Shillings for every Rod of the Ditch or Drain so neglected to be scoured, cleansed, opened, repaired, deepened, and widened; and it shall be lawful from Time to Time for such Collector or other Officer to cause such Ditches and Drains, at the Charge and Expence of such Owners or Occupiers, to be scoured, cleansed, opened, repaired, and deepened, in a sufficient Manner, and where a Way shall have been made over any Ditch or Drain without a sufficient Tunnel, to cause such Ways to be taken up, and such Ditch or Drain to be made of a proper Width and Depth, and by Warrant or Precept under the Hands of Two or more of the Commissioners for Drainage, to levy such Penalty, and also such Charges and Expences, upon such Owner or Owners, Occupier or Occupiers, by Distress and Sale of his, her, or their Goods and Chattels; and such Penalties shall be applied for the Purposes of this Act.

No Trees to
be planted, or
Building
erected, with-
in 200 Yards
of any En-
gines to be
erected by this
Act, except
by Order of
the Commis-
sioners.

LXVIII. And be it further enacted, That no Tree or Trees shall at any Time or Times hereafter be planted, or any Building, Stack, or Rick, erected or built, except by the Order or Permission of the said Commissioners for Drainage, nearer to any Mill or Engine, which shall be made, erected, or employed as aforesaid, than Two hundred Yards; and if any Tree or Trees shall be planted, or any Building, Stack, or Rick, hereafter made, erected, or built, within the Distance aforesaid, then it shall and may be lawful for the said Commissioners for Drainage, to cause such Tree or Trees to be taken down and carried away, and such Building, Stack, or Rick, to be pulled down and removed, upon Notice given

given to the Owners thereof, and their Neglect to remove the same for the Space of Fourteen Days.

LXIX. And be it further enacted, That the Grass and Herbage growing, arising, and renewing upon such Parts of the Lands and Grounds hereby directed to be divided and allotted, as shall be vested in the said Commissioners for Drainage, shall in future be let by the said Commissioners for Drainage at their General Annual Meetings to be held as aforesaid, for the best Rent or Rents that can or may be gotten for the same; and such Rents shall be applied by the said Commissioners for Drainage for the general Purposes of Drainage under this Act, in such Manner as they shall at such Annual Meetings direct.

Herbage of Drovers, &c. to be let annually.

LXX. And be it further enacted, That if any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this Act, (other than and except such Orders and Determinations of the said General Commissioners, as are herein declared to be final and conclusive, and except in such Cases wherein an Issue at Law shall be tried, as herein-before mentioned), then and in every such Case he, she, or they may appeal to the Justices at the General Quarter Sessions of the Peace which shall be holden for the said County of *Norfolk*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said General Commissioners, or any Two of them, and to the Party or Parties concerned, in case the Appeal shall be made against any Act or Determination of the said General Commissioners, or to the Clerk of the said Commissioners for Drainage, in case the Appeal shall be made against any Act or Determination of the said Commissioners for Drainage, Ten Days Notice in Writing of such Appeal, and of the Matter thereof, and the Justices (not interested in the Premises) at their said General Quarter Sessions, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned; but in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

Appeal to the Sessions.

LXXI. And be it further enacted, That all Penalties and Forfeitures by this Act imposed and incurred (for the Recovery and Application whereof no particular Method is herein-before directed) shall be levied and recovered by Distress and Sale of the Offender's Goods and Chattels, by Warrant under the Hand and Seal of any Justice of the Peace for the said County of *Norfolk*, which Warrant such Justice is hereby empowered to grant upon the Confession of the Party or Parties, or upon the Evidence of One or more credible Witness or Witnesses upon Oath; and such Penalties

Recovery of Penalties by Distress and Sale;

Irregularity which shall be afterwards done by the Party or Parties so dis-
training, but the Person or Persons so aggrieved by such Irregularity,
shall and may recover full Satisfaction for the special Damage in an Ac-
tion upon the Case.

LXV. Provided always, and be it enacted, That no Action or Suit Limitation of
Actions. shall be commenced or prosecuted against any Person or Persons for any
Thing done or to be done by virtue or in pursuance of this Act, until
after Thirty Days Notice thereof in Writing, signed by the Party or Par-
ties aggrieved, shall have been given to the Party or Parties complained
of, or left at his, her, or their last or usual Place or Places of Abode,
thereby setting forth the Cause of such Action or Suit, nor after sufficient
Satisfaction or Tender thereof hath been made to the Party or Parties ag-
grieved, nor after Six Calendar Months next after the Fact committed;
or the Cause of such Action shall have arisen; and every such Action shall
be brought and laid in the said County of *Norfolk*, and not elsewhere;
and the Defendant or Defendants in every such Action or Suit shall and
may plead, at his or their Election, specially, or the General Issue, and if in
Replevin may justify and avow by virtue of this Act, as Persons acting
by Authority of Commissioners of Sewers are enabled to do, and give
this Act and the special Matter in Evidence at any Trial to be had
thereupon, and that the same was done in pursuance or by the Authority
of this Act; and if upon the Trial of such Action or Suit it shall appear
to have been so done, or that such Action or Suit shall be brought before
the Expiration of Thirty Days next after such Notice shall have been given
as aforesaid, or after sufficient Satisfaction made or tendered as aforesaid,
or after the Time limited for bringing the same as aforesaid, or be brought
or laid in any other County than as aforesaid, then and in every of the said
Cases the Jury shall find a Verdict for the Defendant or Defendants,
Avowant or Avowants; and in all Cases where a Verdict shall be found
for any Defendant or Defendants, Avowant or Avowants, in any such
Action or Suit, or the Plaintiff or Plaintiffs therein shall discontinue the
same after the Defendant or Defendants shall have appeared thereto, or
shall be nonsuited, or if upon Demurrer Judgement shall be given against
such Plaintiff or Plaintiffs, then and in every such Case the Defendant or
Defendants, Avowant or Avowants, shall recover Double Costs, and have
such and the like Remedy for recovering the same, as any Defendant or
Defendants, Avowant or Avowants, hath or have for recovering Costs of
Suit in any other Case by Law.

LXVI. Provided always, That nothing contained in this Act shall Saving the
Rights of
Lords of
Manors. defeat, lessen, or prejudice, or be construed to defeat, lessen, or preju-
dice, the Right, Title, or Interest of the Lord or Lords, Lady or Ladies, of
the Manors herein-before mentioned, or either of them, for the Time
being, in or to the Seignories, Royalties, Rights, and Services, incident
and belonging to the said Manors respectively, but that such Lord or
Lords, Lady or Ladies, of the said Manors for the Time being shall and
may from Time to Time, and at all Times hereafter, hold and enjoy all
Rents, Services, Courts, Perquisites and Profits of Courts, Mines, Goods,
and Chattels of Felons, Fugitives, Felons of themselves, Persons put in
Exigent, Deodands, Waifs, Estrays, Forfeitures, and all other Royalties,
Jurisdictions, Rights, and Pre-eminences whatsoever to the said Manors,
or either of them, or to the Lord or Lords, Lady or Ladies thereof for

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the Time being respectively incident, appendant, appurtenant, belonging, or in anywise appertaining, (save and except such Right to the Soil of the said Commons and Waste Grounds, and such Rights of Common of Pasture, and other Commonable Rights and Interests, as before the passing of this Act belonged to, or could or might have been claimed or exercised by such Lord or Lords, Lady or Ladies, in, over, or upon the said Lands and Grounds hereby directed to be divided and allotted), in as full, large, ample, and beneficial Manner, as he, she, or they could or might have held and enjoyed the same in case this Act had not been passed.

General
Saving.

LXVII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person or Persons, Body or Bodies Politick, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, (except the several Persons, and Body or Bodies Politick, Corporate, or Collegiate, to whom any Allotment or Allotments shall be made in pursuance of this Act, for and in respect of such Rights and Interests as are hereby meant and intended to be barred and destroyed, and all Persons respectively claiming under them, or in Remainder after them), all such Right, Title, and Interest, which they, every, or any of them could or ought to have had and enjoyed of, in, to, or out of the said Lands and Grounds hereby directed to be divided and allotted in case this Act had not been passed.

Publick Act.

LXVIII. And be it further enacted, That this Act shall be deemed, adjudged, and taken to be a Publick Act; and shall be judicially taken Notice of as such, by all Judges, Justices, and other Persons whomsoever, without specially pleading the same.

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