



ANNO PRIMO & SECUNDO

# VICTORIÆ REGINÆ.

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## Cap. 20.

An Act for inclosing Lands in the Manor of *Great Warley* in the several Parishes of *Great Warley* and *Shenfield* in the County of *Essex*.

[4th July 1838.]

**W**HEREAS there are within the Manor of *Great Warley* in the several Parishes of *Great Warley* and *Shenfield* in the County of *Essex* divers Commons and Waste Lands and Grounds containing together by Estimation One hundred and seventy Acres, or thereabouts: And whereas *Charles Winn* Esquire is Lord of the said Manor of *Great Warley*, and as such entitled to the Soil of the said Commons and Waste Lands and Grounds: And whereas divers other Persons, being Copyholders of the said Manor, claim to be interested in the said Commons and Waste Lands and Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required in the passing of such Acts*: And whereas another Act was passed in the First and Second Years of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: And whereas the said Commons and Waste Lands and Grounds are capable of considerable Improvement, and it would be of

41 G. 3.  
c. 109.

1 & 2 G. 4.  
c. 23.

[Private.]

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Advantage



Appointment  
of Commis-  
sioners.

Advantage to the Persons entitled to and interested in the said Commons and Waste Lands and Grounds if the same were divided and allotted unto and amongst them according to their respective Rights and Interests therein, and held in Severalty and inclosed: And whereas such Division, Allotment, and Inclosure cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Thomas Tayspill* of *Colchester* in the County of *Essex*, Gentleman, and *Robert Baker* of *Writtle* in the said County, Gentleman, and their Successors to be appointed as herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Commons and Waste Lands and Grounds, and for carrying into execution the Powers and Provisions of this Act and also of the said recited Acts, except so far as the same are hereby varied or altered.

Commis-  
sioners to  
make a De-  
claration.

II. Provided always, and be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act until he shall have made and subscribed the following Declaration; (that is to say,)

' I *A.B.* do solemnly and sincerely declare, That I will faithfully, im-  
' partially, and honestly, according to the best of my Skill and Ability,  
' execute and perform the several Trusts, Powers, and Authorities vested  
' and reposed in me as a Commissioner by virtue of an Act passed in the  
' First Year of the Reign of Queen *Victoria*, intituled [*here insert the Title*  
' *of the Act*], according to Equity and good Conscience, and without  
' Favour or Affection, Prejudice or Partiality, to any Person or Persons  
' whomsoever.'

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

For appoint-  
ing new Com-  
missioners.

III. And be it further enacted, That if before all the Powers and Authorities hereby reposed in the said Commissioners shall have been fully executed and performed the said *Thomas Tayspill*, or any other Commissioner to be appointed in his Stead as herein-after mentioned, shall die, or refuse to act, or become incapacitated, or neglect for the Space of Two Calendar Months to act as a Commissioner in the Execution of this Act and the said recited Acts, it shall be lawful for the said *Charles Winn*, or the Lord or Lords, Lady or Ladies of the said Manor of *Great Warley*, for the Time being, and he, she, or they is and are hereby required, within Twenty-eight Days next after such Death, Refusal, Incapacity, or Neglect shall be made known to him, her, or them, by Writing under his, her, or their Hand or Hands, to appoint some other fit Person (not interested in the Lands and Grounds hereby intended to be divided, allotted, and inclosed,) to be a Commissioner in the Place or Stead of the said *Thomas Tayspill* or of any other Commissioner to be appointed in his Stead, and so from



Time to Time as often as any Commissioner to be appointed by the said *Charles Winn*, or the Lord or Lords, Lady or Ladies of the said Manor of *Great Warley* for the Time being, shall die, neglect, become incapable, or refuse to act as aforesaid; and if the said *Robert Baker*, or any other Commissioner to be appointed in his Stead as herein-after mentioned, shall die, or refuse to act, or become incapacitated, or neglect for the Space of Two Calendar Months to act as a Commissioner in the Execution of this Act and the said recited Acts before all the Powers and Authorities hereby reposed in the said Commissioners shall be fully executed and performed, then and in any such Case the Copyholders or other Persons interested in the said Commons and Waste Lands and Grounds hereby directed to be divided, allotted, and inclosed (except the said Lord or Lords, Lady or Ladies of the said Manor for the Time being), or the major Part of them in Value, such Value to be ascertained by the Land Tax Assesments of the said Parishes of *Great Warley* and *Shenfield* for the then current Year, who shall be present in Person or by their respective Attornies or Agents at a Meeting to be appointed for that Purpose by the surviving or remaining Commissioner, or by any Three or more of such Copyholders or other Persons interested in the said Inclosure, within Twenty-eight Days after such last-mentioned Death, Refusal, Incapacity, or Neglect shall be known, of which Meeting Notice shall be given by the surviving or remaining Commissioner, or by any Three or more of such Copyholders or other Persons interested in the said Inclosure, or their respective Attornies or Agents, by affixing such Notice on the principal outer Door of the principal Parish Church of *Great Warley* and of the Parish Church of *Shenfield* upon some *Sunday* before Divine Service, and causing the same to be inserted in some Newspaper then printed or circulated in the said County of *Essex*, Fourteen Days at least before such Meeting, shall and may elect, and by Writing under their Hands nominate and appoint, a proper Person (not being interested in the said Inclosure) to be a Commissioner in the Place and Stead of the said *Robert Baker*, or any other Commissioner to be appointed in his Stead, and so from Time to Time as often as any such Commissioner so to be appointed by the major Part in Value of the said Copyholders or other Persons interested in the said Inclosure (exclusive as aforesaid) shall die, neglect, or refuse, or become incapable to act as a Commissioner in the Execution of this Act.

IV. Provided always, and be it further enacted, That in case any Person or Parties herein-before enabled and authorized to appoint a new Commissioner shall refuse or neglect to appoint a new Commissioner within the Time herein-before prescribed, then and in every such Case the surviving or remaining Commissioner shall and he is hereby required forthwith, by any Instrument or Writing under his Hand, to appoint some other fit and proper Person (not interested in the Premises) to be a Commissioner, for the Purposes of this Act and the said recited Acts, in the Place and Stead of the Commissioner so dying, or refusing or neglecting to act, or becoming incapable of acting as aforesaid, and every Person so to be appointed a Commissioner as aforesaid shall, after making and subscribing the Declaration herein-before mentioned, have such and the like Powers and Authorities in all respects for carrying this Act and the said recited Acts into execution as if he had been named a Commissioner in and by this Act; and every such Appointment, together with the Declaration of every such Commissioner, shall be enrolled with the general Award of the Commissioners, and a Copy of such Instrument, attested by the

In case Parties neglect to appoint a new Commissioner the remaining Commissioner to appoint.



the proper Officer of the Court where the same shall be enrolled, shall be full and sufficient Evidence thereof.

What shall  
be a Refusal  
to act by  
Commis-  
sioner.

V. And be it further enacted, That if any Commissioner shall neglect to attend at One of the first Two Meetings appointed to be held for carrying this Act into execution, and to qualify himself by making the Declaration in that Behalf prescribed (Notice being given to him of such intended Meetings under the Hand of the other Commissioner), or if any Commissioner shall at any Time after having qualified himself as aforesaid, he having first known of such Meetings by his Presence at the Appointment thereof, or having Notice thereof in Writing given to him or left at his Place of Abode under the Hand of the Clerk of the said Commissioners, and such Commissioner not being prevented by Sickness or other reasonable Cause, or if any Commissioner to be nominated and appointed as aforesaid shall not attend and qualify himself at One of the first Two Meetings after his becoming a Commissioner, or shall, after having qualified himself as aforesaid, wilfully absent himself from any Two successive Meetings, (having first known thereof, or after such Notice and without such Cause as last aforesaid,) every such Absence or Nonattendance shall be deemed and taken to be a Refusal to act.

Appointment  
of Umpire.

VI. And be it further enacted, That *Christopher Comyns Parker* of *Woodhain Mortimer* in the County of *Essex*, Esquire, shall be and he is hereby appointed Umpire for settling and determining any and every Difference or Dispute which may arise between the Commissioners appointed or to be appointed under the Authority of this Act respecting any Matter relating to the Execution of this Act or the said recited Acts, so far as the same relate to the Execution of the same Acts respectively; the Decision of which Umpire in every Matter of Difference or Dispute shall be in all respects as binding, effectual, and conclusive as the Decision of the Commissioners acting in the Execution of this Act or of the said recited Acts in relation thereto would have been if made, and that every such Decision shall be good and effectual although the Word Umpire be omitted in any Clause of this Act.

In case of  
Death, &c.  
of Umpire.

VII. And be it further enacted, That if before all the Powers and Authorities hereby reposed in the said Commissioners and in the said Umpire shall have been fully executed and performed the said *Christopher Comyns Parker*, or any other Umpire to be appointed in his Stead as hereafter mentioned, shall die, or refuse to act, or become incapacitated, or shall neglect to act as an Umpire in the Execution of this Act and the said recited Acts in relation thereto for the Space of One Calendar Month after he shall have been required by the said Commissioners or by either of them, in Writing, to act as Umpire in any Matter of Difference or Dispute between them as aforesaid, it shall be lawful for the said Commissioners and they are hereby required, before proceeding any further in the Execution of this Act or of the said recited Acts in relation thereto, and within Twenty-eight Days next after such Death, Refusal, Incapacity, or Neglect shall be made known to them, by Writing under their Hands to appoint some other fit and proper Person not interested in the Lands or Grounds intended to be divided under the Authority of this Act, and not being an Agent ordinarily entrusted with the Care, Superintendence, or Management of the Estate of any Person so interested, to be an Umpire in the Place and Stead of the said *Christopher Comyns*



*Comyns Parker*, or of any other Umpire to be appointed in his Stead, and so from Time to Time as often as any Umpire to be appointed by the Commissioners acting in the Execution of this Act and of the said recited Acts for the Time being shall die, neglect, become incapacitated, or refuse to act as aforesaid; and every Umpire so to be appointed as aforesaid shall, before acting in the Execution of this Act, make and subscribe a Declaration similar to that herein-before required to be made and subscribed by a Commissioner, substituting in such Declaration the Word Umpire for the Word Commissioner.

VIII. And be it further enacted, That it shall be lawful for the said Commissioners by Writing under their Hands, or, in case of their Disagreement, for the said Umpire by Writing under his Hand, to appoint some fit and proper Person, not interested in the Premises, to be a Surveyor for the Purposes of this Act and the said recited Acts; and in case of the Death, Refusal, Neglect, or Incapacity of the Person so appointed to act as such Surveyor whilst the Powers of this Act and the said recited Acts are being carried into execution, then the Commissioners or Umpire for the Time being shall be and they are hereby respectively authorized to appoint another Surveyor in his Stead, and so from Time to Time to make a new Appointment as often as the said Office shall be vacant by reason of the Death, Refusal, Neglect, or Incapacity to act of any Surveyor; but no Commissioner or Umpire acting in the Execution of the Powers hereby given shall be employed to act as Surveyor in the Execution of this Act during the Time he shall so act as Commissioner or Umpire: Provided nevertheless, that it shall be lawful for the said Commissioner or Umpire to adopt and use any Survey, Admeasurement, and Plan already made of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or of the old Inclosures within the said Manor of *Great Warley*, without causing a new Survey and Admeasurement to be made thereof, as authorized or allowed by the said first-recited Act, and out of the Money to be raised by virtue of this Act to make such Satisfaction to the Surveyor to be appointed as aforesaid, and to the Person or Persons producing such Map, Survey, Admeasurement, or Plan, as the said Commissioners or Umpire shall think reasonable.

Appointment  
of Surveyor.

IX. Provided always, and be it further enacted, That no Person shall be capable of acting as a Surveyor for the Purposes of this Act until he shall have made and subscribed a Declaration in the Words or to the Effect following; (that is to say,)

Surveyor to  
make a  
Declaration.

‘ I *A.B.* do solemnly and sincerely declare, That I will faithfully,  
‘ impartially, and honestly, according to the best of my Skill and  
‘ Ability, execute and perform the several Trusts, Powers, and Authorities  
‘ vested and reposed in me as Surveyor by virtue of an Act passed in the  
‘ First Year of the Reign of Her Majesty Queen *Victoria* [*here set forth*  
‘ *the Title of this Act*], according to Equity and good Conscience, and  
‘ without Favour or Affection, Prejudice or Partiality, to any Person or  
‘ Persons whomsoever.’

Which Declaration it shall be lawful for One of the said Commissioners, or for any Justice of the Peace for the said County of *Essex*, to administer or receive; and such Declaration, so made and subscribed,

[*Private.*]

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shall

shall be annexed to and deposited with the Award of the said Commissioners, and an Office Copy thereof shall be admitted as legal Evidence.

Penalty on making a false Declaration.

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

Commissioners to appoint a Clerk.

XI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered to appoint some fit and proper Person to be a Clerk to assist them in the Execution of the Powers of this Act and the said recited Acts, and, if Occasion shall require, to remove from Time to Time any such Clerk, and to appoint another in his Stead, as to them shall seem right and proper.

Allowance to Commissioners and Clerk.

XII. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same and the said recited Acts, the said Commissioners, Umpire, and the Clerk, to be appointed by the said Commissioners as herein-before directed, shall respectively be paid for each and every Day they shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts, during the first Two Years next after the passing of this Act, the Sum of Three Pounds Three Shillings, each, and no more; and after the Expiration of the said Two Years until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds Two Shillings each, and no more, for each and every Day they shall be respectively employed as aforesaid, in full Satisfaction for their Time and Trouble and for their several travelling and Tavern Expences which they shall be put unto during their several Journies and Attendances in the Execution of this Act or the said recited Acts, other than and except the Expences for the Use of the Room in which the Meetings shall be holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of drawing, copying, ingrossing, and enrolling the Award of the said Commissioners, and of preparing and copying the Notices and Advertisements and the Proceedings of the said Commissioners, or any Matter or Thing relating thereto.

General Notices.

XIII. And be it further enacted, That all Notices necessary to be given by the said Commissioners or Umpire, in Cases not hereby or by the said recited Acts otherwise provided for or directed, shall be given and published by Advertisement to be inserted in some Newspaper published and circulated in the said County of *Essex*, and by affixing the same upon One of the principal Doors of the Parish Church of *Great Warley* aforesaid.

Meetings.

XIV. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice to be given and published as aforesaid of the Time and Place of their first and every subsequent Meeting for the Execution of this Act at least Seven Days before such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioners may from Time to Time adjourn any such Meetings to such Time and Place as they shall think proper; and all Meetings of the said



said Commissioners shall be held within the said Parish of *Great Warley*, or at some Place within the Distance of Eight Miles from the Boundary thereof: Provided that if at any Meeting appointed to be holden as aforesaid only One of the said Commissioners shall attend, such Commissioner so attending shall and may adjourn such Meeting to such Time within the Space of Twenty-eight Days from the Date of such Adjournment, and to such Place within the Limits aforesaid, as he shall think most convenient; and if no Commissioner shall attend it shall be lawful for the Clerk of the said Commissioners to adjourn such Meeting in like Manner.

One Commissioner or Clerk may adjourn.

XV. And for regulating the Duration of all Meetings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that the Time occupied in going to, attending at, and returning from any Meetings to be holden or other Business transacted for the Purposes of this Act of a less Duration than Eight Hours or Six Hours (as the Case may be) shall be charged as One Half a Day, and the said Commissioners, Umpire, and Clerk shall be paid accordingly; and a Book shall be kept by the Commissioners or their Clerk, in which shall be entered the several Days on which the said Commissioners or Umpire shall hold their Meetings, and in such Book shall also be entered at what Hours the said Commissioners, Umpire, and their Clerk were respectively present at such Meetings, and at what Hour they respectively left the same, and such Book shall be signed by such Commissioners or Umpire, and their Clerk, at the Termination of each Meeting, and shall be open for the Inspection of any Person or Persons interested in the said Inclosure, or his or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same.

For regulating the Duration of Meetings.

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

Commissioners, Umpire, and Clerk not to be paid more than Two Thirds of their Allowance until Six Months after Execution of the Award.

XVII. And



Commissioners to settle Disputes ;

but not to determine Titles contrary to Possession.

Power to award Costs.

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

XVIII. And be it further enacted, That in case the said Commissioners shall, upon the hearing and determining of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of the said first-recited Act or of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, by Order under their Hands, to settle, assess, award, and adjudicate such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made by the Party or Parties whose Claim or Claims, Objection or Objections shall be thereby disallowed or over-ruled ; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs or Charges shall refuse or neglect to pay the same on Demand, then it shall be lawful for the said Commissioners and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale ; and if there shall not be any Goods or Chattels whereon to levy the same, or in case the Party ordered to pay such Costs be a Body Politic, Corporate, or Collegiate, then and in either of the said Cases it shall be lawful for the Party or Parties in whose Favour such Costs shall be awarded to recover the same by Action or Actions of Debt or on the Case, in which Action or Actions it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioners, and in consequence of such Order, without setting forth any other Proceedings under this Act.

XIX. And



XIX. And be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioners for the Time being touching or concerning any Claim or Claims, Objection or Objections, Rights or Interests, in, over, upon, or out of the Land and Grounds hereby directed to be divided, allotted, and inclosed, or any Part or Parts thereof, or touching and concerning any Matter or Thing whatsoever relating to the Division, Allotment, or Inclosure by the Act directed, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with any such Determination, to cause an Action to be brought in One of Her Majesty's Courts of Record at *Westminster* upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioners shall have been notified in Writing to the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, against whom such Determination shall have been made, or to his, her, or their known Agent or Attorney, and the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied as aforesaid, shall proceed to a Trial at Law of the Matter so determined by the said Commissioners at the next or the Second Assizes to be holden for the said County of *Essex* after such Action or Actions shall have been so commenced; and the Defendant or Defendants in such Action or Actions shall and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, Objection or Objections, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Persons and Person, Bodies and Body Politic, Corporate, and Collegiate whomsoever, unless the Court in which such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims, Right or Rights, Interest or Interests thereby determined, according to the Event of such Trial or Trials: Provided always, that if no such Notice shall be given, or if any such Notice shall be given and such Action at Law shall not be commenced within the Time herein-before limited, or if any such Action shall be commenced and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time and in manner herein-before mentioned, then the Determination of the said Commissioners shall be final, binding, and conclusive to all Intents and Purposes whatsoever: Provided always, that if the Defendant or Defendants in any such Action shall not appear and plead thereto according to the Rules of Practice of the Court in which such Action shall be brought, the same Proceedings shall be had and taken in such Action for obtaining final Judgment therein as are used in other Actions

Allowing  
Parties to try  
their Rights  
at Law.

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of



of a like Nature in the said Court, and that when final Judgment shall have been obtained in any such Action the same shall be as effectual and conclusive as if a Verdict had been obtained in such Action, and not afterwards set aside.

Death of Parties not to abate Actions or Suits.

XX. Provided also, and be it further enacted, That if any of the Parties, Plaintiffs or Defendants, in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate respectively, who might have brought such Action against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if he, she, or they was or were actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action in the same Manner as the Party or Parties so dying might have been served therewith if living, and such Process shall be served on the Heir or Heirs or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, it shall thereupon be incumbent to appear and defend such Action in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of every such Action.

Suits not to delay the Execution of the Act.

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

Death of Parties not to Delay the Execution of the Act.

XXII. And be it further enacted, That if any of the Parties interested in the said Division, Allotment, and Inclosure shall die before the same shall be completed the Powers and Authorities hereby given to the said Commissioners shall not be thereby determined or suspended, but the said Commissioners shall proceed in the Execution of the Powers given to



them by this Act and the said recited Acts in such Manner as they might have done in case such Party or Parties were still living ; and the Share or Shares of the Person or Persons so dying shall be allotted to the Person or Persons who shall by Law become entitled to the same, and shall be accepted and taken by him, her, or them according to the Directions of this Act and the said recited Acts, and he, she, or they shall be liable to the Charges and Expences and the several Provisions of this Act and of the said recited Acts.

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

Extinguish-  
ment of  
Rights of  
Common.

XXIV. And be it further enacted, That if any Person or Persons, after any Right of Common or Feeding shall have been extinguished under or by virtue of this Act, shall stock or depasture with Sheep, Cattle, or other Stock any Part of the said Grounds on which such Right of Common or Feeding shall have been so directed to be extinguished as aforesaid, it shall be lawful for the Lord of the Manor for the Time being, or any Copyholder of the said Manor, or any other Person or Persons by the said Commissioners to be appointed from Time to Time, to distrain all such Cattle, Sheep, or other Stock then being or depasturing upon any Part of the said Lands or Grounds after the said Right of Common or Feeding shall have been extinguished, and to impound the same, in like Manner as allowed by Law in the Case of Cattle Damage feasant.

Power to  
distrain  
Cattle depas-  
turing after  
Right of  
Common ex-  
tinguished.

XXV. And be it further enacted, That it shall not be lawful for any Person or Persons whomsoever (until after the Execution of the Award of the said Commissioners, and then only as to his, her, and their respective Allotments,) to cut, dig, pare, grave, flay, or carry away any Turf, Sod, Furze, Fuel, Gravel, or Stones in, upon, or from the said Commons or Waste Lands or Grounds, or any Part thereof, without or contrary to the Tenor of the Licence of the said Commissioners under their Hands for that Purpose first had and obtained ; and if any Person or Persons shall cut, dig, pare, grave, flay, or carry away any such Turf, Sod, Furze, Fuel, Gravel, or Stones contrary to the Provisions of this Act it shall be lawful for any Justice or Justices of the Peace for the said County of *Essex*, upon due Proof made before him or them upon solemn Affirmation (which Affirmation he and they is and are hereby authorized to administer), by Warrant under his or their Hand and Seal or 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 the Person or Persons so offending in the Premises, for every such Offence ; and the Sum so to be levied, after deducting the Costs and Charges attending such Distress and Sale, shall be

Furze, Turf,  
&c. not to be  
cut without  
Leave of the  
Commis-  
sioners.



be paid to the said Commissioners, and be by them applied towards the Payment of the Costs and Charges of carrying the said recited Acts and this Act into execution.

Power to shorten Boundary Fences.

XXVI. And be it further enacted, That in order to straighten and shorten the Boundary Fences between any of the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and the Lands and Grounds in any adjoining Manor or Manors, it shall and may be lawful for the said Commissioners, with the Consent in Writing under the Hands of the Lord or Lords, Lady or Ladies of the Manor or Manors, and of the Owners of the Lands adjoining to such Boundary Fences, to straighten or shorten the said Fences, or any of them, or any Part or Parts thereof, and to set out, ascertain, and determine such Boundary Fences as the said Commissioners shall judge proper for the Purposes aforesaid; and after such Boundary Fences shall be so set out, ascertained, and determined as aforesaid the same shall be made and fenced by such Person or Persons in such Manner and at such Time or Times as the said Commissioners shall order and direct; and such Fences shall accordingly for ever thereafter be deemed and taken to be the Boundaries between the Lands and Grounds in the said Manor of *Great Warley* and such Manors respectively, any Law, Usage, or Custom to the contrary thereof notwithstanding.

Roads dividing Parishes.

XXVII. And be it further enacted, That in case any public Road or Highway shall by virtue of the said first-recited Acts and this Act be set out or continued in any Situation or Direction where the said Manor of *Great Warley* or any Part of it is divided from any Parish or Place, and where there now is or usually hath been a public Road or Way, and such adjoining Parish or Place hath heretofore been charged or liable or ought to be charged or liable to One Half of the Repairs and Support of the said Road or Way, then and in such Case the said Commissioners may and they are hereby authorized and required to set out so much Land from and out of the Lands and Grounds hereby intended to be divided, allotted, and inclosed as will enlarge the Breadth of such Road or Way to Thirty Feet at the least; and the Expence of altering and widening all and every such Road and Roads, Way and Ways, shall be discharged out of the Monies to be raised for carrying the said recited Acts and this Act into execution: Provided always, that no adjoining Parish shall, by reason of the widening of any such Road or Way, be rendered subject or liable to the Repairs or Support of any greater Quantity or Portion thereof than such adjoining Parish now is or hath been subject or liable to.

Power to divert or stop up Roads.

XXVIII. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footways in pursuance of this Act or of the said first-recited Acts, the said Commissioners shall and they are hereby authorized and empowered, if they shall think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the County of *Essex*, to continue or discontinue such public Carriage Roads, Highways, Bridle Roads, and Footways, or any of them, through and over any of the old inclosed Lands or Grounds within the said Manor of *Great Warley*, and also to divert, turn, or stop up any of the old public Carriage Roads, Highways, Bridle Roads, and Footways passing or leading through or over any of such



such old inclosed Lands or Grounds; and the Soil of the Roads and Ways so to be stopped up shall be deemed and taken to be Part of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act.

XXIX. Provided always, and be it further enacted, That before any such Order shall be made, or public Carriage Road, Highway, Bridle Road, or Footway shall be discontinued, stopped up, diverted, or altered by the said Commissioners, the said Commissioners shall cause to be affixed at each End of the said Highway so proposed to be discontinued, stopped up, diverted, or altered a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footway is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the Commissioners acting under or by virtue of the said recited Acts or of this Act; and the said Commissioners shall also cause the same Notice to be inserted in some One Newspaper published or generally circulated in the said County of *Essex* for Four successive Weeks, and shall also cause a like Notice to be affixed on the principal outer Door of the Parish Church of *Great Warley* aforesaid on the Four *Sundays* of the said Four successive Weeks, and shall cause a like Notice to be lodged with the Clerk of the Peace for the County of *Essex* within Ten Days after the Date of such Notice; and the said Clerk of the Peace shall, at the General or Quarter Sessions which shall be holden for the said County of *Essex* next after such Notice shall be lodged with him as aforesaid, file and enrol the same amongst the Records or Proceedings of the said Court of General or Quarter Sessions; and after the said several Notices shall have been so affixed, published, filed, and enrolled as aforesaid, and such Order shall have been made, the said public Carriage Road, Highway, Bridle Road, or Footway shall be and shall be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject however to such Appeal to the Court of General or Quarter Sessions for the County of *Essex* as is herein-after mentioned.

Proceedings before stopping up or dividing Roads.

XXX. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footway should be discontinued, stopped up, diverted, or altered to make his Complaint thereof by Appeal to the Justices at any General or Quarter Sessions of the Peace to be holden for the said County of *Essex* within Four Calendar Months next after the Date of such Notice, giving to the said Commissioners or their Clerk Fourteen Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

Right of Appeal given as to Roads, &c.

XXXI. And be it further enacted, That in case of any such Appeal the Justices at the said General or Quarter Sessions, shall, for the Purpose of determining whether the public Highway so discontinued, stopped up, diverted, or altered may be properly discontinued, stopped up, diverted, or altered, or whether the said Party appealing would be injured or aggrieved thereby, impanel a Jury of Twelve disinterested Men out of

In case of Appeal, a Jury to decide whether old Road shall be discontinued, &c.

[Private.]



the Persons returned to serve as Jurymen at such General or Quarter Sessions; and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the public Highway so discontinued, stopped up, diverted, or altered is wholly unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved thereby, then the said Court of General or Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of General or Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioners, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said first-recited Acts; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up is not unnecessary, or that the Highway so diverted or altered could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved by the said Highway being discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of General or Quarter Sessions shall allow such Appeal, and shall make an Order for restoring the said Highway so discontinued, stopped up, diverted, or altered by the Order of the said Commissioners to its original State, and in that Case the said Court of General or Quarter Sessions is hereby authorized and required to award to the Party or Parties giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioners, and shall be raised by the said Commissioners in such and the same Manner as they are hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

If Appeal be dismissed, the Order of Commissioners to be final.

XXXII. Provided always, and be it further enacted, That from and after the Dismissal of any such Appeal as aforesaid the Order or Award of the said Commissioners for discontinuing, stopping up, diverting, or altering any such public Carriage Road, Highway, Bridle Road, or Footway shall be final and conclusive and be of full Force and Effect, any thing in this Act or in the said recited Acts contained to the contrary notwithstanding.

Expences of discontinuing or widening Roads.

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

Justices may declare any of the Carriage Roads completed.

XXXIV. And be it further enacted, That when and so soon as any of the public Carriage Roads to be set out by virtue of the said first-recited Act and this Act shall be made and completed it shall be lawful for any Two or more of Her Majesty's Justices of the Peace for the said County of *Essex*, if they shall think fit, from Time to Time to certify and declare under their Hands and Seals that any of such public Carriage Roads so to be set out have been fully and sufficiently formed and completed; and such Road or Roads, or so much thereof as shall in any such Certificate be so described or certified, shall thenceforth be supported and kept in repair



repair by such Persons and in such Manner as the public Roads within the said Parishes of *Great Warley* and *Shenfield* respectively are or ought to be by Law amended and kept in repair; and every such Certificate shall, at the General or Quarter Sessions of the Peace to be holden for the said County of *Essex* next after the Date hereof, be filed of Record by the Clerk of the Peace for the said County.

XXXV. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby authorized and required to inquire into and ascertain what Lands have been inclosed and taken from, and what Encroachments have been made in or upon, the said Commons, Waste Lands, and Grounds by this Act directed to be divided, allotted, and inclosed; and all such Inclosures and Encroachments which shall have been taken and made within Twenty Years now last past, except only such Encroachments as may have been made upon the Commons, Waste Lands, and Grounds with the Consent of the Lords of the Manor of *Great Warley* aforesaid, shall be deemed Parts of the Lands and Grounds intended to be hereby divided, allotted, and inclosed, and shall be divided and allotted accordingly: Provided nevertheless, that all such Inclosures and Encroachments shall be allotted to the Person or Persons who shall at the Time of making the Allotments be in Possession of such Inclosures and Encroachment, or in Receipt of the Rents and Profits thereof, as the Whole or Part of the Share or Proportion of the Commons, Waste Lands, and Grounds to which such Person or Persons will be entitled by virtue of this Act, without considering the Value of any Erection or other Improvements made thereon; and if any such Person or Persons shall not be entitled to any Allotment equal to the Value of such Encroachment, but shall be willing to purchase the same, then the said Commissioners shall ascertain the Price thereof, or of such Part thereof as shall exceed the Value of the Allotment or Allotments the Possessor or Possessors whereof would be entitled to by virtue of this Act in respect of any other Property as aforesaid, on ascertaining of which Price the said Commissioners shall not value the Buildings or other Improvements thereon, but shall value the Land only, and that at so much *per Acre* as the same shall in their Estimation be worth, having reference to the Common or Waste next adjoining; and upon such Person or Persons paying such Price *per Acre*, and so in proportion for any less Quantity than an Acre, to the said Commissioners, at any such Time or Times as they shall appoint for that Purpose, and taking the Receipt or Receipts for the same, every such Inclosure or Encroachment, or such Part thereof as shall be so purchased, shall be allotted to such Person or Persons, and shall be holden and enjoyed by him, her, or them accordingly; and the said Commissioners shall and they are hereby required to apply such Purchase Money in such and the like Manner as Monies to be raised by Sale of Lands for defraying the Expences of obtaining and passing this Act and of carrying the same into execution are herein directed to be applied; and in case any Dispute or Difference shall arise touching any such Encroachments, or the Extent thereof, such Dispute or Difference shall be finally settled and determined by the said Commissioners.

Certain Encroachments to be deemed Part of the Waste.

XXXVI. And be it further enacted, That the said Commissioners shall, in the first place, set out, allot, and award, unto and for the Lord or Lords, Lady

Allotment to the Lord or Manor in Lady



lieu of Right  
to Soil of  
Waste and  
Commons.

Lady or Ladies of the said Manor of *Great Warley* for the Time being, such Parcel or Parcels of the Lands or Grounds hereby directed to be divided, allotted, and inclosed as shall in the Judgment of the said Commissioners be equal in Value to One Twelfth Part of all the Commons and Waste Lands and Grounds hereby intended to be divided, allotted, and inclosed within such Manor, in lieu of and in full Compensation and Satisfaction for all the Right and Interest of such Lord or Lords, Lady or Ladies in and to the Soil of the said Commons and Waste Lands and Grounds.

Allotment  
for defraying  
the Expences  
of the Act.

XXXVII. And be it further enacted, That the said Commissioners shall, in the next place, and they are hereby authorized and required to set out and allot such Part and Parts of the aforesaid Commons and Waste Lands and Grounds as in their Judgment shall be sufficient to raise a competent Sum of Money for defraying the Charges and Expences of and incident to and connected with the soliciting and obtaining and passing this Act, and the Costs and Charges of the Solicitor or Solicitors employed on behalf of any One or more of the said Copyholders whose Interest or united Interests in the said Commons or Waste Lands shall be equal to One Fourth of the whole of the said Commons or Waste Lands, but not otherwise, in watching and protecting over the Progress of the soliciting and obtaining this Act, and carrying the same, when passed, into effect, and the Interests of the Copyholders therein, and executing the Powers and Authorities contained in this Act and the first-recited Act; and when and so soon as the same shall be so set out and allotted then it shall and may be lawful to and for the said Commissioners and they are hereby authorized and directed to sell the same Lands, by public Auction or private Contract, to any Person or Persons for the best Price or Prices that can be reasonably had or gotten for the same, either in One Lot or Two or more Lots, as in their Judgment shall seem most proper and advantageous; and the Purchaser or Purchasers thereof shall at the Time of such Sale pay into the Hands of the said Commissioners, or to such Person or Persons as they shall appoint, a Deposit of Ten Pounds *per Centum* on his, her, or their Purchase Money, and the Remainder of such Purchase Money shall be paid to the said Commissioners, or as they shall direct or appoint, within Four Months next after such Sale, and in default of such Payment of the Residue of the said Purchase Money the Deposit to be paid as aforesaid shall be absolutely forfeited, and shall be applied for and towards the Expences of obtaining and passing, and watching and protecting as aforesaid the Interests of the Copyholders in the Progress through Parliament of this Act, and carrying the same into execution, and the Allotment or Allotments shall again be put up to Sale in manner aforesaid: Provided also, that the Receipt or Receipts to be given by the said Commissioners to the Purchaser or Purchasers respectively as aforesaid for all or any Part of their, his, or her Purchase Money shall be a full and complete Discharge and full and complete Discharges to them, him, or her for the Sum or Sums of Money therein acknowledged or expressed to have been received, and such Purchaser or Purchasers shall not afterwards be obliged to see to the Application of such Purchase Money, or any Part thereof, or be answerable or accountable for the Loss, Misapplication, or Nonapplication thereof or any Part thereof; and after Payment of the full Amount of the Purchase Money of any such Allotment or Allotments as aforesaid the Purchaser or Purchasers thereof respectively



respectively shall thereupon have and be entitled to the same Allotment or Allotments of Land for an Estate of Freehold of Inheritance in Fee Simple, and the said Commissioners shall and they are hereby authorized and required, by Indentures of Lease and Release to be made and executed by the said Commissioners at the Costs and Charges of the said Purchaser and Purchasers respectively, to convey and assure the Allotment or Allotments so to be sold unto the Purchaser or Purchasers as aforesaid, his or their Heirs and Assigns for ever; and the Conveyance and Assurance so to be made of the Allotment or respective Allotments so sold shall be good, valid, and effectual in Law to all Intents and Purposes whatsoever, and the Money arising from such Sale or Sales shall be applied by the said Commissioners in defraying the Charges and Expences of obtaining and passing, and watching and protecting the Interests of the Copyholders as aforesaid in the Progress through Parliament of this Act, and of carrying into execution the Powers of the same Act and of the said first herein-before recited Act; and in case any Surplus thereof, not exceeding One hundred Pounds, shall remain after Payment of such Charges and Expences, then and in such Case such Surplus Money shall be applied and appropriated by the said Commissioners in such Way and for such Purpose or Purposes, for the general Benefit of all Parties interested in and taking Benefit under the said Inclosure, as the said Commissioners shall in their Judgment think fit; and in case the said Surplus shall exceed One hundred Pounds then and in such Case the whole of such Surplus shall be divided and apportioned between the several Proprietors and Persons interested in the Lands hereby directed to be divided, allotted, and inclosed in such Shares as shall be in proportion to their respective Rights and Interests, and in manner directed by this Act in Cases wherein any Money is directed to be paid into the Bank of *England* for the Purchase or Exchange of Lands, Tenements, or Hereditaments to be settled to the same Uses.

XXXVIII. And be it further enacted, That after the several Allotments by this Act herein-before directed to be made shall have been made or marked and set out, and after all necessary and proper Roads shall have been marked and set out as directed by the said first-recited Act, the said Commissioners shall set out and allot unto the said Lord or Lady of the said Manor for the Time being One Fifth Part in Value of so much of the Residue of the said Commons and Waste Lands and Grounds by this Act directed to be divided, allotted, and inclosed as the said Commissioners shall determine to set out and allot to the respective Copyholders of the said Manor in right of their respective Copyhold Tenements, in consideration of their said Allotments being declared to be of Freehold Tenure, and in lieu and full Compensation and Satisfaction of and for all Manorial Rights, Privileges, and Advantages which as Lord or Lady of the said Manor he or she would be entitled to, from, out, or in respect of the said Allotments, if the same had been declared to be or had been of Copyhold Tenure; and that the said Commissioners, in setting out the Allotments to the respective Copyholders as aforesaid, shall or may take from the Aggregate of the said last-mentioned Allotments so much thereof as in the Judgment of the said Commissioners shall be equal to the said One Fifth to be so set out and allotted to the said Lord or Lady of the said Manor as aforesaid.

Further Allotment to Lord of the Manor.

[*Private.*]

7 k

XXXIX. And



Allotment for  
Place of Ex-  
ercise and  
Recreation.

XXXIX. And be it further enacted, That it shall and may be lawful to and for the said Commissioners and they are hereby authorized and required to set out, allot, and award unto the Lord for the Time being of the said Manor, out of any Part of the Lands and Grounds to be inclosed by virtue of this Act, a Piece of Land or Ground not exceeding Six Acres nor less than Four Acres as a Place of Exercise and Recreation for the Inhabitants of the Parishes of *Great Warley* and *Shenfield* and the neighbouring Population, and such Allotment shall be held by the Lord of the said Manor for the Purposes aforesaid.

Allotment of  
Residue.

XL. And be it further enacted, That after the several Allotments by this Act herein-before directed to be made shall have been made or marked and set out the said Commissioners shall divide, set out, and allot the Residue of the said Commons, Waste Lands, and Grounds by this Act directed to be divided, allotted, and inclosed unto and amongst the several Persons whom the said Commissioners shall find to be entitled to Common of Pasture thereon, in such Quantities, Shares, and Proportions as the said Commissioners shall adjudge and determine to be a full and just Satisfaction and Compensation to him, her, or them respectively for his, her, and their several respective Rights of Common of Pasture therein, which said Allotments shall be in full Bar of and Satisfaction and Compensation for all Rights of Common of Pasture of the said several Persons in, over, and upon all the Lands and Grounds hereby directed to be divided, allotted, and inclosed as aforesaid, subject nevertheless, as to such Allotments as shall be set out to the respective Copyholders, to an Appropriation of One Fifth to be allotted to the Lord or Lady of the said Manor in consideration of the said last-mentioned Allotments being of Freehold Tenure as aforesaid; and for the better enabling the said Commissioners to make and set out such Allotments, or any of them, the said Commissioners are hereby authorized and empowered to inquire into and ascertain, fix and determine, by Examination on Oath, which they are hereby empowered to administer, or by other good and lawful Evidence, the Extent, Quantity, and precise Situation of all and every of the Copyhold Tenements of the said Manor of *Great Warley*, and to state the same in their Award.

Commis-  
sioners to ap-  
point a Time  
for Applica-  
tions as to  
Situations of  
Allotments.

XLI. And be it further enacted, That the said Commissioners shall and they are hereby required to give Ten Days Notice of a Meeting for receiving Applications from the Owners and Proprietors of the Commons and Waste Lands and Grounds hereby directed to be divided, allotted, and inclosed touching the Situation in which they would respectively choose to have their Allotments set out and allotted.

Determining  
Objections to  
Allotments.

XLII. And be it further enacted, That when and as soon as the said Commissioners shall have ascertained the respective Rights and Shares and Interests of the Persons entitled to Common of Pasture in the Lands and Grounds hereby intended to be divided, allotted, and inclosed, and also the respective Shares and Proportions by them proposed to be allotted to such Persons, and to the Lord or Lady of the said Manor for the Time being, for his or her Right of Soil and other Manorial Rights as aforesaid respectively, in lieu thereof, they the said Commissioners shall give Notice (in manner herein-before directed for giving Notices) of some convenient Time and Place when and where all Persons interested therein may inspect



inspect the Plan whereon the same shall be sketched out and delineated ; and as some Persons may on such Inspections be dissatisfied with their intended Allotments the said Commissioners shall give Notice of One Meeting at least to be held by them for receiving Statements in Writing of the Complaints and Objections of any Proprietors against any such Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same ; and such Determination of the said Commissioners with respect to such Allotments shall be binding, final, and conclusive upon all Parties interested in such Allotments.

XLIII. Provided always, and be it further enacted, That all and every the Allotments to be made by virtue of this Act shall, from and after the Execution of the Award of the said Commissioners, be deemed to be and shall be of Freehold Tenure, and shall possess all the Qualities of Freehold Lands of Inheritance, notwithstanding the same Allotments or any of them shall have been allotted in respect of Copyhold Tenements.

Allotments  
to be of Free-  
hold Tenure.

XLIV. And be it further enacted, That in case any of the Persons interested in the Commons or Waste Lands and Grounds by this Act authorized to be divided, allotted, and inclosed shall hold their respective Lands or Hereditaments for or in respect of which any Part or Parts of the said Commons or Waste Lands or Grounds shall be set out or allotted as aforesaid for different Estates, or subject to different Trusts, Charges, or Incumbrances, the said Commissioners shall, if requested so to do in Writing by such Person or Persons respectively, ascertain and distinguish the Lands or other Hereditaments so held, and shall set out and distinguish the different Allotments or other Hereditaments to be accepted and taken in respect of each of such Lands or other Hereditaments so circumstanced ; and the said Commissioners shall and they are hereby authorized and required to set forth and declare, in and by their said Award, in right of what Lands and Hereditaments in particular such Allotments shall have been respectively made, and therein also separately describe and ascertain the Situation and Boundaries of any such Allotments ; and when from Want of Information or from any other Cause the said Commissioners shall have omitted in their Award to distinguish and ascertain the Allotment in respect of Lands or other Hereditaments so circumstanced, and within Twelve Calendar Months after the making of such Award Request shall be made to the Commissioners by any Person or Persons interested, by Writing under his, her, or their Hand or Hands, to have such Omission supplied by a separate Instrument, and such Person or Persons shall have paid or secured to be paid a Sum sufficient to cover the reasonable Expences to be incurred thereby, then and in every such Case the said Commissioners shall and they are hereby authorized and required to do every thing necessary for supplying such Omission, and so far as that Purpose shall require to examine Witnesses, and in every other respect to proceed and act as if their Award had not been made, and having obtained what they shall think sufficient Information they are hereby also authorized and required, by any Deed under their Hands and Seals, to make distinct and separate Allotments in respect of the Lands and Hereditaments so circumstanced, in the same Manner as they might have done in their Awards ; and every such separate Instrument shall be enrolled in the same Place, and Evidence thereof

Distinct Al-  
lotments to  
be made for  
Lands holden  
by distinct  
Titles.

given



given in the same Manner as by the said first-recited Act or this Act, or either of them, are or is directed concerning the Award of the said Commissioners; and every such separate Instrument shall, from and immediately after the due Execution thereof by the said Commissioners, have the same Effect to all Intents and Purposes as if the Contents or Substance thereof had been inserted and contained in the same Award; and the same, after such Enrolment as aforesaid, be delivered to the Person or Persons upon whose Request any such Omission shall have been so supplied, or to the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title to the Premises in question shall, in the Opinion of the said Commissioners, most properly belong.

Fencing  
Allotments.

XLV. And be it further enacted, That the several and respective Persons to whom such several Allotments shall be made and set out as aforesaid shall at their own Expence respectively fence and inclose the same in such Manner and within such Time as the said Commissioners shall in and by their Award, or by any Writing under their Hands, direct and appoint.

For preserv-  
ing young  
Fences.

XLVI. And be it further enacted, That from and after the Time that any Highways, Roads, Lanes, and Passages, and Allotments of Land, or any of them respectively, shall be set out by the said Commissioners, no Horses, Cows, Oxen, Sheep, Lambs, Mules, Asses, Pigs, or other Sort of Cattle shall at any Time thereafter be permitted to graze or to go unrestrained in any of the said Highways, Roads, Lanes, or Passages, nor shall any such Cattle be depastured in any of the Allotments to be made in pursuance of this Act for the Space of Seven Years next after the Execution of the said Award, unless the Occupier of the Allotment into which such Horses, Cows, Oxen, Sheep, Lambs, Mules, Asses, Pigs, or other Cattle shall be turned shall have erected against the Boundary Fence of the said Allotment (whether the said Fence shall belong to the said Allotment or not) a good and sufficient Fence to prevent any Injury being done to the Quicksets planted in the said Boundary Fence; and it shall be lawful for the Proprietor or Proprietors of any of the said Lands and Grounds, or any other Person or Persons by the said Commissioners to be appointed from Time to Time, to distrain all such Horses, Cows, Oxen, Sheep, Lambs, Mules, Asses, Pigs, or other Cattle then being or depasturing unrestrained in any of the said Highways, Roads, Lanes, or Passages, or in any of the Allotments, in manner aforesaid, and to impound the same in like Manner as allowed by Law in the Case of Cattle Damage feasant.

For enforcing  
the keeping  
up of Fences.

XLVII. And be it further enacted, That it shall be lawful for the said Commissioners, in and by their Award, or by any Writing under their Hands, to make and give such Regulations and Directions as they shall think necessary for enforcing and making, and maintaining and supporting, such last-mentioned Fences, and for preventing any Neglect or Non-compliance with such Regulations and Directions by the Person or Persons who shall be liable to the making or to the Maintenance and Support thereof, and for such Purpose to impose any Penalty or Forfeiture for such Neglect as they shall think proper, not exceeding Five Pounds for every Rod of any such Fence or Fences; and every such Penalty or Forfeiture shall be recoverable and recovered, on the Application of any Per-



son or Persons aggrieved by any such Neglect to any Justice of the Peace for the County of *Essex*, by Distress and Sale of the Goods and Chattels of the Person or Persons liable to pay the same, by Warrant under the Hand and Seal of any Justice of the Peace for the County of *Essex*, and which Warrant of Distress any such Justice is hereby authorized and empowered to grant, rendering the Overplus (if any), after Payment of such Penalty or Forfeiture, and the reasonable Costs and Charges of such Warrant, Distress, and Sale, to the Owner or Owners of such Goods and Chattels; and one Moiety of such Penalty shall be paid to the Informer, and the other Moiety to the Overseers of the Poor of the said Parish of *Great Warley*, to be applied in aid of the Poor Rates therein.

XLVIII. And be it further enacted, That it shall and may be lawful to and for the said several Persons interested in the said Commons and Waste Lands and Grounds intended to be hereby divided, allotted, and inclosed, or any of them, at any Time or Times after the said Allotments shall be staked and set out by the said Commissioners, and before the Execution of the said Award, to inclose and fence the same, by and with the Consent of the said Commissioners, and in such Manner as the said Commissioners shall direct, any thing contained in this Act to the contrary notwithstanding; and that such of the said Persons interested as aforesaid whose Allotments shall abut against the Side or Ditch of any other Allotments, or of any Lands already inclosed, shall be at liberty and are hereby empowered, from the Time of staking out the several Allotments hereby directed to be made, to set up and place, and from Time to Time maintain, and at all Times thereafter to continue, Rails across the Ditches and Posts upon the Banks of such other Allotments or Lands already inclosed.

Proprietors may, by Consent, fence Allotments before the Award.

XLIX. And be it further enacted, That the respective Proprietors of the Lands and Grounds hereby directed to be divided, allotted, and inclosed by virtue of this Act shall have full Power and Liberty, from Time to Time and at all Times after the Execution of the Award of the said Commissioners, to set up and continue a Swing Gate or Swing Gates across any Part or Parts of the public or private Bridle Ways or private Carriage and Drift Roads to be made and set out through their respective Allotments, for keeping out Cattle and separating such Proprietor's Allotments, so as such Gate or Gates shall not prevent any Person or Persons entitled to use the said Roads, with or without Horses, Cattle, or Carriages, from passing or repassing along such Roads, or enjoying any Right, Title, or Property which he, she, or they ought to have or enjoy over such Road; but nothing herein contained shall extend to empower or authorize any Person to erect or place any Gate across or upon any public Carriage Road whatsoever.

Gates may be erected in certain Cases across Roads.

L. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Manor of *Great Warley*, or the respective Parishes of *Great Warley* and *Shenfield* aforesaid, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Manor or Parishes, or either of them, or any adjoining Parish, Township, or

Power to make Exchanges.

[Private.]

7 l

Place,



Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple or in Fee Tail, General or Special, or for Life, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor or Lessors thereof, but not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every Exchanges and Exchange so to be made shall be good and effectual and valid in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church or Chapel or other Ecclesiastical Benefice without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall be situate: Provided always, that all the Costs, Charges, and Expences attending the making of any Exchanges or Partitions shall be borne, paid, and defrayed by the several Persons making such Exchanges [or Partitions, in such Shares and Proportions, and at such Time, and to such Person or Persons, as the said Commissioners shall by any Writing under their Hands direct or appoint.

Costs of Exchanges and Partitions by whom to be paid.

Application of Monies paid for Purchase or Exchange, if amounting to 200*l*.

LI. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said first herein-before recited Act or this Act, to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, or Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, it shall and may be lawful to and for the said Commissioners out of such Sums to defray such Proportion of the Expence of passing this Act, and of carrying the same and the said recited Acts into execution, as shall (if any) be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee in Possession of the Lands, Tenements, or Hereditaments so purchased



purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioners be proper to be made, and shall be made, under their Direction, upon any Land to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee respectively; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Order of the said Court, and without Fee or Reward; and shall, when so paid in, there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons, Body or Bodies who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments belonging to such Person or Persons, Body or Bodies, or settled therewith to the same Uses, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Parts or Parts thereof as shall be necessary; or until the same shall, upon the like Application in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands, Tenements, or Hereditaments stood limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime, and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by Order of the said Court, to the Person or Persons, Body or Bodies who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

1 G. 4. c. 35.



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

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

When under 20*l.*

LIII. And be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds then and in all such Cases the same shall be paid to the Person or Persons, Body or Bodies who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, for his, her, or their own Use and Benefit; or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to his, her, their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person or Persons respectively entitled thereto.

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

LIV. And be it further enacted, That if any Person or Persons hath or have sold, or shall at any Time before the Execution of the Award of the said Commissioners sell, his, her, or their Right and Interest in the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, or in any Lands or Tenements in respect of which, he, she, or they shall have or be entitled to any Commonable Rights in the said Lands and Grounds to be divided, allotted, and inclosed, to any other Person, then and in every such Case it shall be lawful for the said Commissioners and they are hereby authorized and required, on such Sale being made, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs and Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Lands so

to



to be allotted to him or her as aforesaid in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment or Allotments, or all or any Part of his, her, or their Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person or Persons entitled to any Allotment as aforesaid to sell and dispose of and convey the Estate in right of which he, she, or they may be entitled to any such Allotment, separate and apart from, and retaining to himself, herself, and themselves, such Allotment, Common Right, and Interest, and the said Commissioners are hereby required to award such Allotment or Allotments accordingly.

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

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

[Private.]

7 m

Interest



Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise so to be made in pursuance of this Act shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Mortgages  
may be  
assigned.

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

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

LVII. Provided also, and be it further enacted, That nothing in this Act contained or to be contained in the Award of the said Commissioners shall extend to revoke, annul, make void, alter, vary, or in anywise affect any Grant, Assurance, Limitation of Use or Uses, Declaration of Trust, or any Deed or Will whatsoever, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Rent, Incumbrance, or other Claim or Demand out of, upon, or affecting any of the Lands or Grounds hereby directed to be divided, allotted, and inclosed, or any Lands, Grounds, or Hereditaments in respect of which any of the said Lands and Grounds so to be inclosed shall be divided, allotted, and inclosed, or any of the Messuages, Lands, or Hereditaments which shall be exchanged or parted with in pursuance of this Act, but that the Lands allotted, exchanged, or assigned in partition or in compensation for any other Estate or Right by virtue of this Act or the said recited Acts, or either of them, shall, immediately after such Allotment, Exchange, Partition, or Assignment, remain and enure, and the several Persons to whom the same shall be allotted, assigned, or given in exchange or on partition as aforesaid shall thenceforth stand and be seised and possessed thereof respectively to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, Remainders, Conditions, Charges, and Incumbrances in all respects, as the several Lands, Tenements, and Hereditaments in respect whereof such Allotments,



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

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

Alterations may be made in the Allotments before the Award.

LIX. And be it further enacted, That as soon as conveniently may be after the said Division and Allotment shall be completed the said Commissioners shall form, draw up, and execute an Award, which, together with a proper Map or Plan thereto annexed, shall within Twenty-one Days after the Execution thereof be delivered to the Clerk of the Peace for the County of *Essex*, who is hereby required to deposit and keep the same among the Records of the said County, for the Reception whereof the Fee of Three Pounds and Three Shillings, and no more, shall be paid, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall from and after the Delivery thereof to the said Clerk of the Peace be deemed and taken to be inrolled within the Intent and Meaning of the said first-recited Act; and a Copy of the said Award and of the said Map or Plan, signed by the said Commissioners, shall within the Time aforesaid be deposited within the Parish Church of *Great Warley* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award and the said Copy thereof, and any other Copy of the said Award or of any Part or Parts thereof, attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts of Law whatsoever.

Award to be made and deposited.

LIX. And



Accounts to  
be audited.

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

Power of  
Appeal.

LXI. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done in pursuance of the said recited Acts or this Act, other than and except as to the Allotments, and except such Claims, Matters, and Things as are herein-before directed or authorized to be ascertained, settled, tried, or determined by any Issue at Law, or where by any of the Provisions of the said recited Acts or of this Act the Determinations, Acts, or Proceedings of the said Commissioners are directed to be final or conclusive, or where any other Remedy is herein provided, he, she, or they may appeal to any General or Quarter Sessions of the Peace which shall be holden for the County of *Essex* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party or Parties concerned Twenty-one Days Notice in Writing of such Appeal, and the Matter thereof (except with respect to the Accounts of the Commissioners, which, notwithstanding the same shall have been examined and balanced as aforesaid, may be appealed against at any Time within Three Calendar Months after the depositing of the Award with the Clerk of the Peace for the said County of *Essex*, on giving to the said Commissioners such Notice as last aforesaid); and the Justices (not interested in the Premises) at the 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 as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by



Certiorari, or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous and vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

LXII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice, abridge, lessen, determine, or defeat any of the Rights, Titles, or Interests of the said *Charles Winn* as Lord of the said Manor of *Great Warley*, or other the Lords for the Time being of the said Manor, in or to the Rights and Services belonging or incident to the said Manor, but that the said *Charles Winn*, and other the Lords of the said Manor for the Time being, and all Persons claiming by, from, under, or in Trust for him, them, or any of them, shall and may, from Time to Time and at all Times for ever hereafter, have, hold, and enjoy all Rents, Heriots, Forfeitures, Services, Fines, Courts, Perquisites and Profits of Courts, Mines, Minerals, Quarries, Deodands, Waifs, Estrays, and other Rights, Royalties, Jurisdictions, and Privileges to the said Manor incident, appendant, appurtenant, or belonging, (save and except such Right to the Soil of the said Commons and Waste Lands and Grounds, and such Commonable Rights and Interests, and such Rights and Interests in respect of the Allotments to Copyholders of the said Manor, for which Satisfaction is intended to be made by virtue of this Act,) in as full, ample, and beneficial a Manner as the same have heretofore been held, exercised, and enjoyed, or might or could be if this Act had not been made and passed.

Rights of the Lord of the Manor not to be prejudiced.

LXIII. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, to all and every Person and Persons, Bodies Politic, Corporate, or Collegiate, and his, her, and their Heirs, Successors, Executors, and Administrators, all such Right, Title, and Interest (other than and except such as is and are hereby meant and intended to be barred, destroyed, or extinguished,) as he, she, they, every or any of them, could or ought to have had and enjoyed in, to, or out of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been made and passed.

General Saving.

LXIV. And be it further enacted, That where in this Act any Word is used importing the Singular Number or the Masculine Gender only, such Word shall be understood to include several Matters as well as one Matter, several Persons as well as one Person, and Females as well as Males; and where the said Word "Corporation" shall be used, the same shall be understood to mean any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole, unless in any of the Cases aforesaid it shall be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Rules for the Interpretation of Words in this Act.

[Private.]

[7 n]

LXV. And



Act as  
printed by  
the Queen's  
Printers to be  
Evidence.

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

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LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODÉ,  
Printers to the Queen's most Excellent Majesty. 1838.