

0523

158-44



648

N^o 40

R E P O R T

FROM THE

SECOND COMMITTEE

Appointed to confider of the ~~STANDING ORDERS~~ relative to

BILLS OF INCLOSURE.

Ordered to be printed 22d June 1801.

649

650

R E P O R T.

THE COMMITTEE appointed to take into Consideration the Standing Orders of this House, relative to BILLS of INCLOSURE, and who were empowered to Report, from Time to Time, to the House;—

HAVE, pursuant to the Order of the House, considered the Matters to them referred; and have come to the following Resolutions; viz.

Resolved,

THAT it is the Opinion of this Committee, That in all Bills for inclosing Lands or Commons, which shall be presented to the House after this Session of Parliament, there be inserted a Clause providing what Sum of Money in the Whole shall be paid to each of the Commissioners to be appointed by such Bill, in full Satisfaction of the Expence and Trouble which he shall incur in the Execution of the Trusts and Powers thereby given; or, that in Default of such Provision being made, there be inserted a Clause providing that the Account of such Commissioner or Commissioners, containing a true Statement of all Sums by him or them received and expended, or due to him or them for their own Trouble or Expences, shall at least Once in every Year from the Date of the passing of such Act, till such Accounts shall be finally allowed, together with the Vouchers relating to the same, be examined by some Person or Persons in such Bill to be named, and the Balance by him or them stated in the Book of Accounts already required to be kept in the Office of the Clerk of such Commissioners;

651

[4]

missioners; and that no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall be duly allowed by such Person or Persons.

Resolved,

THAT it is the Opinion of this Committee, That in all such Bills as above mentioned, Provision be made that no Witnesses summoned to attend such Commissioner or Commissioners, shall be obliged to travel above Eight Miles from the Boundary of the Parish, Manor, or District, thereby intended to be inclosed.

Resolved,

THAT it is the Opinion of this Committee, That in all such Bills, Provision be made for empowering and requiring the Commissioner or Commissioners named in such Bills, to appoint one or more Surveyor or Surveyors, with or without a Salary, for the first forming and completing such Parts of the Public Carriage Roads directed to be set out and appointed by such Bill, as shall be newly made, and for putting into complete Repair such Part of the same as shall have been previously made; and for defraying the Expence of such Salary, and of forming, completing, and repairing such Roads respectively, over and above a Proportion of the Statute Duty on the Roads to be so repaired, either by Sale of a sufficient Portion of the said Lands, or by a Rate to be settled and apportioned by such Commissioner or Commissioners upon the Owners and Proprietors of the same; and in case of Sale of such Lands, for the Payment of the Produce thereof, before the Execution of the Award to such Surveyor or Surveyors, to be accounted for as hereinafter directed; and for making a conditional Rate upon such Owners and Proprietors, in case the Produce of such Sale should prove insufficient for the Purposes aforesaid; and for subjecting such Surveyor or Surveyors, and his or their Accounts, to the Jurisdiction and Control of the Justices of the Peace, in all Respects whatever; and with the same Powers of levying such Rate as may by such Justices be thought necessary, according to the Proportions previously ascertained by such Commissioner or Commissioners, in like

652

[5]

like Manner as if he or they had been appointed by virtue of the General Highway Act, passed in the Thirteenth Year of His present Majesty; and for the Repayment of any Surplus that may remain in his or their Hands, after such Roads shall be completely formed and repaired, to such Persons as shall have been made liable to contribute thereto, according to the Proportions above-mentioned; and for preventing any Charge or Burthen being laid on the Inhabitants at large, except such Proportion of such Statute Duty as aforesaid, until the same shall by such Justices, in their Special Sessions, be so ordered or directed; and for enforcing by certain Penalties on such Surveyor or Surveyors, to be specified in such Bill, the completing and repairing such Roads within Two Years after the said Award, unless such Justices shall, on sufficient Cause being alledged, and proved to their Satisfaction, grant a further Time, not exceeding One Year.

Resolved,

THAT it is the Opinion of this Committee, That in all such Bills, whenever any Sum of Money is under the Provisions of such Bill to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, Provision shall be made for empowering the Commissioner or Commissioners named in such Bill out of such Sum, to defray such Proportion of the Expence of passing such Act, and carrying the same into Execution, as shall, if any, be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Persons, Body Politic or Corporate, Trustees or Feoffees in Possession of the Lands, Tenements, or Hereditaments so sold 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 such Commissioner or Commissioners be proper to be made, and shall be made under his or their Direction, upon any Lands to be by virtue of such Bill allotted to such Person or Persons, Body Politic or Corporate, Trustees or Feoffees, respectively; and that the Surplus thereof, not being less than the Sum of Two Hundred Pounds, be paid into the Bank of England, in the Name and with the

B

Privity

653

[6]

Privity of the Accountant General of the Court of Chancery, to be placed to his Account *ex parte* the Commissioner or Commissioners under such particular Bill, or under such other Title as by the said Bill shall be directed, pursuant to the Method prescribed by the Act of the Twelfth Year of King GEORGE the First, Chapter Thirty-two, and the General Orders of the said Court, and without Fee or Reward; and shall, when so paid in, there remain until the same shall by Order of the said Court, upon a Petition to be preferred to the said Court in a summary Way, be applied either in the Purchase of Land Tax or towards the Discharge of any Debts or Incumbrances affecting the said Lands, Tenements, and Hereditaments, so purchased or exchanged, or until the same shall, upon the like Application, be laid out in a summary Way, after allowing for the Expences necessarily attending such Purchase by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the like Uses; and in the mean Time and until such Money may, by Order of the said Court be laid out in some of the Public Funds, or in Government or Real Securities, and the Dividends or Interests arising therefrom shall by Order of the said Court, be paid to such Person or Persons as would, for the Time being, be entitled to the Rents and Profits of such Lands, Tenements, and Hereditaments so to purchased, conveyed, and settled: And in case such Sum of Money shall be less than the Sum of Two Hundred Pounds, and shall exceed the Sum of Twenty Pounds, then and in such Case, such Sum of Money shall, with the Approbation of such Commissioner or Commissioners, be paid into the Bank of England, and applied, by Order of the Court of Chancery, in Manner hereinbefore directed; or may, without any Order of the Court of Chancery, be paid into the Hands of Two Trustees, to be nominated by the Person or Persons who, for the Time being, would be entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so to be purchased and settled, such Nomination to be approved of by such Commissioner or Commissioners, and such Nomination and Approbation to be in Writing under the Hands of the Person so nominating and approving; and the Money so paid to such Trustees shall by them be applied in like Manner as is before directed with respect to the Money so to be paid into the Bank, in the Name of the

Ac-

[7]

Accountant General of the Court of Chancery, but without any Order of the said Court touching the Application thereof: And in case such Sum of Money shall not exceed Twenty Pounds, then the same shall be paid to the Person or Persons who for the Time being would be entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so to be purchased and conveyed, for his, her, or their own Use and Benefit.

Resolved,

THAT it is the Opinion of this Committee, That no Person shall be named in any such Bills as a Commissioner, Surveyor, or Valuer, who shall be interested in the Inclosure to be made by virtue of such Bill, or the Agent ordinarily intrusted with the Care, Superintendance, or Management of the Estate of any Person so interested.

Resolved,

THAT it is the Opinion of this Committee, That in all such Bills there be inserted a Clause by which the Commissioner or Commissioners shall be required to set out the Public Carriage Roads in such Directions as shall, upon the Whole, appear to him or them most commodious for the Public, and to ascertain the same by Marks and Bounds, and to prepare a Map in which such intended Roads shall be accurately laid down and described, such Map, signed by the Commissioner, if only One, or the major Part of the said Commissioners, to be deposited with the Clerk of the said Commissioner or Commissioners; and as soon as may be after such Carriage Roads shall have been so set out, and such Map so deposited, to give Notice in some Newspaper to be named, circulating within that Part of the County where such intended Inclosure shall lie, which Notice shall also be affixed upon the Church Door of the Parish, of his or their having set out such Roads, and deposited such Map, and also of the general Lines of such intended Carriage Roads, and to appoint in the same Notice a Meeting to be held by the said Commissioner or Commissioners at some convenient Place in or near to the Parish or Township within which the Inclosure is to be made, and not sooner than Three Weeks from the Date of such Notice; at which Meeting any Person who may be injured or aggrieved by

B 2

654

655

the setting out of such Roads, may attend; and if any Person shall object to the setting out of the same, that then the Commissioner or Commissioners, together with any Justice or Justices of the Peace acting in and for the Division in which such Inclosure shall be made, and not being interested in the same, who may attend such Meeting, shall hear and determine such Objection, and the Objections of any other such Person, to any Alteration that the said Commissioner or Commissioners, Justice or Justices may in consequence propose to make; and shall, according to their Judgment upon the Whole, order and finally direct how such Carriage Roads shall be set out, and either confirm the said Map, by re-signing the same, or make such Alterations therein as the Case may require; and in case such Commissioner or Commissioners shall by such Bill be empowered to stop up any old or accustomed Road passing through any Part of the old Inclosures in such Parish, Township, or Place, the same shall in no Case be done without the Concurrence and Order of Two Justices of the Peace, acting in and for such Division, and not interested in the Repair of such Roads, and be subject to an Appeal to the Quarter Sessions, in like Manner as if the same was originally ordered by such Justices as aforesaid.

656

the setting out of such Roads, may attend; and if any Person shall object to the setting out of the same, that then the Commissioner or Commissioners, together with any Justice or Justices of the Peace acting in and for the Division in which such Inclosure shall be made, and not being interested in the same, who may attend such Meeting, shall hear and determine such Objection, and the Objections of any other such Person, to any Alteration that the said Commissioner or Commissioners, Justice or Justices may in consequence propose to make; and shall, according to their Judgment upon the Whole, order and finally direct how such Carriage Roads shall be set out, and either confirm the said Map, by re-signing the same, or make such Alterations therein as the Case may require; and in case such Commissioner or Commissioners shall by such Bill be empowered to stop up any old or accustomed Road passing through any Part of the old Inclosures in such Parish, Township, or Place, the same shall in no Case be done without the Concurrence and Order of Two Justices of the Peace, acting in and for such Division, and not interested in the Repair of such Roads, and be subject to an Appeal to the Quarter Sessions, in like Manner as if the same was originally ordered by such Justices as aforesaid.

0528

657