



ANNO SECUNDO & TERTIO

# VICTORIÆ REGINÆ.

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## Cap. 30.

An Act for inclosing Lands in the Manor of *Almsworthy* in the Parish of *Exford* in the County of *Somerset*.  
 [1st July 1839.]

**W**HEREAS there are within the Manor of *Almsworthy* otherwise *Amsworthy* otherwise *Almonsworthy*, in the Parish of *Exford* in the County of *Somerset*, certain Waste, Open, or Common Lands, containing by Estimation Two thousand Acres or thereabouts: And whereas Sir *Thomas Dyke Acland* Baronet is or claims to be Lord of the Manor of *Almsworthy* otherwise *Amsworthy* otherwise *Almonsworthy* aforesaid, and is or claims to be entitled to the Soil of the Waste, Open, or Common Lands within the said Manor, and divers other Persons claim to be interested in the same Waste, Open, or Common Lands: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George the Third*, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: 41G.3. c.109. And whereas another Act was passed in the First and Second Years of the Reign of His late Majesty King *George the Fourth*, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: 1 & 2 G. 4. c 23. And [Private.] whereas

Appointment  
of Commis-  
sioner.

whereas the said Waste, Open, or Common Lands, in their present State, yield but little Profit, but are capable of considerable Improvement; and if the same were divided and allotted among the several Persons or Parties interested therein in proportion to their several Rights, Properties, and Interests, and such Allotments inclosed, the same might be cultivated and improved, to the manifest Advantage of the said several Persons and Parties interested therein; but the same 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 Poyntz Wright* of *Tiverton* in the County of *Devon*, Gentleman, shall be and he is hereby appointed Commissioner for dividing, allotting, and inclosing the said Waste, Open, or Common Lands, and for putting this Act into execution, with and subject to such of the Powers, Provisions, Directions, and Regulations contained in the said recited Acts as are not varied or altered by or repugnant to any of the Powers, Provisions, Directions, or Regulations of this Act.

Commis-  
sioner to  
make the  
following De-  
claration.

II. And be it further enacted, That no Person shall be capable of acting as Commissioner in the Execution of this Act until he shall have made and subscribed the Declaration following before One of Her Majesty's Justices of the Peace for the County of *Somerset*, which Declaration the said Justice is hereby empowered to receive or administer; (that is to say,)

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

Power to  
appoint new  
Commis-  
sioner.

III. And be it further enacted, That if the said *Thomas Poyntz Wright*, or any Commissioner to be appointed in his Stead as hereinafter mentioned, shall die, or become incapable of acting or refuse or neglect to act for the Space of Two Calendar Months as Commissioner for the Purposes of this Act, then and in any such Case it shall be lawful for the Majority in Value (to be ascertained by the Land Tax Assessment) of the Persons interested in the said Waste, Open, or Common Lands, within Sixty Days next after such Death, Incapacity, Refusal, or Neglect shall happen or be known, or as soon

after as conveniently may be, at a public Meeting to be called by any Two or more of the Persons so interested for that Purpose, (of which Meeting Ten Days previous Notice shall be given by affixing such Notice, in Writing, on the principal Door of the Parish Church of *Exford* aforesaid immediately before Divine Service on some *Sunday*, and by inserting the same in One of the Newspapers circulating in the County of *Somerset*;) to nominate and elect and by Writing under their Hands to appoint a proper Person (not interested in the said Division, Allotment, and Inclosure) to be Commissioner in the Room of the said *Thomas Poyntz Wright*, and in the Room of any Commissioner so to be appointed in his Stead who shall die, or become incapable of acting, or refuse or neglect to act as aforesaid; and every such Commissioner so to be appointed shall, after making and subscribing the Declaration aforesaid, have the like Powers and Authorities for putting in execution this Act and the said recited Acts as if he had been named Commissioner in this Act; and which Appointment and Declaration shall be annexed to the Commissioner's Award herein-after mentioned, and be enrolled and deposited therewith.

IV. And be it further enacted, That it shall be lawful for the said Commissioner to appoint a Clerk and a Surveyor to assist him in carrying this Act and the said recited Acts into execution, and from Time to Time to remove such Clerk and Surveyor, or either of them, and appoint others in their Stead.

Appointmen  
of Clerk and  
Surveyor.

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

Surveyor to  
make the  
following De-  
claration.

‘ I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Duties incumbent on me as Surveyor by virtue of an Act passed in the Second Year of the Reign of Queen *Victoria*, intituled [*here insert the Title of this Act*], according to Equity and good Conscience, and without Partiality, Favour, or Affection, Prejudice or Malice, to any Person whomsoever.’

Which Declaration the Commissioner for the Time being, or any Justice of the Peace for the said County of *Somerset*, is hereby empowered and required to administer or receive; and the said Declaration so made shall be written upon Parchment, and subscribed by any such Surveyor, and shall be annexed to and deposited with the Award of the said Commissioner.

VI. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act who shall wilfully and corruptly make and subscribe such Declaration, knowing the Allegations thereof or any of them to be untrue, shall be subject to the like Pains and Penalties to which Persons guilty of a Misdemeanor are or may be liable.

Penalty on  
making a  
false Decla-  
ration.

VII. And

Allowance to  
Commis-  
sioner and  
Clerk.

VII. And be it further enacted, That out of the Money which shall be raised for the Purpose of defraying the Expence of obtaining and carrying this Act into execution the said Commissioner and Clerk for the Time being shall respectively be paid, for every Day they shall be employed in travelling to, attending at, and returning from the Meetings to be holden for or otherwise engaged in the Execution of this Act, during the first Three Years after the passing of this Act, the Sum of Three Pounds and Three Shillings, and no more, and after the Expiration of the said Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, in full Satisfaction for their Time and Trouble and for the several Expences which they shall respectively be put unto during their several Journies and Attendances in the Execution of this Act, other than and except the Expences for the Use of Rooms in which the Meetings shall be holden for carrying this Act into execution, and the Costs and Expences of Notices and Advertisements, and of drawing, copying, engrossing, and enrolling the Award, or attendant thereupon or connected therewith.

For regulat-  
ing Allow-  
ances to  
Commis-  
sioner and  
Clerk.

VIII. And for regulating the Allowances to the said Commissioner and Clerk under the Provisions of this Act, be it further enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that where 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 shall be of less Duration than Eight or Six Hours (as the Case may be) the same shall be charged as only Half a Day, and the said Commissioner and his Clerk shall be paid accordingly; and a Book shall be provided and shall be kept by the Clerk of the said Commissioner, in which shall be entered the several Days on which the said Commissioner shall hold his Meetings, and also at what Hour the said Commissioner and his Clerk were respectively present at such Meeting, and at what Hour they respectively left the same; and such Book shall be signed by such Commissioner and his Clerk at the Termination of each Meeting, and shall be open to the Inspection of any Person interested in the said Inclosure, or his Agent or Attorney, during any Meeting to be held in pursuance of this Act; and all such Persons may take Copies of or Extracts from such Book without paying any thing for the same.

Commis-  
sioner and  
Clerk not to  
be paid more  
than Two  
Thirds of  
Allowance  
until Six  
Months after  
Execution of  
the Award.

IX. And be it further enacted, That it shall not be lawful for the said Commissioner to retain or pay himself or his Clerk, out of any Monies to be received by him or over which he may have any Control by virtue of this Act, any Sum of Money on account of the Allowances herein-before directed to be made to such Commissioner and Clerk respectively beyond Two Thirds of such Allowance as they shall be respectively entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award herein-after directed to be made, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have

have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or his Clerk previous to the Execution of such Award, the Commissioner for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due to them respectively.

X. And be it further enacted, That the said Commissioner, whilst acting as a Surveyor, or any other Person who may be appointed Surveyor for the Purposes of this Act, shall, out of the Monies to be raised for the Purpose of defraying the Expences of obtaining and carrying this Act into execution, be allowed for his Time and Trouble any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the said Lands, and also any Sum not exceeding Two Pounds and Two Shillings for each and every Day he shall be actually and wholly employed as Surveyor in the Business of the said Inclosure (exclusive of the Survey aforesaid); which said several Allowances shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by the said Commissioner or other Person, whilst acting as Surveyor in and about the Execution of this Act.

Allowance to Surveyor.

XI. Provided always, and be it further enacted, That nothing in the said recited Acts or this Act contained shall extend to require the said Commissioner, or any Surveyor under this Act, to make or cause to be made any Survey, Admeasurement, or Plan of any inclosed Lands or Grounds within the said Parish of *Exford*, unless the said Commissioner shall deem such Survey, Admeasurement, or Plan necessary or expedient for the Purposes of the said recited Acts or of this Act; and it shall be lawful for the said Commissioner, if he shall think it necessary or expedient for such Purpose, to use any Survey, Admeasurement, or Plan of such Lands or Grounds, of the Accuracy or Authenticity whereof he shall be satisfied, which shall have been made previously to the passing of this Act.

Survey, &c. not to be made unless Commissioner shall deem it necessary.

XII. And be it further enacted, That the said Commissioner shall and he is hereby required to cause public Notice to be given in manner herein-after provided of the Time and Place of his First and every subsequent Meeting for executing the Powers vested in him by virtue of this Act Seven Days at least before every such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioner may from Time to Time adjourn any such Meeting to such Time and Place as he shall think proper; and if the said Commissioner shall not attend at any such Meeting within One Hour after the Time appointed for the holding thereof, it shall be lawful for the Clerk to the said Commissioner (if present) to adjourn such Meeting for any Time not exceeding Twenty-one Days from the Day of such Adjournment, to be held at the same Place, and the Clerk making such Adjournment is hereby required to give Notice thereof to the said Commissioner: Provided always, that if neither the said

Notice of Meetings.

[*Private.*]

Commissioner nor his Clerk shall attend at such Meeting within One Hour after the Time appointed for the holding thereof, such Meeting shall be considered as adjourned to the Seventh Day then next ensuing, at the same Hour and Place.

Place of Meeting.

XIII. And be it further enacted, That all Meetings for the Purposes of this Act shall be held within the Parish of *Exford* aforesaid, or within Eight Miles of the Boundary thereof.

Proprietors to pay their own Expences at Meetings.

XIV. And be it further enacted, That every Person interested in the said Waste, Open, or Common Lands, and their respective Agents and Attornies, who shall attend any Meeting to be held by the said Commissioner, shall bear and pay his and their own Expences.

Publication and Service of Notices.

XV. And be it further enacted, That all Notices of Meetings (except those of Adjournment) of the said Commissioner, and all other Notices necessary to be given by the said Commissioner, shall (unless otherwise directed by this Act) be given by Advertisement inserted in the *Taunton Courier*, or in some other Newspaper published in the County of *Somerset* aforesaid, and also by Affixion thereof upon the principal outer Door of the Parish Church of *Exford* aforesaid on some *Sunday* immediately before Divine Service.

Proceedings to be entered in a Book.

XVI. And be it further enacted, That all Orders, Proceedings, and Determinations of the said Commissioner at any of the Meetings to be held in pursuance of this Act shall be entered in a Book to be provided for that Purpose, and shall be signed by the said Commissioner, and being so signed shall be deemed and taken to be Originals; and every such Book shall be deposited with and kept by the Clerk of the said Commissioner, and shall and may be read in Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any Matter or Thing to be done in pursuance of or in relation to this Act.

Commissioner may settle Disputes, but not determine Title nor molest Possession.

XVII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Waste, Open, or Common Lands, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the same, or touching or concerning any Allotment to be made in lieu thereof, or touching or concerning the Right to the Soil of the said Waste, Open, or Common Lands, or any or either of them, or touching or concerning any Allotment or Allotments to be made in lieu thereof, or touching or concerning any other Matter or Thing relating to the Division, Allotment, or Inclosure hereby directed to be made, it shall be lawful for the said Commissioner and he is hereby authorized and required to examine into, hear, and determine the same: Provided always, that nothing in this Act contained shall authorize or empower the said Commissioner to determine any Difference or Dispute touching the Title of any Person or Persons to any Messuages, Lands, Tenements, or Hereditaments whatsoever, nor to determine any Rights between any Parties contrary to the Possession of any such Parties, (except in Cases of Encroachment made within the Period of Twenty Years,

as herein-after mentioned), but in case the said Commissioner shall be of opinion against the Right of any Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or shall have been recovered from such Person or Persons by Ejectment or other due Course of Law.

XVIII. And be it further enacted, That in case the said Commissioner shall, upon the Hearing or Determination of any Claim or Claims, or Objection or Objections, to be delivered to him in pursuance of this Act or the said recited Acts, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made by the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same, on Demand, then and in such Case it shall be lawful for the said Commissioner and he is hereby authorized and required, by Warrant under his Hand and Seal, 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, Party or Parties, so neglecting or refusing to pay the same, together with the Costs and Charges of such Distress and Sale, rendering the Overplus (if any), upon Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been distrained and sold.

Commis-  
sioner may  
award Costs.

XIX. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioner touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the said Waste, Open, or Common Lands, then and in every such Case it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with the Determination of the said Commissioner, to cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination of the said Commissioner shall have been made, within the Space of Three Calendar Months next after such Determination of the said Commissioner shall have been notified in Writing to the Party or Parties against whom such Determination of the said Commissioner shall have been so made, or to his, her, or their known Agent or Attorney; and for that Purpose the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be dissatisfied with the Determination of the said Commissioner, shall proceed to a Trial at Law of the Matter so determined by the said Commissioner at the next or at the second Assizes to be holden for the said County after such Action

Parties-may  
try their  
Rights at  
Law.

or

or Actions shall have been so commenced; and the Defendant or Defendants in such Action or Actions shall and he, she, or they is and are hereby required to name an Attorney or Attornies who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby the Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties 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 Person or Persons whomsoever, Body or Bodies Politic, Corporate, or Collegiate, 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 given, and final Judgment obtained thereon, the said Commissioner is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims and Right or Rights thereby determined according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioner touching any such Claim or Claims, or Right or Rights, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, or Inclosure, which shall not be objected to, or, being objected to, the Party or Parties objecting not causing such Action or Actions at Law to be brought and proceeded in as aforesaid, shall be final and conclusive on all Parties.

Actions not to abate by Death of Parties.

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

If Parties die before Action brought, the same may be brought as if they had not died.

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



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 such Action or Actions.

XXII. Provided always, 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 in or to any Messuages, Lands, Tenements, or Hereditaments whatsoever, for or in respect of which any Right of Common or other Rights or Interests in, over, or upon the said Waste, Open, or Common Lands hereby directed or intended to be divided, allotted, or inclosed, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, or hinder the said Commissioner from proceeding in the Execution of the Powers vested in him by this Act or the said recited Acts, but the Division, Allotment, and Inclosure of the said Waste, Open, or Common Lands shall be proceeded in notwithstanding such Suit or Suits; and the Commissioner may award the Allotment or Allotments in respect to 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, Party or Parties, who upon the Determination of such Suit or Suits shall become entitled to the same,

Suits not to impede the Act.

XXIII. And be it further enacted, That if any Person or Persons interested in the said intended Division, Allotment, and Inclosure shall die before the Execution of the Award of the said Commissioner, or before the said Division, Allotment, and Inclosure shall be completed, the Powers and Authorities hereby given to the said Commissioner shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers given to him by this Act and the said recited Acts in such Manner as he might have done in case such Person or Persons were still living; and the Share of any Person so dying shall be allotted to the Person or Party who shall by Law become entitled to the same, and shall be accepted and taken by such Person or Party according to the Directions of this Act; and such Person or Party to whom the same shall be so allotted shall be liable to a due Proportion of the Charges and Expences of passing and executing this Act, and to the Provisions thereof.

Deaths not to impede the Act.

XXIV. And be it further enacted, That it shall be lawful for the said Commissioner, at such Time before the Execution of his Award as he shall think proper, by Notice given in manner herein-before provided, to order the Rights of Common in, upon, and over the Waste, Open, and Common Lands hereby directed to be divided, allotted, and inclosed, or any of them, to be extinguished or suspended, either in whole or in part; and from and after the Time to be mentioned in and appointed by any such Notice all such Rights of Common as shall be thereby directed to be extinguished or suspended shall cease and be extinguished or suspended accordingly, any Law, Usage, or Custom to the contrary notwithstanding; and if any

Commissioner may extinguish or suspend Rights of Common.

[Private.]

Penalty on  
Breach of  
Commiss-  
sioner's  
Order.

Person shall, after such Extinguishment or during such Suspension of Common Right as aforesaid, stock or depasture with Sheep or other Cattle on any Part of the said Waste, Open, or Common Lands; contrary to such Notice as aforesaid, it shall be lawful for any Proprietor or Person interested in the said Waste, Open, or Common Lands, or any Person to be appointed by the said Commissioner, from Time to Time to distrain all such Sheep and other Cattle found grazing or depasturing upon any of the said Waste, Open, or Common Lands, contrary to such Notice, and to impound such Sheep or other Cattle until the Person so offending shall have paid to the Person so distraining the Sum of Two Shillings *per* Head for every Sheep or Pig, and the Sum of Five Shillings *per* Head for every Beast and other Kind of Live Stock so-distrained.

Commis-  
sioner may  
discontinue  
or alter  
Roads.

XXV. And be it further enacted, That it shall be lawful for the said Commissioner, if he shall think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the said County of *Somerset*, (not being interested in the Waste, Open, or Common Lands to be divided, allotted, and inclosed under this Act), to continue or discontinue, stop up, divert, turn, or alter, any of the Carriage Roads, Highways, Bridle Roads, or Footways (other than and except Turnpike Roads) passing or leading through or over any of the Lands to be divided and allotted by virtue of this Act, or passing or leading through or over any of the Lands in the Parish of *Exford* aforesaid; and the Soil of the Roads and Ways so to be discontinued and stopped up, and which may pass through or over any of the Waste, Open, or Common Lands to be inclosed by virtue of this Act, but not otherwise, shall be deemed and taken to be Part of the Lands to be divided, allotted, and inclosed by virtue of this Act.

Proceedings  
previously to  
diverting or  
stopping up  
Highways.

XXVI. Provided always, and be it further enacted, That before any Highway shall be discontinued, stopped up, diverted, or altered by the said Commissioner, or any such Order as is herein-before mentioned shall be obtained for that Purpose, the said Commissioner 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 the same is intended to be discontinued, stopped up, diverted, or altered (as the Case may be) by the said Commissioner, and the said Commissioner shall also cause the same Notice to be inserted in the *Taunton Courier*, or in some other Newspaper or Newspapers published in the County of *Somerset* aforesaid, for Four successive Weeks, and shall also cause a like Notice to be affixed on the principal outer Door of the Parish Church of *Exford* aforesaid on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid, and such Order as is herein-before mentioned shall have been obtained, the said Highway 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 said County of *Somerset* as is herein-after mentioned.

XXVII. Pro-

XXVII. Provided always, 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 Highway 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 *Somerset* within Four Calendar Months next after the Date of such Notice, giving to the said Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any Hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

Persons aggrieved by any Road being diverted, &c. may appeal.

XXVIII. And be it further enacted, That in case of such Appeal the Justices at the said General or Quarter Sessions shall, for the Purpose of determining whether the Highway so discontinued, stopped up, diverted, or altered, or intended to be discontinued, stopped up, diverted, or altered, shall remain or shall be discontinued, stopped up, diverted, or altered, (as the Case may be,) or whether the Party appealing would be injured or aggrieved thereby, impane a Jury of Twelve indifferent Men out of 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 Highway so discontinued, stopped up, diverted, or altered, or intended so to be, 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 to the said Commissioner by the Party appealing, 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 Act; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up, or intended so to be, is not unnecessary, or that the said Highway so diverted or altered, or intended so to be, could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court of General or Quarter Sessions shall allow such Appeal, and the said Highway shall not be discontinued, stopped up, diverted, or altered, or in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring the same 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 appealing such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioner, and shall be raised by him in such and the same Manner as he is hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

In case of Appeal, Jury at Sessions to determine whether old Highway may be discontinued.

XXIX. Pro-

On Dismissal of Appeal the Order of the Commissioner to be final.

XXIX. 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 Commissioner for discontinuing, stopping up, diverting, or altering any such Highway shall be final and conclusive, and be of full Force and Effect, any thing in this Act contained to the contrary notwithstanding.

Expences of discontinuing or widening Roads.

XXX. And be it further enacted, That the Charges and Expences attending the discontinuing, stopping up, diverting, altering, or widening of such Roads or Highways, and the making of the Fences thereof, 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.

XXXI. And be it further enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the said County of *Somerset*, at any Special Sessions, shall, under their Hands and Seals, certify any of the public Carriage Roads to be set out in pursuance of this Act to be fully and sufficiently formed and completed, such Roads shall thenceforth be supported and kept in repair by such Persons and in such Manner as the public Roads within the said Parish of *Exford* are or ought by Law to be 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 *Somerset* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County, and be valid and effectual to all Intents and Purposes.

Certain Encroachments to be deemed Part of the Waste.

XXXII. And be it further enacted, That all Inclosures and Encroachments which at any Time within Twenty Years immediately preceding the passing of this Act have been taken in and made from or upon the said Waste, Open, or Common Lands, or either of them, shall be deemed Part thereof, and be divided and allotted accordingly; Provided nevertheless, that all and every such Encroachments shall be allotted to the Person or Persons who shall at the Time of the making the Allotments be in the Possession of such Encroachments, or in the Receipt of the Rents and Profits, as the Whole or Part of the Share or Proportion of the Waste, Open, or Common Lands 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 Commissioner 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, on ascertaining of which Price the said Commissioner 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 his Estimation be worth, having reference to the 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 Commissioner, at such Time or Times as he shall appoint for that Purpose, and taking his Receipt or Receipts for the

same,

same, every such 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 Commissioner shall and he is 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 Inclosures or Encroachments being deemed Part or Parcel of the said Waste, Open, or Common Lands, such Dispute or Difference shall be examined into and determined by the said Commissioner.

XXXIII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and empowered to set out and allot such Part or Parts of the aforesaid Waste, Open, or Common Lands as in his Judgment shall be sufficient to raise a competent Sum of Money for defraying the Charges and Expences of obtaining and passing this Act, and executing the Powers and Authorities contained in this Act and the said first-recited Act; and when and so soon as the same shall be so set out and allotted such Lands shall be valued by the said Commissioner, who shall, on such Valuation being made, offer the same to the Lord of the said Manor for the Time being for such Price or Prices as shall be so deemed to be the Value of the same; but in case the said Lord of the said Manor shall not elect to become the Purchaser of such Lands at such Valuation as aforesaid within the Space of One Calendar Month next after such Offer shall be made to him by the said Commissioner, then it shall and may be lawful to and for the said Commissioner and he is hereby authorized and directed to sell the same Lands by public Auction to any Person or Persons for the best Price or Prices than can be reasonably had or gotten for the same, either in One Lot or Two or more Lots, as in his 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 Commissioner, or to such Person or Persons as he 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 Commissioner, or as he shall direct or appoint, within Three Calendar 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 forfeited, and shall be applied for and towards the Expences of obtaining and passing 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 and Receipts to be given by the said Commissioner to the said Lord of the said Manor, or such other 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 him the said Lord of the said Manor, his Executors and Administrators, or to such other Purchaser or Purchasers, 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,

Allotment  
for defraying  
the Expences  
of this Act.

[*Private.*]

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 shall thereupon have and be entitled to the same Allotment or Allotments of Land for an Estate of Freehold and Inheritance in Fee Simple; and the said Commissioner shall and he is hereby authorized and empowered, by Indenture or Indentures under his Hand and Seal, duly executed and attested, and to be made and executed by the said Commissioner at the Costs and Charges of the said Purchaser and Purchasers respectively, to convey, assure, and confirm, by way of Lease and Release, or by Deed of Feoffment, the same Allotment or Allotments unto or to the Use of the Purchaser or Purchasers thereof, his, her, or their Heirs and Assigns, for ever, or unto such Person or Persons, and to and for such Uses, Ends, Intents, and Purposes, and upon and for such Trusts as any such Purchaser or Purchasers shall, by such Deed or Deeds of Lease and Release, or by Deed of Feoffment, direct or appoint; and every such Conveyance and Assurance so to be made of the Allotment or respective Allotments so sold shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever, according to the Form and Effect of such Conveyance or Conveyances, any thing in the said first-recited Act contained to the contrary notwithstanding; and the Money arising by such Sale or Sales shall be applied by the said Commissioner in defraying the Charges and Expences of obtaining and passing 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 shall remain after Payment of such Charges and Expences, then and in such Case such surplus Money shall be divided and apportioned between the several Proprietors and Persons interested in the Waste, Open, and Common 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.

Persons  
desirous of  
paying in  
Money to be  
exempt from  
the Operation  
of the Power  
of Sale.

XXXIV. And be it further enacted, That in case any Person or Persons interested in the said Division, Allotment, and Inclosure shall be desirous of having the whole of his, her, or their respective Shares and Allotments of the said Waste, Open, or Common Lands hereby directed to be divided, allotted, and inclosed, set out and allotted to him, her, or them without any Abatement for or in respect of the Sales herein-before directed for the Purposes aforesaid, and shall, by himself, herself, or themselves, or his, her, or their Agent or Agents, signify the same in Writing to the said Commissioner at the Time of delivering in their respective Claims under this Act or the said first-recited Act, or within such Time afterwards as shall be prescribed or allowed for the Purpose by the said Commissioner, then and in every such Case the said Commissioner (notwithstanding the Provisions for Sale of Land herein-before contained) shall and he is hereby authorized and required to set out and allot to such Person or Persons respectively all such Shares and Proportions of the said Waste, Open, and Common Lands hereby directed to be divided, allotted, and inclosed as he, she, or they respectively would have been entitled to under and  
by

by virtue of this Act in case no Provision had been made for Sale of any Part of the same Waste, Open, or Common Lands, and without any Reduction or Abatement whatsoever on that Account, and to adjust and settle what Sum or Sums of Money ought to be borne and paid by such Person or Persons respectively, his, her, or their Heirs, Executors, Administrators, or Assigns, for or in respect of his, her, or their several and respective proportionable Share or Shares of the Charges and Expences of obtaining this Act, and carrying the same and the said recited Acts into execution; and such Person and Persons shall also bear and pay the extra Expences (if any) which shall be occasioned by the making of any such Allotment or Allotments to him, her, or them respectively in lieu of such Sale; and such Sum or Sums of Money and extra Expences shall be payable and be paid and recovered in such and the same Manner, and under such and the same Powers, as are by the said first-recited Act provided in respect to Monies to be assessed, raised, paid, levied, or recovered for Payment of Expences, and thereupon such Person or Persons respectively shall not be charged with any Part of the Expences attending or occasioned by the Sales herein-before directed.

XXXV. Provided always, and be it further enacted, That if the Monies to be produced by such Sale or Sales as aforesaid shall not be sufficient to pay all the Charges and Expences aforesaid, then the Deficiency shall be borne, defrayed, and paid by the respective Persons to whom the said Lands and Grounds hereby directed to be divided and inclosed shall be allotted, in proportion to the real Value of their respective Allotments (such Proportion to be settled and ascertained by the said Commissioner), and shall be raised by a Rate or Rates, and be paid to such Person or Persons and at such Time or Times as the said Commissioner shall by Writing, to be affixed on the principal outer Door of the Parish Church of *Exford* aforesaid at least Fourteen Days previous to the Day of Payment, order and direct; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share or Proportion of the said Deficiency as aforesaid, then the same shall be levied and recovered in the Manner directed by the said first-recited Act in case the Expences of obtaining and executing this Act had been directed to be paid in proportion by the Proprietors of Lands or Grounds to whom Allotments shall be made, instead of being raised by Sale of Land as by this Act is directed.

Deficiency  
how to be  
raised.

XXXVI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, in the next place, to set out and allot to the Lord of the said Manor, or such Person or Persons as is, are, or shall be entitled to the Soil of the said Waste, Open, or Common Lands respectively, such Part or Parts thereof respectively as shall in the Judgment of the said Commissioner be equal in Value to One Seventeenth Part thereof, in full Compensation for and in lieu of his, her, or their Right or Rights to the Soil of the said Waste, Open, or Common Lands hereby intended to be divided, allotted, and inclosed.

Allotments  
for Rights of  
Soil.

XXXVII. And be it further enacted, That the said Commissioner shall and he is hereby required to set out and allot in the most appropriate Situation, to the Churchwardens and Overseers of the Poor of the Parish of *Exford* for the Time being, Part of the said Waste, Open,

Allotment  
for Recreation  
of  
Population.

Open, or Common Lands (not being less than Six Acres) as an open Space sufficient for Purposes of Exercise and Recreation of the neighbouring Population; and the said Commissioner shall in his Award make Provision for the efficient fencing and for the permanent Maintenance of the Fences of such Allotment; and such Allotment shall be held by the Churchwardens and Overseers of the Poor for the Time being for such Purposes for ever.

Allotment  
of Residue to  
Persons inter-  
ested in lieu  
of Rights.

XXXVIII. And be it further enacted, That the said Commissioner shall set out, allot, and award the Residue of the said Waste, Open, or Common Lands hereby intended to be divided, allotted, and inclosed unto and amongst the several Persons who at the Time of such Division, Allotment, and Inclosure shall be interested therein, according to their several or respective Rights and Interests therein respectively; and in setting out the several Allotments to be made under and by virtue of this Act the said Commissioner shall and he is hereby required to have due Regard to the Situation and Convenience as well as to the Quantity and Quality of the Lands to be allotted, so as that the Allotment or Allotments of each Person be laid as near together and as contiguous to their several Farms and Estates as conveniently may be consistently with the general Convenience of the Parties interested in the said Division, Allotment, and Inclosure.

Determining  
Objections to  
Allotments.

XXXIX. Provided always, and be it further enacted, That when and as soon as the said Commissioner shall have ascertained the respective Rights and the Shares and Interests of the Proprietors or Persons interested in the Waste, Open, or Common Lands to be divided and inclosed by virtue of this Act, and also the respective Shares and Proportions by him proposed to be allotted to such Proprietors or Persons respectively in lieu thereof, he the said Commissioner shall give Notice, in manner herein-before directed for giving other Notices, of some convenient Time and Place when and where all Persons interested therein may inspect the Plan whereon the same shall be sketched out and delineated; and as some Persons may on such Inspection be dissatisfied with their intended Allotments, the said Commissioner shall give Notice of One Meeting at least to be held by him for receiving Complaints and Objections; and the Determination of the said Commissioner with respect to such Allotments, being reduced into Writing, and signed by the said Commissioner, shall be binding, final, and conclusive upon all Parties.

Fencing.

XL. And be it further enacted, That all and every Persons and Person to whom any such Allotment or Allotments shall be so made and set out shall, at his, her, and their own Costs and Charges, inclose and fence in the same on such Sides, within such Times, and in such Manner as the said Commissioner shall by any Writing under his Hand, or by his Award, order and direct (exclusive of the fencing of the Allotment for the Exercise and Recreation of the neighbouring Population herein-before provided for).

Alteration  
may be made  
in the Allot-  
ments before  
the Award.

XLI. Provided also, and be it further enacted, That it shall be lawful for the said Commissioner, at any Time before the executing his final Award, to make any such Alterations in the Allotments or in the Fences which he may have set out and ordered, or in any of  
the



the Orders and Directions relating thereto which he may have made by virtue of this Act or the said recited Acts, as he 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 been at, or otherwise, the said Commissioner shall ascertain and determine what Recompence shall be made to him, her, or them for such Injury, and shall order and direct by whom and in what Manner such Recompence shall be made, and the same may be levied and recovered, in case of Nonpayment, in the same Manner as the Costs and Charges of obtaining and executing this Act might be levied and recovered by virtue of the said first-recited Act in case the same had been directed to be raised by a Rate upon the Proprietors.

XLII. And be it further enacted, That if any Person has sold, or shall at any Time before the Execution of the Award of the said Commissioner sell, his, her, or their Right, Interest, and Property in the said Waste, Open, or Common Lands, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioner, and he is hereby authorized and required, upon such Sale being made, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him or her as aforesaid in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment or Allotments, or all or any Part of his, her, or their Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person or Persons entitled to any Allotment as aforesaid to sell, dispose of, and convey the Estate in right of which he, she, or they may be entitled to any such Allotment separate and apart from, and retaining to himself, herself, and themselves, such Allotment, Common Right, and Interest, and the said Commissioner is hereby required to award such Allotment or Allotments accordingly.

Persons may sell their Common Rights, and Persons entitled to have Allotments may mortgage, &c., before Execution of the Award.

XLIII. And be it further enacted, That all and every the Allotments in respect of any Lands and Hereditaments which shall be allotted by virtue of this Act or the said recited Acts shall be holden and shall be deemed and taken to be under and subject to the same Tenure as the Lands and Hereditaments in right or in respect of which such Allotments shall be made.

Lands to be of the same Tenure as those in right of which they may be allotted.

[Private.]

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XLIV. And

Exchanges.

XLIV. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Manor or Parish in lieu of or in exchange for any other Lands, Tenements, or Hereditaments within the said Manor or Parish, or within any adjoining Parish or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate, or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life or Lives, or in Fee Tail, General or Special, 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, but not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any other legal Incapacity, or 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 Parties respectively; and all and every such Exchange and Exchanges so to be made shall be good, valid, and effectual 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, and Hereditaments so to be exchanged shall lie or be situate.

Expences of Exchanges how to be paid.

XLV. Provided always, and be it further enacted, That the Costs, Charges, and Expences attending the making and completing of any Exchanges or Partitions under the Powers and Authorities in this Act and the said first-recited Act, or either of them, contained, shall be paid and borne by the several Persons, Bodies Politic, Corporate, or Collegiate, making such Exchanges or Partitions, and in such Manner and in such Proportions as the said Commissioner shall order and direct.

Leases at Rack Rent may be vacated.

XLVI. And be it further enacted, That it shall be lawful for the said Commissioner, if he in his Discretion shall think fit, to determine all and every or any Lease or Leases, Agreement or Agreements, at Rack Rent now subsisting, for any Term of Years not exceeding Fourteen Years, or from Year to Year, of any Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or which shall be exchanged by virtue of this Act, as to the Whole or any Part of such Lands in any such Lease to be comprised, at such Time or Times as the said Commissioner shall direct; and it shall be lawful for the said Commissioner to adjudge and determine what Satisfaction shall be made by the respective Lessors or Landlords to the Lessees or Tenants respectively for the Deter-

mination of their Interests in such Lands and Hereditaments, either by the Payment of a gross Sum, or, where other Lands and Hereditaments are or shall be comprised in the same Demise, by a Reduction and Apportionment of the Rent to be paid during the Remainder of the Term for the Residue of the Premises in every such Lease or Demise comprised; and every such Lease and Demise shall, upon the Compliance of the Lessor with the Direction and Order of the said Commissioner for the Determination thereof, and not otherwise, cease and determine accordingly; and in all Cases where existing Leases, Agreements, or Tenancies shall continue as to any of the Lands which shall be divided, allotted, and exchanged by virtue of this Act, it shall be lawful for the said Commissioner to ascertain and declare what additional Rent shall be paid by the respective Lessees or Tenants for the Improvement in Value thereof, and the Rent so declared shall be added and recoverable in like Manner as the original Rent: Provided that nothing in this Act contained shall authorize the vacating or determining of any Lease or Agreement of any such exchanged Lands or Hereditaments as aforesaid which shall be wholly situate in any Parish or Place adjoining the Parish of *Exford* aforesaid.

XLVII. And be it further enacted, That nothing in this Act contained shall extend, or be construed, deemed, adjudged, or taken, to revoke, make void, impeach, annul, alter, or prejudice any Settlement, Will, Mortgage, or Deed, or other Instrument whatsoever, or to prejudice any Person or Persons having or claiming any Dower, Jointure, Rent, Service, Debt, Charge, Mortgage, or Incumbrance whatsoever, in, out of, upon, or affecting any of the Lands and Grounds to be divided, allotted, and inclosed as aforesaid, or any Messuages, Lands, Tenements, or Hereditaments which shall be exchanged or divided in pursuance of this Act or the said recited Acts, or any Parcel or Part thereof respectively, but that the several Lands so to be allotted, exchanged, or divided as aforesaid shall, from and after the making of such Allotments and Exchanges, Partitions or Divisions respectively, be, remain, and enure, and be held and enjoyed by, and the several Persons to whom the same shall be allotted or given in exchange shall from thenceforth stand and be seised and possessed thereof respectively, to such and the same Uses, and for such and the same Estates, and with such and the same Powers and Authorities, and subject to the same Wills, Limitations, Conditions, Settlements, Provisions, Remainders, Reversions, Mortgages, Uses, Trusts, Powers, Provisoes, Rents, Debts, Charges, and Incumbrances, as the several Messuages, Lands, Tenements, and other Hereditaments in respect or lieu whereof such Allotments and Exchanges shall be respectively made were or would have stood severally limited or affected by or charged with, or subject and liable to, in case this Act had not been passed.

Wills and Settlements not to be affected.

XLVIII. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said first-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

Application of Compensation if amounting to 200*l*.

1 G. 4 c. 35.

Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee, for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, it shall and may be lawful to and for the said Commissioner out of such Sum to defray such Proportion of the Expence of passing this Act, and of carrying the same and the said recited Acts into execution, as shall, if any, be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee, in Possession of the Lands, Tenements, or Hereditaments so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioner be proper to be made, and shall be made, under his Direction, upon any Lands to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, or 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, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes, and the General Orders of the said Court, and without Fee or Reward; and shall, when so paid in, there remain, until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons 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 standing settled therewith or to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part or Parts thereof as shall be necessary; or until the same shall, upon the like Application, be laid out, in a summary Way, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned*

Lands,

Lands, Tenements, or Hereditaments stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime and until such Order can be made the said Money may, by Order of the said Court, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime, and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interest and annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

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

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

L. Provided also, and be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Persons 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, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person or Persons respectively entitled thereto.

When under 20*l.*

[*Private.*]

Power to borrow Money to execute the Act.

LI. And be it further enacted, That it shall and may be lawful for the said Commissioner to borrow and take up at Interest, of or from any Person or Persons willing to advance or lend the same, such Sum and Sums of Money as shall from Time to Time be necessary for defraying the Charges and Expences of passing this Act and executing the same and the said recited Acts, and otherwise relating thereto, until the same shall be raised by such Sale or Sales as herein-before mentioned.

Money advanced to be repaid with Interest.

LII. And be it further enacted, That if any Person or Persons shall advance any Sum or Sums of Money for defraying the Expences of obtaining and passing this Act, or for carrying the same into execution, every such Person or Persons shall be repaid the same, with Interest after the Rate of Five Pounds *per Centum per Annum*, out of the first Monies which shall be raised or received by the said Commissioner by virtue of this Act.

Commissioner to lay Accounts before a Justice.

LIII. And be it further enacted, That the said Commissioner shall not at any Time permit or suffer any just Claims or Demands upon him as such Commissioner to remain unpaid for a longer Period than Three Calendar Months, except such Sums as may from Time to Time be due and owing to the said Clerk for Attendances at Meetings to be held in pursuance of this Act; and once at least in every Three Calendar Months during the Execution of this Act, to be computed from the Day of the passing thereof, the said Commissioner shall and he is hereby required to make a true and just Statement and Account of all Monies by him received and expended, or due to him or to the Clerk for their respective Trouble and Expences in the Execution of this Act or the said recited Acts, 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 him laid before any One or more of Her Majesty's Justices of the Peace for the said County of *Somerset* who shall be uninterested in the said Waste, Open, or Common Lands, or the Division, Allotment, or Inclosure thereof, to be by him or them examined and balanced; and such Balance shall be by such Justice or Justices stated in the Books of Accounts to be kept in the Office of the Clerk to the said Commissioner; and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after such Account shall have been so examined and settled, be published in the *Taunton Courier*, or some other Newspaper circulated in the said County of *Somerset*; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, until the same shall have been duly allowed by such Justice or Justices, and until such Account or the Abstract thereof shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Award to be deposited in the Hands of the Clerk of the Peace and in the

LIV. And be it further enacted, That the Award to be made by the Commissioner under the Authority of this Act and the said first-recited Act shall be executed and published within Three Years from the passing of this Act, and, together with a proper Map or Plan of the said Waste, Open, or Common Lands, and the several Divisions and

Allotments

Allotments made in pursuance of this Act and the said first-recited Act, thereto annexed, shall, within Ten Days after the Execution thereof be delivered to the Clerk of the Peace for the said County of *Somerset*, who is hereby required to deposit and keep the same among the Records of the said County, so that recourse may be had thereto, by any Person or Persons interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings shall be paid, and no more, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said recited Act; and a Copy of the said Award, fairly transcribed in a Book, with a proper Map or Plan of the Allotments to be set out by virtue of this Act or the said first-recited Act, attested and signed by the said Commissioner, shall within the Time aforesaid be deposited in the Parish Church of *Exford* aforesaid, and there kept in a Tin Box to be provided for that Purpose; and the said Award, and the Copy thereof, so attested, and any other Copy of the said Award, or of any Part or Parts thereof, attested by the said 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 whatsoever.

LV. And be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done in pursuance of this Act or the said recited Acts, (other than and except as to such Claims, Matters, and Things as shall be ascertained, settled, tried, or determined by the Verdict of a Jury under the Power and Authority herein-before contained, or where by any of the Provisions or Clauses of the said recited Act or this Act the Determination, Orders, Acts, or Proceedings of the said Commissioner are declared or directed to be final and conclusive,) then and in every such Case he, she, or they may appeal to the Justices at the General or Quarter Sessions of the Peace which shall be held for the said County of *Somerset* within Three Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and the Party or Parties concerned Twenty Days Notice in Writing of such Appeal, and of the Matter thereof, except with respect to the Accounts of the said Commissioner, which, notwithstanding the same shall have been examined and balanced and published as aforesaid, may be appealed against at any Time within Six Calendar Months after the Delivery of the said Award in manner aforesaid to the Clerk of the Peace for the said County of *Somerset*, on giving to the said Commissioner such Notice as last aforesaid; and the Justices (not interested in the Premises) at the said General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner or Owners of

Parish  
Church.Appeal to the  
Quarter  
Sessions.

of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of such Justices shall be final and conclusive on all Parties concerned, and shall not be removed or removeable 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, vexatious, or without sufficient Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to the said Justices in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

Reservation  
of Manorial  
Rights.

LVI. 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 Sir *Thomas Dyke Acland*, as Lord of the Manor of *Almsworthy* otherwise *Amsworthy* otherwise *Almonsworthy* aforesaid, in or to the Seignories, Royalties, or other Rights and Services incident or belonging to the said Manor, but that the Lord of the said Manor for the Time being, and all Persons claiming by, from, under, or in Trust for 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 Royalties, Jurisdictions, and Privileges to the said Manor incident, appendant, appurtenant, or belonging, (save and except such Right to the Soil of the said Waste, Open, or Common Lands, and such Commonable Rights and Interests, for which Satisfaction is intended to be made by virtue of this Act,) in as full, ample, and beneficial a Manner as they heretofore have been held, exercised, and enjoyed, or might or could have been held, exercised, and enjoyed if this Act had not been made and passed.

General  
Saving.

LVII. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all and every other Persons and Person, and Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators respectively, all such Estate, Right, Title, and Interest (other than such as are meant and intended to be barred and destroyed by virtue of this Act) as he, they, every, or any of them, could or ought to have had and enjoyed of, in, to, or in respect of the Waste, Open, or Common Lands hereby directed to be divided, allotted, and inclosed in case this Act had not been passed.

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

LVIII. 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.