



ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

Cap. 11.

An Act for inclosing Lands in the Parish of *Upper Heyford* in the County of *Oxford*.

[21st June 1841.]

WHEREAS there are within the Parish of *Upper Heyford* in the County of *Oxford* divers Open Common Fields, Meadows, Pastures, Commonable Lands, Commons, and Waste Lands and Grounds: And whereas the Warden and Scholars of *Saint Mary College of Winchester*, commonly called *New College*, in *Oxford*, are or claim to be Lords of the Manor of *Upper Heyford* in the same Parish, and certain of the said Lands and Grounds are of Copyhold and Customary Tenure holden by Copy of Court Roll of the said Manor: And whereas the said Warden and Scholars are the Owners of the Advowson and the Patrons of the Rectory of the Parish and Parish Church of *Upper Heyford* aforesaid, and the Reverend *William Innes Baker* is Rector of the said Parish, and as such is entitled to certain Glebe Lands in the said Open Common Fields, Meadows, Pastures, Commonable Lands, Commons, and Waste Lands and Grounds, and also as such Rector is entitled to all the Great and Small Tithes arising within the said Parish: And whereas the Rectors of the said Parish of *Upper Heyford* have been in the actual Possession and Enjoyment of a certain Messuage with the Appur-

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tenances

tenances situate in *Upper Heyford* aforesaid, together with Three Yard Lands and an Half in the Common Fields of *Upper Heyford* aforesaid, and Hereditaments and Premises, which such Rectors have continually held by Lease under the said Warden and Scholars for the last Seventy Years, and the same old Inclosures and Common Field Land have been always considered and taken to be as or in the Nature of Glebe Land, and it is the Desire and Intention of the said Warden and Scholars to annex such Lands, Hereditaments, and Premises to the said Rectory, in order that the same may be added to the Rectorial Glebe, and be ever after deemed and considered to be Part of such Glebe Lands, subject to the Payment to the said Warden and Scholars of the annual Rent or Sum of One Pound Sixteen Shillings and Seven-pence, being the reserved yearly Rent contained in the last Lease of the same granted to the said *William Innes Baker* by the said Warden and Scholars: And whereas the said Warden and Scholars, the Right Honourable the Earl of *Jersey*, the Right Honourable *William Sturges Bourne*, *Richard Adams*, and divers other Persons, are seised or possessed of or otherwise interested in the Residue of the said Open Common Fields, Meadows, Pastures, Commonable Lands, Commons, and Waste Lands and Grounds, and of and in the several ancient Inclosures within the said Parish of *Upper Heyford*: And whereas the Lands and Grounds of the Owners and Proprietors of the said Open Common Fields, Meadows, Pastures, Commonable Lands, Commons, and Waste Lands and Grounds, lie intermixed with each other, and are dispersed so as to render the Cultivation of the same very inconvenient, and the same will be made much more valuable to the Parties entitled thereto, and much more profitable and improveable, if the same, together with the Commons and Waste Grounds, were divided and inclosed, and specific Parts thereof allotted to such Owners and Proprietors, according to their respective Rights and Interests therein, and all Rights of Common in, over, and upon the same respectively extinguished, and if the same and the said inclosed Lands and Homesteads were exonerated from Tithes; but the Purposes aforesaid cannot be effected without the Authority of Parliament: And whereas an Act was passed in the Forty-first Year of the Reign of King *George the*

41G.3. c.109. Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas another Act was passed in the Second Year of the

2 G. 4. c. 23. Reign of His Majesty King *George the Fourth*, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: 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 the said two recited Acts passed respectively in the Forty-first Year of the Reign of King *George the Third* and in the Second Year of the Reign of King *George the Fourth*, and the several Enactments and Provisions thereof, shall, from the passing of this Act, be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively

Recited Inclosure Acts to form Part of this Act.

repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

II. And be it enacted, That *John Davis* of *Banbury* in the County of *Oxford*, Gentleman, and his Successor for the Time being, to be elected or appointed in manner herein-after mentioned, shall be and he is hereby appointed Commissioner for carrying this Act and the said recited Acts into execution; and it shall be lawful for the said Commissioner, and he is hereby required, to divide, allot, and inclose the said Open Common Fields, Meadows, Pastures, Commonable Lands, Commons, and Waste Lands and Grounds in the said Parish, according to the Regulations and Provisions contained in the said recited Acts and this Act: Provided always, that no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the First Meeting of the Commissioner) until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act; and such Declaration shall be in lieu of the Oath or Affirmation required by the said Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds.

Appointment
of Commis-
sioner.

Qualification
of Commis-
sioner.

III. And be it enacted, That if any Person not having so qualified himself shall act as a Commissioner, he shall for every such Offence forfeit the Sum of Fifty Pounds, with full Costs of Suit, to any Person who shall sue for the same, by Action of Debt or on the Case, in any of Her Majesty's Courts of Record at *Westminster*.

Penalty on
Persons
acting not
qualified.

IV. And be it enacted, That if any Person shall falsely or corruptly make and subscribe a Declaration under the Authority of this Act, knowing the same to be untrue in any material Particular, he shall be guilty of a Misdemeanor.

Penalty on
making a
false Decla-
ration.

V. And be it enacted, That in case the said *John Davis*, or any Person to be appointed a Commissioner in his Room by virtue of this Act, shall die, or become incapacitated, or neglect or refuse for the Space of Two Months to act as such Commissioner, it shall be lawful for the major Part in Value (such Value to be ascertained by the Poor's Rate Assessment for the Time being) of the several Proprietors of Lands within the said Parish (exclusively of the Lord of the said Manor) who shall attend either personally or by their respective Agents at any Meeting to be held for that Purpose, of which Meeting Notice shall be given by some One or more of the Persons interested in the said Inclosure, by Advertisement, and also on the Church Door, as herein-after directed, at least Fourteen Days before such Meeting, to appoint, by Writing under their Hands, some fit Person to be a Commissioner in the Room of the said *John Davis*, or of the Commissioner appointed in his Place, and so from Time to Time as often as any such Commissioner shall die, neglect or refuse or become incapable to act.

Appointment
of Commis-
sioner on
Vacancies.

VI. And

Appointment
of Surveyor.

VI. And be it enacted, That *James Saunders* of *Kirtlington* in the County of *Oxford*, Land Surveyor, or his Successor to be appointed in manner herein-after mentioned, shall be the Surveyor for the Purposes of this Act; and in case the said *James Saunders*, or any Person to be appointed in his Stead, shall, before the finishing of the said Inclosure, die, neglect, refuse, or become incapable to act, it shall be lawful for the Commissioner from Time to Time, by Writing under his Hand, to appoint some other fit Person to be a Surveyor for the Purposes of this Act during the Pleasure of the Commissioner, and on every Vacancy in like Manner to appoint some other Surveyor as often as there shall be Occasion: Provided always, that no Person shall act as such Surveyor until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration it shall be lawful for the Commissioner or any Justice of the Peace for the said County to administer and receive; and the said Declaration, so made and subscribed, shall be annexed to and deposited with the Award of the Commissioner.

Surveyor to
make a
Declaration.

Appointment
of Clerk.

VII. And be it enacted, That *Robert Morrell* of *Oxford*, Solicitor, shall be the Clerk to the Commissioner, and in case of his Death, Neglect, Refusal, or becoming incapable to act, or of the Death, Neglect, Refusal, or Incapacity to act of any Person to be appointed in his Stead, it shall be lawful for the Commissioner to appoint some other Person to be Clerk to assist him in carrying this Act into execution.

No Party
interested to
be appointed
a Commis-
sioner, &c.

VIII. And be it enacted, That no Person shall be appointed or shall act as a Commissioner or Surveyor in the Execution of this Act who shall be interested in the Lands to be inclosed, or who shall be the Agent ordinarily intrusted with the Care, Superintendence, or Management of the Estate of any Person so interested.

Allowances
to Commis-
sioner and
Clerk.

IX. And be it enacted, That the Commissioner and Clerk shall be paid respectively out of the Inclosure Expences Fund, for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act, the Sum of Three Guineas for each Day they shall respectively be engaged as aforesaid for the first Two Years after the passing of this Act, and Two Guineas *per* Day afterwards; and such Payment shall be in full Satisfaction to the Commissioner and Clerk respectively for their Time and Trouble, and for the several Expences incurred by them during their several Journeys and Attendance in the Execution of this Act, except the Expence of the Rooms in which the Meetings of the Commissioner shall be held, and the Expence of Appeals or other legal Proceedings against the Commissioner, and the Expence of Notices and Advertisements, and of preparing, proclaiming, and enrolling the Award, and such other like necessary Expences: Provided always, that it shall not be lawful for the Commissioner to retain or pay himself or the Clerk any Money, on account of the before-mentioned Allowances respectively, beyond One Third of the Allowance to which they shall be respectively entitled, until after the Expiration of Six Calendar Months

Months from the Day of the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided.

X. And be it enacted, That in computing the aforesaid Allowance to the Commissioner and Clerk a Day shall be deemed to consist of Eight Hours during the Period between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and Six Hours during the Period between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*; and where the Time occupied in going to and attending at and returning from any Meeting to be holden, or on other Business to be transacted, under the Provisions of this Act, shall be of less Duration than Eight Hours in the First of the Periods aforesaid, or of Six Hours in the Second Period, the same shall be charged as only Half a Day, and the Commissioner and Clerk shall be paid accordingly.

Length of
Day for
estimating
Allowances.

XI. And be it enacted, That it shall be lawful for the Commissioner to pay to the Surveyor herein appointed, out of the Inclosure Expences Fund, for his Time and Trouble in surveying, measuring, mapping, and planning the said Open Common Fields, Meadows, Pastures, Commonable Lands, Commons, and Waste Lands and Grounds, and all the ancient inclosed Lands in the said Parish, and for all other Work, Labour, and Employment which shall be required of him by the Commissioner in respect to the Execution of this Act, and for all Expences he may incur or be put unto in respect thereof, the Sum of One hundred and sixty-five Pounds, and also such further Sum as the Commissioner shall think fit, not exceeding the Sum of Two Guineas for each Day that he shall at the Request of the Commissioner attend any Meeting of the Commissioner; and such Payments shall be in full Satisfaction for the Time and Trouble of the Surveyor, and for all travelling and other Expences of every Description to be incurred by him whilst engaged in the Execution of this Act; and in case more Persons shall be appointed and act as Surveyors either together or in succession, then the said Sum of One hundred and sixty-five Pounds shall be distributed between such Surveyors in such Proportions as shall be deemed reasonable and proper by the Commissioner.

Allowances
to Surveyor.

XII. And be it enacted, That the Commissioner shall cause Notice to be given, by Advertisement or on the Church Door, of the Time and Place when and where his First and every subsequent Meeting shall be held, (Meetings by Adjournment only excepted,) and he may from Time to Time adjourn any such Meetings; and if at the Time and Place appointed for any such Meeting the Commissioner shall not attend, it shall be lawful for his Clerk to adjourn such Meeting for not more than Twenty-one Days, to be held at the same Place, giving timely Notice thereof to the Commissioner: Provided always, that all Meetings of the Commissioner for executing this Act shall be held within the said Parish or within Eight Miles thereof.

Meetings and
Notices
thereof.

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XIII. And

Notices how
to be given.

XIII. And be it enacted, That all Notices by this Act directed to be given by Advertisement shall be given by Advertisement to be inserted in some Newspaper or Newspapers printed or usually circulated in the said County, and all Notices directed to be given on the Church Door shall be by Writing under the Hand of the Party giving such Notice, to be affixed on the principal outer Door of the Parish Church of *Upper Heyford* aforesaid, on *Sunday* before Divine Service; and all Notices necessary to be given by the Commissioner, the Mode of giving which is not hereby particularly directed, shall be by one of the Methods aforesaid; and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate, any thing in the said first-recited Act to the contrary notwithstanding.

What shall
be a Refusal
to act.

XIV. And be it enacted, That if the Commissioner shall not attend the First or Second Meeting appointed to be held for putting this Act into execution, or shall not qualify himself by making the Declaration in that Behalf prescribed, or if he shall, at any Time after having qualified himself as aforesaid, wilfully absent himself from any Two successive Meetings, the Times of such Meetings being known to him by his having appointed the First thereof, and a Notice of the Second Meeting in Writing under the Hand of the Clerk of the Commissioner having been given to him or left at his usual Place of Abode, (such Commissioner not being prevented by Sickness or by other reasonable Cause,) or if any Commissioner to be hereafter elected or appointed as aforesaid shall not attend the First or Second Meeting to be held after his Appointment, or shall, after having qualified himself as aforesaid, wilfully absent himself in manner aforesaid after such Notice, and without Cause of Excuse as aforesaid, such Absence or Non-attendance shall be deemed to be a Refusal to act.

Persons sum-
moned by the
Commis-
sioner re-
fusing to give
Evidence to
be punished.

XV. And be it enacted, That if any Person having been summoned to testify the Truth upon Oath touching any Matter relating to the Execution of this Act, and having been paid or tendered a sufficient Sum of Money, to be ascertained by the Commissioner, to defray the Charges of his Attendance, shall not appear before the Commissioner pursuant to such Summons, without assigning some reasonable Excuse for not appearing, or appearing shall refuse to be sworn or to give Evidence touching the Premises, it shall be lawful for the Commissioner, upon Proof of such Summons and Tender made before him upon Oath (which Oath he may administer), by Warrant directed to any Person whomsoever, to cause any Sum of Money, not exceeding Ten Pounds, to be levied by Distress upon the Person so neglecting or refusing to appear or give Evidence; and the Money so to be levied as aforesaid shall be considered as part of the Inclosure Expences Fund, and shall be applied accordingly.

For regu-
lating Dis-
tresses.

XVI. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, shall be directed to be levied by Distress, such Sum of Money shall be levied by

by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the surplus Monies arising from such Sale, after satisfying such Sum of Money, and the Costs and Expences attending the Distress and Sale, shall, on Demand, be rendered to the Party whose Goods and Chattels shall have been distrained.

XVII. And be it enacted, That all the Orders, Proceedings, and Determinations of the Commissioner, at any Meeting 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 Commissioner, and being so signed shall be deemed to be Originals; and all such Books shall be deposited with and kept by the Clerk to the Commissioner, and may be read as Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any thing done in relation to this Act.

Proceedings
to be entered
in a Book.

XVIII. Provided always, and be it enacted, That the several Persons interested in the said Inclosure, and their respective Agents, shall pay their own Expences whenever they shall attend any of the Meetings to be held in pursuance of this Act.

Proprietors
to pay their
own Ex-
pences at
Meetings.

XIX. And be it enacted, That the Commissioner shall not at any Time permit any just Claim or Demand upon him as such Commissioner to remain unpaid for a longer Period than Three Months; and once at least in every Twelve Months during the Execution of this Act, and until the Account of the Commissioner shall be finally allowed, (the first of such Periods to be computed from the Day of the passing hereof,) he shall make out a true and accurate Account of all Sums of Money by him received and expended in the Execution of this Act, and of all Sums due to him for his own Trouble or Expences; and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid; and such Account, when so made out, together with the Vouchers relating thereto, shall be by the Commissioner laid before One or more of Her Majesty's Justices of the Peace acting for the said County, not interested in the Premises, to be by him or them examined and balanced.

Debts to be
paid and
Accounts to
be audited.

XX. And be it enacted, That the Balance of such Account shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the Commissioner, and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be inserted in some Newspaper printed or usually circulated within the said County; and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by such Justice or Justices, nor until such Abstract thereof shall have been published in some such Newspaper as aforesaid; subject nevertheless to the Power of Appeal herein-after contained.

Accounts to
be published.

XXI. And be it enacted, That for the Purpose of shortening or rendering straight any Boundary Fences between the Lands to be inclosed

For shorten-
ing Bound-
aries.

inclosed and the old inclosed Lands in the said Parish, or between such Allotments and inclosed Lands, or any of them, and any adjoining Lands, it shall be lawful for the Commissioner (with the Consent of the Lord of any Manor in which the Lands are situate, and of the Owners of any such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them, being a Corporation Aggregate,) to set out and determine the Boundaries between the Lands to be inclosed and any adjoining Lands lying in the same or any adjoining Manor, as he shall judge proper, for the Purposes aforesaid; and after such Boundaries shall have been so set out and determined as aforesaid the same shall be made, fenced, ditched, or mounded by such Person, in such Manner and at such Times as the Commissioner shall direct, and shall for ever thereafter be deemed the Boundaries between the allotted and the old inclosed Lands respectively, or (as the Case may be) between the allotted or old inclosed Lands and such adjoining Lands.

Commis-
sioner to set
out Drains
and enlarge
and turn
Water-
courses.

XXII. And be it enacted, That it shall be lawful for the Commissioner to set out and make such Common Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, of such Extent and Form, and in such Situations, as he shall deem necessary, in the Lands to be inclosed, and also to enlarge, cleanse, or alter the Course of and improve any of the present Ditches or Watercourses, Banks or Bridges, in and over the same Lands, as the Commissioner shall deem necessary; and the Expences of making and enlarging, altering and cleansing such Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first done in pursuance of this Act, if not otherwise provided for, shall be raised by the Commissioner in the same Manner as the other Expences of carrying this Act into execution; but all such Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Persons and in such Manner as the Commissioner shall by his Award direct: Provided that no Watercourse be diverted or turned without the Consent in Writing of the Persons from whose Lands the same may be diverted, and of the Persons into whose Lands the same may be turned, or to the Prejudice of any Person interested in such Watercourse, except with his Consent in Writing.

Power to
widen Roads,
making good
and substan-
tial Fences.

XXIII. And be it enacted, That it shall be lawful for the Commissioner to widen any of the public Roads or Highways through or over the Lands to be inclosed where he shall think it necessary to any Extent he shall think fit, not exceeding Forty Feet, and for that Purpose to take a sufficient Quantity of the Lands to be inclosed, and also making good and substantial Fences on each Side of all such widened public Roads and Highways, in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to
stop up or
divert Roads,
&c.

XXIV. And be it enacted, That in setting out the several public Carriage Roads, Highways, Bridle Roads, and Footpaths, in pursuance of this Act or of the first-recited Act, the Commissioner may, if he think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the County of

Oxford, discontinue, stop up, divert, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footpaths passing through or over any of the Lands to be inclosed; and the Soil of such of the Roads and Ways so to be discontinued and stopped up as pass through allottable Lands shall be deemed Part of the Lands to be inclosed: Provided always, that nothing herein contained shall authorize the diverting or altering of any Turnpike Road unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose, on Ten Days Notice, be first obtained.

XXV. Provided always, and be it enacted, That before any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, diverted, stopped up, or altered by the Commissioner, or any such Order of Two Justices shall be made, the Commissioner shall cause to be affixed at each End of such public Carriage Road, Highway, Bridle Road, or Footpath 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 Commissioner; and the Commissioner shall also cause the same Notice to be given by Advertisement for Four successive Weeks, and also on the Church Door on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so given, and after such Order as herein-before-mentioned shall have been made, such public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject, however, to such Appeal as is herein-after mentioned.

Proceedings previously to stopping up and diverting Roads, &c.

XXVI. Provided also, and be it enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footpath should be discontinued, stopped up, diverted, or altered, as the Case may be, within One Month after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the Quarter Sessions for the said County, upon giving to the Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been given as aforesaid, nor, on any Hearing of Appeal, to go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

Appeal to the Quarter Sessions.

XXVII. And be it enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether such public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be thereby injured or aggrieved, impanel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath is unnecessary, or may, beneficially to the Public,

In case of Appeal, Jury at Sessions to determine whether the Roads, &c. shall be discontinued.

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be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such Appeal, and shall award the Costs of resisting the said Appeal to be paid by the Appellant to the Commissioner, and the same shall be recoverable in 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 such public Carriage Road, Highway, Bridle Road, or Footpath is not unnecessary, or that the same could not, beneficially to the Public, be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court shall allow such Appeal, and such public Carriage Road, Highway, Bridle Road, or Footpath 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 shall award to the Appellant the Costs of prosecuting such Appeal; and such Costs shall be paid by the Commissioner out of the Inclosure Expences Fund.

Expences of discontinuing or widening Roads.

XXVIII. And be it enacted, That the Expences attending the purchasing of the Soil of such Roads, or the stopping up, discontinuing, diverting, and altering of such Roads, and the Money Compensation in respect thereof, shall be paid out of the Inclosure Expences Fund.

Roads made before the passing of this Act not to be repaired by Commissioner.

XXIX. And be it enacted, That nothing in this Act contained shall authorize the Commissioner to repair or amend any of the public Highways which shall have been made previously to the passing of this Act; and that all such public Highways as heretofore have been or ought to have been maintained by or at the Charge of the Inhabitants or Occupiers of or within the said Parish of *Upper Heyford* shall from Time to Time be repaired, amended, and maintained by and at the Charge of the said Inhabitants and Occupiers liable to maintain the same, in such Manner and by the same Ways and Means as the same have been kept in repair before the passing of this Act.

Justices may declare any of the Carriage Roads completed.

XXX. And be it enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the said County shall certify any of the public Carriage Roads to be set out in pursuance of this Act to be sufficiently formed and completed, such Roads shall thenceforth be kept in repair by such Persons and in such Manner as the public Roads within the said Parish are or ought by Law to be kept in repair; and every such Certificate shall, at the Quarter Sessions of the Peace to be holden for the said County next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County.

Commissioner to appoint private Roads;

XXXI. And be it enacted, That the Commissioner shall set out such private Roads, Bridleways, and Footpaths through the Lands to be inclosed as he shall think requisite, giving such Notice and subject to such Examination as is required by the said first-recited Act in the Case of public Roads; and any Expences which the Commissioner

sioner may think fit to incur prior to the Time of making his Award, relative to the setting out or the Formation or Completion of such private Roads, Bridleways, and Footpaths, or any of them, shall be paid out of the Inclosure Expences Fund; and the said private Roads, Bridleways, and Footpaths shall thereafter be maintained and kept in repair by and at the Expence of the Owners and Proprietors for the Time being of any of the Lands within the said Parish, in such Shares and Proportions and in such Manner as the Commissioner shall by his Award direct.

XXXII. And be it enacted, That the Commissioner shall by his Award order the Grass and Herbage growing upon the private Roads to be set out by him by virtue of this Act to be for ever thereafter for the Use of such Persons as he shall in his Judgment think best entitled to the same. and to allot the Herbage of such Roads.

XXXIII. And be it enacted, That it shall be lawful for the Commissioner, at such Time as he shall think proper, and before the Execution of his Award, by Notice on the Church Door, to order all or any Part of the Rights of Sheepwalk, Common, or other Rights, in or over the Lands to be inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, during such Time as shall be expressed in such Notice, and from the Time mentioned in such Notice such Rights shall be extinguished or suspended accordingly. Commissioner empowered to suspend or extinguish Rights of Common.

XXXIV. And be it enacted, That if, during the Suspension or after the Extinguishment of any such Rights of Sheepwalk, Common, or other Rights as aforesaid, any Owner or Occupier of Land, or of any Commonable Messuage or Cottage, or the Site of any Commonable Messuage or Cottage, within the said Parish, or any other Person, shall permit his Cattle or Sheep to go or depasture upon any of the Lands over which such Rights shall be suspended or extinguished, it shall be lawful for the Commissioner, or any other Person by his Order (testified in Writing under his Hand), and also for any other of the said Owners or Occupiers, to distrain such Cattle or Sheep, being upon such Lands or Grounds contrary to such Order, and to impound the same until the Person so offending shall pay to the Person so distraining such Sum of Money as the Commissioner shall, by Writing under his Hand, to be delivered to or left at the Place of Abode of the Person whose Cattle or Sheep shall be so distrained, have previously ordered, not exceeding Ten Shillings for each Head of Cattle and Five Shillings for each Sheep so distrained; and in case the same shall not be paid within Seven Days after the Delivery of such Writing, the Commissioner is hereby authorized, upon Proof of such Offence having been committed, and of Non-payment of the Penalty hereby imposed, to cause the Cattle or Sheep so distrained or impounded, or such of them as he shall think necessary, or any other Goods or Chattels of the Person so offending, to be sold for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress, rendering the Surplus (if any) to the Owner of such Cattle or Sheep. Cattle depasturing in breach of the Commissioner's Order to be distrained.

XXXV. And

Commis-
sioner to
direct the
Course of
Husbandry.

XXXV. And be it enacted, That it shall be lawful for the Commissioner, as soon after the passing of this Act as conveniently may be, and from Time to Time as he shall think fit, by Notice on the Church Door, to direct the Course of Husbandry and the Stint or Rule of Stocking that shall be observed upon the Lands to be inclosed, until the Time when he shall have completed the Division, Allotment, and Inclosure thereof, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking and feeding of the Commonable Lands and Fallows or Stubbles upon the same, and to make such Recompence as he shall think right to any Person injured by such Directions, all which Directions shall be binding upon all Parties interested, their Farmers and Tenants; and the Commissioner shall impose such pecuniary Penalties on every Person not conforming to such Directions as he shall think necessary, not exceeding the Sum of Five Pounds *per* Acre in case of cross-cropping or withholding from the Land its due Proportion of Manure, or Ten Pounds in any other Case, for any One Offence, and shall also determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the Lands in his Occupation, by whom and in what Sum of Money such Tenant shall be compensated for any such Manure left or given up by him; and such Penalties and other Sums of Money shall be recovered in the Manner directed by the said first-recited Act with respect to the levying and recovering of Penalties.

Satisfaction
to be made
for growing
Crops.

XXXVI. And be it enacted, That the Commissioner shall, by Writing under his Hand, order what Recompence in Money shall be made to the Owner of any Crops growing, according to the customary Mode of Cultivation within the said Parish, upon the Lands to be inclosed at the Time such Division, Allotment, and Inclosure shall be made, for the said Crops, by the Person to whom the Lands upon which such Crops are growing shall be allotted, and also what Recompence in Money shall be paid, and by whom, to any Tenant or Occupier of any Land, as well for ploughing, tilling, cultivating, manuring, or folding any of the Lands to be inclosed, for the Benefit accruing thereby to the Person to whom such Lands shall be allotted, or for any Loss or Disadvantage which any such Tenant or Occupier may sustain by the Loss of his following or way-going Crops upon the Lands to be inclosed; and if in any of the said Cases the Money to be paid for such Recompence be not paid at the Time and in the Manner ordered by the Commissioner, he shall raise and levy the same on the Party liable thereto, for the Use of the Person entitled thereto, in the same Manner as the Inclosure Expences are herein directed to be raised and levied.

Claims to be
delivered to
the Commis-
sioner.

XXXVII. And be it enacted, That all Persons claiming any Interest in any of the Lands to be inclosed shall deliver their respective Claims, in Writing under their Hands or the Hands of their Agents, unto the Commissioner at the Meetings to be held for that Purpose, stating the several Particulars in respect whereof such Claims are made, and distinguishing Freehold, Copyhold, and Leasehold Property
from

from each other, and the Situation thereof; and no such Claim shall be received by the Commissioner after the last Meeting to be held for that Purpose, of which due Notice shall have been given and so expressed therein, except for some special Cause to be allowed by the Commissioner.

XXXVIII. And be it enacted, That after the said Claims shall be so received the Commissioner shall cause Notice on the Church Door to be given of a Time (at least Ten Days distant) and a Place for all Parties concerned to appear before him and show Cause for or against the Allowance or Disallowance of the said Claims; and at such Meeting the Commissioner shall proceed to examine into and determine the same, and shall make such Order therein as to him shall appear just; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Differences shall happen between any of the said Proprietors touching their respective Rights or Claims, or touching the respective Shares which they ought to have in the Allotments, the Commissioner shall, by Examination of Witnesses upon Oath (which Oath the said Commissioner is hereby empowered to administer), and by such other Evidence as to him shall seem proper, hear and determine the same, and shall make such Order therein as to the Commissioner shall appear just, which Order shall be final, unless any Party shall be dissatisfied with the Determination of the Commissioner, and shall proceed to try his Rights by an Issue at Law, as herein-after mentioned.

Adjudication upon Claims.

XXXIX. And be it enacted, That this Act shall not authorize the Commissioner to determine the Title to any Lands, or to determine any Right between any Parties, contrary to the actual Possession of such Parties (except in respect of Encroachments as herein-after mentioned), but in case the Commissioner shall be of opinion against the Rights of the Party in Possession he shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or recovered from him by due Course of Law.

Commissioner not to determine Titles contrary to Possession.

XL. And be it enacted, That if any Person claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the Commissioner concerning any Claim or any Right or Interest in or to the Lands to be inclosed, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action upon a feigned Issue against the Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent, and thereupon the Person so dissatisfied may proceed to a Trial at Law at the then next Assizes, or at the Assizes immediately following such next Assizes which may be holden for the said County after such Action shall have been commenced; and the Defendant in such Action shall, upon being served with the usual Process therein, appear and plead thereto, and accept One or more Issue or Issues, whereby such Claim, and the Right and Interest thereby insisted on, may be tried and determined (such Issues to be settled by the proper Officer of the Court in which such

Parties dissatisfied authorized to try their Rights at Law.

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Action

Action shall be commenced in case the Parties differ); and the Verdict given upon the Trial of such Action shall be binding and conclusive upon all the Parties thereto, unless the Court shall set aside such Verdict, and order a new Trial to be had; and after such Verdict shall be given, and final Judgment obtained thereon, the Commissioner shall act in conformity thereto, and allow or disallow the Claim thereby determined according to the Event of such Trial, and the Costs attending any such Actions shall abide the Event of such Trial.

If no Action brought, Determination of Commissioner to be final.

XLI. Provided always, and be it enacted, That if no such Action shall be commenced, or if the Plaintiff therein shall not proceed to Trial within the Time herein-before limited for that Purpose (unless the Court for sufficient Cause put off such Trial), the Determination of the Commissioner shall be final.

Deaths of Parties not to abate Proceedings.

XLII. And be it enacted, That if any Person, Plaintiff, or Defendant in any Action to be brought as aforesaid, shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened, the Heir or Devisee or other Person entitled to the Interest of the deceased Party in the Matter in question being served with Process in the Action; and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before Action brought, it shall be lawful for the Person who might have brought such Action to bring the same within the Time so limited as aforesaid against such Person as if actually living, and to serve the Commissioner or his Clerk with the usual Process for commencing such Action, in the same Manner as the deceased Person might have been served therewith if living; and it shall thereupon be incumbent on such Clerk to serve with such Process the Heir or Devisee or personal Representative of the deceased Person, or other the Person who shall claim the Benefit of such Determination as aforesaid; and on such Process being served such Heir or Devisee or personal Representative, or other Person, shall appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had thereon in the same Manner as if such Person had been living, and the Rights, Interests, and Claims of all Parties shall be equally bound by the Event of any Action so brought or continued as aforesaid as if the Death of any of the Persons interested therein had not occurred.

In case Parties die before Action brought, Suits to be carried on and defended in their Names.

If Parties die before Inclosure, &c. is completed, Allotments to be made to their Representatives.

XLIII. And be it enacted, That if any Person interested in the said Inclosure shall die before the same shall have been completed the Powers and Authorities hereby vested in the Commissioner shall not be thereby determined or suspended, but he shall proceed in the Execution of such Powers and Authorities in such Manner as he might have done in case such Person had not died, and the Share of the Person so dying shall be allotted to such Person as by Law shall become entitled to the same, and shall be accepted and fenced by such Party according to the Directions of this Act, and he shall be liable to the Charges and Expences and other Conditions of this Act.

XLIV. And

XLIV. And be it enacted, That in case the Commissioner, upon the Determination of any Claim or Objection to be delivered to him in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for him, upon Application, to assess and award such Costs as he shall think reasonable to be paid, by the Person whose Claim or Objection shall have been disallowed, to the Person in whose Favour any Determination shall have been made; and in case any Person liable to pay such Costs shall refuse or neglect to pay the same, upon Demand, the Commissioner shall, by Warrant directed to any Person whomsoever, cause the same to be levied by Distress; and if there be no Goods or Chattels whereon to levy such Costs it shall be lawful for the Person in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Commissioners to award Costs.

XLV. And be it enacted, That all Tofts, Foundations, or Sites of ancient Commonable Messuages or Cottages in the said Parish shall, upon Proof being made to the Satisfaction of the Commissioner that Commonable Messuages or Cottages formerly stood thereon, be deemed Commonable Messuages or Cottages; and the respective Proprietors thereof shall be entitled to the same Compensation for the Rights of Common originally belonging thereto as if such Messuages or Cottages were still standing.

Tofts to be deemed Commonable Messuages.

XLVI. And be it enacted, That immediately after the Allotments herein directed to be made shall have been marked and staked out, and the Commissioner shall have directed the same to be entered upon by the Persons respectively for whom the same shall be intended, every Lease and other Agreement at Rack Rent subsisting of all or any Part of the Lands to be inclosed, for any Term of Years not exceeding Twenty-one Years, (except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure,) shall determine and be void as to all such Lands, but not as to any other Lands comprised therein, such Compensation as between Lessor and Lessee being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated as the Commissioner shall by Writing under his Hand order in that Behalf; and if any such Compensation shall not be paid to the Party entitled to receive the same within One Month after Demand made in Writing under the Hand or Common Seal (as the Case may require) of the Party to whom the same shall be payable, the Commissioner shall raise and levy the same, for the Use of the Party entitled thereto, by such Ways and Means as the Rates to be levied for defraying the Inclosure Expences are directed to be raised and recovered; and it shall be lawful for the Commissioner, by Writing under his Hand, to ascertain and direct what Rent, or Proportion of Rent, shall be paid by the several Tenants of the Lands to be inclosed in their respective Holdings to their respective Landlords, from the Time of the passing of

Leases at Rack Rent to be void.

of this Act until such Lands shall be marked and staked out, and be directed to be entered upon as aforesaid.

Beneficial
Leases not to
be vacated.

XLVII. Provided always, and be it enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease of any Lands within the said Parish, but the Party entitled to such beneficial Lease shall be entitled to hold and enjoy his Term under the Rents and Covenants specified in his Lease.

Wills and
Settlements
not to be
affected.

XLVIII. Provided also, and be it enacted, That nothing in this Act contained shall extend to revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance out of or affecting any of the Lands to be inclosed, or any of the Lands which may be exchanged or parted with in pursuance of this Act, but that as well the Lands allotted and exchanged, as the Lands which shall be assigned in Partition or in Compensation for any other Estate or Right, by virtue of this Act, shall, immediately after such Allotment, Exchange, or Partition, be and enure, and the several Persons to whom the same shall be so allotted or given in Exchange or Partition as aforesaid shall be seised and possessed thereof respectively, to, for, and upon the same Estates, Uses, Trusts, Intents, and Purposes, and subject to the same Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Partitions shall have been made would have stood limited for or been subject to in case the same respectively had not been allotted, exchanged, or parted with as aforesaid, or as if this Act had not been passed; subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

Persons may
sell their
Common
Rights, and
Persons en-
titled to have
Allotments
may mort-
gage, &c. be-
fore Execu-
tion of the
Award.

XLIX. And be it enacted, That if at any Time before the Execution of the Award of the Commissioner any Person shall sell his Right or Interest in the Lands to be inclosed, or any Part thereof, to any Person, the Commissioner shall, upon any such Sale being made, make an Allotment of Land to the Purchaser, or to his Heirs or Assigns, in respect of the Right or Interest so sold; and every such Purchaser, or his Heirs or Assigns, shall, from the Execution of the said Award, hold and enjoy the Land so be allotted to him in the same Manner as the Vendor might or ought to have done in case such Sale had not been made; and it shall be lawful for any Person who shall be entitled to any Allotment under this Act to devise, grant, surrender, mortgage, or otherwise convey and assure the same Allotment, or all or any Part of his Interest therein, at any Time before the Execution of the said Award; and every such Devise, Grant, Surrender, and other Assurance shall be of the same Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment to sell, dispose of, and convey the Estate in right of which he may be entitled to such Allotment, separate from and retaining to himself such Allotment, Common Right, and Interest, and the Commissioner is hereby required to Award such Allotment accordingly.

L. And be it enacted, That all Encroachments and Inclosures which shall have been made by any Person from or upon any Part of the Lands to be inclosed within Twenty Years next before the passing of this Act, whether an Amerciament, annual Rent, or any Money Payment or Acknowledgment hath or hath not been paid in respect of the same, to or for the Use of the Lord of the Soil or any other Person, shall be deemed Parcel of the Lands to be inclosed, and shall be divided, allotted, and inclosed accordingly. Encroachments.

LI. Provided always, and be it enacted, That it shall be lawful for the Commissioner, with the Consent in Writing and at the Request of any Proprietor of any Houses, Homesteads, Gardens, Orchards, or old inclosed Lands within the said Parish, whether such Owner or Proprietor shall be a Corporation, Tenant in Fee Simple or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Lives, with the Consent of the Lessor of any such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands holden for Years determinable as aforesaid, and the Lords of the Manor, and not otherwise, or with the Consent of the Guardian, Trustee, Feoffee for charitable or other Uses, Husband, Committee, or Attorney of or acting for any such Proprietor as aforesaid who shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, (such Consent to be respectively testified, in case of a Corporation, by Writing under their Common Seal, or by Writing under the Hand of the Agent of such Corporation, and in case of an Individual under his Hand,) to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable, and Parcel of the Lands to be inclosed; and such Allowance shall be made to the Proprietor of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands, on account of the Situation or other beneficial Circumstances thereof, as the Commissioner shall adjudge to be just and reasonable, and he shall allot and award unto such Proprietors so much and such Part of the Lands to be inclosed as he shall think reasonable and just. Allotment of old Inclosures with Consent of Proprietors.

LII. And be it enacted, That all small Parcels of inclosed Waste or Common Land (the Soil whereof shall belong to the Lords of any Manor in right thereof) lying by the Side of any Turnpike Road or other public Road or Lane within the said Parish, and which in the Judgment of the Commissioner may be conveniently inclosed without incommoding the public Intercourse on such Road or Land, or rendering such Turnpike Road of less Breadth than Forty-five Feet, and such other public Road or Lane of less Breadth than Forty Feet respectively, shall be deemed Part of the Lands to be inclosed. Pieces of Land by the Side of the Road may be allotted.

LIII. And be it enacted, That the Commissioner shall, if he shall see fit, allot to the Surveyor for the Time being of the said Parish, and to his Successors for ever, such Parcels of the Land to be inclosed as he shall think necessary and most convenient for supplying Allotments to be set out for supplying Materials for Repair of Highways.

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plying Stone and other Materials for the Repairs of the several Roads and Ways by this Act authorized to be made, and of the several other Roads and Ways within the said Parish; and such Allotments shall be inclosed and fenced as the Commissioner shall direct, and shall from the Execution of his Award be vested in the Surveyor of the Highways within the said Parish for the Time being, in Trust for the Purposes aforesaid; and the Grass and Herbage of such Allotments shall belong to such Persons as the Commissioner shall by his Award direct, and if he shall make no such Direction, then such Surveyor shall from Time to Time let the Herbage for the most Money that can be obtained for the same, and shall apply the Rents and Profits towards the Repairs of the public Roads or Highways within the said Parish; and the said Surveyor shall account for such Rents and Profits in the same Manner as he is by Law accountable for other Monies that shall come to his Hands in the Capacity of Surveyor of the Highways, and shall be subject to the like Penalties for the Neglect thereof.

Allotment to be set out for the Recreation of the Inhabitants.

LIV. And be it enacted, That the Commissioner shall allot and award unto the Churchwardens and Overseers for the Time being of the said Parish, out of any Part of the Lands to be inclosed, in the most appropriate Situation, One Piece of Land, not exceeding Five Acres nor less than Three Acres, as a Place of Exercise and Recreation of the neighbouring Population, and such Allotment shall be held by the Churchwardens and Overseers for the Time being for the Purposes aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be maintained by the said Parish.

Allotment in Compensation of the Right of cutting Furze.

LV. And be it enacted, That the Commissioner shall set out and allot to the Warden and the senior acting Bursar of *New College* for the Time being, and the Rector of the said Parish of *Upper Heyford* for the Time being, such an Allotment as the Commissioner shall consider to be a full Compensation for the Right now enjoyed by the poor Inhabitants of *Upper Heyford*, of cutting Furze or Ferne on the Lands by this Act intended to be inclosed, and shall cause the same to be properly fenced, out of the Monies to be raised for the Purposes of this Act, so far as the Fences thereof shall not belong and be directed to be made by any other Person having an adjoining Allotment; and the said Warden, Bursar, and Rector for ever shall thenceforth stand possessed of the said Allotment as Trustees for the Purposes herein-after declared; that is to say, upon Trust to set out and let the same to such poor Persons, Inhabitants of the said Parish, as the Trustees or the major Part of them shall think deserving Objects, and likely to be benefited by the Tenancy or Holding thereof, and at such Rent, and under such Regulations and Restrictions, in all respects, as the Trustees, or the major Part of them, shall think proper, and upon further Trust to apply the clear Rents of the said Allotment (after deducting any Expences incidental to the Trusteeship) in the Purchase of Fuel and Clothing to be distributed amongst such poor Persons as the Trustees or the major Part of them shall think deserving Objects, such

such Fuel and Clothing to be distributed annually on the Twenty-first Day of *December*, or on the following Day, in case the Twenty-first shall happen to be *Sunday*.

LVI. And be it enacted, That from and immediately after the passing of this Act the said Messuage, Lands, Hereditaments, and Premises herein and more particularly described in the said Lease, and all the Rights, Members, and Appurtenances thereto belonging or in anywise appertaining, shall for ever belong to and be deemed and considered the Estate and Property of the said *William Innes Baker* and his Successors, Rectors of *Upper Heyford* aforesaid, and be called the Glebe, and belong to the said Rectory, subject nevertheless to and charged and chargeable with the Payment to the said Warden and Scholars, and their Successors, of the annual Rent or Sum of One Pound Sixteen Shillings and Seven-pence, on the Tenth Day of *October*, without any Deduction whatsoever.

Annexation of an Estate belonging to New College to the Rectory of Upper Heyford.

LVII. And be it enacted, That the Commissioner shall allot and award unto the said Rector of the Rectory of *Upper Heyford*, and his Successors, such Parcels of the Lands and Grounds hereby directed to be inclosed as in the Judgment of the said Commissioner shall be a full Equivalent and Compensation as well for the Rectorial Glebe Lands as also for such Lands which are now in the Possession of such Rector, and comprised and more particularly described in the Lease granted to him by the said Warden and Scholars as aforesaid, and the Rights of Common respectively belonging to the said Rector in and over the said Lands.

Allotments to the Rector in lieu of Glebe and Common Rights, &c.

LVIII. And be it enacted, That the Commissioner shall, in such Manner as he shall in his own Discretion deem to be best, estimate and ascertain the yearly Value of all the Great and Small Tithes which shall be yearly arising, issuing, and renewing out of and from all and every such Messuages, Cottages, and old inclosed Lands, and Open Common Fields, Meadows, Pastures, Commonable Lands, Commons, and Waste Lands and Grounds; and the Commissioner, having to his Satisfaction fixed such annual Value, shall and he is hereby authorized and required, in the next place, in and by his Award, to ascertain and distinctly set forth how many Imperial Bushels of Wheat at and after the Rate or Price of Seven Shillings and One Farthing *per* Bushel, how many Imperial Bushels of Barley at and after the Rate or Price of Three Shillings and Eleven-pence Halfpenny *per* Bushel, and how many Imperial Bushels of Oats at and after the Rate or Price of Two Shillings and Nine-pence *per* Bushel, will in his Judgment be equal to such annual Value of the said Great and Small Tithes, and after such Valuation shall be so made and ascertained the Commissioner shall (having regard to the average titheable Produce and productive Quality of the said Lands), according to his Discretion and Judgment, apportion such Corn Rents to and amongst all and every the Proprietors of such ancient Messuages and Cottages and old inclosed Lands, and the several new Allotments to be set out and allotted by virtue of this Act, in such Manner as he shall think just and equitable, by a Schedule to be annexed to his Award, which shall state the Name or Description and the true and estimated Quantity

Commissioner to fix a Compensation, by a Corn Rent, in lieu of the Great and Small Tithes.

Quantity in Statute Measure of the several Lands to be comprised in such Apportionment, the Names of the several Proprietors and Occupiers thereof, and whether such Lands are Arable, Meadow, or Pasture, or Woodland, Common Land, or otherwise, with reference to a Number set against the Description of such Lands in the Map to be annexed to his the said Commissioner's Award, with the Amount of the Corn Rents charged upon the said several Lands; and the said apportioned annual Corn Rents herein-before made payable shall be and are hereby declared to be in lieu and full Satisfaction and Discharge of all and all manner of Great and Small Tithes arising, growing, issuing out of and payable in respect of the several ancient Messuages, Cottages, and old inclosed Lands, Tenements, and Hereditaments, and new Allotments to be set out and allotted as aforesaid, from and after the First Day of *January* preceding such Apportionment; and that all such Great and Small Tithes shall from and after the said First Day of *January* cease, determine, and be for ever extinguished, and instead thereof there shall be payable thenceforth to the Rectors of the said Rectory and Parish of *Upper Heyford* a Sum of Money equal in Value to the Quantity of Wheat, Barley, and Oats respectively mentioned to be payable instead of the said Tithes, in the Nature of a Rent-charge issuing out of the Lands charged therewith, such Value to be fixed according to the Prices to be ascertained by the then next preceding Advertisement to be inserted in the *London Gazette*, by Order of the Privy Council, stating what has been, during the Seven Years ending on the *Thursday* next before *Christmas Day* then next preceding, the Average Price of an Imperial Bushel of *British* Wheat, Barley, and Oats, computed from the weekly Averages of the Corn Returns; and such yearly Corn Rents shall be payable by Two equal half-yearly Payments on the First Day of *July* and the First Day of *January* in every Year, the first Payment thereof to be made on the First Day of *July* next after the Land shall be so discharged from Tithes as aforesaid; and after every First Day of *January* the Sum of Money thenceforth payable in respect of such Rent-charge shall vary, so as always to consist of the Price of the same Number of Bushels and decimal Parts of a Bushel of Wheat, Barley, and Oats respectively, according to the Prices ascertained by the then next preceding Advertisement; and the said Rectors shall have the same Power for enforcing Payment thereof as they have concerning the original Rent-charge.

For apportioning the Corn Rent.

LIX. And for facilitating the Apportionment of the said annual Corn Rent, be it enacted, That it shall be lawful for the respective Owners for the Time being of any such Lands and Estates charged with the said yearly Corn Rents or any of them, or any Part thereof, and the Rector of the said Parish of *Upper Heyford* for the Time being, entitled to such yearly Corn Rents, by any Instrument or Writing to be by such Owners and Rector respectively signed, from Time to Time to divide and apportion all or any of the said yearly Corn Rents, and to declare what Parts and Proportions thereof respectively shall in future be charged severally upon any Part or Parts of the said Lands and Estates originally charged with the said entire yearly Corn Rents as aforesaid; and after every such Apportionment the yearly Corn Rents so apportioned shall be payable in such

such Parts and Proportions, and chargeable only upon such Lands and Estates as shall be specified, in such Instrument of Apportionment in that Behalf; and every such Instrument of Apportionment, or a Duplicate thereof, shall, within Three Calendar Months after the Date thereof, be annexed to and enrolled with the Award of the said Commissioner.

LX. And be it enacted, That the said Rector of the said Parish of *Upper Heyford* and his Successors shall have and exercise such and the same Powers and Remedies for recovering the said yearly Corn Rents to be charged upon the said Lands and Estates when in arrear, together with the Costs, Charges, and Expences of the Recovery thereof, as by the Common or Statute Laws are provided and given to Landlords for the Recovery of Rent in arrear on Lease or common Demise. Power to recover Corn Rent.

LXI. And be it enacted, That after the several Allotments hereinbefore directed shall have been set out and made the Commissioner shall divide, allot, and award all the Remainder of the Lands to be inclosed unto and amongst the several Owners and Proprietors thereof, and Persons who shall be entitled to any Estate, Right, or Interest therein, in such Shares and Proportions as the Commissioner shall adjudge and determine to be proportionate to the Value of their respective Rights and Interests therein. Allotment of Residue.

LXII. And be it enacted, That the Commissioner shall appoint a Meeting for receiving Applications from the several Proprietors of the Lands to be inclosed, touching the Situations in which they would respectively choose to have their Allotments set out, and shall give Ten Days Notice of the Time and Place of such Meeting by Advertisement or on the Church Door. Applications for Situations of Allotments.

LXIII. And be it enacted, That as soon as the Commissioner shall have ascertained the respective Rights and Interests of the several Parties interested in the Lands to be inclosed, and also the Allotments by him proposed to be made to such Parties respectively in lieu of such Interests, he shall hold a Meeting, of which Ten Days Notice shall be given by Advertisement or on the Church Door, where such Parties may be informed of the Situation of such intended Allotments, and see the same delineated on a Map or Plan to be produced for their Inspection; and if any of such Parties, upon such Inspection, shall be dissatisfied with the proposed Allotments, the Commissioner shall, at such Meeting, or at some other Meeting to be appointed by him for that Purpose, receive Statements in Writing of Complaints and Objections thereto, and shall forthwith, or as soon after as conveniently may be, determine the same; and if the Decision of the said Commissioner shall not be satisfactory to any of the Parties interested in the said Inclosure, the Matter in difference shall be submitted to the Decision of *Samuel Druce* of *Ensham* in the said County of *Oxford*, Land Surveyor, who shall act as Referee in the Matter, and determine the Question in dispute between the Parties interested as aforesaid and the Commissioner, and whose Determination shall be final; and the Commissioner is For determining Objections to Allotments, either by the Commissioner or a Referee.

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hereby required to act in conformity thereto; and in case the said *Samuel Druce* shall be unable to act, then to the Decision of such other Person as shall be appointed such Referee by a Majority in Value, according to the Poor's Rate of the said Proprietors; provided always, that it shall not be lawful for the said *Samuel Druce* or any other Person to act as a Referee in the Execution of this Act until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration, it shall be lawful for the Commissioner or any Justice of the Peace for the County to administer and receive; and the said Declaration, so made and subscribed, shall be annexed to and deposited with the Award of the Commissioner; and the said *Samuel Druce*, or such other Person, shall be paid, for every Day he shall be employed or engaged in the Matter aforesaid, out of the Inclosure Expences Fund, the Sum of Three Guineas, in full Satisfaction for his Time and Trouble, and for his travelling and other Expences which he may incur or be put unto.

Allotments
to be fenced.

LXIV. And be it enacted, That the several Allotments to be made in pursuance of this Act (except the Allotment to the Rector, Surveyor, and Churchwardens and Overseers, and to the said Warden, Bursar, and Rector respectively,) shall be inclosed, ditched, and fenced at the Expence of the respective Persons to whom the same shall be allotted, in such Manner and within such Times as the Commissioner shall by his Award or any Writing under his Hand direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the Commissioner shall by his Award direct.

Rector's Al-
lotments to
be fenced at
the general
Expence.

LXV. And be it enacted, That the Allotments to be made to the said Rector in respect of the Glebe Lands (and the other Lands which will also become Glebe after the passing of this Act) belonging to the said Rector shall be well and sufficiently inclosed and fenced on all such Parts and Sides as shall not be directed to be fenced by any other Proprietor, or shall not adjoin any inclosed Land, or be bounded by any sufficient Watercourse or other sufficient Fence in the Judgment of the Commissioner; and the Expence attending the inclosing and fencing the same shall be discharged out of the Inclosure Expences Fund; and all such Inclosures and Fences, when made, shall for ever thereafter be kept in repair by the said Rector and his Successors.

Equalizing
the Share of
fencing.

LXVI. And be it enacted, That if, from Situation, or from any other Circumstance, it shall happen that any of the Proprietors of the Lands to be inclosed, or any Person to whom any Allotments shall be made, shall not have a fair Proportion of the Boundary Hedges, Ditches, Mounds, or Fences assigned to him to make by virtue of this Act, it shall be lawful for the Commissioner to ascertain and appoint what Sum of Money shall be paid and contributed by such Proprietor or Person towards making the Boundary Hedges, Ditches, Mounds, and Fences of the Allotments of such other of the said Proprietors and Persons as shall have too great a Proportion thereof to make; and such Money shall be paid to such Persons and in such
Manner

Manner as the said Commissioner shall, by any Writing under his Hand, direct; and the same may be recovered by any of the Means which by the said first-recited Act are provided for raising and recovering the Expences of obtaining and executing Acts of Inclosure in Cases where such Expences are directed to be paid in proportion by the Proprietors of Lands to whom any Allotments shall be made; and every such Order of the Commissioner shall be final.

LXVII. And be it enacted, That it shall be lawful for the Rector for the Time being of the Parish of *Upper Heyford* aforesaid, by Indenture under his Hand and Seal, with the Consent and Approbation of the Bishop of the Diocese, and also of the Patrons of the said Rectory for the Time being, such Consent to be had previous to the Execution of such Indenture by the other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part of the Allotment to be made to such Rector in right of his Rectory, including the Messuage, Premises, and Allotment to be made to him in respect of the said Estate so as aforesaid annexed to his Rectory, to any Person whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Months next after the passing of this Act, so that the Rent for the same shall be thereby reserved to the Rector for the Time being by equal quarterly Payments in every Year, and so that there be thereby also reserved and made payable to such Rector the best and most improved yearly Rent that can be reasonably gotten for the same, without taking any Fine, Foregift, or other Consideration for granting such Lease, and so that no such Lessee be made dispunishable for Waste by any express Words to be contained in such Lease, and so that there be inserted in every such Lease Power of Re-entry on Nonpayment of the Rent within a reasonable Time to be therein limited after the same shall become due, and so that a Counterpart of each such Lease be duly executed by the Lessee: Provided always, that whenever any such Lease shall by any Means become forfeited or void, or be surrendered before the Expiration by Effluxion of Time of the Term thereby granted, then and so often as the same shall happen it shall be lawful for such Rector for the Time being, with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron of the Rectory, to grant a new Lease of the Land so demised, for such Term of Years as shall at the Time of such Avoidance be unexpired of the original Term, subject nevertheless to the Provisoes and Conditions contained in the original Lease, and then remaining unperformed and capable of taking effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act, or any Law or Usage to the contrary notwithstanding.

Power for Rector to lease his Allotment.

LXVIII. And be it enacted, That all such Lands as shall be given in Exchange or on Partition, or be allotted, by virtue of this Act, shall be held by the Person to whom they are given in Exchange or on Partition, or allotted, under the same Tenures, Rents, Customs, and Services as the Lands and Common Rights in respect of which such Lands are given in Exchange or on Partition, or allotted, would have been held in case this Act had not been passed; and the Lands given

The Allotments to be of the same Tenure as the Lands in lieu of which they were made.

given in Exchange or on Partition, or allotted, in respect of Freeholds, shall be deemed Freehold, and the Lands given in Exchange or on Partition, or allotted, in respect of Copyholds or Customary Lands, shall be deemed Copyhold or Customary Lands, and shall be held of the Lords of the same Manors under the same Rents, and by the same Customs and Services, as the Copyhold or Customary Lands in respect of which they may be given in Exchange or on Partition, or allotted, were or ought to have been held, and shall pass by the like Surrenders as the Copyhold or Customary Lands in respect whereof such Exchanges, Partitions, or Allotments shall be made now do; and the Lands given in Exchange or on Partition, or allotted, in respect of Leasehold Lands, shall in like Manner be deemed Leasehold, and shall be held under the same Rents and Covenants as the Lands in respect of which they may be allotted were held, and the Remainder or Reversion thereof shall be vested in the same Lessors respectively as the Remainder or Reversion of such other Lands was vested before the passing of this Act, except where otherwise particularly directed by this Act; any Law or Usage to the contrary notwithstanding.

Power for
Commis-
sioner to
make Alter-
ations in Al-
lotments.

LXIX. And be it enacted, That it shall be lawful for the Commissioner, at any Time before the Execution of his Award, to make any Alterations which he may think right and expedient in the Allotments, or in the Fences which he may have set out and ordered, or in the private Roads over such Allotments, or in any of the Orders or Directions relating thereto which he may have made in pursuance of this Act; and in case any Person shall be injured by any such Alteration, on account of any Expences he may have incurred, or otherwise, the Commissioner shall ascertain and determine what Recompence shall be made to him for such Injury, and shall either pay the Amount thereof out of the Inclosure Expences Fund, or shall direct by whom and in what Manner such Recompence shall be made; and in case of Nonpayment thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

Separate Al-
lotments for
Land held
by different
Titles.

LXX. And be it enacted, That when any Person to whom any Allotment shall be made or Lands assigned in Exchange by virtue of this Act shall hold such Lands, or the Lands in respect of which such Allotment or Exchange is made, under different Titles and for different Estates, and as to Copyholds by separate Quit Rents, the Commissioner shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall accordingly in his Award set out distinct and several Allotments for such respective Lands, and also in the said Award, and the Map annexed thereto, set out and distinguish the several Estates holden by several and distinct Quit Rents.

Where Allot-
ments are
omitted to be
distinguished
by the Award,
the Defect

LXXI. And be it enacted, That where the Commissioner shall have omitted to distinguish in his Award the several Tenures under which any of the said Lands shall be holden, or the different Estates or Titles for or under which the same shall be held, or to set out and award several and distinct Allotments, as by this Act directed, it shall be

be lawful for him, at any Time within Twelve Months after the Execution of his Award, and he is hereby required, upon Request in Writing to him made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if his Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish and set out the Allotments and Lands held by different Tenures, and also the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as he is by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by his Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award; and such Instrument shall be enrolled and deposited with the Award of the Commissioner, and shall thenceforth be deemed to be Part thereof to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Party who shall have requested the Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

may be remedied by a separate Instrument.

LXXII. And whereas it may happen that some of the Proprietors of Lands in the said Parish, and Persons entitled to Allotments to be made by virtue of this Act, may be seised or possessed thereof or entitled thereto in undivided Moieties, Joint Tenancy, or as Coparceners or Tenants in Common, and cannot, by reason of Infancy, Settlement, Absence beyond the Seas, or other Disability or Incapacity, make an effectual Division thereof; be it therefore enacted, That it shall be lawful for the Commissioner, upon the Request in Writing of any such Proprietors, being seised or possessed or entitled in undivided Moieties, or as Coparceners, Joint Tenants, or Tenants in Common, or of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of such of them as may be under Coverture, Minors, Lunatics, or beyond the Seas, or under any other legal Disability or Incapacity, to make Partition and Division of the said Lands or Allotments coming to such of the said Proprietors as shall be so seised or possessed or entitled, and to allot the same to such Owners and Proprietors in Severalty; and immediately after the said Allotments shall be so made and declared, the same shall be holden and enjoyed by the Persons to whom the same shall be allotted in Severalty in the same Manner, and subject to the same Uses and Trusts, as the undivided Parts or Shares of such Estates would have been in case such Partition and Division had not been made; and every such Partition shall be specified in the Award of the Commissioner, or some other Instrument under his Hand and Seal; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Partitions may be made in certain Cases.

LXXIII. And be it enacted, That all Costs and Expences attending any Partition to be made by virtue of this Act shall be borne and defrayed by the several Proprietors of or Persons interested in

Expences of Partition.

[Private.]

the Estates which shall be so parted, in such Manner and Proportions as the Commissioner shall order, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power of Exchange.

LXXIV. And be it enacted, That it shall be lawful for the Commissioner to allot and award any Lands within the said Parish in Exchange for any other Lands within the said Parish, or any adjoining Parish, Township, or Place, provided that all such Exchanges be specified and declared in the Award of the Commissioner, and be made with the Consent in Writing of the Owner of the Lands so exchanged, whether such Owner shall be a Corporation, or a Tenant in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Lives, (with the Consent of the Lessor thereof, but not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and every such Exchange 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 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 shall be situate: Provided also, that all Costs and Expences attending the making and completing of any Exchanges shall be borne by the several Parties making such Exchanges, in such Manner and in such Proportions as the Commissioner shall by his Award direct, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power to apply Compensation Money coming to Parties under Disability towards Inclosure Expences and substantial Improvements.

LXXV. And be it enacted, That when any Money is, under the Provisions of the said first-recited Act or of this Act, directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor or Administrator, Husband, Guardian, Committee, or other Trustee, for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person whose Lands 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, to be settled to the same Uses, it shall be lawful for the Commissioner out of such Money to defray the Proportion (if any) of the Inclosure Expences which shall be charged upon any of the Lands of the respective Parties in possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, or on which such Timber or Wood
actually

actually grew; and also to defray the Expence of any permanent Improvement, such as building, subdividing, dividing, draining, or planting, and the like, which shall, in the Judgment of the 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 Parties.

LXXVI. And be it enacted, That if the Surplus of any such Monies 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 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, 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 Parties who would have been entitled to the Rents and Profits of the said Lands, be applied to either of the following Purposes; (that is to say,)

Investment of the surplus Money amounting to 200l.

1 G. 4. c. 35.

The Redemption or Discharge of the Land Tax or of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses or Trusts:

The Purchase of other Lands to be conveyed or settled upon the like Uses or Trusts, or such of them as shall be then existing undetermined or capable of taking effect.

LXXVII. And be it enacted, That in the meantime and until such Application shall be made the said Money may, by Order of the said Court, to be made upon the like Petition, 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 of other Government or Real Securities; and the Dividends or Interest of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so to be purchased, conveyed, and settled.

Payment of Dividends meanwhile.

LXXVIII. And be it enacted, That in case the surplus of Monies shall be less than the Sum of Two hundred Pounds and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees, in Cases of Infancy, Idiocy, Lunacy, or other Incapacity, with the Approbation of the 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

When less than 200l. and amounting to 20

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 Justices, to be nominated by the Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands (or Common Seal, as the Case may be,) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England*, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under
20l.

LXXIX. And be it enacted, That in case the Surplus of such Monies shall be less than Twenty Pounds the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit; or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, for the Use and Benefit of the Parties respectively entitled thereto.

Provision for
Payment of
Expences of
Inclosure to
be borne
rateably.

LXXX. And be it enacted, That the Expences of the Inclosure, that is to say, the Costs and Expences incident to and attending the passing of this Act or preparatory or relating thereto, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioner, Clerk, Surveyor, and Referee, for Expences, Time, and Trouble, and the Costs and Expences of preparing and enrolling the Award of the Commissioner, and all Costs and Expences that the Commissioner shall be put unto in respect of any Appeal against his Decision, or of any Suit at Law or in Equity that may be instituted by or against him as Commissioner in the Execution of this Act, either before or after the Execution of the said Award, and all other Costs and Expences whatsoever of carrying this Act into execution, (so far as the same relate to the Division, Allotment, and Inclosure hereby authorized to be made,) shall be borne and defrayed by the several Persons interested in the Lands to be inclosed, (except the Lords of the said Manor for and in respect of their entire Property in the Parish of *Upper Heyford* aforesaid, the said Lords having hereby relinquished their Right, as the Lords of the Manor, to an Allotment of Land in lieu of their Manorial Rights in, over, and upon the said Open and Common Fields, Meadows, Pastures, Commonable Lands, Commons, and Waste Lands and Grounds, the Rector of the said Parish, and also the Surveyors of Highways, Churchwardens, and Overseers, the Warden, Bursar, and the Rector, in respect of the Allotments herein-before authorized or directed to be made to them respectively,) in such Shares and Proportions, and shall be paid at such Time and Place, and to such Persons, as the Commissioner shall by Notice on the Church Door, or delivered to the respective Persons liable to the Payment of such Costs and Expences, at least Fourteen Days before the Time appointed for such Payment, order; and the Commissioner

missioner shall from Time to Time make Estimates of all such Costs and Expences, and raise the Amount of such Estimates at such Times as he shall deem necessary or proper, either before or after the Execution of his Award.

LXXXI. And be it enacted, That if any Person shall refuse or neglect to pay his Proportion of such Expences within the Time and to such Person as the Commissioner shall appoint, it shall be lawful for the Commissioner to recover the same, together with lawful Interest, to be computed from the Day on which the same ought to have been paid, by Action at Law in his own Name in any of Her Majesty's Courts of Record at *Westminster*; or it shall be lawful for him, by Warrant directed to any Person whomsoever, to cause the same, with such Interest thereon as aforesaid, to be levied by Distress; or it shall be lawful for the Commissioner, or any Person authorized by him, immediately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person, and demise the same, and receive the Rents and Profits thereof, until thereby or otherwise such Share or Proportion, with lawful Interest as aforesaid, and also all the Costs and Expences attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

Remedies in case of Non-payment.

LXXXII. And be it enacted, That if before the said Monies herein-before authorized to be raised by the Commissioner can be raised and received by him he shall find it necessary or expedient to obtain by Loan any Money for or towards the defraying the said Expences, it shall be lawful for him to borrow and take up at Interest such Sums of Money as he shall from Time to Time think necessary for the Purposes aforesaid, which Money so to be borrowed shall be repaid by the Commissioner, with Interest for the same, out of the Monies to be raised and received by him by any of the Means aforesaid.

Power for Commissioner to borrow Money.

LXXXIII. Provided always, and be it enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the Commissioner, either before or after the Execution of his Award, the Money to arise by any previous Rates shall not be sufficient to defray the Expences aforesaid, the Deficiency shall be made up and raised from Time to Time by a Rate to be made and levied upon the several Persons interested in the Lands to be inclosed (except as aforesaid), in such Shares and Proportions, within such Time, and to be paid to such Persons, as the Commissioner shall from Time to Time direct; and in case any Persons herein-before made subject to the Payment of any Money towards such Expences shall neglect or refuse to pay his Share or Proportion of any such Rate within the Time appointed for that Purpose, or at any Time after such Demand, the same shall be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

Power to make additional Rate in case of Deficiency.

LXXXIV. Provided always, and be it enacted and declared, That if at the Time of the Execution of the said Award there shall remain
[*Private.*]

Monies may be recovered after Exe-
due

cution of the Award.

due from any Person any Sum of Money which shall have been ordered to be paid by virtue of this Act, it shall be lawful for the Commissioner, and he is hereby required, to levy and raise the same in like Manner as he might have done before the Execution of his Award.

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

LXXXV. And be it enacted, That it shall be lawful for the respective Proprietors of Allotments to be made by virtue of this Act, being Tenants for Life, Copyholders, or in Tail, or for any other Estate of Freehold or Inheritance, and also for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Proprietors, being under Coverture, Infants, Lunatics, Idiots, or beyond the Seas, or otherwise incapacitated, and for the Trustees or Feoffees for charitable, parochial, or other Uses, or a competent Number of them, in respect of any Lands held by them in Trust for any charitable, parochial, or other Uses, (with the Consent of the Commissioner, testified in Writing under his Hand and Seal,) from Time to Time to charge their Allotments with any Money not exceeding Five Pounds *per Acre* towards their respective Proportions of the Inclosure Expences, and for securing the Repayment of such Money, with Interest, to mortgage or demise the said Allotments unto or in Trust for any Person who shall advance such Money, for any Term of Years; but so that every such Mortgage or Demise be made with a Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby to be secured, with all Interest thereon, shall have been fully paid and satisfied; and so that in every such Mortgage or Demise which shall be made by or on behalf of any Person entitled to any such Allotment for the Term of his natural Life there be contained a Covenant to pay and keep down the Interest of the Money to be secured during his Life, in such Manner that no Person afterwards becoming possessed of such Lands shall be subject or liable to pay any larger Arrear of Interest than for Six Months previous to the Time when the Title of such Person shall accrue or commence; and every such Mortgage or Demise shall be valid in the Law for the Purposes thereby intended; and every such Mortgagee, and his Assigns, shall have the like Remedies in case of Nonpayment of the Monies thereby secured as in the Case of other Mortgages of the like Nature.

Direction for charging Copyhold Lands with Expences.

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

LXXXVII. And

LXXXVII. And be it enacted, That, as soon as conveniently may be after the said Inclosure shall be completed, the Commissioner shall draw up and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday* by affixing a Proclamation on or near the outer Door of the Church of the said Parish previously to Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered as complete; and within Three Calendar Months after the Commissioner shall have so made and executed the said Award he shall cause the same, together with One of the reduced Plans herein-after directed to be made annexed thereto, to be delivered to the Clerk of the Peace of the said County, 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 interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid; and the said Award shall, from the Delivery thereof to the said Clerk of the Peace, be deemed to be enrolled, according to the Directions and within the Meaning of the said first-recited Act.

An Award to be executed.

The Award and a reduced Plan of the Parish to be deposited in the Hands of the Clerk of the Peace.

LXXXVIII. And be it enacted, That a Copy of the said Award, fairly transcribed in a Book, on plain or on stamped Paper or Parchment, with the other of the reduced Plans herein-after directed to be made, shall, within the Time aforesaid, be deposited in the Parish Church of *Upper Heyford* aforesaid, and there kept in a Box to be provided for that Purpose by the Commissioner; and the said Award, and the said Copy thereof, and any other Copy of the said Award or of any Part thereof, attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall thereafter be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Copy of the Award and a reduced Plan to be deposited in the Parish Church.

LXXXIX. And be it enacted, That the Commissioner shall cause Two reduced Plans of the said Parish to be drawn upon Parchment or Vellum, on which the public and private Roads, Paths, and Drains, with the Boundary Fences of the several Allotments mentioned and described in the said Award, and such other Matters and Things as the Commissioner shall think fit, shall be fairly and distinctly delineated and expressed; and the Commissioner shall sign the said Plans, one of which shall be annexed to the said Award, and the other shall be annexed to or shall go and be kept with the Copy of the said Award to be deposited in the Parish Church of *Upper Heyford* aforesaid; and the Commissioner shall make and annex to the said Award a Schedule describing and setting forth the Quantities of all the Homesteads, Gardens, Orchards, and ancient Inclosures in the said Parish; which said Plans or either of them shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Two reduced Plans of the Parish to be drawn and annexed to the Award and Copy, and also a Schedule of the old Inclosures.

XC. And be it enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act, except as to the

Power of Appeal.

the Allotments, and except as to such other Determinations as are by this Act directed to be final, and except such Cases wherein an Issue at Law shall be tried as herein-before is mentioned, he may appeal to the General or Quarter Sessions of the Peace which shall be held for the said County within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Commissioner and to the Party concerned Ten Days previous Notice in Writing of such Appeal and of the Matter thereof (except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within One Month after the Enrolment of the Award, on giving to the Commissioner such Notice as last aforesaid); and the Justices (not interested in the Premises) in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs and Damages, as to them shall seem reasonable; and in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, they shall award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner aforesaid; and the Costs and Damages which shall be so awarded shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

Order on
Appeal to be
final.

XCI. And be it enacted, That every Order and Determination of the said Justices upon every such Appeal shall be final, 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.

Saving the
Rights of the
Lords of the
Manor.

XCII. And be it enacted, That nothing in this Act contained shall prejudice or defeat the Right, Titles, or Interests of the Lords of the Manor of *Upper Heyford* aforesaid for the Time being, or of any other Person or Persons claiming any Manor or reputed Manor within the said Parish of *Upper Heyford*, in or to any of the Seignories, Royalties, and Services incident thereto respectively (other than and except the Right of Soil and Common in, over, and upon the Commonable and Waste Lands and Grounds intended to be hereby divided, allotted, and inclosed).

General
Saving.

XCIII. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all other Persons, Bodies Politic, Corporate or Collegiate, their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest, Claim and Demand, (other than and except such as are expressly barred and compensated for, or intended to be barred and compensated for and extinguished by this Act,) which they or any of them could or might have had in, to, or in respect of the Lands hereby authorized to be divided, allotted, and inclosed, in case this Act had not been passed.

Interpreta-
tion Clause.

XCIV. And be it enacted, That in the Construction of this Act the following Words and Expressions shall have the several Meanings hereby

hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number:

Words importing the Masculine Gender only shall extend to Females as well as Males:

The Word "Month" shall mean Calendar Month:

The Word "Lands" shall include Tenements and Hereditaments:

The Expression "Lands to be inclosed" shall be understood to mean the Lands by this Act authorized to be divided, allotted, and inclosed:

The Expression "the Inclosure Expences Fund" shall be understood to mean the Monies by this Act authorized to be raised for defraying the Expences of obtaining this Act, and carrying the same into execution:

The Expression "the Commissioner" shall mean the Commissioner appointed and for the Time being acting by virtue of this Act.

XCV. And be it 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.

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

SCHEDULE referred to in the foregoing Act.

FORM of DECLARATION by COMMISSIONER, SURVEYOR, or REFEREE.

I *A. B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Powers and Authorities vested and reposed in me as a Commissioner [*or Surveyor, or Referee, as the Case may be,*] by virtue of an Act passed in the _____ Year of the Reign of Her Majesty Queen Victoria, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice, to any Person whomsoever.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1841.