



ANNO QUARTO & QUINTO

# GULIELMI IV. REGIS.

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## Cap. 34.

An Act for inclosing Commons and Waste Lands within the Parishes of *Mealiffe*, *Upper Church*, and *Temple Beg* in the County of *Tipperary*.  
[30th July 1834.]

**W**HEREAS there are within the several and respective Parishes of *Mealiffe*, *Upper Church*, and *Temple Beg*, in the Barony of *Kilnemanagh* in the County of *Tipperary*, Commons and Waste Lands containing Three thousand five hundred Acres or thereabouts in *English* Statute Measure, whereof the King's most Excellent Majesty in right of His Crown is or claims to be entitled to the Soil: And whereas the Right Honourable *Hector John Graham* Earl of *Norbury*, *Bryan Phelan*, *Francis Phelan*, *James Launders*, *John Launders*, Lord *George Quin*, the Reverend *Alfred Armstrong*, Rector of *Mealiffe*, and others, are Owners and Proprietors or otherwise interested in the said Commons and Waste Lands, and are or claim to be entitled to certain Rights of Common and other Commonable Rights and Interests in, over, and upon the same: And whereas it would be highly beneficial to such Owners and Proprietors, and to the several Persons entitled to Rights of Common and other Commonable Rights as aforesaid, if the said Commons and Waste Lands were divided and allotted unto and amongst the said several Owners and Proprietors and other Persons interested therein according and in proportion to their respective Estates, Rights, and Interests, and if such Allotments were

[*Private.*] conveniently

Appointment  
of Commis-  
sioners.

conveniently laid together and inclosed ; but the same cannot be effected without the Aid and Authority of Parliament : May it therefore please Your Majesty that it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Charles Maunsell* of *Clonlish House, King's County*, *Charles Rolleston* of *Lowlands, King's County*, and *Augustine Cooper* of *Killinure* in the County of *Tipperary*, and their Successors to be elected in manner herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Commons and Waste Lands in the Parishes aforesaid, and for effecting the other Purposes in them vested by virtue of this Act ; but such Commissioners and the Commissioners to be appointed as herein-mentioned shall, previously to commencing the Duties of their Office, respectively take and subscribe the Oath or Affirmation following ;

Oath to be  
taken by  
Commission-  
ers.

‘ I *A. B.* do swear, [*or, being one of the People called Quakers, do solemnly affirm,*] That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act for [*here insert the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.  
‘ So help me GOD.’

Which Oath or Affirmation it shall be lawful for any One of the said Commissioners or any One Justice of the Peace for the said County of *Tipperary* to administer ; and the said Oath or Affirmation to be taken and subscribed by each Commissioner, and also the Appointment of any new Commissioner, shall be annexed to and inrolled with the Award to be made pursuant to this Act, and a Copy of the Inrolment thereof shall be admitted as legal Evidence.

For Appoint-  
ment of new  
Commission-  
ers in case of  
Death, &c.

II. And be it further enacted, That if any of the Commissioners herein named or to be appointed by virtue of this Act shall, before the Execution of all the Powers and Authorities hereby vested in him or them, die, neglect or refuse to act or become incapable of acting in the Execution of this Act, then and in every such Case it shall and may be lawful for the surviving or remaining Commissioners or Commissioner, and they and he are and is hereby authorized and required, at any Time and from Time to Time within Thirty Days next after such Death, Neglect, Refusal, or Incapacity shall be known to him or them, by Writing under their or his Hands or Hand to appoint another fit and proper Person to be a Commissioner in the Place of each Commissioner so dying, neglecting, or refusing to act or becoming incapable of acting ; and every Commissioner so to be appointed as aforesaid shall have the like Powers and Authorities for carrying this Act into execution in all respects as if he had been named and appointed a Commissioner in and by this Act ; and that all other Acts, Matters, and Things authorized and directed to be done and executed by the Commissioners herein named, or to be elected as aforesaid, may be done and executed by any Two of them ; and all such Acts, Matters, and Things shall be as valid and effectual as if the same had been done and executed by all the said Commissioners herein named,

named, or to be elected as herein mentioned: Provided always, that if any Commissioner for executing this Act shall not attend at Three successive Meetings of the said Commissioners, unless prevented by Illness, such Neglect shall be deemed and taken to be a Refusal to act in the Execution of this Act.

III. And be it further enacted, That every Commissioner and their Clerk shall be allowed and paid the Sum of Two Pounds Two Shillings and no more each Day he shall actually attend and be employed as a Commissioner or as such Clerk as aforesaid in the Execution of this Act, or shall necessarily travel from Home to attend any Meeting held for the Purpose of this Act, or when returning Home after having attended such Meeting, in full Satisfaction for his Trouble and Expences in carrying this Act into execution; and that as well the said Commissioners as the said Clerk and the Surveyor to be appointed as herein-after mentioned, and the said Proprietors and others who shall attend any of the Meetings of the said Commissioners to be held in pursuance of this Act, shall in all Cases defray their own Expences.

Allowance to Commissioners and their Clerk.

IV. And be it further enacted, That it shall be lawful for the said Commissioners from Time to Time to nominate and appoint some fit and proper Person to be their Clerk to assist them in carrying this Act into execution, and from Time to Time to remove such Clerk and appoint another in his Stead as to the said Commissioners shall seem meet, and to do the like from Time to Time so often as the Case shall happen or they think proper.

Commissioners may appoint a Clerk, and remove him if they think fit.

V. And be it further enacted, That the said Commissioners shall, if they shall find it necessary or expedient, by any Writing under their Hands to appoint some fit Person or Persons (not interested in the said Division, Allotment, and Inclosure, and not being the Agent or Attorney of any Person so interested,) to be their Surveyor or Surveyors for the Purposes of this Act, and on his or their Death or Removal to appoint One or more other fit and proper Person or Persons not interested in the Premises to be Surveyor or Surveyors in his or their Place or Stead during the Will and Pleasure of the said Commissioners, and on any future Vacancy in like Manner to appoint some other Surveyor or Surveyors as often as there shall be Occasion; and it shall also be lawful for the said Commissioners to allow such Surveyor for his Time and Trouble any Sum not exceeding One Shilling *per* Acre for surveying, measuring, mapping, and planning the said Commons and Waste Lands, or any Sum not exceeding One Pound for each Day he shall be actually and wholly employed either in surveying, measuring, mapping, or planning, or otherwise in the Business of the said dividing, allotting, and inclosing under this Act, which said Sum of One Shilling *per* Acre or One Pound *per* Day shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by such Surveyor in and about the Execution of this Act.

Appointment of Surveyor.

VI. And be it further enacted, That no Person shall be capable of acting as Surveyor in the Execution of this Act until he shall have taken and subscribed an Oath or Affirmation in the Form following; (that is to say,)

Surveyor to take an Oath.

I A. B.

Oath of Surveyor.

‘ I *A. B.* do swear, [*or, being one of the People called Quakers, do solemnly affirm,*] That I will faithfully, impartially, and honestly, to the best of my Skill and Ability, execute and perform the Trusts, Powers, and Authorities vested and reposed in me as a Surveyor by virtue of an Act passed in the Year of the Reign of King *William* the Fourth, intituled [*here insert the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.

‘ So help me GOD!’

Which Oath or Affirmation it shall be lawful for the said Commissioners or any One of them to administer, and they are hereby required to administer the same; and such Oath or Affirmation so taken and subscribed by such Surveyor, and also the Appointment of any Surveyor in pursuance of this Act, shall be inrolled with the Award of the said Commissioners made after the taking of every such Oath or Affirmation or making any such Appointment, and be deemed and considered as Part thereof, and a Copy of the Inrolment thereof shall be admitted as legal Evidence.

Notice of Meetings.

VII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice in Writing of the Time and Place of the First and every other Meeting for the Execution of this Act to be placed on the principal Entrance or Door of each of the Parish Churches (if there be any) and Chapels in the aforesaid Parishes respectively, and to be inserted in some Paper printed and circulated in the said County of *Tipperary* Six Days at least before any such Meetings (Meetings by Adjournment only excepted), and that such Meeting shall be held within the said Parishes, or any Place within Eight Miles thereof, which the said Commissioners shall think most convenient; and if at any Meeting appointed to be holden by the said Commissioners it shall happen that no more than One Commissioner shall attend, such Commissioner may adjourn such Meeting to any Time and Place within the said Parishes, or any Place within Four Miles thereof, which he shall think most convenient.

For regulating the Duration of the Sittings of the Commissioners.

VIII. And for regulating the Duration of the Sittings of the said Commissioners for the Purposes of this Act, be it further enacted, That a Day shall be deemed to consist of Eight Hours in all Sittings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*; and all Sittings to be held for the Purposes of this Act of less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged as only Half a Day, and the said Commissioners and their Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk in which shall be entered the several Days on which the said Commissioners shall hold their Sittings, in which Book shall also be entered at what Hour the said Commissioners and their Clerk were respectively present at such Sitting, and at what Hour they respectively left the same; and such Book shall be kept by such Commissioners and their Clerk at the Termination of each Sitting, and shall be open to the Inspection of any Person or Persons interested in the said Inclosure, or his, her, or their Agents or Attornies;

during

during any of the Sittings to be held in pursuance of this Act, and all such Persons shall be at liberty to take Copies of or Extracts from such Book without paying any thing for the same: Provided always, that it shall not be lawful for the said Commissioners to retain or pay themselves or their Clerk, out of any Monies to be received by them or over which they have any Controul in the Execution of this Act, any Sum of Money on account of the Allowance by this Act directed to be made to the said Commissioners and their Clerk respectively, beyond One Third of such Allowance as they shall be entitled to as aforesaid, until the Expiration of Six Calendar Months from the Date of the Award of the said Commissioners, or in case the Accounts of the said Commissioners shall be appealed against; then not until such Appeal shall have been decided: Provided, that in case of the Decease of the said Commissioners or their Clerk previous to the Execution of the said Award, the Commissioners for the Time being shall, after the Expiration of the said Period allowed for Appeal against the Accounts of the said Commissioners herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or Clerk such Sum of Money as shall appear by the said Accounts to be due to the said Commissioners or Clerk.

IX. And be it further enacted, That any Person or Persons, Body or Bodies Politic, Corporate or Collegiate or Ecclesiastic, having or claiming any Common or other Right to or in the said intended Division and Allotments, shall deliver or cause to be delivered to the said Commissioners or One of them, at some one of such Meetings as the said Commissioners shall appoint for the Purpose, (or within such further Time, if any, as the said Commissioners shall for some special Reason think proper to allow for that Purpose,) an Account or Schedule in Writing, signed by them or their respective Husbands, Guardians, Trustees, Committees, or Agents of such their respective Rights or Claims, and therein describe the Lands and Grounds, and the respective Messuages, Lands, Tenements, and Hereditaments in respect whereof they shall respectively claim to be entitled to any and which of such Rights in and upon the same or any Part thereof, with the Name or Names of the Person or Persons then in the actual Possession thereof, and the particular computed Quantities of the same respectively, and of what Nature and Extent such Right is, and also in what Right, and for what Estates and Interests, they claim the same, respectively distinguishing the Freehold from the Copyhold or Leasehold; or on Noncompliance therewith, every of them making default therein shall, as far only as respects any Claim so neglected to be delivered, be totally barred and excluded of and from all Right and Title in, over, or upon the said Commons and Waste Lands hereby directed to be divided and allotted, and of and from all Benefit and Advantage in or to any Share or Allotment thereof; all which said Claims or Accounts shall, at all seasonable Times until after the Execution of the Award of the said Commissioners, be open to the Inspection and Perusal of all Parties interested or claiming to be interested in the Premises, their respective Agents or Attornies, who may take Copies thereof or Extracts therefrom respectively; and if any Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, interested or claiming to be interested in the Premises, shall have any Objection to offer to any such Account or Claim, the Particulars of such Objection shall be

Claimants of Rights of Lands to be inclosed to deliver to the Commissioners Schedules of Particulars, which may be inspected, and Copies taken.

Objections to Claims to be delivered at or before the Meeting for that Purpose,

[Private.]

or shall not be received, except for special Cause.

reduced into Writing, and signed by them or their respective Husbands, Guardians, Trustees, Committees, or Agents, and shall be delivered to the said Commissioners at or before some other Meeting of such Commissioners to be by them appointed for that Purpose, and no such Objection shall afterwards be received unless for some legal Disability or special Cause to be allowed by the said Commissioners.

Commissioners to settle Disputes, but not to determine Titles.

X. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said intended Division and Allotments touching or concerning the respective Rights, Interests, Shares, and Proportions which they or any of them shall claim to have of and in the Commons and Waste Lands hereby directed to be divided and allotted, or touching or concerning any other Matter or Thing relating to the said Division and Allotments, it shall and may be lawful for the said Commissioners, and they are hereby authorized and required, as well by Examination of Witnesses upon Oath (which Oath any or either of the Commissioners are or is hereby empowered to administer) as upon any other proper and sufficient Inquiry and Evidence, to examine into, hear, and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Lands, Tenements, or Hereditaments whatsoever.

Commissioners to award Costs and enforce Payment.

XI. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made by the Person or Persons, Body or Bodies Politic or Corporate, Collegiate or Ecclesiastic, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, or Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and empowered, by Warrant under their Hands and Seals directed to any Person or Persons whatsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, or Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to the Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Commissioners may summons Witnesses, who shall be subject to Penalty for Neglect.

XII. And for the better enabling the said Commissioners to determine the several Matters and Things by this Act referred to their Determination, be it further enacted, That it shall be lawful for the said Commissioners from Time to Time as they shall see Occasion, by any Writing or Writings under their Hands to summon and require any Person or Persons to appear before them, at any Time and Place in such Writing to be appointed,

appointed, to testify the Truth touching the Matter in dispute between any Proprietors or interested Persons, or otherwise relating to the Execution of the Powers given by this Act, and to cause a Copy of such Writing to be served on such Person or Persons required to give Evidence, or to be left at his, her, or their usual or last Place of Abode; and every Person or Persons so summoned who shall not appear before the said Commissioners pursuant to such Summons, without assigning some good and sufficient Excuse for not appearing, or appearing shall refuse to be sworn or examined on Oath or Affirmation, (which Oath or Affirmation the said Commissioners, or any or either of them, are and is hereby empowered and required to administer,) such Person or Persons having been paid or tendered to him, her, or them the reasonable Charges of his, her, or their Attendance, and being thereof convicted before One of His Majesty's Justices of the Peace of the County of *Tipperary* upon Information thereof upon Oath made before any such Justice, shall for every such Neglect or Refusal forfeit and pay to the complaining Party any Sum not exceeding Ten Pounds, and the Payment thereof to be fixed by such Justice, and which shall be enforced in the same Manner as herein-before authorized and directed with respect to any Costs to be awarded by the said Commissioners as aforesaid, and the said Commissioners are hereby authorized and required to sign and give the necessary Warrant for that Purpose.

XIII. Provided always, and be it enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, interested or claiming to be interested in the said intended Division and Allotments, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Right of Common or other Right or Interest in, over, or upon the Commons and Waste Lands hereby directed to be divided and allotted, or touching or concerning any other Claim or Claims which shall be made in pursuance of this Act, or any Part thereof, it shall be lawful for such Person or Persons, or Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, to cause an Action to be brought in one of His Majesty's Courts of Record at *Dublin* upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, in whose Favour such Determination shall have been made, within Three Calendar Months after such Determination of the said Commissioners shall have been notified in Writing to the Party or Parties interested therein, and shall proceed to a Trial by Jury at the First or Second Term after the Commencement of such Action, or at the Sitting at *Nisi Prius* after such Term or Terms, or as soon after as may be; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept a Declaration whereby such Claim or Claims, or the Right or Rights thereby insisted on, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced in case the Parties shall not agree about the same; and the Verdict or Verdicts which shall be given in such Action or Actions shall be final and conclusive upon all and every Persons and Person whomsoever, Body and Bodies Politic, Corporate, Collegiate, and Ecclesiastic respectively, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had thereon, which it shall be lawful

Persons dissatisfied with Determination of Commissioners to bring Actions at Law in Superior Courts of Dublin.

for

for the Court to do in case the said Court shall think proper; and that after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby required to act conformably thereto, and allow or disallow any Claim or any of the Claims thereby determined according to the Event of such Trial or Trials; and the Costs and Charges of such Action or Actions shall be paid in such Manner and by such Person or Persons as the Judge or Judges before whom such Issue or Issues shall be tried shall order or direct the same to be paid: Provided nevertheless, that if no such Action shall be brought on or proceeded in within the Time and in the Manner herein provided, the Determination of the said Commissioners shall be final and conclusive.

Determina-  
tion of Com-  
missioners  
not over-  
ruled to be  
final.

XIV. Provided always, and be it further enacted, That the Determination of the said Commissioners touching any Claim, Right, or Interest in, over, or upon the Lands hereby directed to be divided, allotted, or inclosed, or any other Matter or Thing relative to the said Division, Allotment, or Inclosure, which shall not be over-ruled by the Event of any such Trial as aforesaid, shall be final, binding, and conclusive upon all Parties.

Proceedings  
not to abate  
by Death of  
Parties.

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

Provision in  
case of  
Deaths of  
Parties be-  
fore Action  
brought.

XVI. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk to the said Commissioners with Process for commencing such Action or Actions in the same Manner as the Party or Parties so dying might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions: Provided also, that no Suit or Action touching the Matters aforesaid shall impede or delay the Commissioners in the Execution of the Powers vested in them by this Act, but the Division, Allotment, and Inclosure hereby directed to be made shall be proceeded in notwithstanding any such Suit or Action.

Deaths of  
Parties not  
to suspend

XVII. And be it further enacted, That if any of the Person or Persons, Party or Parties, interested in the said Division, Allotment, or Inclosure, shall



shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioners shall not be thereby determined or suspended, but the said Commissioners shall and may proceed to execute the Powers given to them by this Act in such Manner as they might have done in case such Parties had not died; and the Share or Shares of the Person or Persons so dying shall be allotted and awarded to the Person or Persons who, by Descent, Will, or otherwise, shall become entitled to the same, and shall be accepted by him, her, or them according to the Directions of this Act, and he, she, or they shall be liable to the Charges and Expences and other Conditions of this Act.

Execution of  
the Act.

XVIII. And be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between the Parties contrary to the Possession of any such Parties, except in Cases of Encroachment made within the Period of Five Years; but in case the said Commissioners shall be of opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereon until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment or other due Course of Law.

Commissioners not to determine any Right contrary to Possession, except in Cases of Encroachments.

XIX. And be it further enacted, That with all convenient Speed after the passing of this Act a true and perfect Admeasurement of all the Commons and Waste Lands to be divided and allotted by this Act as aforesaid shall be made and laid down as a Survey or Plan thereof, by such Person or Persons, not interested in the said Division and Inclosure, as the said Commissioners shall appoint; and the said Plan or Survey shall contain and set forth the Number of Acres, Roods, and Perches in Statute Measure contained in the said Commons and Waste Lands, and shall be used by the said Commissioners as often as Occasion shall require; and the said Plan or Survey shall be kept by the said Commissioners, and, together with all other Acts, Matters, and Things to be done by the Person or Persons to be appointed as aforesaid, shall be verified by his, her, or their Oath at any Meeting to be held after the making thereof (which Oath any One of the said Commissioners is hereby empowered to administer); and that the said Commissioners and Surveyor, their Assistants and Servants, and every other Person employed by the said Commissioners, shall and they hereby have full and free Liberty and Power, at any Time or Times before the Execution of the Award herein-after mentioned to be made by the said Commissioners, to enter into, view, examine, survey, admeasure, plan, and value the Commons and Waste Lands lying within the Parishes aforesaid, and to fix Stakes or Landmarks thereon, and to do all Matters and Things which shall in the Judgment of the said Commissioners be requisite for carrying this Act into execution: Provided nevertheless, That if any Plan or Survey already made of the said Commons and Waste Lands lying within the said Parishes, made for the Purpose of this Act, shall be produced and verified upon the Oath of the Person or Persons who made the same (if still living) at any Meeting of the said Commissioners, which Oath any One of the said Commissioners is hereby empowered to administer, and the said Commissioners shall be satisfied of the Accuracy and Sufficiency of such Plan or Survey, it shall be lawful for the said Commissioners to adopt the same, and cause

Survey and Admeasurement to be made.

Authentic Survey, &c. already made may be used.

[Private.]

the same to be made use of, in lieu of having a new or other Plan or Survey made, as hereby directed, of the Commons or Waste Lands comprised in any such approved Plan or Survey; and all Persons interested shall be at liberty at all seasonable Times to peruse and inspect the Plans or Surveys to be made or used as aforesaid, and to take Copies thereof and Extracts therefrom.

Boundaries of the Commons, &c. to be ascertained by Perambulation, &c.

XX. And whereas Disputes and Doubts may arise touching the Boundaries of the said Commons and Waste Lands, or concerning the Boundaries of the Parishes in which the said Commons and Waste Lands lie; be it therefore enacted, That the said Commissioners shall and they are hereby required, in case any such Disputes or Doubts, shall arise by Examination of Witnesses upon Oath or Affirmation (which Oath or Affirmation any One of the said Commissioners is hereby empowered to administer), and by Perambulation, or either of such Means, or by such other legal Ways and Means as they shall think proper, to inquire into the Boundaries of the said Commons and Waste Lands, and also, if they shall think it absolutely necessary or proper (but not otherwise), into the Boundaries of the said Parishes in which they lie, and cause Notice of such Perambulation to be placed on the principal Entrance or Door of each of the Churches or Chapels of the said Parishes, and to be inserted in some Newspaper printed and circulated within the said County of *Tipperary*, Six Days at the least before the Time of such Perambulation; and after the Expiration of the Time to be specified in such Notice the said Commissioners are hereby authorized and required to inquire into, set out, and ascertain, fix and determine, the aforesaid Boundaries, and within Thirty Days after the Determination of the said Boundaries to cause a like Notice of the Description of such Boundaries to be given: Provided always, that if any Person or Persons interested in the Determination of the said Commissioners respecting the said Boundaries shall be dissatisfied with such Determination, such Person or Persons may appeal to the Justices of the Peace acting in and for the said County of *Tipperary* at any Quarter Sessions of the Peace within the said County of *Tipperary* to be holden within Four Calendar Months next after the Publication as aforesaid of the Description of the said Boundaries (the Party or Parties making such Appeal giving Fourteen Days Notice in Writing of such Appeal and of the Matter thereof to the said Commissioners), and the Decision of the said Justices therein shall be final and conclusive.

Persons disputing Commissioners Decision on Boundaries may appeal to Quarter Sessions.

Encroachments made within Five Years to be allotted.

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

Encroachments to be allotted to the Party in Possession.

XXII. Provided always, and be it further enacted, That the Land comprised in any Encroachment hereby directed to be divided, allotted, and inclosed as aforesaid shall (without regard being had to any Improvement since made thereon) be allotted to the Person or Persons in Possession thereof, so far as he, she, or they shall be entitled by virtue thereof to any Allotment of equal or sufficient Value, and in that Case the Value of such

such Encroachment shall, according to the Circumstances, be deemed a partial or entire Compensation for the Allotment or Allotments to which such Person or Persons shall be entitled by virtue of this Act; but if such Person or Persons shall not be entitled to any Allotment, or to any Allotment equivalent in Value to such Encroachment, then the Whole or the Surplus of such Encroachment (as the Case may require) shall be deemed Part of the Land to be divided, allotted, inclosed, or disposed of by virtue hereof.

XXIII. And be it enacted, That if after the said Commissioners shall have adjudged any Parcel of Land to be an Encroachment upon any Part of the Common or Waste Lands to be divided, allotted, and inclosed by virtue of this Act, the Possessor or Possessors, Occupier or Occupiers thereof, shall refuse or decline to yield up the Possession thereof, being thereunto duly required by Notice or Notices in Writing signed by the said Commissioners or any One of them, and affixed at the principal Entrances or Doors of the Parish Churches (if any) and the Chapels within the Parish or Parishes whereon such Encroachment or Encroachments lie, Six Weeks at least before the Time to be expressed in the said Notice for yielding up such Possession to them, that then and in every such Case it shall be lawful for the said Commissioners to bring One or more Ejectment or Ejectments in their own Names as Lessors in such Ejectment or Ejectments for the Recovery of the Possession of the Lands so adjudged and withheld; and if upon the Trial of such Ejectment or Ejectments it shall appear that the Adjudication of the said Commissioners was duly made pursuant to the Powers given to them by this Act, then and in every such Case the Plaintiffs in such Ejectment or Ejectments shall be entitled to recover Judgment and have Execution, and the Lands so to be recovered shall be deemed and taken to be Part of the Lands to be divided, allotted, and inclosed by virtue of this Act, and shall be divided, allotted, and inclosed accordingly.

Commissioners may bring Ejectments for Recovery of Encroachments.

XXIV. And be it further enacted, That the said Commissioners shall order and direct such Hedges, Ditches, Fences, Banks, Gates, Stiles, Watercourses, Drains, Tunnels, and other Works to be made in, over, and upon any Part or Parts of the said Commons and Waste Lands in the Parishes aforesaid, and shall set out and appoint such public and private Roads and Ways in, over, and upon the said Commons and Waste Lands as they shall think proper and necessary, so that all new public Carriage Roads so to be set out and appointed as aforesaid shall contain Thirty Feet in Breadth between and exclusive of the Ditches, and shall be well and sufficiently fenced out on both Sides in such Manner and within such Time as the said Commissioners shall direct and appoint, and that it shall not be lawful for any Person to erect any Gate across any of the said public Roads, or to plant any Trees in or near the Hedges or Sides thereof, at a less Distance from each other than Fifty Yards.

Commissioners to direct Fences, &c. and set out Roads.

XXV. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend so as to derogate from, lessen, or prejudice the Powers and Authorities of the Grand Jury of the County of *Tipperary* as to the Line of Direction, Breadth, or other Matter or Thing touching or concerning any of the Roads or Highways in, over,

This Act not to affect the Powers of the Grand Jury of the County respecting Roads.

or

or upon the said Commons and Waste Lands, or to prevent the said Grand Jury from Time to Time from varying the Roads and Highways or any of them so to be laid out by the said Commissioners as they shall think expedient, and that none of the present Roads shall be shut up or discontinued until the new Roads which may be substituted by the said Commissioners in their Stead by virtue of this Act shall be safe and convenient for Horses, Cattle, and Carriages.

Commissioners may sell Lands to defray the Expences of the Act.

XXVI. And whereas it would be convenient to the several Persons interested in the said Division and Inclosure if sufficient Parts of each of the said Commons and Waste Lands were set apart and sold, and the Money arising from such Sale applied in defraying the Expences of obtaining and carrying this Act into execution; be it therefore further enacted, That the said Commissioners shall and they are hereby required and authorized, from Time to Time and as often as they shall find necessary, to set out and sell so much or such Parts of the said Commons and Waste Lands as in their Opinion will by the Sale thereof produce a Sum or Sums of Money sufficient to pay and defray all the Charges and Expences already incurred or to be incurred in obtaining and passing this Act and carrying the same into execution; and which Lands, when so marked and set out, shall be and are hereby declared to be vested in the said Commissioners, and they are hereby directed and required to sell the same to any Person or Persons whomsoever for the best Price or Prices that can be gotten for the same, by public Auction or Auctions, at any Place or Places they may think proper, not exceeding Fifteen Miles from any such Part or Parts of the said Commons and Waste Lands as shall be so marked and set out for Sale by the said Commissioners (Notice of the Time and Place or Times and Places thereof being given Three Times in at least One public Newspaper printed and published in the said County of *Tipperary* at least Six Weeks previous to such Auction or Auctions); and the Person or Persons who shall at such Sale or Sales be the highest Bidder or Bidders for any such Lands shall be deemed and taken to be the Purchaser or Purchasers thereof, and shall immediately pay to the said Commissioners who may be present at such Sale or Sales One Fourth Part of the Purchase Money as and for a Deposit, and shall engage to pay the Residue of the Purchase Money within Three Calendar Months afterwards into the Hands of the said Commissioners, who are hereby authorized to give Receipts for the same, and also for the Money to be paid as and for a Deposit as aforesaid; and if any Purchaser or Purchasers, having made such Deposit as aforesaid, shall not pay the whole of the Purchase Money within the Time appointed for Payment thereof, the Money so deposited shall be forfeited to the said Commissioners, and shall be applied towards defraying the Expences attending the obtaining and executing this Act; and that it shall and may be lawful to and for the said Commissioners, upon giving such Notice as aforesaid, to put up again for Sale by public Auction such Lands for which the whole of such Purchase Money shall not have been paid, and so *toties quoties* until the same shall be sold; or the said Commissioners may, if they think proper, sell and dispose of such Lands by private Contract for the best Price that can be gotten for the same, and the Money arising by the Sale or Sales of such Lands shall be applied by the said Commissioners for the several Purposes aforesaid.

XXVII. And

XXVII. And be it further enacted, That the said Commissioners shall and they are hereby authorized, by Indentures of Lease and Release to be executed by them or any Two of them under their Hands and Seals, to grant and convey the Fee Simple and Inheritance of the Lands sold to the Purchaser or Purchasers thereof, his, her, and their Heirs and Assigns, or as he, she, or they shall direct or appoint, and all such Grants and Conveyances shall be valid and effectual in Law to all Intents and Purposes whatsoever; and after the Execution of every such Grant and Conveyance the Lands so granted and conveyed shall be held by such Purchaser and Purchasers, his, her, and their Heirs and Assigns, freed and discharged from all Rights of Commons, Rights of Soil, and all other Rights and Interests of any other Person or Persons whomsoever, in, over, and upon the same, any Law, Custom, or Usage to the contrary thereof in anywise notwithstanding: Provided always, that the said Purchaser or Purchasers of such Lands so to be sold as aforesaid shall be subject to the Performance of the Regulations and Directions which shall be made by the said Commissioners and inserted in their Award for inclosing, fencing, and draining such Lands, and for maintaining and keeping the Drains and Fences belonging thereto in good Repair.

Commissioners to convey Lands sold, subject to Regulations as to fencing.

XXVIII. And be it further enacted, That in case there shall be any Surplus of the Money arising from the Sale or Sales of such Parts of the said Commons and Waste Lands after paying all the Charges and Expences of obtaining and executing this Act, such Surplus shall be divided and apportioned between the several Owners or Proprietors and other Persons interested in the Commons and Waste Lands hereby authorized to be divided, allotted, and inclosed, who shall be seised in Fee Simple or for Lives renewable for ever, and in proportion to their respective Rights and Interests therein, or be deposited in the Bank of *Ireland* to be laid out and disposed of in the Manner by this Act directed, as the Case may require; but in case the Money arising from such Sale or Sales shall not be sufficient to pay all such Costs, Charges, and Expences as aforesaid, then and in such Case such Deficiency shall be made up and paid by the several Owners and Proprietors and other Persons for the Time being interested in the said Commons and Waste Lands, in such Shares and Proportions, at such Time or Times, and to such Person or Persons, as the said Commissioners shall by Writing under their Hands appoint; and if any Person or Persons shall refuse or neglect to pay his, her, or their Share or Shares of the said Costs, Charges, and Expences to the Person or Persons authorized to receive the same at the Time or Times which shall be appointed by the said Commissioners for the Payment thereof, then and in every such Case the said Commissioners shall and may, by Warrant under their Hands and Seals directed unto any Person or Persons whomsoever, cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so refusing or neglecting as aforesaid, rendering the Overplus (if any), after deducting the Charges and Expences attending such Warrant, Distress, and Sale, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold; or otherwise it shall be lawful for the said Commissioners by Writing under their Hands and Seals to authorize and empower Two or more Persons to enter into and upon the Lands to be allotted or belonging to the Person or Persons so refusing or neglecting as aforesaid, and to take and receive the Rents, Issues, and Profits of the same Premises until thereby or therewith the

Surplus of Money arising from last-mentioned Sales, &c. to be divided between the Proprietors.

If Money arising from Sales be insufficient to pay Expences, how Deficiency shall be made up.

[Private.]

Persons attending Meetings to pay their own Expences.

Share or Shares of the said Costs, Charges, and Expences so appointed to be paid by such Person or Persons so refusing or neglecting as aforesaid, with lawful Interest thereupon from the Time the same shall have become due, and also all the Costs and Expences occasioned by or attending such Entry and Perception of the Rents and Profits of the said Premises, shall respectively be fully paid and satisfied: Provided also, that the several Persons interested in the said Commons and Waste Lands, their Solicitors, Attornies, and Agents, shall pay their own Expences, when they or any of them shall attend the said Commissioners at any of the Meetings to be holden in pursuance of this Act.

Allotment to His Majesty.

XXIX. And be it further enacted, That the said Commissioners shall in the next place set out, allot, and award unto and for the King's most Excellent Majesty, His Heirs and Successors, one full Eighteenth Part or Share in Value of the said Commons and Waste Lands, Quantity, Quality, and Situation considered, in lieu of and in compensation for His Majesty's Right and Interest in and to the Soil of the said Commons and Waste Lands.

Allotment of Residue.

XXX. And be it further enacted, That the said Commissioners shall then divide, set out, and allot all the Residue of the said Commons and Waste Lands unto and amongst the Owners and Proprietors, or their Lessees, of the Farms and Lands within the Parishes aforesaid, having a Right of Common in and upon the said Commons and Waste Lands, and as shall appear to the said Commissioners entitled thereto, in such Shares and Proportions as in the Judgment of the said Commissioners shall be a just and reasonable Compensation, Share, and Allotment in respect of and in proportion to the real yearly Value of the said Farms and Lands respectively.

In case of Sale before the Award, Commissioners to allot to the Purchaser.

XXXI. And be it enacted, That if any Person or Persons shall have sold or conveyed, or shall at any Time before the Execution of the said Award convey or sell, his, her, or their Right, Interest, and Property in, over, and upon the Commons and Waste Lands hereby directed to be divided and allotted, or any Part thereof, to any other Person or Persons, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, to make an Allotment of Land unto the Purchaser in every such Sale or Conveyance, or to his or her Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold or conveyed as aforesaid; and every such Purchaser, or his or her Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Lands so to be allotted to him, her, or them as aforesaid in the same Manner to all Intents and Purposes as the Vendor or Grantor in every such Sale or Conveyance might, could, or ought to have held and enjoyed the same in case such Sale or Conveyance had not been made.

Separate Allotments for different Estates held under different Titles.

XXXII. And be it further enacted, That in case any Person or Persons shall hold any Lands, Tenements, or Hereditaments in respect whereof he, she, or they is or are entitled to any Allotment or Allotments of any Part or Parts of the said Commons or Waste Lands by different Tenures or Titles, or for different Estates or Interests, it shall and may be lawful for the said Commissioners and they are hereby required to ascertain, and determine

determine the particular Parts allotted in respect of the several Hereditaments held by each of such Tenures or Titles, or for each of such Estates or Interests respectively.

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

Allotments to Proprietors to be subject to Limitations of Estates.

XXXIV. Provided also, and be it enacted, That if any Person or Persons shall advance and pay any Money in discharge of the Fees or other Expences of preparing, soliciting, obtaining, or executing this Act, the Money so paid and advanced shall be paid and satisfied to him, her, or them by the Direction of the said Commissioners, together with lawful Interest for the same.

Money advanced for Purposes of Act to be repaid with Interest.

XXXV. And be it further enacted, That in case there shall be any Money arising from the Sale of any Lands, Tenements, or Hereditaments, under or by virtue of the Powers of this Act, to be paid by the said Commissioners to any Body Politic or Corporate, Collegiate or Ecclesiastic, Trustee, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Lunatic, Idiot, Feme Covert, or other Cestuique Trust, or to any Person whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any Disability or Incapacity whatsoever, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *Ireland* in the Name and with the Privity of the Accountant General of the High Court of Chancery of *Ireland*, to be placed to his Account there *ex parte* the said Commissioners, to the Intent that such Money shall be applied, under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, in the Discharge of any Debt or Debts, or other Incumbrances or Parts thereof, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith, or held by the same Persons to the same or the like Uses, Intents, and Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall

Application of Surplus of Sales when amounting to 200*l*.

shall be conveyed and settled to, for, and upon the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the Lands, Tenements, and Hereditaments which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money shall, by Order of the said Court of Chancery upon Application thereto, be invested by the said Accountant General in his Name in Government Securities; and in the meantime, and until the said Government Securities shall be ordered by the said Court of Chancery to be sold for the Purposes aforesaid, the Dividends and annual Produce of such Government Securities shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the said Lands or Hereditaments.

Application of surplus Monies when less than 200*l.* and amounting to 20*l.* or more.

XXXVI. Provided always, and be it enacted, That in case such Money arising from the Sale of any such Lands, Tenements, or Hereditaments to be paid by the said Commissioners to any Corporation, or to any Person or Persons under any Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall be equal to or exceed Twenty Pounds, then and in all such Cases the same shall be, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased, taken, or used, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, be paid into the Bank of *Ireland* in the Name and with the Privity of the said Accountant General of the High Court of Chancery in *Ireland*, and be placed to his Account as aforesaid in order to be applied in the Manner herein-before directed; or otherwise the same shall be paid, at the like Option, to Two Trustees to be nominated by the Person or Persons making such Option, and approved of by such Commissioners (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties), in order that such Principal Money and the Dividends arising therefrom may be applied in manner herein-before directed, so far as the Case be applicable, without obtaining or being required to obtain the Direction or Approbation of the said Court of Chancery.

When less than 20*l.*

XXXVII. Provided also, and be it further enacted, That where such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Money arising from such Sale, in such Manner as the said Commissioners shall think fit; or in case of Infancy or Lunacy, then to his, her, or their Guardian or Guardians, Committee or Committees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

Books of Accounts to be kept.

XXXVIII. And be it further enacted, That the Clerk to the said Commissioners shall and he is hereby required to enter in a Book or Books to be provided for that Purpose an Account of all Monies whatsoever received from the Proprietors or others during the said Division, and Inclosure, and also of all the Costs, Charges, and Expences incurred in



the obtaining and Execution of this Act, which Book or Books of Account shall be kept in the Office of their said Clerk, and be open at all reasonable Times during the Progress of the said Division and Inclosure, and until all the Account shall be finally settled, for the Inspection of any of the Proprietors, without Fee or Reward; and in case the said Clerk shall neglect to procure and keep such Book or Books of Account as aforesaid; or refuse the Inspection thereof to any of the Proprietors at reasonable Times, the Person so offending shall, upon Proof thereof before One of His Majesty's Justices of the Peace for the said County of *Tipperary*, for every such Offence forfeit and pay to the Party complaining any Sum not exceeding Ten Pounds or less than Five Pounds, to be fixed by such Justice, and to be recoverable in the same Manner as herein-before authorized and directed with respect to any Costs to be awarded by the said Commissioners, and the said Commissioners are hereby authorized and required to give and sign the necessary Warrant for that Purpose.

XXXIX. And be it further enacted, That it shall be lawful for the Commissioners to set out, allot, and award any Lands, Tenements, or other Hereditaments within the said Parishes or either of them in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Parishes or either of them, or within any adjoining Parish, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award or Awards of the said Commissioners, and be made with the Consent of the Owners or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owners or Proprietors shall be a Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail, General or Special, or by the Courtesy, or for Years absolute or determinable on a Life or Lives, with the Consent of the Lessors thereof and 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 Proprietors or Owners as aforesaid, who at the Time of making such Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, and under the Hands of the other consenting Parties respectively; and all such Exchanges so to be made shall take place at such Time or Times, certain or contingent, as the said Commissioners shall direct by their Award, and all such Exchange so to be made shall be good and effectual in Law to all Intents and Purposes whatsoever: Provided always, that no such Exchanges shall be made of any Lands, Tenements, or Hereditaments held in right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent in Writing, testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall be situate.

Power to  
make Ex-  
changes.

XL. And whereas it may happen that some of the Proprietors and Persons entitled to Allotment or Allotments to be made by virtue of this Act may be seised thereof or entitled thereto in Joint Tenancy or as Coparceners or Tenants in Common, and cannot, by reason of Infancy, Settlement, or Absence beyond Seas, make an effectual Division thereof;

Commission-  
may make  
Allotments  
in Severalty  
to joint Te-  
nants or  
Tenants in  
Common.

[Private.]

be it therefore further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered, (upon the Request in Writing of such Joint Tenants or Coparceners or Tenants in Common, or any or either of them, or of the Husbands, Guardians, Trustees, Committees, or Attornies of such as are under Coverture, Minors, Lunatics, or under any other Incapacity as aforesaid, or absent beyond Seas,) to make Partition and Division of the Allotment or Allotments to such of the said Owners and Proprietors who shall be entitled to the same as Joint Tenants, Coparceners, or Tenants in Common, and to allot the same accordingly to such Owners and Proprietors in Severalty; and from and immediately after the said Allotments shall be so made and declared the same shall be holden and enjoyed by the Person or Persons to whom the same shall be allotted in Severalty, in such and the same Manner, and subject to such and the same Uses, as the undivided Parts or Shares of such Estates would have been held in case such Partition and Division had not been made.

Costs of Exchanges to be borne by the Parties.

XLI. And be it further enacted, That the Expences attending any Exchange or Partition of any Lands, Tenements, or Hereditaments which shall be made by this or the said recited Act shall be borne and defrayed by the respective Parties making such Exchange or Partition in such Manner as the said Commissioners shall order, direct, and appoint.

Power for the Commissioners to vacate Leases at Rack Rent, and award Satisfaction.

XLII. And be it further enacted, That all or any Leases or other Agreements at Rack Rent now subsisting of or respecting any of the Commons or Waste Lands to be divided and allotted pursuant to this Act, or of any Messuages, Buildings, Homesteads, Gardens, Orchards, or old inclosed Lands held with the same, or which shall be exchanged by virtue hereof, shall, in case the said Commissioners shall think it to be proper and reasonable, cease, determine, and be utterly void at such Time or Times, and in such Manner and Form, and with such Addition or Abatement of Rent or other Satisfaction, as the said Commissioners shall by Writing under their Hands order and appoint; and that the Lessors or Owners of the Lands, Tenements, and Hereditaments comprised in such Leases or Agreements shall pay or receive such Sum or Sums of Money, or make or receive such Satisfaction to or from their Lessees or Tenants respectively, as the said Commissioners shall judge to be a proper Equivalent for vacating such Leases or Agreements: Provided always, that if there shall be any Lease or Agreement of Lands Part of which shall be in the said Parishes, or any or either of them, and Part in any adjoining Parish, all and every such Lease or Leases and Agreements at Rack Rent now subsisting may be vacated in manner aforesaid; but where any Land shall have been taken in exchange, which Land shall be holden under any Lease, and wholly situate in an adjoining Parish, the Lease of such last-mentioned Land shall not be vacated.

Beneficial Leases not to be vacated.

XLIII. Provided also, and be it further enacted, That nothing in this Act shall extend to set aside or make void any beneficial Lease or Leases from any Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, or any Person or Persons, of any Lands, Tenements, or Hereditaments in the Parishes of *Mealiffe*, *Upper Church*, and *Temple Beg* aforesaid, but the Person or Persons entitled to such beneficial Lease or Leases shall and may hold and enjoy his, her, and their several and respective Terms at  
and

and under the same Rents and Covenants as are specified in his, her, and their respective Leases from the same Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, or other Person or Persons respectively.

XLIV. Provided always, and be it enacted, That the said Commissioners or their Clerk shall, at least once in every Year during the Execution of this Act, make out an Account containing a true Statement of all and every Sum and Sums of Money received and expended by and due to them or him respectively, and of all Sums received and expended respectively by any Person or Persons employed by them or him in carrying this Act into execution, for their or his Trouble or Expence in the Execution of this Act; and in such Account or Statement shall be particularly stated and specified the several Items and Articles for which each particular Sum has been received and paid or disbursed respectively; and such Account when so made out shall, together with the Vouchers relating to the same, be by the said Commissioners or their Clerk laid before *James Butler* of *Park* in the County of *Tipperary*, Esquire, or in case of his Decease, or of his neglecting or refusing to examine such Accounts when thereunto required, before One or more of His Majesty's Justices of the Peace for the said County of *Tipperary* not interested in the said Division or Inclosures, to be examined and balanced, and the Amount or Balance thereof shall be by the said *James Butler*, or such Justice or Justices, truly ascertained and stated in the Book of Accounts by this Act required to be kept in the Office of the said Clerk of the said Commissioners; and that no Charge or Item in such Accounts shall be binding on the Parties concerned, or be valid in Law, unless the same shall be duly allowed by such Person or Persons as aforesaid, and until such Account or the Abstract thereof shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained; and if the said Accounts shall be audited to the Satisfaction of the Majority of the Proprietors and other Persons interested as aforesaid, expressed at a Meeting of the said Commissioners under this Act, it shall be lawful for the said Commissioners to pay or allow to the said *James Butler*, or other the Person or Persons auditing the said Accounts, any Sum not exceeding Fifty Pounds as a Compensation for his or their Trouble and Attendance in the Examination and Adjustment of the said Accounts.

Commissioners Accounts to be laid before an Auditor.

XLV. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the said Proprietors and Persons interested in the Lands to be divided, allotted, and inclosed by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively in lieu thereof, the said Commissioners shall hold a Meeting at some convenient Time and Place, of which due Notice shall be given, when and where the Proprietors and Persons interested may be informed of such Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and if any of the said Proprietors and Persons, upon such Inspection, shall be dissatisfied with the proposed Allotments, the said Commissioners shall, at such Time and Place as aforesaid, or at some other Time and Place to be appointed for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietor or Proprietors, or Person or Persons interested, against any such Allotment or Allotments, and shall forthwith, or as

For determining Objections to Allotments.

soon

soon after as conveniently may be, determine the same ; and such Determination shall be final, binding, and conclusive to all Parties.

Commissioners may make Alterations respecting Allotments or private Roads before Execution of Award.

XLVI. And be it further enacted, That it shall and may be lawful for the said Commissioners, at any Time before executing their Award, to make such Alterations in the Allotments and Fences or in the private Roads which they may have set out and ordered as they shall think right and expedient ; and in case any Proprietor or Proprietors, Person or Persons interested, shall be injured by such Alterations on account of any Expence he, she, or they may have incurred in respect of his, her, or their Allotment or Allotments, the said Commissioners shall ascertain what Recompence shall be made to him, her, or them, and shall direct by whom and in what Manner such Recompence shall be made ; and the same shall and may be recovered in the same Manner as the Costs awarded by the said Commissioners, upon the Determination of any Claim as aforesaid, are herein-before directed to be recovered.

Award.

XLVII. And be it further enacted, That as soon as conveniently may be after the said Commissioners shall have completed the Division and Allotments of the Commons and Waste Lands hereby directed to be divided and allotted, pursuant to the Directions of this Act, they shall cause to be drawn up an Award in Writing which shall express the Quantity in Statute Measure of Acres, Roods, and Perches of the said Commons and Waste Lands, and the Quantity of every Part thereof which shall be assigned or allotted to or exchanged with each of the Parties entitled to and interested in the same, and shall also contain a Description of the Situation, Abuttals, and Boundaries of the same Parcels and Allotments respectively, and such Order and Directions for raising and maintaining the Fences, and also for making, laying out, and maintaining proper Roads, Passages, Bridges, Gates, Tunnels, and Watercourses in, through, over, and upon the same Premises, and such other Orders and Regulations as the said Commissioners shall think proper and necessary to be inserted in such Award, conformably to the true Purport and Tenor of this Act ; and the said Award shall be fairly engrossed on Parchment, with a reduced Map or Plan of the said Commons and Waste Lands thereto annexed, and signed and sealed by the said Commissioners ; and the said Award shall, within Six Calendar Months after the Execution thereof, be inrolled in His Majesty's High Court of Chancery in *Ireland*, and after such Inrolment be deposited and kept in the Office of the Clerk of the Peace for the said County of *Tipperary*, to the end that Recourse may be had thereto by any Person or Persons interested in the said Premises, for the Deposit whereof the Sum of Two Pounds Ten Shillings and no more shall be paid, and for the Inspection and Perusal whereof the Sum of One Shilling and no more shall be paid ; and a Copy of the said Award or any Part thereof, signed by the said Clerk of the Peace or his Deputy, or by the proper Officer of the Court of Chancery or his Deputy, where the same shall be inrolled as aforesaid, purporting the same to be a true Copy, shall from Time to Time be made by such Clerk of the Peace or Officer for any Person requesting the same, for which no more shall be paid than Sixpence *per* Sheet Clerk's Fees, each Sheet containing Two Folios, or One hundred and forty-four Words ; and the said Award, and each Copy thereof or of any Part thereof, signed as aforesaid, shall from Time to Time and at all Times thereafter be admitted and allowed in all

Courts whatsoever as legal Evidence of all Matters and Things therein contained; and the said Award, and the several Allotments, Partitions, Exchanges, Orders, Directions, Matters, and Things therein contained, shall be and is and are hereby declared binding and conclusive unto and upon all and every the several Parties interested in and entitled to the several and respective Premises so to be divided, allotted, inclosed, and exchanged as aforesaid, their several and respective Heirs and Assigns.

XLVIII. Provided always, and be it enacted, That the Award of the said Commissioners shall be read and executed by them in the Presence of such of the Proprietors as may attend at a Special Meeting called for that Purpose, of which Ten Days Notice at least shall be given and advertised in such Newspapers as aforesaid; which Execution of such Award shall be proclaimed the next *Saturday* after the same shall have been executed, in the Session House of the said County of *Tipperary*, at Twelve of the Clock at Noon, from the Time of which Proclamation only, and not before, such Award shall be considered as completed. Publication of Award.

XLIX. And be it further enacted, That the Award to be made by the said Commissioners under the Authority of this Act shall be executed and published within Three Years from the passing of this Act. Award to be made within Three Years.

L. And be it further enacted, That the said Commissioners shall and they are hereby required to make an Extract on Parchment under their Hands and Seals of so much of the general Award directed to be made by this Act as shall contain an accurate Description of the Allotment or Allotments so to be made to His said Majesty, together with such Regulations or Provisions relative to the said Allotment or Allotments, or to any other Rights or Interests of His Majesty, as may be contained in such Award, and also a Copy, signed by the said Commissioners, of the Plan annexed to the said Award, and transmit the said Extract and Plan to the Commissioners of His Majesty's Woods, Forests, Land Revenues, Works, and Buildings, within Two Calendar Months after the making and executing the said Award, to be by them kept among the Muniments of their Office, and to be produced and admitted in Evidence on all Occasions where any Question, Doubt, or Controversy may arise relating to or affecting the Rights and Interests of His Majesty, or His Heirs or Successors. Commissioners to make an Extract of so much of their Award as describes His Majesty's Allotment, and transmit the same to the Commissioners of His Majesty's Woods, &c.

LI. And be it further enacted, That where the Proprietor or Proprietors of or Person or Persons interested in any Allotment or Allotments, Lands, or other Hereditaments which shall be allotted, divided, inclosed, or exchanged by virtue of this Act, shall hold his, her, or their Lands or Hereditaments by different Tenures, or by, for, or under different Estates or Titles, and where, from the Want of necessary Information before the said Commissioners, or from other Cause, the Award of the said Commissioners shall have omitted to distinguish the Lands, Tenements, or other Hereditaments holden by different Tenures, or for, by, or under different Estates or Titles, or to set out and award several and distinct Allotments for any such respective Lands or other Hereditaments as hereinbefore is required, it shall be lawful for the said Commissioners, and they are hereby authorized and required, at any Time and from Time to Time, within Eighteen Calendar Months after the Date and Execution of their Supplementary Award may be made.

[*Private.*]

Award, upon Request in Writing to be made by their respective Proprietors, or other Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, interested, to do all such Acts as shall be necessary for supplying any such Omission, and for that Purpose to examine Witnesses, and proceed as if their Award had not been made, and by any Deed or Instrument under their Hands and Seals to distinguish, ascertain, and set out the Lands, Tenements, and Hereditaments held by different Tenures, or for, by, or under different Estates or Titles respectively, in the same Manner as they are hereby authorized and required to do in case where such Lands and Hereditaments are directed to be distinguished and set out by the general Award; and every such separate Instrument shall be inrolled in the same Place as the general Award shall be inrolled, and Evidence thereof shall be given in the same Manner as by this Act is directed concerning the general Award of the said Commissioners; and all Expences which shall be reasonably incurred in and about any such subsequent Inquiry and separate Deed or Instrument as aforesaid shall be paid by the Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, who shall have requested the said Commissioners to make and execute the same, or by his, her, or their Heirs, Successors, Executors, or Administrators, and on Nonpayment thereof the same shall and may be recovered in the same Manner as the Costs which may be awarded by the said Commissioners upon the Determination of any Claim are herein-before directed to be recovered; and every such separate Instrument as aforesaid shall, from and immediately after the Execution thereof by the said Commissioners, have the same Effect, to all Intents, Constructions, and Purposes, as if the Contents thereof had been inserted in their said general Award; and a Duplicate thereof shall be delivered to the Proprietor or Proprietors, Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, upon whose Request respectively any such Omission shall have been supplied, or to the Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, to whom the Custody of the Deeds, Writings, and Muniments concerning the Title to the Premises in question shall, in the Opinion of the said Commissioners, most properly belong.

Appeal to  
Quarter Ses-  
sions.

LII. And be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, Collegiate, or Ecclesiastic, shall think himself, herself, or themselves aggrieved by any thing done in pursuance of this Act, (other than and except such Orders and Determinations of the said Commissioners as are herein ordered to be final and conclusive, and except in such Case where an Issue at Law shall be tried as herein-before mentioned,) then and in every such Case he, she, or they may appeal to the Justices, not interested in the Premises (and who shall be of the Quorum), at the General Quarter Sessions of the Peace which shall be holden for the said County of *Tipperary* within Four Calendar Months next after Cause of Complaint shall have arisen, and giving to the said Commissioners or their Clerk Fourteen Days Notice in Writing of such Appeal and of the Matters thereof, except with respect to the Accounts of the said Commissioners, which, notwithstanding the same shall have been examined and balanced and published as aforesaid, may be appealed against at any Time within Six Calendar Months from the Date of the said Award, on giving the said Commissioners or their Clerk such Notice as aforesaid; and the said Justices (not interested in the Premises) at their General Quarter Sessions

are hereby required to hear and determine the Matter of every such Appeal, and to make such Order and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order and Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of such Justices shall be final and conclusive to all Parties concerned, and shall not be removed by Certiorari, or any other Writ or Process whatsoever, unto any of His Majesty's Courts of Record at *Dublin* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to the said Justices in their Discretion shall seem reasonable, and be levied in manner aforesaid.

LIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, and their respective Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest (except such as are hereby intended to be barred and destroyed) as they, every or any of them, had or enjoyed of, into, or out of, or in respect of the said Commons and Waste Lands so directed to be divided and allotted as aforesaid before the passing of this Act, or would or might have had or enjoyed in case the same had never been made. General Saving.

LIV. And be it further enacted, That this Act shall be printed by the several Printers to the King'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 the Judges, Justices, and others. Act to be printed by the King's Printers.

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