



ANNO QUARTO

GULIELMI IV. REGIS.

Cap. 4.

An Act for inclosing Lands in the Parish of *Duntsborne Rouse* in the County of *Gloucester*, and for exonerating from Tithes the Lands in the said Parish. [22d May 1834.]

WHEREAS there are within the Parish of *Duntsborne Rouse* in the County of *Gloucester* divers Open Fields and Commonable and Waste Lands and Grounds, containing, by Estimation, Four hundred and ninety-six Acres, and divers inclosed Lands and Homesteads; and the whole of the Lands in the said Parish, whether open or inclosed, are subject to Tithes: And whereas the President and Scholars of *Corpus Christi College* in the University of *Oxford* are or claim to be Lords of the Manor of *Duntsborne Rouse* aforesaid, and as such to be entitled to the Soil of all the Waste Lands within the said Manor: And whereas the said President and Scholars are the Owners of the Advowson and the Patrons of the Rectory of *Duntsborne Rouse* aforesaid, and the Reverend *Vaughan Thomas* Clerk is Rector of the said Parish, and as such is entitled to all the Great and Small Tithes arising within the said Parish: And whereas the said President and Scholars, *William Hunter Baillie* Esquire, and *Edward Haines*, and divers other Persons, are the Owners and Proprietors of or interested in the said Open Fields and Commonable and Waste Lands and Grounds; and the said President and Scholars, and the Right Honourable *Henry Earl Bathurst*, and the said *William Hunter Baillie*, *Edward Haines*, and divers other Persons are the Owners and Proprietors of or interested in the said

[Private.]

inclosed

inclosed Lands and Homesteads in the Parish of *Duntsborne Rouse* aforesaid: And whereas an Act was passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas another Act was passed in the First and Second Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: And whereas it would be advantageous to the Persons entitled to the said Open Fields and Commonable and Waste Lands and Grounds if the same were divided and allotted unto and among them according to their respective Rights and Interests therein, and inclosed and held in Severalty, and if the same and the said inclosed Lands and Homesteads were exonerated from Tithes; but as the several Purposes aforesaid cannot be effected without the 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 *Richard Hall* of the Town of *Cirencester* in the County of *Gloucester*, Gentleman, and his Successors to be appointed in manner herein-after mentioned, shall be and he is hereby appointed a Commissioner for dividing, allotting, and inclosing the said Open Fields and Commonable and Waste Lands and Grounds, and for carrying this Act into execution, subject to the Rules, Orders, and Regulations in this Act contained, and also subject to the Rules, Orders, and Directions contained in the said recited Acts, except such as are by this Act varied or altered.

41G.3.c.109.
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Appoint-
ment of Com-
missioner.

Appoint-
ment of new
Commis-
sioner.

II. And be it further enacted, That in case the said *Richard Hall*, or any Person hereafter to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act as a Commissioner in the Execution of this Act, then and in every such Case it shall be lawful for the said President and Scholars or their Successors, by Writing under their Common Seal, within Thirty Days after such Death, Refusal or Incapacity to act, shall be made known to them, to nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room and Stead of the said *Richard Hall*, or of such other Person appointed in his Stead so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and every new Commissioner so nominated and appointed shall, from and immediately after his Appointment, and taking the Oath prescribed in that Behalf, have such and the like Powers and Authorities for carrying this Act and the said recited Acts into execution to all Intents and Purposes as if he had been named and appointed a Commissioner in and by this Act.

Clerk to be
appointed.

III. And be it further enacted, That the said Commissioner shall and he is hereby authorized and empowered to appoint some fit and proper Person or Persons to be his Clerk or Clerks to assist him in carrying this Act and the said recited Acts into execution, and from Time to Time to remove such Clerk or Clerks, and appoint One or more in his or their Stead, as to the said Commissioner shall seem meet.

IV. And

IV. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered, to call to his Assistance and to employ such Person or Persons as he shall think proper as a Surveyor or Surveyors, Assistant or Assistants, in ascertaining and setting out any Boundaries, and in making the Valuations, Calculations, Maps, Plans, Surveys, and Allotments of the said Open Fields, Commonable and Waste Lands, Division, Allotment, Inclosure, and Exoneration, and from Time to Time to remove such Surveyor or Surveyors, Assistant or Assistants, and appoint another or others in his or their Stead, as to the said Commissioner shall seem meet.

Commissioner may appoint a Surveyor or Assistant to make Surveys, &c.

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

No Person to act as Surveyor until he has taken the following Oath.

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 Duties incumbent on me as Surveyor by virtue of an Act passed in the Fourth Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Partiality, Favour or Affection, Prejudice or Malice, to any Person or Persons whomsoever. So help me GOD.

[*Or, being a Quaker, omit the Words 'So help me God.'*]

Which Oath or Affirmation the Commissioner for the Time being, or any Justice of the Peace for the said County of *Gloucester*, is hereby empowered and required to administer; and the said Oath or Affirmation so taken and subscribed by any such Surveyor shall be annexed to and deposited with the Award of the said Commissioner.

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

Allowance to Commissioner and Clerk.

VII. And for regulating the Duration of all Meetings to be holden for the Purposes of this Act, be it enacted, That a Day shall be deemed to

Regulating the Duration of Meetings. consist

consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged only as Half a Day, and the said Commissioner and the said Clerk or Clerks shall be paid accordingly; and a Book shall be kept by the said Commissioner or his Clerk in which shall be entered the several Days on which the said Commissioner shall hold the Meetings, and at what Hour the said Commissioner was first present thereat, and at what Hour he left or adjourned the same, and such Book shall be signed by the said Commissioner, and shall be open to the Inspection of all Persons interested in the said Inclosure, their Agents or Attornies, during the several Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioner to retain or pay himself or such Clerk or Clerks, out of any Monies to be received by him or over which he may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-before directed to be made to such Commissioner and Clerk or Clerks respectively, beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or of the said Clerk or Clerks previously to the Execution of the said Award, the Commissioner for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk or Clerks such Sum of Money as shall appear by the said Accounts to be due thereon.

Proprietors
to pay their
own Ex-
pences at
Meetings.

VIII. Provided always, and be it further enacted, That all Proprietors and Persons interested in the said Inclosure, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend at any of the Meetings to be held in pursuance of this Act.

Notice of
Meetings.

IX. And be it further enacted, That the said Commissioner shall and he is hereby required to cause Notice to be given in the Newspaper called *The Gloucester Journal*, and also by a Notice affixed upon the principal outer Door of the Parish Church of *Duntsborne Rouse* aforesaid on some *Sunday* before Divine Service, of the Time and Place of his first and every subsequent Meeting for executing the Powers hereby and by the said recited Acts vested in him, at least Seven Days before every such Meeting shall be held (Meetings by Adjournment only excepted), and the said Commissioner shall and may adjourn such Meetings from Time to Time as he shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings of the said Commissioner for executing this Act shall be held at some convenient Place in the said Parish of *Duntsborne Rouse*, or within Eight Miles therefrom.

Meetings to
be within
Eight Miles
of the Parish.

X. Pro-

X. Provided also, and be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioner, except in Cases where such Notice is directed to be given otherwise in and by this Act, shall be given by Advertisement to be inserted in the said Newspaper called *The Gloucester Journal*, or by affixing such Notice on the principal outer Door of the Parish Church of *Duntsborne Rouse* aforesaid.

How other Notices are to be given.

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

Commissioner to settle Disputes, but not to determine Titles.

XII. And be it further enacted, That in case the said Commissioner shall, upon the hearing or determining of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of the said first-recited Act or of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made by the Party or Parties whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs or Charges, shall refuse or neglect to pay the same on Demand, then it shall be lawful for the said Commissioner and he is hereby authorized and required, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and if there shall not be any Goods or Chattels whereon to levy the same, or in case the Party ordered to pay such Costs be a Body Politic, Corporate, or Collegiate, then and in either of the said Cases it shall be lawful for the Party or Parties in whose Favour such Costs shall be awarded to recover the same by Action or Actions of Debt or

Power to award Costs.

[Private.]

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on the Case, in which Action or Actions it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Allowing
Parties to
try their
Rights at
Law.

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

XIV. Pro.

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

Deaths of Parties not to abate Actions.

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

Suits not to delay the Execution of this Act.

XVI. And be it further enacted, That if any of the Parties interested in the said Division and Allotment shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioner shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers given to him by this Act and the said recited Acts in such Manner as he might have done in case such Party or Parties were still living; and the Share or Shares of the Person or Persons so dying shall be allotted to the Person or Persons who shall by Law become entitled to the same, and shall be accepted and taken by him, her, or them according to the Directions of this Act and the said recited Acts, and he, she, or they shall

Deaths of Parties not to delay the Execution of this Act.

shall be liable to the Charges and Expences and the several Provisions of this Act and of the said recited Acts.

Surveys of inclosed Lands not to be made unless the Commissioner shall deem it necessary.

XVII. And be it further enacted, That nothing in the said first hereinbefore recited Act referred to or in this Act contained shall extend to require the said Commissioner, or any Surveyor to be appointed by virtue of this Act, to make or cause to be made any Survey, Admeasurement, or Plan of any of the inclosed Lands or Grounds within the said Parish, unless the said Commissioner shall in his Judgment deem such Survey, Admeasurement, or Plan necessary or expedient for the Purposes of this Act.

Extinguishment of Rights of Common.

XVIII. And be it further enacted, That it shall be lawful for the said Commissioner at any Time or Times when he shall think it convenient or proper, by Notice for that Purpose under his Hand to be affixed on one of the outer Doors of the Parish Church of *Duntsborne Rouse* aforesaid on some *Sunday* before Divine Service, to order the Rights of Common in, upon, and over the Lands and Grounds hereby directed to be divided and inclosed, or any Part thereof, to be extinguished or suspended either in the whole or in part; and from and after the Time to be mentioned in and fixed by any such Notice all such Rights of Common as shall be thereby directed to be extinguished or suspended shall cease and be extinguished or shall be suspended accordingly, any Law, Usage, or Custom to the contrary notwithstanding.

Power to shorten Boundary Fences.

XIX. And be it further enacted, That for the Purpose of shortening or rendering straight and continuous the Boundary Fences between the Lands and Grounds by this Act directed to be divided and allotted and the old inclosed Lands in the said Parish of *Duntsborne Rouse*, or between such Allotments and inclosed Lands, or any of them, and the Lands and Grounds in any adjoining Manor, Parish, or Place, it shall be lawful for the said Commissioner, with the Consent of the Lord or Lords, Lady or Ladies of the Manor or Manors in which the Lands are respectively situate, and the Owners of the Lands adjoining to such Boundary Fences, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate, to alter and straighten or shorten and render continuous the same Boundary Fences or any of them, or any Part or Parts thereof, and to set out, ascertain, and determine such Boundaries as the said Commissioner shall think proper for the Purposes aforesaid; and after such Allotment or Allotments shall have been so set out, and such Boundaries shall be so ascertained and determined, the same shall be made, fenced, ditched, or mounded by such Person or Persons, in such Manner, and at such Time or Times as the said Commissioner shall order and direct; and such Boundaries shall for ever thereafter be deemed and taken to be the Boundaries between the said Allotments and inclosed Lands respectively, or between the said Parish of *Duntsborne Rouse* and any adjoining Manor, Parish, or Place, as the Case may be, any Law, Usage, or Custom to the contrary notwithstanding.

Commissioner to set out Drains, and to enlarge and

XX. And be it further enacted, That the said Commissioner shall and may set out, appoint, and make such common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges in, through, over, and upon the Lands and Grounds hereby directed to be divided, allotted, and

and inclosed, and also enlarge, widen, alter, turn, scour, and cleanse all or any of the present Drains, Ditches, Streams, or Watercourses, as well in, through, and over the same Lands and Grounds intended to be divided, allotted, and inclosed, as in, through, and over any ancient Inclosures or other Lands and Grounds within the said Parish of *Duntsborne Rouse*, as to him the said Commissioner shall seem proper and necessary, making such Satisfaction to the Proprietors of such ancient Inclosures or other Lands or Grounds for the Damage done thereby as the said Commissioner shall think fair and reasonable; and the Costs and Expences of making, enlarging, widening, altering, turning, scouring, and cleansing of such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, shall be raised and levied by the said Commissioner in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution, but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, scoured, and maintained by such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, and in such Manner, as the said Commissioner shall in and by his said Award order and direct; provided that no Stream or Watercourse be diverted or turned without the Consent in Writing of the Person or Persons from whose Lands the same may be diverted, and of the Person or Persons into whose Lands the same may be turned.

XXI. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footways in pursuance of this Act or the said first-recited Act, the said Commissioner shall and he is hereby authorized and empowered, if he shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footways passing or leading through or over any of the Lands or Grounds intended to be divided and allotted by virtue of this Act, or passing or leading through or over any of the Lands or Grounds within the said Parish of *Duntsborne Rouse*; and the Soil of the Roads and Ways so to be discontinued and stopped up shall be deemed and taken to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act; provided that no such Carriage Road, Highway, Bridle Road, or Footway, passing through any of the inclosed Lands and Grounds within the said Parish, shall be discontinued, stopped up, diverted, turned, or altered without the Concurrence and Order of Two of His Majesty's Justices of the Peace acting for the County of *Gloucester*, not interested in the said Division and Allotment or in the Repairs of such Roads, such Order to be made upon and after such Notice as is directed and required by an Act passed in the Fifty-fifth Year of the Reign of King *George* the Third, intituled *An Act to amend an Act of the Thirteenth Year of His present Majesty, for the Amendment and Preservation of the public Highways in so far as the same relates to Notice of Appeal against turning or diverting a public Highway, and to extend the Provisions of the same Act to the stopping-up of unnecessary Roads*; and every such Order to be made by such Two Justices of the Peace as aforesaid may include Two or more Carriage Roads, Highways, Bridle Roads, and Footways; and the same Order or any Part or Parts thereof shall be subject to an Appeal in the Manner directed by the said last-mentioned Act.

[Private.]

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XXII. And

Power to
stop up
Roads.

55 G. 3. c. 68.

Power to
widen Roads,
making Com-
pensation to
Landowners.

XXII. And be it further enacted, That the said Commissioner shall and may and he is hereby authorized and empowered to widen any of the public Roads or Highways where he shall see it necessary within the said Parish of *Duntsborne Rouse*, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands and Grounds adjoining to such Roads, (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House,) and to make a full Compensation for the Value of the Land or Ground so to be taken for the widening of such public Roads or Highways by allotting and awarding unto the Person or Persons from whom any such inclosed Land or Ground shall be so taken an adequate Part or Parts of the said Lands and Grounds hereby directed to be divided and allotted, and also to make good and substantial Fences on each Side of all such widened public Roads and Highways, for and in lieu of the Fences which shall be injured or destroyed by means of such widening.

Expences of
discontinuing
or widening
Roads.

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

Roads when
certified by
Justices to
be complet-
ed, shall be
considered
public Roads.

XXIV. And be it further enacted, That when and so soon as any of the public Roads to be set out by virtue of the said first-recited Act and this Act shall be made and completed, it shall be lawful for any Two or more of His Majesty's Justices of the Peace for the said County of *Gloucester*, if they shall think fit, from Time to Time to certify and declare under their Hands and Seals any of such public Carriage Roads so to be set out to be fully and sufficiently formed, repaired, and completed; and such Road or Roads, or so much thereof as shall in any such Certificate be described or certified, shall thenceforth be supported and kept in repair by such Persons and in like Manner as the public Roads within the said Parish of *Duntsborne Rouse* are or ought to be by Law amended and kept in repair; and every such Certificate shall at the General Quarter Sessions of the Peace to be holden for the County of *Gloucester* next after the Date thereof be filed of Record by the Clerk of the Peace for the said County.

Encroach-
ments.

XXV. And be it further enacted, That all Encroachments or Inclosures taken or made from or on any Part of the said Lands hereby directed to be divided and inclosed within Twenty Years next before the passing of this Act, and all other Encroachments or Inclosures at any Time taken or made from or on any Part of the said Lands for which any annual Rent or other Money, Payment, or Acknowledgment shall have been assessed or made within Twenty Years next before the passing of this Act, shall be deemed Part and Parcel of the Lands by this Act directed to be divided and allotted; and in case any Dispute shall arise touching any such Encroachments or Inclosures, or the Extent or Duration thereof, such Dispute shall be settled and determined by the said Commissioner.

Commis-
sioner to
direct the
Course of
Husbandry.

XXVI. And be it further enacted, That the said Commissioner shall so soon after the passing of this Act as conveniently may be, and from Time to Time as he shall think fit, by Writing under his Hand to be
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affixed

affixed on one of the outer Doors of the Parish Church of *Duntsborne Rouse* aforesaid, order and direct what Course of Husbandry, and what Stint or Rule of stocking and enjoying, shall be respectively observed and used in, over, and upon the Lands to be divided and inclosed by virtue of this Act, until such Time as he shall have completed the said Division and Inclosure, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking and feeding the Commonable Lands and Fallows or Stubbles upon the said Lands or Grounds, and to make such Recompence for the same as he shall think right; and shall and may make such further Orders and Regulations touching the Conduct of the Farmers and Occupiers within the said Parish of *Duntsborne Rouse*, for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking any of the said Lands or Grounds to be divided and inclosed, until the said Division and Inclosure shall be completed, as to the said Commissioner shall seem proper and expedient; all which Orders and Regulations shall be binding and conclusive upon all Parties interested, their Farmers and Tenants; and the said Commissioner shall and may set and impose such pecuniary Penalties and Forfeitures on every Person not conforming to such Orders and Regulations 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 and may settle, adjudge, and determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the Lands in his Occupation, by whom such Tenant shall be compensated for any such Manure left or given up by him; and such Penalties, Forfeitures, and other Sum and Sums of Money so to be settled, ordered, adjudged, and determined to be paid for or on account of the several Matters and Things aforesaid, shall be recovered and recoverable in the Manner directed in and by the said first-recited Act with respect to the levying and Recovery of Penalties.

XXVII. And be it further enacted, That the said Commissioner shall and he is hereby authorized, by Writing under his Hand, to ascertain, order, and appoint what Recompence or Satisfaction in Money shall be made to the Owner or Owners of any Crops growing upon the Lands or Grounds hereby directed to be divided, allotted, and inclosed, at the Time such Division and Allotment shall be made, for the said Crops by the Person or Persons to whom the Lands and Grounds on which such Crops are growing shall be allotted, unless such Owner or Owners shall, within the Time to be appointed by the said Commissioner for that Purpose, declare his, her, or their Intention to cut, reap, and carry away the same; and in case of Nonpayment of such Recompence and Satisfaction for such Crops at the Time and in manner to be directed by the said Commissioner, or in case of such Election to cut, reap, and take away the same, then it shall be lawful for such Owner or Owners, and his, her, or their Servants and Workmen, with Horses, Carts, and Carriages, to enter into and upon the Lands and Grounds whereon such Crops shall be growing, and reap, cut, and carry away the same for his, her, or their own Use; and the said Commissioner shall also and he is hereby empowered, by any Writing or Writings under his Hand, to ascertain, order, and appoint what Recompence and Satisfaction in Money shall be paid, and to whom, for the Standage of such Crops by the Owner or Owners electing

Satisfaction
to be made
for growing
Crops.

electing to carry away the same as aforesaid, and also what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Tenants or Occupier or Occupiers of any Land, as well for ploughing, tilling, and manuring any of the Lands and Grounds which shall be divided and allotted by virtue of this Act, for the Benefit and Advantage accruing thereby to the Person or Persons to whom such Lands and Grounds shall be allotted, as for any Loss or Disadvantage which any Tenant or Tenants, Occupier or Occupiers, shall or may sustain by the Loss of their fallowing or way-going Crops upon the Lands or Grounds by this Act directed to be divided and allotted; and if in any of the said Cases the Money to be paid for such Recompence and Satisfaction shall not be paid at the Time and in the Manner to be appointed as aforesaid by the said Commissioner, it shall be lawful for the said Commissioner, and he is hereby authorized and required, to raise and levy the same, for the Use of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are herein directed to be raised, levied, and recovered.

Allotments
for the Use of
the Poor.

XXVIII. And be it further enacted, That the Part of an Inclosure within the said Parish of *Duntsborne Rouse* called *Great Ground*, containing by Admeasurement Two Acres and Twenty Perches, and also a Parcel of Land situate in the Common Field in the said Parish called *Church Furlong*, containing by Admeasurement One Acre One Rood and Nine Perches, and commonly known as the "Church Land," shall from the passing of this Act be and it is hereby vested in the Rector and Churchwardens of the Parish of *Duntsborne Rouse* aforesaid, and their Successors for ever, as Trustees thereof, and the said Trustees are hereby empowered from Time to Time to set or let all or any Part or Parts of the said Land to the poor Inhabitants of the said Parish, not exceeding Two Roods to each poor Inhabitant, as Tenants at Will, or to set or let the same or any Part thereof to any other Person or Persons as Tenant or Tenants at Will, at such Rent or Rents and under such Stipulations and Restrictions as they the said Trustees shall think proper; and the Rents and Profits arising from the said Parcel of Land shall from Time to Time be applied towards the Repairs of the Parish Church of *Duntsborne Rouse* aforesaid in such Manner as the Rents and Profits of the said Land have been heretofore paid and applied.

Lands liable
to be allotted.

XXIX. And be it further enacted, That all Open Fields, Meadows, and Pastures, where the Whole or greater Part of the Lands lie within the said Parish of *Duntsborne Rouse*, and all Inclosures containing the Property of Two or more Persons within One Fence, and also all Inclosures containing the Property of One Person only, if the same be held by or under different Tenures, Terms, Estates, or Interests, and all old inclosed Lands and Grounds which are surrounded by Open Field Land and thereby placed in an insulated Situation, and all ancient Messuages, Homesteads, and old inclosed Lands, with Consent of Proprietors or Parties interested therein, according to the Provision in that Behalf herein-after contained, shall be deemed Part of the Land to be divided and allotted under this Act: Provided always, that any Allotment set out in respect of any Part of the said Open Fields which shall be situate in any adjoining Parish shall be set out contiguous to such adjoining Parish, and shall for ever thereafter be deemed and taken as Parcel of such Parish; and all Homesteads,
Gardens,

Gården, Orchards, old Inclosures, and other Lands and Grounds within the said Parish of *Duntsborne Rouse*, or in any adjoining Parish, with the Consent in Writing of the respective Persons seised or in the actual Possession and Receipt of the Rents and Profits thereof, according to and in compliance with the Provision in that Behalf herein-after contained, shall in like Manner be deemed and considered to be Land to be divided and allotted under this Act.

XXX. And be it further enacted, That the said Commissioner shall and he is hereby required, before any other Allotment or Allotments shall be made in pursuance of this Act, to set out and allot such convenient Plot or Plots, Part of the Lands or Grounds hereby intended to be divided, allotted, and inclosed, as he shall think fit, for public Gravel Pits and for Stone Quarries for the Purpose of furnishing Materials for making and repairing the public Roads and Ways in and over the Lands and Grounds hereby intended to be divided, allotted, and inclosed; and elsewhere in the said Parish, and for repairing the Footways in the said Parish, which Plot or Plots of Ground so to be set out shall be separated, inclosed, and kept fenced in such Manner and by such Person or Persons, and shall be used under such Regulations and Restrictions, as the said Commissioner shall by his Award order and direct; and the said Plot or Plots of Ground so to be set out shall be and the same is and are hereby vested in the Surveyor or Surveyors of the Highways for the Time being of the said Parish for ever, in Trust for the Uses aforesaid, and such Surveyor or Surveyors shall and may let the same or any Part thereof from Time to Time (subject to such digging of Materials for the Reparations of the said Roads and Ways) for the best Rent or Rents that can be obtained for the same, and apply the Rents and Profits thereof in repairing the Highways of the said Parish.

Lands to be set out for Gravel Pits and Quarries.

XXXI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, in the next place, to set out and allot unto and for the said President and Scholars, as Lords of the Manor of *Duntsborne Rouse* aforesaid, in lieu of and as Compensation for their Right of Soil and all other Rights and Privileges which they as Lords of the Manor aforesaid now have or might or of right ought to have had therein in case this Act had not been passed, so much and such Part or Parts of the said Lands hereby authorized to be divided and inclosed as in the Judgment of the said Commissioner shall be a fair Equivalent for such Rights and Privileges.

Allotment to the Lords of the Manor in compensation for Right of Soil.

XXXII. And be it further enacted, That the said Commissioner shall and he is hereby required, in the next place, to set out and allot unto and for the said Rector such Parcels of the Lands and Grounds hereby directed to be divided and inclosed, as in the Judgment of the said Commissioner shall be a full Equivalent and Compensation for the Glebe Lands and Rights of Common respectively belonging to the said Rector.

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

XXXIII. And be it further enacted, That the said Commissioner shall and he is hereby required, in the next place, to set out and allot unto and for the said Rector and his Successors for the Time being, for and in lieu and satisfaction of and for the several and respective Great and Small Tithes yearly arising, issuing, and renewing out of all and every the said

Allotments for Tithes.

[Private.]

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Lands

Lands and Grounds within the said Parish of *Duntsborne Rouse* hereby directed to be divided and inclosed; and out of the Homesteads, Gardens, Orchards; and other ancient Inclosures, Lands, and Grounds held in Severalty within the same Parish which are subject to Tithes, such Plot or Plots, Parcel or Parcels of the said Lands hereby directed to be divided and inclosed; and of the Homesteads, Buildings, and other ancient inclosed Lands which may become allottable by Consent as herein-after mentioned; as shall in the Judgment of the said Commissioner be equal to One Fifth Part in Value of all Arable Lands and Grounds, and to One Ninth Part in Value of all Meadows, Pastures; and other Lands and Grounds subject to the Payment of Tithes in Kind within the said Parish, after deducting the Lands or Grounds to be set out for Roads, and the Allotment herein-before directed to be set out for getting Gravel and other Materials for the Repair of Roads and Ways, subject to the Provision for the Commutation of the Tithes by a Corn Rent in certain Cases herein-after contained; which said Plot or Plots, Parcel or Parcels of Land shall be taken and deducted from and out of the said Lands liable to be allotted and inclosed under the Provision in that Behalf herein-before contained, and shall be in full Satisfaction and Discharge of and for the several Great and Small Tithes arising, issuing, and renewing from and out of the said Lands hereby directed to be divided and inclosed, and the said Homesteads, Gardens, Orchards, and other ancient Inclosures, Lands, or Grounds held in Severalty, in the said Parish of *Duntsborne Rouse*.

Further Allotment and Compensation by a Corn Rent in lieu of Great and Small Tithes.

XXXIV. Provided nevertheless, and be it further enacted, That in case, as well the Lands liable to be allotted by virtue of this Act, as such of the Messuages, Homesteads, and old inclosed Lands which may by Consent of the Proprietors or Parties interested in the same be subjected to the Control and Allotment of the said Commissioner, shall, by reason of their Quality or Situation, be insufficient or too widely scattered to enable the said Commissioner to set out for the Rector of the said Parish of *Duntsborne Rouse* such a Farm or Farms as would in the Judgment of the said Commissioner afford a suitable and proper Compensation to the said Rector in lieu of the Great and Small Tithes arising, issuing, and renewing out of and from the Open Common Field Lands, and all the ancient Messuages, Cottages, and old inclosed Lands in the said Parish of *Duntsborne Rouse*, it shall be lawful for the said Commissioner and he is hereby required to set out, allot, and award to the said Rector such Plots and Parcels of the said Lands to be divided, allotted, and inclosed, and also such of the Messuages, Homesteads, and old inclosed Lands which may be subjected to his Allotment and Control, as may be suitable and convenient for the Purpose, in compensation and satisfaction for the said Great and Small Tithes so far as the same will extend, having due Regard to the convenient Occupation thereof; and that it shall be lawful for the said Commissioner and he is hereby authorized and required, in respect of such of the said ancient Messuages, Cottages, and old inclosed Lands, and of the said Open Common Field Lands, in the said Parish of *Duntsborne Rouse*, subject to Great and Small Tithes, for the Exoneration of which in his Judgment no suitable or convenient Compensation in Land can be allotted, to 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 last-mentioned Messuages, Cottages, and old inclosed and Open Common Field Lands for which no suitable or convenient

venient Compensation in Land can be made as aforesaid; and the said Commissioner shall and he is hereby required, in the next place, by and from *The Gloucester Journal*, or by such other Ways and Means as he shall think equitable and proper, to ascertain what has been the average Price of a Bushel (Imperial Measure) of good marketable Wheat in *Cirencester* Market for the Period of Seven Years next before the passing of this Act, and shall in and by his Award, or by some previous Writing under his Hand to be annexed thereto, ascertain and distinctly set forth how many Bushels of such Wheat will in his Judgment be equal to the annual Value of the said Great and Small Tithes; and after such Valuation and Ascertainment, the said Commissioner shall and he is hereby required to determine what Sum of Money will be equivalent to the Value of the Quantity of Wheat so ascertained by him as aforesaid, and such Sum of Money shall be charged by the said Commissioner upon all such ancient Messuages, Cottages, and old inclosed Lands, and upon the said Open and Common Field Allotments to be set out or sold by virtue of this Act, for which no Compensation in Land shall have been made as aforesaid, and apportioned by the said Commissioner between and amongst all and every the Proprietors thereof in such Manner as the said Commissioner shall think just and equitable; and such Sum of Money when so charged and apportioned shall be issuing out of the several ancient Messuages and Cottages and old inclosed Lands, and the several new Allotments to be set out, allotted, or sold by virtue of this Act, which shall be charged therewith by the said Commissioner, and shall be paid and payable by the Person or Persons who for the Time being shall be in the Occupation thereof respectively to the said Rector of *Duntsborne Rouse* for ever, (unless the same shall be altered by the Ways and Means herein-after mentioned and provided) by Two equal half-yearly Payments, (that is to say,) on the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September* in each and every Year, the first Payment whereof shall be made on such of the said half-yearly Days as the said Commissioner shall by such Award, or by such previous Writing under his Hand as aforesaid, direct or appoint; and the said several Rents or apportioned Sums of Money 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, and other Payments in lieu of the same, 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 or sold and allotted as aforesaid, for the Great and Small Tithes of which no Compensation in Land shall have been given or made pursuant to the Provision in that Behalf herein-before contained; and from and after the Apportionment of the said Corn Rent, as herein-before provided, or at such other Time as the said Commissioner shall by Writing under his Hand fix and appoint, all and all Manner of Great and Small Tithes, and other Payments in lieu of the same, shall cease, determine, and be for ever extinguished as to the Lands, Hereditaments, and Premises on which such Corn Rents shall have been assessed, but in the meantime the said Rector for the Time being shall be entitled to such Tithes as he would have been entitled to if this Act had not been passed.

XXXV. Provided always, and be it further enacted, That it shall and may be lawful to and for the said Rector for the Time being of the said

Providing
for re-ascertaining of
Corn Rent.
Parish

Parish of *Duntsborne Rouse*, or the Owner or Owners of the Lands and Estates out of which the said several Rents or Sums of Money so to be ascertained as aforesaid are to issue, or the greatest Part in Value of such Owners or Proprietors, by Writing under their respective Hands, to apply at the first Quarter Sessions of the Peace to be holden in and for the said County of *Gloucester* next after the Twenty-fifth Day of *March* after the Expiration of Seven Years, commencing from the Day on which the first Payment of the said Corn Rent shall become due, (Notice of such intended Application being first given by affixing the same on the principal outer Door of the Church of *Duntsborne Rouse* aforesaid, Two *Sundays* immediately before Divine Service in the Month of *February* next preceding such Application,) to have Three Persons named or appointed by the Justices then and there assembled to be Referees for the Purpose of ascertaining, by means of *The Gloucester Journal*, or by such other Ways and Means as they shall think equitable and proper, the average Price of an Imperial Bushel of good marketable Wheat in *Cirencester* Market for the Seven Years then last past; and the said Justices shall and they are hereby required to appoint Three Persons, not interested in the said Payments, as Referees; and such Three Referees, or any Two of them, shall and they are hereby required to ascertain, by the Means aforesaid, the average Price of an Imperial Bushel of good marketable Wheat in *Cirencester* Market for the Seven Years then last past, and after such Ascertainment shall make and deliver a Report stating such average Price to the Court of Quarter Sessions to be holden in and for the said County of *Gloucester* then next ensuing; and in case it shall by such Report appear that such average Price of a Bushel of such Wheat is more or less than the average Price thereof set forth in the said Award or such previous Writing as aforesaid by the Value of Three-pence, then such Sums of Money shall be increased or diminished in such Proportion as shall be declared by Order of the said Court, and which Order such Court is hereby authorized and empowered to make; and the same shall, from the quarterly Day of Payment preceding such Order, continue issuing and payable as aforesaid out of the respective Lands and Estates within the said Parish of *Duntsborne Rouse* charged therewith by the said Award or such previous Writing as aforesaid, until such Sum of Money shall be again altered by any subsequent Order of the said Quarter Sessions made upon such Application and in such Manner as herein-before mentioned, and so from Time to Time at the End of Seven Years to be computed as aforesaid for ever; and the Parties are hereby respectively authorized to make such further Application from Time to Time after the Expiration of every Term of Seven Years, to be computed as aforesaid for ever, in such and the like Manner and Form as herein-before mentioned and directed with respect to the said first Application; and the Costs, Charges, and Expences of every such Application to the Court of Quarter Sessions, and of altering and re-ascertaining such several yearly Rents or Sums as aforesaid, shall be defrayed by the Person or Persons who shall give such Notice as aforesaid; provided that if no such Application is or shall be made at the first Quarter Sessions of the Peace respectively next after the Twenty-fifth Day of *March* after the Expiration of any such Term of Years, to be computed as aforesaid, then it shall not be lawful to make such Application till the End of Seven Years then next following, to be computed as aforesaid, and so from Time to Time as the Case may happen at the Expiration of every Term of Seven Years, to be computed as aforesaid;

aforesaid; and the last Order so made by and at any such Quarter Sessions of the Peace shall be binding and conclusive upon all Parties interested therein, and continue in force until a further or other Order in that Behalf is made by such Quarter Sessions,

XXXVI. And for facilitating the Apportionment of the said several yearly Rents or Sums, be it further enacted, That the said Commissioner shall in a Schedule to his Award describe and specify the several Lands and Estates which by his said Award shall be charged with such yearly Rents or Sums, the Quantity thereof in Statute Measure, the yearly Rents or Sums charged thereupon, the Rate by the Acre or otherwise by which the same shall be charged, with the said yearly Rents or Sums, and such other Particulars as the said Commissioner shall judge proper for facilitating the Apportionment of the said yearly Rents or Sums, and the Recovery thereof; and it shall be lawful for the respective Owners for the Time being of any such Lands and Estates charged with the said yearly Rents or Sums, or any of them, or any Part or Parts thereof respectively, and the Rector of the said Parish of *Duntsborne Rouse* for the Time being entitled to such yearly Rents or Sums, 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 Rents or Sums, 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 Rents or Sums as aforesaid; and after every such Apportionment the yearly Rents or Sums so apportioned shall be payable in 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 inrolled with the Award of the said Commissioner.

For apportioning the Corn Rent.

XXXVII. And be it further enacted, That the said Rector of the said Parish of *Duntsborne Rouse* and his Successors shall and may have and exercise such and the same Powers and Remedies for recovering the said yearly Rents or Sums of Money 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.

XXXVIII. Provided always, and be it further enacted, That the said Commissioner, in valuing and ascertaining the Value of the Tithes in the said Parish of *Duntsborne Rouse*, shall not in any Case deem and consider as Meadow or Pasture Lands any Lands or Grounds which shall have been in Tillage at any Time within the Space of Seven Years immediately preceding the passing of this Act.

What shall be deemed Arable Land.

XXXIX. Provided always, and be it further enacted, That until the said Allotments for and in lieu of Tithes shall be made and set out, and Possession taken, and until the Period from whence the Corn Rents (if any) shall become payable in pursuance of this Act, or until such Time as the said Commissioner shall appoint by Writing under his Hand, such

Tithes to be payable until Allotments set out and Possession authorized to be taken.

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Tithes

4° GULIELMI IV. Cap. 4.

Tithes or other Payments and Compositions in lieu of Tithes shall continue to be taken and enjoyed by the same Person or Persons and in such Manner as they would or might have been taken and enjoyed respectively in case this Act had not been passed; and if any Dispute or Difference shall arise between any Persons touching or concerning the Proportion of Tithes, or any other Payments or Compositions in lieu of Tithes, which ought to be rendered or paid for, or in respect of the Time which shall have elapsed between the last Day of rendering such Tithes, or Payments of such Compositions in lieu of Tithes, respectively, and the Time to be appointed by the said Commissioner for the Extinguishment of the Great and Small Tithes arising, growing, and renewing within the said Parish of *Duntsborne Rouse* in pursuance of this Act, the said Commissioner shall and he is hereby authorized and required, on Application to him made for that Purpose, either before or after the Execution of his Award, to hear and finally determine every such Dispute and Difference.

Proprietors not having sufficient Interest in Open Lands to commute the Tithes, may give Part of their inclosed Lands for that Purpose;

XL. Provided always, and be it further enacted, That in case there are any Houses, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds in the said Parish of *Duntsborne Rouse* subject or liable to the Payment of Tithes, either Great or Small, the respective Proprietors whereof or Persons interested therein shall not happen to be entitled to a sufficient Interest in the Lands and Grounds hereby directed to be divided and inclosed to discharge their Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds from the Payment of Tithes as aforesaid, and such Proprietors or Persons interested shall be desirous of having a Part of his, her, or their Houses, Homesteads, inclosed Lands or Grounds, whether situate in the said Parish of *Duntsborne Rouse* or in any adjoining Parish, assigned or set apart to discharge the Remainder from the Payment of Tithes, and also to defray their respective Shares of the Expences of obtaining this Act, and of carrying the same and the said recited Acts into execution, instead of paying the same in Money, it shall be lawful for the said Commissioner and he is hereby authorized and empowered, with the Consent of such Proprietors or Persons interested being in Possession or in the actual Receipt of the Rents and Profits of such inclosed Lands or Grounds, whether such Proprietors or Persons interested shall be Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail, General or Special, or for Years determinable on a Life or Lives, or Tenants holding under the said President and Scholars under any Grant or Lease for Lives or Years, by and with the Consent of the said President and Scholars, (such Consents to be respectively signified in Writing under the Common Seal of such Bodies Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively, at or previously to such Time as shall be appointed by the said Commissioner for receiving such Consents,) to deduct and set out so much and such Part or Parts of such Houses, Homesteads, and old Inclosures as shall be equal in Value to the Tithes, both Great and Small, payable by the Owner or Owners of such inclosed Lands in respect of his, her, or their respective Houses, Homesteads, Gardens, Orchards, and inclosed Lands within the said Parish, or such Part or Parts of them for which Compensation cannot be made as before mentioned, and as shall also be equivalent to the Share or Shares of such Expences as aforesaid payable by such Owner or Owners, which Part or Parts of such inclosed Lands so deducted and

set apart shall be considered as Part of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and shall be divided, allotted, and inclosed accordingly as Part thereof; and such Deductions shall for ever thereafter be deemed, taken, and considered to be a full Satisfaction for and Discharge from the Payment of such Tithes, and for the Share and Shares of the Expences, as an Equivalent for which such Lands shall have been so deducted and set out.

XLI. Provided nevertheless, and be it further enacted, That if the Proprietors of such Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds in the said Parish, subject or liable to the Payment of Tithes, either Great or Small, shall not happen to be entitled to any or to a sufficient Quantity or Share of the Lands and Grounds hereby directed to be divided and inclosed to make Compensation for such Tithes as hereinbefore directed, and shall not have elected to set out any or a sufficient Part of his, her, or their old Inclosures to exonerate the rest from Tithes, and to defray his, her, or their Share of the Expences of passing this Act, and of carrying the same and the said recited Acts into execution, pursuant to the Provision in that Behalf hereinbefore contained, such Proprietors respectively shall, unless a Corn Rent shall have been imposed upon their respective Lands as a Compensation for the Tithes issuing and payable therefrom by the said Commissioner by virtue of the Provisions in that Behalf hereinbefore contained, pay or cause to be paid unto such Person or Persons and at such Time or Times as the said Commissioner shall direct or appoint such Sum or Sums of Money as in the Judgment of the said Commissioner shall be a just and full Compensation and Satisfaction for the Tithes issuing out of such Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds respectively, or such Part of the same for which the Proprietors thereof may not be possessed of Land or Common Right sufficient to make such Compensation as aforesaid, or in respect of which no such Corn Rent shall have been imposed as aforesaid, and also such Sum and Sums of Money as the said Commissioner shall determine to be just and fair for the Proprietors of such old inclosed Lands to contribute towards defraying the Costs, Charges, and Expences of obtaining and passing this Act and carrying the same and the said recited Acts into execution; and in case any Person or Persons shall refuse or neglect to pay such Sum or Sums of Money at the respective Days and Times to be appointed for Payment thereof, it shall be lawful for the said Commissioner, by any Warrant or Warrants under his Hand and Seal, directed to any Person or Persons whomsoever, to cause such Sum or Sums of Money to be levied by Distress and Sale of the Goods and Chattels which may be found on any Part of the Lands to be so exonerated from Tithes, and also of the Person or Persons so making Default in Payment as aforesaid, wheresoever the same shall be found, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, the reasonable Charges of such Warrant, Distress, and Sale being first deducted, together with Interest after the Rate of Five Pounds *per Centum per Annum*, to be computed on such Sum or Sums of Money from the Time the same shall be directed by the said Commissioner to be paid as aforesaid; or otherwise it shall be lawful for the said Commissioner, or any Person or Persons authorized by him, to enter upon and take possession of the Lands or Tenements belonging to the Person or Persons so refusing or neglecting

or may pay a Sum of Money.

Methods of recovering same in case of Nonpayment.

neglecting to pay as aforesaid, and which shall have been discharged from Tithes by virtue of this Act, and to receive and take the Rents and Profits thereof, until thereby or therewith or otherwise such Sum and Sums of Money, and the Costs and Charges so ordered and directed by the said Commissioner to be paid by such Person or Persons as aforesaid, and all Interest on such Sum and Sums of Money, to be computed from the Time the same shall be by the said Commissioner directed to be paid as aforesaid, and also all Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the same Premises, shall be fully paid and satisfied; and all and every such Sums and Sum of Money shall be applied in Payment of such Parts and Proportions of the Expences of obtaining and executing this Act as ought to be paid by the respective Persons whose Lands may be set out for discharging from Tithes such Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds; and in case such last-mentioned Sums and Sum of Money shall be more than sufficient to pay and discharge the said respective Proportions of the Costs, Charges, and Expences of obtaining this Act, and of carrying the same and the said recited Acts into execution, the Residue and Remainder of such Sums and Sum of Money shall be divided amongst and paid to the several Proprietors of the said Lands whose Lands shall have been taken or appropriated for the Purpose of discharging Homesteads, Orchards, Gardens, or inclosed Lands or Grounds from Tithes, in such Proportions as they shall be respectively entitled thereto; and if any of such last-mentioned Proprietors of the said Lands shall not be a Tenant or Tenants in Fee Simple of his, her, or their Estates therein, then such surplus Money shall be applied and disposed of in the same Manner as any Sum of Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses as the Lands so purchased or exchanged, is by this Act authorized or directed to be applied and disposed of.

Power for Persons having limited Interests to charge their Estates with a Compensation for Tithes and Expences.

XLII. And be it further enacted, That it shall and may be lawful for the Husbands, Guardians, Trustees, and Committees or Attornies of such Proprietors, and also of Proprietors to whom Allotments shall be made of Open Common Field Lands, being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability, and for any of the said Proprietors being Tenants in Tail, or for Life or Lives, or for Years determinable on any Life or Lives, or any other Contingency, or holding under the said President and Scholars, whether for Terms of Years or on a Life or Lives, to charge the Lands or Grounds which shall be exonerated from Tithes in consideration of any such Payment in Money as last aforesaid, whether the same shall consist of old Inclosures or new Allotments set out by the said Commissioner, or of both, with such Sum or Sums of Money so to be paid for such Exoneration, and also with the Proportion of the Costs and Expences payable by any such Parties towards passing this Act or carrying the same and the said recited Acts into execution, and to grant, mortgage, surrender, lease, or demise, or otherwise subject the Lands and Grounds so to be charged unto the Person or Persons who shall advance and lend such Sum or Sums of Money respectively, his, her, or their Executors, Administrators, and Assigns,

Assigns, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money so advanced thereby, to be secured, with Interest for the same; or in case any Person or Persons in Possession, who shall or may be liable to or charged with a Share of the Expences as aforesaid, or enabled by this or the said first-recited Act to charge such Lands and Grounds with the same, shall choose to advance, pay, and discharge such Sum and Sums of Money, then it shall be lawful for the said Commissioner, by any Deed or Writing under his Hand and Seal, in like Manner to grant, mortgage, surrender, lease, or demise, or otherwise subject the said Lands, Tenements, and Hereditaments to such Person or Persons respectively paying and discharging the same, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money so advanced, paid, and discharged by him or them, with Interest for the same, to commence on the Termination of his, her, or their Right in the Premises; so that every such Grant, Mortgage, Surrender, Lease, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or reassigned, when such Sum or Sums of Money thereby to be secured shall be fully paid and satisfied, and also with a Covenant to pay and keep down the Interest, so that no Person or Persons afterwards becoming possessed of or entitled unto any such Lands, Tenements, or Hereditaments shall be liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced; and every such Charge, Grant, Mortgage, Surrender, Lease, or Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended.

XLIII. And be it further enacted, That the Allotments herein directed to be made to the said Rector in respect of and in lieu of Tithes shall be respectively inclosed, mounded, and fenced round with such Hedges, Ditches, Mounds, or other Fences as the said Commissioner shall think proper; and the Expences thereof shall be raised and paid in like Manner as the Expences of obtaining this Act, and carrying the same and the said recited Acts into execution, are herein directed to be raised and paid, unless by this Act otherwise directed; and such several Hedges, Ditches, Mounds, and Fences shall for ever thereafter be maintained and supported by and at the Expence of such Person or Persons and in such Manner as the said Commissioner shall in and by his Award direct and appoint.

Allotments to the Rector to be fenced at the general Expence.

XLIV. And whereas, in order to the more convenient Occupation of the Allotment or Allotments to be set out to the Rector of the said Parish as aforesaid, and with a view to render the same of greater Value, it may be necessary that Farm Homesteads, or other Buildings, should be allotted thereto or erected thereon: And whereas the erecting of such Buildings will occasion considerable Expence, and such Buildings will probably be more beneficial to the Successors of the said Rector than to himself: And whereas there are more Farm Homesteads on the Estates of the said President and Scholars in the said Parish of *Duntsborne Rouse* than are required for the beneficial Occupation of such Estates, some of which may be conveniently situated to be held with the Allotments to be set out for the said Rector, be it therefore further enacted, That it shall be lawful for the said Commissioner, by and with the Consent of the said President and Scholars and of the said Rector, to be testified

For allotting or erecting Buildings on the Rector's Allotment.

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by any Writing under the Common Seal of the said President and Scholars, and under the Hand of the said Rector, and by and with the Consent and Approbation in Writing of the Ordinary of the Diocese for the Time being, to assign and allot any One or more of the Farm Homesteads on the Estates of the said President and Scholars to the Rector for the Time being, to be held by him and his Successors for ever with the Allotments to be set out and awarded to him in lieu of Tithes, at a Valuation to be made by the said Commissioner; and in case there shall not be any such Farm Homesteads on the Estates of the said President and Scholars which in the Judgment of the said Commissioner shall be eligible to assign and allot for this Purpose, then it shall be lawful for the said Rector for the Time being and his Successors, by and with the Consent in Writing of the Ordinary of the Diocese for the Time being, to erect such Farm Homesteads, or other Buildings and Conveniences, upon the Allotment or Allotments to be set out and allotted unto the said Rector for the Time being in right of his said Rectory, as may be necessary for the more convenient Occupation thereof, (which Buildings and Conveniences, whether assigned or allotted or to be newly built as aforesaid, the said Rector for the Time being and his Successors is and are hereby required to cause to be insured in a Sum equal to the Value thereof annually in some One or more substantial Office or Offices established for Insurance against Fire,) and in either of the said Cases, by some Deed or Deeds, Writing or Writings, under his or their Hand and Seal or Hands and Seals, and attested by Two or more credible Witnesses, by and with the Consent in Writing of the said Ordinary for the Time being, and of the Patrons of the said Rectory for the Time being, to charge such Allotment or Allotments, and the Buildings and Conveniences to be so assigned and allotted, or which may be erected thereon, or any Part or Parts thereof respectively, as the Case may be, with such Sum or Sums of Money, not exceeding Two Years net Income or Produce of the said Rectory, after deducting all Outgoings, as the said Commissioner shall think necessary for the Purposes of and in order to be applied towards paying and defraying the Value of the Homesteads to be so assigned or allotted as aforesaid, or the Charges and Expences of erecting such new Buildings and Conveniences as aforesaid, as the Case may be, and in applying for and obtaining the Consent of the said Ordinary and President and Scholars, and in exercise of the Powers given to and vested in the said Rector and his Successors by virtue of this Act, which Sum or Sums of Money shall be received by the said Commissioner and be applied and disposed of accordingly; and for securing the Repayment of such Sum or Sums of Money, with Interest for the same, to grant, mortgage, lease, or demise the Allotment or Allotments so as aforesaid to be set out and allotted unto and for the said Rector and his Successors, and the Buildings so to be assigned and allotted or erected thereon, or any Part or Parts thereof respectively, unto such Person or Persons as shall advance and lend the same, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, so that every such Grant, Mortgage, Lease, or Demise be made with a Proviso to cease and be void, or with an express Trust or Condition to be surrendered, when the Sum or Sums of Money thereby secured, with the Interest thereof, shall be respectively fully paid and satisfied; and the Mortgagee or Mortgagees advancing and lending the Money so to be borrowed shall not be obliged to see to the Application or be in anywise answerable

answerable for the Misapplication or Nonapplication of such Monies or any Part thereof; and the said Rector for the Time being and his Successors shall be and he and they is and are hereby required and made liable at the End of every Year after the Advance of the said Monies to pay to the Person or Persons to whom such Grant, Mortgage, Lease, or Demise shall be made, his, her, or their Heirs, Executors, Administrators, or Assigns, One Twentieth Part of the Principal Money so to be borrowed, until the whole thereof shall by such annual Payments be paid off and discharged, and also to pay and keep down the Interest of the said Monies to be borrowed; and it shall be lawful for the Person or Persons who shall advance and lend such Monies, his, her, or their Executors, Administrators, and Assigns, for the more easily recovering the said One Twentieth Part of the said Principal and the whole of the Interest which is required annually to be paid, to have, use, exercise, and take such and the same Powers and Remedies by Entry and Distress upon the Premises so to be charged, mortgaged, and demised, and by Sale of such Distress, as by the Laws now in force are provided for and given to Landlords for Recovery of Rents in arrear: Provided always, that in case any such Entry shall be made in order to distrain for the said Principal and Interest, or any Part thereof, as last aforesaid, the respective Tenants of the said mortgaged Premises on which such Entry shall be made shall and may and they are hereby authorized to pay such Principal and Interest, and the reasonable Costs of such Entry, and deduct the same from the Rent payable by them to the said Rector and his Successors in respect of the said Premises: Provided also, that the Sum or Sums of Money (if any) to be raised and paid for the Purchase, at such Valuation as aforesaid, of any Farm Homestead or other Buildings belonging to the said President and Scholars, shall be paid and applied in the Manner herein-after directed as to Monies to be paid for the Purchase, Exchange, or Enfranchisement of any Lands, Tenements, or Hereditaments, or any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole.

XLV. And be it further enacted, That it shall be lawful for the Rector for the Time being of the Parish of *Duntsborne Rouse* aforesaid, by Indenture or Indentures under his Hand and Seal, with the Consent and Approbation of the Patron or Patrons of the said Rectory for the Time being, such Consent to be had previous to the Execution of such Indenture or Indentures by the other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part or Parts of his Allotment or Allotments to be set out and allotted by virtue of this Act to any Person or Persons whomsoever for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the Date of the Award herein-after directed to be made, so that the Rent or Rents for the same shall be thereby reserved to the Rector for the Time being by quarterly Payments in every Year, and so that there be thereby also reserved and made payable the best and most improved Rent or Rents that can be reasonably had or gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for making or granting such Lease or Demise, and so that no Lessee by any such Lease or Demise be made punishable for Waste by any express Words to be therein contained, and so that there be

Power to
Rector to
lease Allot-
ments.

inserted.

inserted in every such Lease such Power of Re-entry on Nonpayment of the Rent or Rents to be thereby reserved within a reasonable Time to be therein limited after the same shall become due, and so that a Counterpart of such Lease be duly executed by the Lessee or Lessees to whom such Lease shall be so made as aforesaid: Provided always, that whenever any Lease to be so granted 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 in such Case, and so often as the same shall happen, it shall be lawful for the Rector as aforesaid for the Time being, by and with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron or Patrons of the said Rectory, to grant a new Lease of the Land so demised for such Term or Terms of Years as shall at the Time or Times of such Avoidance be then to come and unexpired of the original Term or Terms granted by such original Lease or Leases, subject nevertheless to the Provisoes and Conditions contained in such original Lease or Leases, and then remaining unperformed and capable of having 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.

Allotment of
the Residue.

XLVI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to apportion, divide, set out, and allot the Residue and Remainder of the said Lands and Grounds by this Act directed to be divided and inclosed, after setting out the several Allotments herein-before prescribed, and such Sale Allotments as may be requisite under the Provision herein-after contained for raising the Expences of passing this Act and of carrying the same and the said recited Acts into execution, unto and amongst the several Persons and Bodies Politic, Corporate, or Collegiate, who at the Time of making such Allotments shall be entitled to any Estate, Right, or Interest therein, in such Quantities, Shares, Proportions, and Situations as by the said Commissioner shall be adjudged and determined to be a just and equitable Compensation and Satisfaction for their several and respective Lands, Grounds, Rights of Common, and Interests therein; and the said Allotments shall be fenced in, and the several and respective Mounds and Fences for dividing and inclosing the same shall be made and for ever thereafter maintained and supported in such Manner as the said Commissioner shall in and by his Award order and direct.

Allotment
of old Inclo-
sures, with
Consent of
Proprietors.

XLVII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioner, by and with the Consent in Writing and at the Request of the respective Owners or Proprietors of any Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parish of *Duntsborne Rouse*, or in any adjoining Parish, whether such Owners or Proprietors shall be Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, or under any Grant for a Life or Lives or for any Term of Years from the said President and Scholars, by and with the Consent of the said President and Scholars as to any such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds holden under them as aforesaid, and not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses,
Husbands,

Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid who shall be Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, (such Consent to be respectively testified by Writing under the Common Seal of such Bodies Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively,) to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable Lands, and Part and Parcel of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed; and such Allowance shall be made to the respective Owners or Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation or other beneficial Circumstances thereof, as the said Commissioner shall adjudge to be just and reasonable; and the said Commissioner shall and he is hereby required to set out, allot, and award unto and for the respective Owners or Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, in lieu thereof, so much and such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed as he shall deem reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said first-recited Act mentioned.

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

Power of
Exchange.

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such

such Shares and Proportions, and at such Time, and to such Person or Persons as the said Commissioner shall by any Writing under his Hand order and direct.

Power to sell
Land to pay
Expences.

XLIX. And be it further enacted, That in order to defray the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act, and of carrying the same and the said recited Acts into execution, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioner, Clerk or Clerks, and Surveyor, for their Expences, Time, and Trouble, and the Costs and Charges that the said Commissioner shall be put unto in respect of any Appeal or Appeals against his Decision, or of any Suit or Suits at Law or in Equity that may be instituted by or against such Commissioner in the Execution of this Act or of the said recited Acts, either before or after the Execution of his Award, and all other Costs, Charges, and Expences necessarily incurred in executing the several Powers, Directions, and Authorities given to and vested in the said Commissioner by this or the said recited Acts, and of carrying the same into execution either before or after the Execution of his Award, it shall and may be lawful for the said Commissioner so soon after the passing of this Act as conveniently may be, and from Time to Time as he shall see Occasion, before the Execution of his Award, to sell by public Auction or private Contract such Part or Parts of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, as he shall deem expedient for the Purposes aforesaid, such Sale or Sales to be subject to the Regulations and Directions mentioned in the said firstly-recited Act, and to apply the Money which shall arise by such Sale or Sales in or towards defraying such Costs, Charges, and Expences as aforesaid; and upon the respective Purchaser or Purchasers thereof paying his, her, or their Purchase Money for the same to the said Commissioner, or to such Person or Persons and at such Place and Time as the said Commissioner shall for that Purpose appoint, the said Commissioner shall and he is hereby empowered, by any Deed or Writing under his Hand and Seal, and duly executed by him, to convey the same as Freehold of Inheritance unto the Purchaser or Purchasers thereof, his, her, or their Heirs or Assigns, or otherwise to such Uses, and to, for, and upon such Trusts, Intents, and Purposes, as he, she, or they shall direct or appoint; and every such Conveyance shall be valid and effectual in the Law; and immediately after the Execution of such Deeds the Lands therein described to be granted and conveyed shall become vested in such Purchaser or Purchasers, and his, her, or their respective Heirs and Assigns, or become settled to such Uses and upon and for such Trusts (if any) as shall by such Deed or Instrument or Writing be expressed, declared, or referred to concerning the same.

Application
of surplus
Money.

L. And be it further enacted, That in case any Surplus shall remain of the Money raised by the Sale of Land as aforesaid, after all such Costs, Charges, and Expences as aforesaid shall have been fully paid and satisfied, such surplus Money shall be divided and apportioned between the several Proprietors of and Persons interested in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in proportion to their respective Rights and Interests therein; and the respective Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively; and

and the Shares of all other Persons shall be applied and disposed of in manner directed by this Act in Cases where any Money is to be paid for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses.

LI. And be it further enacted, That in case any Person or Persons interested in the said Division, Allotment, and Inclosure shall be desirous of having the whole of his, her, or their respective Shares and Allotments of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, set out and allotted to him, her, or them, without any Abatement for or in respect of the Sales herein-before directed for the Purposes aforesaid, or shall be desirous of having the Share of the Expences of passing this Act, and of carrying the same and the said recited Acts into execution, raised by way of Mortgage, pursuant to the Provision in that Behalf herein-before contained, and shall by himself, herself, or themselves, or his, her, or their Agent or Agents, signify the same in Writing to the said Commissioner at the Time of delivering in their respective Claims as aforesaid, or within such Time afterwards as shall be limited or prescribed by the said Commissioner, then and in every such Case the said Commissioner (notwithstanding the Provisions for Sale of Land herein-before contained) shall and he is hereby authorized and required, on the Payment by such Proprietors respectively of the several Monies with which he, she, or they shall be charged by the said Commissioner by way of Compensation for Tithes, and in discharge of his, her, or their Share or Shares of the said Expences, on a Day to be named by the said Commissioner in Writing under his Hand, to set out and allot to such Person or Persons respectively all such Shares and Proportions of the said Lands hereby directed to be divided, allotted, and inclosed as he, she, or they respectively would have been entitled to under and by virtue of this Act in case no Provision had been made for Sale of any Part of the same Lands or Grounds, and without any Deduction or Abatement whatsoever on that Account, and in such Case such Person or Persons respectively shall not be charged with any Part of the Expences attending or occasioned by the Sales herein-before directed.

Persons desirous of paying Expences in Money, or of raising same by Mortgage, to be exempt from the Operation of the Power of Sale.

LII. Provided always, and be it further enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the said Commissioner, either before or after the Execution of his Award, that the Money to arise by any Sale or Sales to be made in pursuance of this Act shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Rate or Rates to be made and levied upon the several Persons interested in the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, in such Shares and Proportions, within such Time or Times, and to be paid to such Person or Persons as the said Commissioner shall from Time to Time direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion of any such Rate or Rates within the Time or Times to be respectively appointed as aforesaid, or at any Time after, upon Demand, the same shall and may be levied and recovered.

Deficiency to be made good by Rates.

recovered in the Manner herein-before prescribed for recovering Monies payable by Proprietors of old Inclosures not having Common Field Lands of sufficient Value to exonerate their old Inclosures from Tithes, and for their Share of the Expences of this Act, and of carrying the same into execution.

Monies may be recovered after Execution of the Award.

LIII. Provided always, and be it further enacted and declared, That if at the Time of the Execution of the said Award there shall remain due from any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, any Sum or Sums of Money which shall have been adjudged, ordered, or directed to be paid by virtue of this Act, it shall be lawful for the said Commissioner, and he is hereby authorized and required, to levy and raise the same in like Manner as he might or could have done before the Execution of his Award.

Commissioner may borrow Money, and the Parties lending the same shall be repaid with Interest;

LIV. And be it further enacted, That it shall and may be lawful for the said Commissioner from Time to Time, as he in his Discretion shall think fit, to borrow of any Person or Persons willing to lend the same such Sum or Sums of Money as may be deemed necessary for paying the Expences of applying for and obtaining and executing this Act; and the Person or Persons who shall lend or advance any such Sum or Sums of Money shall be repaid the same out of the Monies which shall be raised or collected in pursuance of this Act, with Interest for the same from the Time of lending or advancing each such Sum respectively as aforesaid.

Commissioners to appoint Time for receiving Applications respecting Allotments.

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

Meetings for objecting to Allotments.

LVI. And be it further enacted, That when and so often as the said Commissioner shall have ascertained the respective Rights and Interests of the said Proprietors in the Lands and Grounds to be divided and allotted by virtue of this Act, and also the respective Shares and Proportions by him proposed to be allotted to such Proprietors respectively in lieu thereof, the said Commissioner shall hold a Meeting at some convenient Time and Place, when and where the Proprietors 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 upon such Inspection be dissatisfied with the proposed Allotments, the said Commissioner shall, at such Time and Place aforesaid, or at some other Time and Place to be appointed by him for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietor or Proprietors against any such Allotment or Allotments, and shall forthwith or so soon after as conveniently may be determine the same, and such Determination shall be binding and conclusive on all Parties interested in such Allotment or Allotments.

Directions for fencing Allotments.

LVII. And be it further enacted, That the several and respective Allotments to be made of the said Lands hereby directed to be divided, allotted, and inclosed within the said Parish of *Duntsborne Rouse*, after the Division

sion thereof, shall within Six Calendar Months, to be computed from the signing and sealing of the Award of the said Commissioner, or within any such shorter Space of Time to be appointed by the said Commissioner, be inclosed; and the Fences thereof composed of Walls or planted with young Quicksets as the said Commissioner may direct; and such Fences as shall be composed of Quicksets, where the same shall adjoin upon any public or private Road or Way, and in such other Place or Places as the said Commissioner shall think fit, shall be guarded with good and substantial Posts and Rails or otherwise, and with such Ditches on either or each Side thereof, as the said Commissioner shall direct and appoint; all which said Fences shall be so built, planted, and guarded as aforesaid by and at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, in such Manner, Shares, and Proportions as the said Commissioner shall in and by his said Award order and direct.

LVIII. And be it further enacted, That no Person or Persons whatsoever shall graze or keep any Sort of Beast or Cattle whatsoever in or upon any of the Roads or Ways which the said Commissioner shall order and direct to be set out, and which shall be fenced by Quicksets on either Side, for the Space of Seven Years next after the making and executing of the Award; and every Owner or Owners of Lands or Grounds within the said Parish of *Duntsborne Rouse*, their and every of their Servants and Labourers, and also all the Peace Officers and Parish Officers of the said Parish of *Duntsborne Rouse* for the Time being, are hereby empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid, as Cattle Damage feasant.

Cattle not to be depastured in the Highways for Seven Years.

LIX. And be it further enacted, That it shall and may be lawful for the said Commissioner to make Partition of any Lands, Tenements, new Allotments, or Hereditaments within the said Parish of *Duntsborne Rouse*, respectively held by any Persons as Co-parceners, Joint Tenants, or Tenants in Common, so as every such Partition be made upon Application from and with the Consent and Approbation of any One or more of the several Proprietors thereof, signified in Writing under his, her, or their Hand or Hands, or under the Hands respectively of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of any of the said several Proprietors who may be under Coverture, Minors, Lunatics, or beyond Seas, or under any other legal Disability or Incapacity to act, and so as every such Partition be specified in the Award of the said 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.

Commissioner may make Partitions.

LX. And be it further enacted, That it shall be lawful for the Owner or Owners of any Lands, Tenements, or Hereditaments of Copyhold or Customary Tenure within and Parcel of the said Manor of *Duntsborne Rouse*, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or in Fee Tail, General or Special, or for a Life or Lives, or holding under any Grant for a Life or Lives from or under the said President and Scholars, and for the Guardians, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who shall happen to be respectively

Power to enfranchise Copyholds.

[Private.]

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Infants,

Infants, Femmes 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, and for Trustees or Feoffees for charitable or other Uses, to contract and agree with the said President and Scholars for the absolute and perpetual Enfranchisement of all or any such Copyhold or Customary Lands, Tenements, or Hereditaments, and all Allotments in respect thereof, and for the Extinguishment of the Heriots, Quit Rents, and all other Rights of the said President and Scholars in, over, and upon the same, for a Compensation, either in Money or Land, as in any such Contract shall be specified, which Contract or Contracts the said President and Scholars are hereby empowered to make and carry into full Effect, any Law or Usage to the contrary notwithstanding.

Provision where the Enfranchisement shall be made for a Compensation in Land;

where made for a Compensation in Money.

LXI. And be it further enacted, That in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Land, the said Commissioner shall and he is hereby required, upon the Application of any of the Parties interested, to set out and allot unto and for the said President and Scholars such Part or Parts of the Lands and Grounds hereby directed to be divided and inclosed, belonging to the Person or Persons contracting for such Enfranchisement and Extinguishment as aforesaid, as shall in the Judgment of the said Commissioner be a full Compensation and Satisfaction for such Enfranchisement and Extinguishment, according to the Terms which shall be agreed upon between the Parties; and in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Money, the said Commissioner shall and he is hereby required, upon the like Application of any of the Parties interested as aforesaid, to ascertain and determine the Amount of such Compensation, according to the Terms which shall be agreed upon between the Parties, and all such Money Payments shall be made to the said Commissioner, whose Receipt shall be an effectual Discharge for the same; and the said Commissioner shall pay such Monies in the Manner herein-after directed with respect to Monies to be paid for the Purchase or Exchange of Hereditaments, or of any Timber or Wood growing thereon; and all such Enfranchisements and Extinguishments when completed shall be specified in the Award of the said Commissioner; and an Entry of every such Enfranchisement and Extinguishment shall be made on the Court Rolls of the said Manor, and a Copy of such Entry, certified by the Steward or Deputy Steward of the said Manor, shall be admitted in all Cases as sufficient Evidence of such Enfranchisement and Extinguishment, and the Contract for the same, and of the Payment of the Consideration or Purchase Money when the same shall have been paid in Money; and when and so soon as such Allotments and Payments shall be respectively made as the Consideration for such Enfranchisements and Extinguishments as aforesaid, the Lands and Hereditaments which shall be so agreed to be enfranchised as aforesaid shall be held in free and common Socage, freed and absolutely acquitted and discharged from all Customary Fines, Heriots, Rents, Fealty, Suit of Court, Amerciaments, Forfeitures, and other Customary Payments, Duties, Services, and Penalties whatsoever, which by or according to the Custom of the said Manor they had or would have been subject to or charged with, or which would otherwise be payable or to be done and performed to the said President and Scholars for or in respect of the same Hereditaments, as Copyhold of the same Manor, if the same

Hereditaments

Hereditaments had not been so enfranchised; and the same Hereditaments shall (subject to any Charge or Mortgage which may be made under the Authority of the said recited Acts or of this Act) go, remain, and be to the same Uses, on the same Trusts, and subject to the same Powers and Limitations (as near as the Difference of the Tenure will admit) as would have been subsisting in such Hereditaments (as Copyhold) if the same had not been so enfranchised as aforesaid.

LXII. And be it further enacted, That it shall be lawful for the respective Husbands, Guardians, Trustees, Feoffees, or Trustees for charitable or other Uses, Committees, and Attornies of the Owner or Owners for the Time being of any such Copyhold Lands, Tenements, or Hereditaments so to be enfranchised as aforesaid; who shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any legal Disability, and for any such Owner or Owners being entitled for a particular or limited Estate only, to mortgage and charge the Lands, Tenements, or Hereditaments to which such Enfranchisement shall relate with the Monies to be paid as the Consideration for such Enfranchisement, and with Interest thereon, in the same Manner as is by this Act provided for enabling Parties having limited Interests to charge Estates with the Amount of Compensation for Tithes.

Incapacitated Persons may borrow Money for such Enfranchisements.

LXIII. And be it further enacted, That, subject to the Power of Enfranchisement herein-before contained, all Lands and Hereditaments which shall be allotted by virtue of this Act or the said recited Acts to any Person or Persons shall be held by such Person or Persons under the same Tenure, Rents, Customs, and Services as the Messuages, Cottages, Lands, and other Hereditaments in respect of which such Allotments shall be respectively made or given were respectively held under or enjoyed by such Person or Persons as aforesaid before the passing of this Act, or would have been held under or enjoyed by in case this Act had not been passed; and the several Lands and Hereditaments which shall be allotted for any Freehold Messuages or Cottages, Lands or Hereditaments, shall be deemed Freehold, and shall be held of the Lord or Lords of the Fee thereof under the same Rents or other Payments as the Freehold Messuages, Cottages, Lands, and Hereditaments for which they were allotted were before that Time held under; and the several Lands and Hereditaments which shall be allotted for Copyhold or Customary Messuages, Cottages, Lands, and Hereditaments shall in like Manner be deemed Copyhold or Customary Lands and Hereditaments, and shall be held of the Lord or Lords of the Fee thereof under the same Rents and by the same Customs and Services as the Copyhold or Customary Messuages, Cottages, Lands, and Hereditaments for which they were so allotted were or ought to have been held under, and shall pass by the like Surrenders as the Copyhold or Customary Messuages, Cottages, Lands, and Hereditaments in respect whereof such Allotments shall be made do now pass by; and that all and every Persons and Person to whom such Copyhold or Customary Lands and Hereditaments shall be allotted as aforesaid may, at any Court which shall be holden for the said Manor of *Duntsborne Rouse* after the Execution of the Award thereof, be admitted Tenant and Tenants to the same, without paying any Fine or other Charge to the Lord or Lords or to the Steward or Stewards of the said Manor (save and except for the Stamp Duties and Parchment requisite

Tenure of Allotments

to

to be used for the Copies of such Admissions respectively, and the Customary Fees to the Stewards of the said Manors respectively); but in case the Person or Persons to whom such Copyhold or Customary Lands and Hereditaments shall be allotted shall die without Admission thereto, then the Customary Fines and other Payments shall be due and payable on the Admission of the Person or Persons entitled to such Copyhold or Customary Lands and Hereditaments; and after every such first Admission as aforesaid the Copyhold or Customary Lands and Hereditaments so to be allotted as aforesaid shall at all Times be held under and subject to the same Tenures, Fines, and other Payments as the present Copyhold or Customary Messuages, Cottages, Lands, and Hereditaments in respect whereof such Lands and Hereditaments were allotted are now held under and are subject to, any Law, Usage, or Custom to the contrary notwithstanding: Provided nevertheless, that all such Parts of the Lands, Grounds, and Hereditaments to be allotted as aforesaid as shall be of Copyhold Tenure, and which shall be sold by the said Commissioner for defraying the Expences of this Act and of carrying the same into execution, and also which shall be allotted to the Rector in compensation for his Tithes, shall be thenceforth held as Freehold, and the same are hereby enfranchised accordingly.

Persons may
sell or mort-
gage their
Estate before
Execution of
the Award.

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

LXV. And

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

Mortgages may be assigned.

LXVI. Provided always, and be it further enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of any Copyhold Lands, Tenements, or Hereditaments, whether by Deed or otherwise, shall be presented and entered on the Court Rolls of the said Manor, 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 or Mortgagees, and his, her, or their Heirs or Assigns respectively, according to the Custom of the said 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 Mortgagees, instead of being demised to such Mortgagee or Mortgagees, and his, her, or their Executors, Administrators, and Assigns, for a Term of Years as mentioned and prescribed in and by the said first-recited Act.

Directions for charging Copyhold Lands with Expences.

LXVII. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall be marked and staked out, and the said Commissioner shall have directed the same to be entered upon by the Persons respectively to or for whom the same shall be intended, all and every Leases and Lease and other Agreements and Agreement at Rack Rent subsisting of all or any Part or Parts of the said Lands hereby directed to be divided and inclosed or to be discharged from Tithes as aforesaid, and of any Right of Common thereon, and of the Messuages or Tenements and Homesteads respectively belonging thereto, for any Term or Terms of Years not exceeding Twenty-one Years, save and 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 cease, determine, and be void as to all such Lands and Rights of Common respectively, but not as to any other Hereditaments comprised therein, such Compensation being paid to or allowed by the respective Landlords

Leases at Rack Rent to be void.

[Private.]

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whose Leases or Agreements shall be so vacated as the said Commissioner shall by Writing under his Hand order and direct in that Behalf; and it shall be lawful for the said Commissioner and he is hereby authorized, by Writing under his Hand, to ascertain, direct, and appoint what Rent, or Share or Proportion of Rent, shall be paid by the several Tenants of the Lands to be inclosed by virtue of this Act, or the Rights of Common thereof in their respective Holdings, to their respective Landlords from the Time of passing this Act until such Lands shall be marked and staked out and be directed to be entered upon as aforesaid, and also to order and direct what Proportion and Amount of the whole Rent reserved upon such Lease or Leases, Agreement or Agreements, shall be paid by such Tenants from the Time of passing this Act to their respective Landlords for the Messuages, Homesteads, or ancient Inclosures comprised in such Lease or Leases, Agreement or Agreements, until the Expiration thereof, and which are not meant or intended to be made void as to such Messuages, Homesteads, or ancient Inclosures; provided that no Lease or Agreement comprising Messuages, Homesteads, or ancient Inclosures only shall be made void by this Act; but it shall be lawful for the said Commissioner and he is hereby empowered to take into consideration the Benefit and Advantage which shall or may accrue to their respective Tenants by reason of such Homesteads and ancient Inclosures being made free from Tithes, and by Writing under his Hand to direct such additional Rent as to the said Commissioner shall seem right and proper to be paid in future in respect thereof; and such Rent shall and may be recovered by such Ways and Means as may by Law be used for the Recovery of Rent in arrear.

Beneficial
Leases not to
be vacated.

LXVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease or Leases from any Body or Bodies Politic, Corporate, or Collegiate, or any Person or Persons, of any Lands, Tenements, or Hereditaments in the said Parish of *Duntsborne Rouse*, 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 under the same Rents and Covenants as are specified in his, her, and their respective Leases from the same Body or Bodies Politic, Corporate, or Collegiate, or other Person or Persons respectively.

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

LXIX. Provided always, and be it further enacted, That nothing in this Act contained shall extend to revoke, annul, make void, alter, vary, or in anywise affect any Grant, Assurance, Limitation of Use or Uses, Declaration of Trust, or any Deed or Will whatsoever (except such Leases and Agreements as are herein-before mentioned), or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Rent, Incumbrance, or other Claim or Demand out of, upon, or affecting any of the Lands or Grounds hereby directed to be divided and allotted, or any of the Messuages, Lands, or Hereditaments which shall be exchanged or parted with in pursuance of this Act, but that as well the Lands allotted and exchanged as the Hereditaments which shall be assigned in partition, or in compensation for any other Estate or Right by virtue of this Act or the said recited Acts, or either of them, shall, immediately after such Allotment, Exchange, Partition, or Assignment, remain and enure, and the several Persons to whom the

the same shall be allotted, assigned, or given in exchange or in partition as aforesaid shall thenceforth stand and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, and Incumbrances in all respects, as the several Lands, Tenements, and Hereditaments in respect whereof such Allotments, Exchanges, Partitions, and Assignments shall have been made should or would have stood severally limited, settled, vested, or subject or liable to or been held by in case the same had not been allotted, exchanged, parted with, or assigned as aforesaid, and this Act had not been passed, save and except such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, and except where any other of the Provisions of this Act are to the contrary, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority hereof or of the said first-recited Act.

LXX. And be it further enacted, That when the Proprietor or Proprietors of Lands or other Hereditaments which shall be inclosed, allotted, or exchanged by virtue of this Act shall hold their said respective Lands or other Hereditaments under different Titles, and for different Estates, and under different Grants, or beneficial Leases, the said Commissioner shall, upon the Request of the said respective Proprietors in Writing under their Hands, ascertain and distinguish the Lands or other Hereditaments held for each of such Estates, and under each of such Titles, Grants, and Leases respectively, and shall accordingly in his Award set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments.

Separate Allotments for Land held under different Titles.

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

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

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ment of the said Commissioner be proper to be made and shall be made under his Direction upon any Lands to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee respectively; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall, with all convenient Speed, be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King

1 G. 4. c. 35. *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward, and shall, when so paid in, there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons, Body or Bodies, who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments belonging to such Person or Persons, Body or Bodies, as the said Court of Exchequer shall authorize to be purchased or redeemed or paid or discharged, or such Part or Parts thereof as shall be necessary; or until the same shall, upon the like Application in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands, Tenements, or Hereditaments stood limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime, and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by Order of the said Court, to the Person or Persons, Body or Bodies, who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

Where less than 200*l.*, and amounting to 20*l.*

LXXII. Provided always, and be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons,

Persons, Body or Bodies, for the Time being entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so purchased or exchanged, and of his, her, or their Guardian or Guardians; Committee or Committees, in case of Infancy, Idiocy, Lunacy, or other Incapacity, with the Approbation of the said Commissioner, to be signified in Writing under his Hand, be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the said Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Person or Persons, Body or Bodies, who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, such Nomination to be approved of by the said 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 thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

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

Where under
20l.

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

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

[*Private.*]

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LXXV. And

Award to be made and deposited.

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

Accounts to be audited.

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

Appeal.

LXXVII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done in pursuance of the said recited Acts or this Act, (other than and except as to the Allotments, and except such Claims, Matters, and Things as are herein-before directed or authorized to be ascertained, settled, tried, or determined by any Issue at Law, or where by any of the Provisions of the said recited Acts or of this Act the Determinations, Acts, or Proceedings

of the said Commissioner are directed to be final or conclusive,) he, she, or they may appeal to any General or Quarter Sessions of the Peace which shall be holden for the said County of *Gloucester* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and to the Party or Parties concerned Ten Days Notice in Writing of such Appeal, and the Matter thereof, except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and balanced as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award with the Clerk of the Peace for the said County of *Gloucester*, on giving to the said Commissioner such Notice as last aforesaid; and the Justices (not interested in the Premises) at the said General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order and award such Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant of Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be moved by Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous and vexatious or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

LXXVIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Persons and Person, Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Right, Title, Estate, 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,) as they, every or any of them could or might have had, held, and enjoyed of, in, to, or out of the said Lands authorized to be divided, allotted, and inclosed, or any Part thereof, in case this Act had not been passed. General Saving.

LXXIX. 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 Judges, Justices, and others. Act to be printed by the King's Printers.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1834.

