



ANNO SEXTO

GULIELMI IV. REGIS.

Cap. 5.

An Act for inclosing Lands in the Parish of *Alveston* in the County of *Gloucester*, and in the Tithing of *Tockington Upper* in the Parish of *Olveston* in the same County. [19th May 1836.]

WHEREAS there are within the Parish of *Alveston* in the County of *Gloucester*, and in the Tithing of *Tockington Upper* in the Parish of *Olveston* in the same County, certain Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands, containing in the whole by Estimation Two hundred and ninety Acres or thereabouts: And whereas *Samuel Peach Peach* Esquire is Lord of the Manor of *Alveston* aforesaid, and *George Alexander Fullerton* Esquire is Lord of the Manor of *Tockington*, within Part of which the said Tithing of *Tockington Upper* is situate: And whereas the said *Samuel Peach Peach*, *George Alexander Fullerton*, *Sir Henry Willoughby* Baronet, and divers other Persons are seised of, entitled to, or interested in the Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively: And whereas an Act was passed in the Forty-first Year of the Reign of 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 Years of the Reign of His late Majesty King *George* the

41G.3.c.109.

[Private.]

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c. 23.

Commis-
sioner ap-
pointed.

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 the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands yield but little Profit, and in their present State are incapable of considerable Improvement, but if the same were divided and allotted among the several Persons and Parties interested therein in proportion to their Rights and Interests, and such Allotments inclosed, the same might be cultivated to much greater Advantage and considerably improved in Value; but the same cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Young Sturge* of the City of *Bristol*, Gentleman, shall be and is hereby appointed the Commissioner for dividing, allotting, and inclosing the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands, and for carrying this Act and the said recited Acts into execution, subject to the Directions, Powers, and Provisions contained in the said recited Acts, except where varied or altered by or repugnant to the Provisions of this Act.

Commis-
sioner to
make a De-
claration.

Form of
Declaration.

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

‘ I *A. B.* do solemnly and sincerely declare, That I will faithfully, im-
‘ partially, and honestly, according to the best of my Skill and Ability,
‘ execute and perform the several Trusts, Powers, and Authorities vested
‘ and reposed in me as a Commissioner by virtue of an Act passed in the
‘ 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 Favour or Affection, Prejudice or Partiality, to any Person
‘ or Persons whomsoever.’

And such Declaration shall be made before any Justice of the Peace acting in and for the said County of *Gloucester*, and shall be in lieu of and in substitution for the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds; and such Declaration, when duly made and subscribed, shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

What shall
be a Refusal
to act by a
Commis-
sioner.

III. And be it further enacted, That if the said Commissioner shall neglect to attend at One of the First Two Meetings appointed to be held for putting this Act in execution, and to qualify himself by making the Declaration in that Behalf prescribed, or if the said Commissioner shall at any Time after having qualified himself as aforesaid absent himself from any Two successive Meetings appointed to be held as aforesaid, he having first known of such Meetings by his Presence at the Appointment thereof, or having Notice thereof in Writing given him or left at his usual Place of Abode under the Hand of the Clerk of the said Commis-
sioner

sioner, and such Commissioner not being prevented by Sickness or other reasonable Cause; or if any Commissioner to be nominated and appointed as aforesaid shall not attend and qualify himself at One of the First Two Meetings after his becoming a Commissioner, or shall, after having qualified himself as aforesaid, wilfully absent himself from any Two successive Meetings, (having first known thereof, or after such Notice and without such Cause as last aforesaid,) every such Absence or Nonattendance shall be deemed and taken to be a Refusal to act.

IV. And be it further enacted, That if the said *Young Sturge*, or any Commissioner to be appointed in his Stead as herein-after mentioned, shall die, or become incapable of acting, or shall refuse or neglect for the Space of Six Calendar Months to act as a Commissioner in the Execution of this Act, it shall be from Time to Time lawful for the major Part in Value, to be ascertained by the current Land Tax Assessments, of the several Proprietors of Lands within the said Parish of *Alveston* and Tithing of *Tockington Upper*, at the Expiration of One Calendar Month next after any such Death, Incapacity, Refusal, or Neglect, or as soon after as conveniently may be, at a public Meeting within the said Parishes of *Alveston* and *Olveston*, or One of them, to be called by any Three or more of the said Proprietors for that Purpose, (of which Meeting and of the Intent thereof Ten Days previous Notice shall be given by affixing such Notice on the principal Door of each of the Parish Churches of *Alveston* and *Olveston* aforesaid, and inserting the same in One of the Newspapers circulating in the County of *Gloucester*;) by Writing under their Hands to appoint a proper Person, not interested in the said Division, Allotment, and Inclosure, to be a Commissioner in the Room of any such Commissioner so dying, or becoming incapable or refusing or neglecting to act as aforesaid; and every Commissioner so to be appointed, after taking the Oath or Affirmation prescribed by the said first-recited Act in that Behalf, shall have the like Powers and Authorities for carrying this Act and the said recited Acts into execution, and shall be subject and liable to the like Rules, Regulations, and Restrictions, as if he had been named Commissioner in and by this Act.

Power of
appointing
new Com-
missioner.

V. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered, to employ such Person as he shall think proper (not interested in the said Inclosure) as a Surveyor or Assistant in making any of the Valuations, Calculations, Surveys, and Allotments necessary or requisite for the Purposes of this Act, and out of the Monies to be raised by virtue of this Act to make such Allowances (not exceeding the Allowance herein-after mentioned) to such Surveyor or Assistant for his Time and Trouble, and travelling and other Expences, in the Execution of this Act, as the said Commissioner shall in his Judgment deem usual and reasonable; provided that nothing in the said recited Acts or this Act contained shall extend to require the said Commissioner to make or cause to be made any Survey, Admeasurement, or Plan of the ancient inclosed Lands or Grounds within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively, but it shall be lawful for the said Commissioner to use for the Purposes of this Act and the said recited Acts the public Surveys, Admeasurements, and Plans of the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively already recently made and in existence, making such

Surveyor and
Surveys.

Deduction

Deduction and Alteration in respect of any Errors that may have been discovered therein, or otherwise, as he shall think just and proper.

Commis-
sioner to ap-
point a Clerk.

VI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to appoint a Clerk to assist him in the Execution of this Act, and from Time to Time to remove such Clerk and appoint another in his Stead as to such Commissioner shall seem meet.

Allowance
to Commis-
sioner and
Clerk.

VII. 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 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 Two 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 Two Years, until the Powers given by this Act to the said Commissioners shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall 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 the Room in which the Meetings shall be held for carrying this Act and the said recited Acts into execution, and the Costs and Expences of drawing and preparing, copying, engrossing, and enrolling the Award of the said Commissioner, and of Advertisements.

Allowance to
Surveyor.

VIII. And be it further enacted, That it shall be lawful for the Commissioner for the Time being to allow the Surveyor for the Time being acting under this Act for his Time and Trouble any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the said Lands, and also any Sum not exceeding Two Pounds and Two Shillings for each and every Day he shall be actually and wholly employed in the Business of the said Division, Allotment, and Inclosure, exclusive of the said Survey, and which said several Allowances shall be in full Satisfaction for the Time, Trouble, and all the travelling and other Expences of such Surveyor in and about the Execution of this Act and the said recited Acts.

Surveyor to
make a De-
claration.

IX. 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 made and subscribed the Declaration following; (that is to say,)

Form of Sur-
veyor's De-
claration.

‘ I *A. B.* do solemnly and sincerely declare, That I will faithfully, im-
‘ partially, 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 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.’

Which

Which Declaration 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 or receive, and the said Declaration so made and subscribed by any such Surveyor shall be annexed to and deposited with the Award of the said Commissioner.

X. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, shall be subject to the like Pains and Penalties to which Persons guilty of wilful and corrupt Perjury are or may be liable. Penalty on making false Declaration.

XI. And be it further enacted, That the said Commissioner shall and he is hereby required to give or cause to be given public Notice by inserting the same once in One of the Newspapers circulated in the County of *Gloucester*, and also by affixing a Copy thereof in Writing on the principal Door of each of the Parish Churches of *Alveston* and *Olveston* aforesaid on some *Sunday* immediately before Divine Service, of the Time and Place of the First and every subsequent Meeting for the Execution of this Act, Seven Days at least before every such Meeting (Meetings by Adjournment only excepted); and the said Commissioner, or in case of his Absence his Clerk, shall and may adjourn any such Meeting from Time to Time as there may be Occasion; provided that all such Meetings shall be held at some convenient Place within one of the said Parishes of *Alveston* and *Olveston*, or within Eight Miles thereof. Meetings, and Notices thereof.

XII. And be it further enacted, That all other Notices requisite or necessary to be given by the said Commissioner in pursuance of this Act or the said recited Acts shall be given by Advertisement in One of the Newspapers circulating in the County of *Gloucester*. Other Notices how to be given.

XIII. And for regulating the Duration of Meetings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that any Meeting of a less Duration than as aforesaid shall be charged as only Half a Day, and the Commissioner and Clerk 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 his Meetings, and at what Hour the said Commissioner and his Clerk were respectively present at any such Meeting, and what Hour they respectively left the same; and such Book shall be signed by the Commissioner at the Termination of each Meeting, and shall be open to the Inspection of any Person or Persons interested in the said Inclosure, his, her, or their Agents or Attornies, during all Meetings 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 always, that it shall not be lawful for the said Commissioner to retain to himself or pay such Clerk 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- Duration of Meetings.

[*Private.*]

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before

before directed to be made to such Commissioner and Clerk 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 Day of the Delivery of the Award to the Clerk of the Peace for the County of *Gloucester* as herein-after mentioned, and in case the Account of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided also, that in case of the Death of the said Commissioner or his said Clerk previous to the Execution of the said Award, the Commissioner for the Time being shall, after the Expiration of the Period allowed for the Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Account to be due to them respectively.

Proprietors
to pay their
own Ex-
pences.

XIV. And be it further enacted, That the Proprietors of Lands within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioner at any of his Meetings to be held for carrying this Act and the said recited Acts into execution.

Proceedings
to be entered
in a Book.

XV. And be it further enacted, That all Orders and Proceedings of the said Commissioner shall be entered in a Book or Books to be provided for that Purpose, and shall be signed by the said Commissioner, and such Orders so signed shall be admitted in Evidence in all Suits or Proceedings concerning any thing done in relation to or in execution of this Act or the said recited Acts by all Judges, Justices, and others.

Commis-
sioner may
settle Dis-
putes, but not
determine
Titles, nor
molest Pos-
session.

XVI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, or intermixed Lands, touching or concerning their respective Rights and Interests in the same, or touching or concerning the Right to the Soil of the said Commons, Commonable Lands, Wastes, and Waste Grounds, or any or either of them, or touching or concerning any Allotment or Allotments to be made in lieu thereof, or touching or concerning any other Matter or Thing relating to the Division, Allotment, or Inclosure to be made by, under, and by virtue of this Act and the said recited Acts, it shall be lawful for the said Commissioner and he is hereby authorized and required to examine into, hear, and determine the same: Provided always, that nothing in this Act contained shall authorize or empower the said Commissioner to determine any Difference or Dispute touching the Title of any Person or Persons to any Messuages, Lands, Tenements, or Hereditaments whatsoever, nor to determine any Rights between any Parties contrary to the Possession of any such Parties (except in Cases of Encroachment as herein-after mentioned); but in case the said Commissioner shall be of opinion against the Right of any Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or shall have been recovered from such Person or Persons by Ejectment or other due Course of Law.

XVII. And

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

Commis-
sioner may
award Costs.

XVIII. And be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioner touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands, then and in every such Case it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with the Determination of the said Commissioner, to cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour any such Determination of the said Commissioner shall have been made, within the Space of Three Calendar Months next after every such Determination of the said Commissioner shall have been notified in Writing to the Party or Parties against whom such Determination shall have been so made, or to his, her, or their known Agent or Attorney, and thereupon the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be dissatisfied with the Determination of the said Commissioner, shall proceed to a Trial at Law of the Matter so determined by the said Commissioner at the next or at the Second Assizes to be held for the said County of *Gloucester* after such Action or Actions shall have been so commenced; and the Defendant or Defendants in such Action shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept One or more Issue or Issues, whereby the Claim or Claims and the Right or Rights thereby insisted on may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced in case the Parties differ about the same; and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person or Persons whomsoever, Body or Bodies Politic, Corporate, or Collegiate, unless the

Parties may
try their
Rights at
Law.

the Court in which such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be given, and final Judgment obtained thereon, the said Commissioner is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined according to the Event of such Trial or Trials: Provided always, that if no such Action at Law shall be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time and in the Manner herein-before for that Purpose mentioned, then the Determination of the said Commissioner shall be binding, final, and conclusive to all Intents and Purposes whatsoever.

Actions not
to abate by
Death of
Parties.

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

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

XX. And be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought (if living), shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk to the said Commissioner with Process for commencing such Action or Actions, in the same Manner as the Party or Parties so dying might have been served therewith if living, and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Suits not
to impede
the Act.

XXI. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching or concerning the Right, Title, or Interest of any Person or Persons in or to any Messuages, Lands, Tenements, or Hereditaments whatsoever for or in respect of which any Right of Common or other Rights or Interests in, over, or upon the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, or intermixed Lands hereby intended to be divided, allotted, and inclosed, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, or hinder the said Commissioner from proceeding in the Execution of the Powers vested in him by this Act or the said recited Acts, but the Division, Allotment, and Inclosure of the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands shall be proceeded in notwithstanding such Suit or

Suits,

Suits, and the Commissioner may award that the Allotment or Allotments in respect of the Hereditaments to which such Suit or Suits shall relate shall follow the Event of such Suit or Suits, and be had and taken by the Person or Persons, Party or Parties, who, upon the Determination of such Suit or Suits, shall become entitled to the same.

XXII. And be it further enacted, That if any Person or Persons interested in the said intended Division, Allotment, and Inclosure shall die before the Execution of the Award of the said Commissioner, or before the said Division, Allotment, and Inclosure shall be completed, the Powers and Authorities hereby given to the said Commissioner shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers given to him by this Act and the said recited Acts in such Manner as he might have done in case such Person or Persons were still living.

Deaths not to impede the Act.

XXIII. And be it further enacted, That the said Commissioner shall, in case he shall think fit, but not otherwise, with all convenient Speed after the passing of this Act, perambulate the Boundaries of the several Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds in the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively intended to be divided, allotted, and inclosed, and cause Notice of his Intention so to do to be inserted in some Newspaper circulated within the said County of *Gloucester* Fourteen Days at least before the Time of such Perambulation, and after the Expiration of the Time to be specified in such Notice he the said Commissioner is hereby authorized and empowered to perambulate, inquire into, and set out, ascertain, fix, and determine the Boundaries of the several Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds in the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively.

Commissioner to perambulate Boundaries of Commons, &c.

XXIV. And whereas a certain Turnpike Road leading from *Iron Acton* to the old and new Passage Ferries in the said County of *Gloucester*, and called the *Aust* and *Latteridge* Division of the *Sodbury* District of Roads, and a certain other Turnpike Road leading from a Place called *Begbrook*, in the Parish of *Winterbourne*, to a Place called *Buckover*, in the Parish of *Thornbury* in the said County, and called the *Old Gloucester Road*, otherwise Part of the *Stapleton* Division of the *Bristol* District of Roads respectively, run through and over certain Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed in the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively for the Space of Three Miles and upwards: And whereas the passing and repassing along such Parts of the said respective Turnpike Roads is very inconsiderable, and is not likely materially to increase, and the Average Width of the said Turnpike Roads respectively between the ancient Inclosures near the said Lands and Grounds is less than Thirty Feet, and there is no Market Town on the Line of either of the said respective Turnpike Roads within Three Miles of the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively; be it therefore further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered, to set out and appoint the said respective Turnpike Roads through and over the Lands and Grounds hereby directed to be divided, allotted, and inclosed, of the Width of Thirty Feet, and no more: Provided always, that

Commissioner, with Consent of Trustees of certain Turnpike Roads, may set out the same 30 Feet wide.

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the said Commissioner, before he shall proceed to set out and appoint the said respective Roads of such Width, shall have obtained the Consent thereto in Writing of Three of the Trustees of the said respective Roads, not interested in the said Division, Allotment, and Inclosure hereby directed to be made.

Power to
stop up
Roads.

XXV. And be it further enacted, That in setting out and appointing the several public and 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 *Alveston* and Tithing of *Tockington Upper* respectively, 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 always, that nothing herein contained shall authorize the diverting or altering of any Turnpike Road leading through the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively, unless the Consent of the Majority of Three Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first had and obtained.

Proceedings
previously to
diverting and
stopping up
Highways.

XXVI. Provided always, and be it further enacted, That before any public Carriage Road, Highway, Bridle Road, or Footway shall be discontinued, stopped up, diverted, or altered by the said Commissioner, the said Commissioner shall cause to be affixed on each End of the said Highway so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footway is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the said Commissioner acting under or by virtue of this Act; and the said Commissioner shall also cause the same Notice to be inserted in One Newspaper published or generally circulated in the said County of *Gloucester* for Four successive Weeks, and shall also cause a like Notice to be affixed on the Door of each of the Parish Churches of *Alveston* and *Olveston* aforesaid on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid the said public Carriage Road, Highway, Bridle Road, or Footway shall be and shall be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject however to such Appeal to the Court of General Quarter Sessions for the County of *Gloucester* as is herein-after mentioned.

Persons who
may think
themselves
aggrieved if
such High-
way should
be ordered to
be stopped

XXVII. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footway should be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the said Commissioner or his Clerk Ten Days

Notice

Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor, on any Hearing of Appeal, to go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

XXVIII. And be it further enacted, That in case of such Appeal the Justices at the said Quarter Sessions shall, for the Purpose of determining whether the public Highway so intended to be discontinued, stopped up, diverted, or altered is wholly unnecessary, or may, beneficially to the Public, be discontinued, altered, or diverted, or whether the said Party appealing would be injured or aggrieved, impanel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Session; and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the public Highway so discontinued, stopped up, diverted, or altered is wholly unnecessary, or may, beneficially to the Public, be discontinued, altered, or diverted, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioner, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up is not unnecessary, or that the Highway so diverted or altered could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved by the said Highway being discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of Quarter Sessions shall allow such Appeal, and shall make an Order for restoring the said Highway so discontinued, stopped up, diverted, or altered, by the Order of the said Commissioner, to its original State; and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party or Parties giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioner, and shall be raised by the said Commissioner in such and the same Manner as he is hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

XXIX. And be it further enacted, That all Inclosures which shall have been at any Time or Times heretofore made upon or from the said Commons, Commonable Lands, Wastes, or Waste Grounds, and which are now held by Lease under the Lord of the said Manors respectively, and all other Inclosures and Encroachments which shall have been made upon or from the said Commons, Commonable Lands, Wastes, or Waste Grounds, for Twenty Years or upwards before the passing of this Act, shall, with the Cottages and Buildings thereon, be deemed, for the Purposes of this Act, to belong to and to be the Property of the Person or Persons possessing, occupying, or receiving Rent for the same in his, her, or their own Right.

XXX. And

up or diverted may appeal.

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

Encroachments leased or held upwards of 20 Years to be deemed the Property of the Possessor.

Other Encroachments.

XXX. And be it further enacted, That all Inclosures or Encroachments which have been made at any Time or Times within Twenty Years next before the passing of this Act upon or from the said Commons, Commonable Lands, Wastes, or Waste Grounds, by any Person or Persons whomsoever, shall be deemed Part of the Commons, Commonable Lands, Wastes, or Waste Grounds to be divided, allotted, and inclosed by virtue of this Act: Provided always, that it shall be lawful for the said Commissioner and he is hereby authorized and empowered, in case he shall think proper, to allot such last-mentioned Inclosures or Encroachments to the Person or Persons possessing, occupying, or receiving Rent for the same, as and for the whole, or as and for Part (as the Case may require) of the Allotment or Allotments to which such Person or Persons may otherwise be deemed entitled by virtue of this Act, in case any such Person or Persons shall be deemed to be so otherwise entitled; and in case the Allotment or Allotments to which such Person or Persons shall be deemed to be so entitled shall not be equal in Value to such his, her, or their Inclosure or Encroachment, or in case such Person or Persons shall not be deemed to be entitled to any Allotment by virtue of this Act, then and in either of such Cases it shall be lawful for the said Commissioner to sell the Whole or any Part of such Inclosures or Encroachments respectively to the Person or Persons so possessing, occupying, or receiving Rent for the same, at such Price or Prices as the same, in the Estimation of the said Commissioner, shall be worth, having Regard to the original State when inclosed and the Value of the Waste Lands adjoining, and without taking into account the Value of any Building or other Improvements made upon any of such Inclosures or Encroachments; and upon such Person or Persons paying such Price or Prices to the said Commissioner at such Time or Times as he shall appoint for that Purpose, and taking his Receipt or Receipts for the same, every such Inclosure or Encroachment, or such Part thereof as shall be so purchased, shall be awarded to such Person or Persons, and shall be held and enjoyed by him, her, or them accordingly; and the said Commissioner shall and he is hereby required to apply such Purchase Money in such and the like Manner as is herein-after directed touching and concerning the Monies to arise by Sale of Land for defraying the Expences of obtaining and passing this Act, and carrying the same and the said recited Acts into execution, as herein-after directed; and in case any Dispute or Difference whatsoever shall arise touching any such Inclosure or Encroachment, or the Extent thereof, such Dispute or Difference shall be investigated and determined by the said Commissioner.

Encroachments from Common Meadows.

XXXI. And be it further enacted, That all Inclosures or Encroachments made from or out of any of the Common Meadows by this Act directed to be divided, allotted, and inclosed within Twenty Years next before the passing of this Act shall be deemed and taken to be Part of the said Common Meadows, and be divided and allotted accordingly.

Respecting Buildings on Encroachments made within 20 Years.

XXXII. And be it further enacted, That no new Cottage, Messuage, or other Erection or Building shall at any Time hereafter be erected or built upon any of the Inclosures or Encroachments which shall have been made upon or from any of the said Commons, Commonable Lands, Wastes, or Waste Grounds, at any Time or Times within Twenty Years next before the passing of this Act; and if any such Cottage, Messuage,

or

or other Erection or Building shall be so erected or built, or be begun to be erected or built, or be in Progress of Erection or building, contrary to the true Intent and Meaning of this Act, it shall and may be lawful for any Two or more Freeholders of the said Parish of *Alveston* or Tithing of *Tockington Upper* respectively, with or without Workmen or other Assistants, at the Expiration of Ten clear Days next after Notice in Writing, signed by any Two or more Freeholders of the said Parish of *Alveston* or Tithing of *Tockington Upper* respectively, shall have been delivered to the Person or Persons making or erecting, or causing to be made or erected, such Cottage, Messuage, or other Erection or Building, requiring him, her, or them to take down and remove the same, to enter upon any such Encroachments, and to pull down any such new Cottage, Messuage, or other Erection or Building, or such Part thereof as shall be erected and built, and to dispose of the Materials thereof to and for their own proper Use and Benefit, without being liable to any Action, Suit, or other Proceeding, Claim or Demand whatsoever, on account thereof, or for or concerning the same: Provided always, that where any or either of such last-mentioned Inclosures or Encroachments, or any Part thereof shall be allotted to any Person or Persons whomsoever interested in or entitled to any Rights of Common in the said Commons, Commonable Lands, Wastes, or Waste Grounds to be inclosed by virtue of this Act, it shall and may be lawful to and for such Person or Persons, his, her, and their Heirs and Assigns, to erect and build any Messuages, Cottages, or other Erections or Buildings thereon at his and their free Will and Pleasure, any thing herein-before contained to the contrary thereof notwithstanding.

XXXIII. And be it further enacted, That the said Commissioner shall and he is hereby required to set out and appoint, in such Situation or Situations within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively as he shall judge most convenient and think fit, One or more Piece or Pieces of Ground, not exceeding in the whole, in the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively, Two Acres, as and for public Stone Quarries, for the Purpose of digging and getting Stone and Gravel for the making or forming and repairing the Highways and Roads, public and private, to be set out and appointed and continued upon, through, and over the said Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds hereby directed to be divided, allotted, and inclosed, and for the Purpose of repairing all other public and private Highways or Roads within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively.

Allotments
for Stone
Quarries.

XXXIV. And be it further enacted, That the said Commissioner shall mark and set out and allot such Parts and Parcels of the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands as he shall judge sufficient in Value to defray the Costs, Charges, and Expences attending the applying for and obtaining and passing this Act, and carrying the same and the said recited Acts into effect, and of surveying, measuring, planning, valuing, dividing, and allotting the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands, and of preparing and depositing his Award, and all other the Costs, Charges, and Expences arising and accruing in the course of carrying the Powers in this Act and

Allotments
to be set out
for Sale to
pay Ex-
pences of
Act.

[Private.]

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the

the said recited Acts contained into full and complete Execution and Effect, and shall from Time to Time sell such Allotments in the Manner and subject to the Regulations mentioned and contained in the said first-recited Act; and the said Commissioner shall, on Payment of the Purchase Money for such Allotments so to be sold for the Purposes aforesaid, and he is hereby authorized and empowered, by Indenture or Indentures under his Hand and Seal duly executed and attested, (such Conveyance or Conveyances to be prepared at the Expence of the Purchaser or Purchasers), to convey, assure, and confirm, by way of Lease and Release, or by Deed of Feoffment, the same Allotments unto or to the Use of the Purchaser or Purchasers thereof, his, her, or their Heirs and Assigns for ever, or unto such Person or Persons, and to and for such Uses, Ends, Intents, and Purposes, and upon and for such Trusts, as such Purchaser or Purchasers shall by any such Deeds of Lease and Release, or Deed of Feoffment, direct or appoint; and every such Conveyance shall be valid and effectual in the Law, according to the Form and Effect of such Conveyance or Conveyances, any thing in the said first-recited Act to the contrary notwithstanding; and the Money arising by such Sale or Sales shall be applied by the said Commissioner for the Purposes above mentioned; and in case any Surplus shall remain after Payment of all such Costs, Charges, and Expences as aforesaid, then and in such Case such Surplus Money shall be divided and apportioned between the several Proprietors and Persons interested in the Lands hereby directed to be divided, allotted, and inclosed, in such Shares as shall be in proportion to their respective Rights and Interests therein; and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of all others of such Proprietors and Persons shall be paid, applied, and disposed of in manner directed by this Act in Cases where any Money to be paid for the Purchase or Exchange of Land is directed to be paid into the Bank of *England*, and to be laid out in the Purchase or Exchange of other Lands, Tenements, or Hereditaments, to be settled to the same Uses.

Surplus.

Deficiency
how to be
raised.

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

XXXVI. And

XXXVI. And be it further enacted, That the said Commissioner shall and he is hereby empowered to apportion the Costs, Charges, and Expences of and attending the obtaining and passing of this Act, and carrying of the same and the said recited Acts into execution, between and amongst the several Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands respectively, not only according to the Extent and Value thereof respectively, but also in proportion to the Benefit and Advantage which such Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands respectively shall or may derive or receive by or from the passing of this Act, or the Division, Allotment, and Inclosure hereby directed to be made.

Power to Commissioner to apportion Expences according to the Benefit derived.

XXXVII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out and allot to such Person or Persons as is or are or shall be entitled to the Soil of the said Commons, Commonable Lands, Wastes, and Waste Grounds respectively, (except certain Commons or Commonable Lands, situate in the said Parish of *Alveston* respectively, called *Earthcott Green*, *Duckman's Lane*, the *Old Abbey*, and *Dodmoor*,) One Eighteenth Part in Value of the whole of the said Commons, Commonable Lands, Wastes, and Waste Grounds, (except as aforesaid, after deducting Roads only,) which shall be a full Compensation for his, her, or their Right or Rights to the Soil of the said Commons, Commonable Lands, Wastes, and Waste Grounds (except as aforesaid) respectively; and the said Commissioner shall and he is hereby authorized and required to set out and allot to such Person or Persons (if any) as is or are or shall be entitled to the Soil of the said Commons or Commonable Lands called *Earthcott Green*, *Duckman's Lane*, the *Old Abbey*, and *Dodmoor* respectively, One Twenty-fourth Part in Value of the whole of the said Commons or Commonable Lands called *Earthcott Green*, *Duckman's Lane*, the *Old Abbey*, and *Dodmoor* respectively (after deducting Roads only), which shall be a full Compensation for his, her, or their Right or Rights to the Soil of the said last-mentioned Commons and Commonable Lands respectively.

Allotment for Right of Soil.

XXXVIII. And be it further enacted, That the said Commissioner shall set out, allot, and award so much and such Part of the Commons, Commonable Lands, Wastes, and Waste Grounds within the said Tithing of *Tockington Upper* as is situate upon and Part of or adjoining to a certain Common called *Old Down*, (except such Part thereof as the said Commissioner may think proper to allot for a Stone Quarry, as herein-before mentioned, and also except an Allotment thereof, not exceeding One Acre, to be made to the said *George Alexander Fullerton*, adjoining the Messuage there, now in the Occupation of *Robert Fry*, in part of the Rights and Interests of the said *George Alexander Fullerton* in the said Commons, Commonable Lands, Wastes, and Waste Grounds within the said Tithing of *Tockington Upper*,) unto *Samuel Peach Peach* Esquire, for and in lieu of the Rights and Interests of the said *Samuel Peach Peach* in the Commons, Commonable Lands, Wastes, and Waste Grounds within the said Tithing of *Tockington Upper*, in respect of his Mansion House and Estate there, or so far as the same shall, in the Judgment of the said Commissioner, extend: Provided always, that in case the said Commons, Commonable Lands, Wastes, and Waste Grounds so to be

Allotment of Waste on Old Down.

set

set out, allotted, and awarded to the said *Samuel Peach Peach* shall, in the Judgment of the said Commissioner, amount to more than an Equivalent for such Rights and Interests of the said *Samuel Peach Peach*, then and in such Case the said *Samuel Peach Peach* shall pay to the said Commissioner such Sum of Money as the Price or Consideration for the Overplus thereof, and at such Time or Times as the said Commissioner shall by Writing under his Hand, to be left at the said Mansion House of the said *Samuel Peach Peach* One Calendar Month previously to any such Payment, order and direct; which Sum of Money shall be applicable and applied by the said Commissioner in the same Manner as the Monies to arise from the Sale of the Allotments herein-after directed to be sold for defraying the Expences of obtaining and passing this Act, and carrying the same and the said recited Acts into execution; and in case such Payment or Payments shall not be made by the said *Samuel Peach Peach* accordingly, then the Overplus of such last-mentioned Commons, Commonable Lands, Wastes, and Waste Grounds shall be sold by the said Commissioner as Part of the Lands and Grounds herein-after directed to be sold for defraying the Costs and Charges of obtaining and passing this Act, and carrying the same and the said recited Acts into execution, and the Produce thereof be applied by him accordingly.

Allotments
of Residue to
Persons in-
terested
in lieu of
Rights.

XXXIX. And be it further enacted, That the said Commissioner shall set out, allot, and award the Residue of the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands hereby directed to be divided, allotted, and inclosed respectively, unto and amongst the several Persons interested therein according to their several Rights and Interests therein respectively; and in setting out the several Allotments to be made under and by virtue of this Act the said Commissioner shall and he is hereby required to have due Regard to the Situation and Convenience as well as to the Quantity and Quality of the Lands to be allotted, so as that the Allotment or Allotments of each Person be made as contiguous to their several Farms and Estates as conveniently may be, consistently with the general Convenience of the Parties interested in the said Division, Allotment, and Inclosure: Provided always, that it shall be lawful for the said Commissioner and he is hereby authorized to allot the Right or Share of any Person or Persons in all or any of the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands, in any One or more of such Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands, in the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively.

Commis-
sioner to dis-
tinguish Al-
lotments in
respect of
Lands held
under dif-
ferent Te-
nures.

XL. And be it further enacted, That in case the Proprietor or Proprietors of any Lands or other Hereditaments by this Act or the said recited Acts authorized to be allotted or exchanged shall hold their respective Messuages, Lands, or Hereditaments for different Estates, or subject to different Trusts, Charges, or Incumbrances, the said Commissioner, on being requested in Writing so to do, shall ascertain and distinguish the Messuages, Lands, or Hereditaments so held, and shall also set out and distinguish the different Allotments or other Hereditaments to be accepted and taken as an Equivalent in respect of each of them so circumstanced; and the said Commissioner shall and he is hereby authorized and empowered to set forth and declare in and by his Award in right of

what Messuage, Land, or Hereditaments in particular such Allotments shall have been respectively made, and therein also separately describe and ascertain the Situation and Boundaries of every such Allotment.

XLI. And be it further enacted, That all Fields or Inclosures, either Arable, Meadow, or Pasture, containing the Property of Two or more Persons within One Fence, whether such Properties belong to different Lords or Landowners in Fee, or are held of or by One Lord or Landowner by different Leases for long Terms of Years determinable on the Death of One or more Life or Lives, or by any other Mode whatsoever, whereby the Duration of Interest is different or uncertain, and also all Pieces or Parcels of Land subject to any Right of Common during any Part of any One or more Year or Years, and also all Inclosures, Messuages, Lands, Tenements, and Hereditaments whatsoever within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively, the Owner or Owners whereof shall signify to the said Commissioner his, her, or their Consent in Writing to have the same or any Part thereof deemed Part of the allottable Lands and Premises under this Act, shall be respectively deemed Part of the Lands to be divided and allotted by virtue of this Act, and shall be divided and allotted accordingly; and such Allowance shall be made to the respective Owners of such Inclosures, Messuages, Lands, Tenements, and Hereditaments, on account of Situation or other beneficial or advantageous 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 of such Inclosures, Messuages, Lands, Tenements, and Hereditaments so consented to be deemed allottable Lands, for and in lieu thereof, such other Inclosures, Messuages, Lands, Tenements, and Hereditaments, or so much and such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or consented so to be, or both or either of them, as he shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said first-recited Act mentioned.

What Lands shall be allotted and divided.

XLII. And be it further enacted, That all and every the Lands and Hereditaments which shall be allotted by virtue of this Act or the said recited Acts shall be deemed and taken to be of the same Tenure, and shall be held for the same Estates and Interests, and under and subject to the same Customs, Heriots, Fines, Rents, and Services, as the respective Messuages, Lands, Tenements, and Hereditaments in respect whereof such allotted Lands shall be made.

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

XLIII. And be it further enacted, That nothing in this Act contained shall extend, or be construed, deemed, adjudged, or taken, to revoke, make void, impeach, annul, alter, or prejudice any Settlement, Will, Mortgage, or Deed, or other Instrument whatsoever, or to prejudice any Person or Persons having or claiming any Dower, Jointure, Rent Service, Debt, Charge, Mortgage, or Incumbrance whatsoever in, out of, upon, or affecting any of the Lands or Grounds to be divided, allotted, and inclosed as aforesaid, or any Messuages, Lands, Tenements, or Hereditaments which shall be exchanged or divided in pursuance of this Act or the said recited Acts, or any Part or Parcel thereof respectively, but that the several Lands so to be allotted, exchanged, or divided as aforesaid shall, from and after the making of such Allotments and Exchanges,

Wills and Settlements not to be affected.

[Private.]

§ §

Partitions,

Partitions, or Divisions respectively, be, remain, and enure, and be held and enjoyed, and the several Persons to whom the same shall be allotted or given in exchange shall from thenceforth stand and be seised and possessed thereof respectively to such and the same Uses, and for such and the same Estates, and with such and the same Powers and Authorities, and subject to the same Wills, Limitations, Conditions, Settlements, Provisions, Remainders, Reversions, Mortgages, Uses, Trusts, Powers, Provisoos, Rents, Debts, Charges, and Incumbrances, as the several Messuages, Lands, Tenements, and other Hereditaments in respect or lieu whereof such Allotments and Exchanges shall be respectively made were or would have stood severally limited or affected by, or charged with or subject and liable to, in case this Act had not been passed.

Determining
Objections to
Allotments.

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

After Al-
lotments
are made all
Rights of
Common to
cease.

XLV. And be it further enacted, That from and immediately after such Allotments and Compensation shall be made for such Rights of Common and other Rights in or upon the said Commons or Waste Lands by this Act directed to be divided and inclosed, all and singular such Rights of Common and other Rights shall cease and be for ever utterly extinguished and abolished; and it shall and may be lawful for the said Commissioner from Time to Time and at any Time or Times before the Execution of the said Award, by Notice in Writing under his Hand to be affixed upon One of the principal outer Doors of each of the Parish Churches of *Alveston* and *Olveston* aforesaid, to order and direct all or any Part of the Rights of Common in, over, or upon the said Commons and Waste Lands to cease and become extinguished or be suspended from or for and during such Time as shall be expressed in such Writing; and that all such Rights of Common as the said Commissioner shall by such Writing order and direct to cease or be suspended as aforesaid shall, from and for and during the Time mentioned in such Notice, cease and be extinguished or be suspended accordingly; any Law, Usage, or Custom to the contrary notwithstanding.

Penalty for
stocking
Lands after
Extinguish-
ment of
Right of
Common.

XLVI. And be it further enacted, That if any Person or Persons, after any Right of Common or Feeding shall be suspended or extinguished under or by virtue of this Act or the said recited Acts, and before the Execution of the Award of the said Commissioner, shall, during such Suspension or Extinguishment thereof, stock or depasture with Cattle, Sheep,

Sheep, or other Stock, any Part of the said Lands or Grounds on which such Right of Common or Feeding shall be so directed to be suspended or extinguished as aforesaid, it shall be lawful for any Person or Persons by the said Commissioner to be appointed from Time to Time to distrain all such Cattle, Sheep, and other Stock then being or depasturing upon any Part of the said Lands and Grounds after the said Right of Common or Feeding shall be suspended or extinguished, and the same to impound as Cattle Damage feasant.

XLVII. And be it further enacted, That no Person shall, at any Time after the Execution of the said Award, turn or put or cause to be turned or put any Horses, Cattle, Sheep, Swine, or Lambs into any of the public Roads or Ways to be set out by virtue of this Act or the said recited Acts. Cattle not to be turned into Lanes.

XLVIII. And be it further enacted, That the said Commissioner shall and may from Time to Time, as he shall find it convenient, deliver to the several Persons, or Body or Bodies Politic, Corporate, or Collegiate, interested in the several Divisions and Allotments, or any Exchange or Exchanges to be made and set out under this Act, Possession of their respective Divisions, Allotments, and exchanged Lands hereby directed to be made and set out, and such Possession so delivered shall be kept and retained by the several Persons, or Body or Bodies Politic, Corporate, or Collegiate, entitled thereto, in such and the like Manner as if the Award of the said Commissioner at the Time of giving or delivering such Possession had been made and executed. Possession of Allotments may be delivered.

XLIX. And be it further enacted, That it shall be lawful for the said Commissioner at any Time before the executing his final Award to make any such Alterations in the Allotments or in the Fences which he may have set out and ordered, or in any of the 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 been at or otherwise, the said Commissioner shall ascertain and determine what Recompence shall be made to him, her, or them for such Injury, and shall order and direct by whom and in what Manner such Recompence shall be made; which shall be levied and recovered, in case of Nonpayment, in the same Manner as the Costs and Charges of obtaining and executing this Act might be levied and recovered by virtue of the said recited Act of the Forty-first Year of the Reign of King *George* the Third, in case the same had been directed to be raised by a Rate upon the Proprietors. Alteration may be made in the Allotments before the Award.

L. And be it further enacted, That all and every Persons and Person to whom any such Allotment or Allotments shall be so made and set out shall, at his and their own Costs and Charges, inclose and fence in the same on such Sides, within such Time, and in such Manner as the said Commissioner shall by his Award, or by any other Writing under his Hand, order and direct. Fencing Allotments.

LI. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to compel or oblige any Person whose Proprietors not obliged to fence

where there
are old
Fences
standing.

whose Allotment or Share in the intended Inclosure shall lie next to any old inclosed Ground, or to any Land in any other Parish whereon there is now standing, growing, or being any Wall, Hedge, Brook, or Rivulet, sufficient as a Boundary Fence to the same, to make any Fence or Fences next or adjoining to any such old inclosed Ground or Land for inclosing such Allotment or Share, but that the ancient Mound or Fence which divides such inclosed Ground or Land from such Allotment shall for ever be and remain as a Boundary Fence for the Purpose of such Division, and shall from Time to Time be maintained, cleansed, and repaired at the Costs and Charges of the respective Proprietors, in the same Manner as if this Act had not been passed.

Power to
erect dead
Fences for
preserving
Quicksets.

LII. And be it further enacted, That it shall and may be lawful for the Owners or Proprietors of the several Allotments to be made by virtue of this Act from Time to Time, at any seasonable Times within the Space of Seven Years next after the Date of the said Commissioner's Award, to set up, erect, and make Posts, Rails, or other dead Fences on the Outside of the Ditches bounding their several Allotments, not exceeding Three Feet from such Ditches, for the Preservation of their Quicksets or other Hedges, and at any seasonable Times within the said Term to take and carry away the Materials thereof when decayed.

Power to
erect Swing
Gates.

LIII. And be it further enacted, That the respective Proprietors of the Allotments to be made by virtue of this Act shall, from the Time of making or setting out the same, have Power to erect and continue for the Space of Seven Years any Swing Gate or Gates across any of the Roads (except Turnpike Roads) or Lanes to be set out and appointed by virtue of the said first-recited Act or this Act, which shall adjoin or go through their respective Allotments, for the Purpose of separating such Allotments, or for keeping out Cattle to prevent their destroying any Quicksets or new-planted Hedges for making such Allotments, so that the respective Persons for whose Use and Convenience any such Gate or Gates shall be so erected do and shall, before they erect the same, at their Expence make substantial covered Drains and Bridges over or across the Passages or Gateways (if necessary), and sufficiently keep in repair such Drains and Bridges, and also the Roads and Lanes for the Space of Twenty Feet on each Side of such Gate or Gates.

Proprietors
may, by Con-
sent of Com-
missioner,
fence Allot-
ments before
Execution of
Award.

LIV. And be it further enacted, That it shall and may be lawful to and for the said Proprietors of Lands and Tenements, or any of them, at any Time or Times after the said Allotments shall be staked and set out by the said Commissioner, and before the Execution of the said Award, to inclose and fence in the same by and with the Consent of the said Commissioner, and in such Manner as the said Commissioner shall direct.

Persons
may sell
their Com-
mon Rights,
and Persons
entitled to
have Al-
lotments
may mort-

LV. And be it further enacted, That if any Person hath sold, or shall at any Time before the Execution of the Award of the said Commissioner sell, his or her Right, Interest, and Property in the said Commons and Waste Lands hereby directed to be divided and allotted, 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, and Notice in Writing to him given thereof by the Vendor,

Vendor, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs and 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 last 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.

gage, &c.
before Execution of
Award.

LVI. And be it further enacted, That in case any Proprietor or Proprietors of the said Commons, Commonable Lands, Wastes, Waste Grounds, and intermixed Lands or Allotments shall be desirous of paying in Money his, her, or their respective Shares of the Expences of obtaining and passing this Act, and carrying the same and the said recited Acts into execution, instead of sustaining a Loss of Land for that Purpose, and shall give Notice to the Commissioner in Writing within Three Calendar Months from the Time of the passing of this Act of such his, her, or their Desire, then and in all such Cases such Expences shall be paid, borne, and defrayed by such respective Proprietor or Proprietors or Persons interested in the said Lands or Allotments in and by such Shares and Proportions, and at such Time or Times, and to such Person or Persons as the said Commissioner shall by Writing under his Hand, to be given to such Proprietor or Proprietors, or left for him, her, or them at his, her, or their last or usual Place of Abode, at least Ten Days before such Time or Times of Payment, order and direct; and in case any such Proprietor or Proprietors shall refuse or neglect to pay his, her, or their Proportion or Proportions of such Expences within the Time or Times directed by the said Commissioner, the same shall or may be levied or recovered in manner directed or provided by the said first-recited Act for Recovery of any Charges or Expences.

Parties may
pay their
Share of
Costs in
Money in-
stead of
same being
paid by Sale
of Land.

LVII. And be it further enacted, That in all Cases where the Allotment or Allotments in the said Commons, Commonable Lands, Wastes, or Waste Grounds hereby directed to be divided, allotted, and inclosed, which would otherwise have to be made to any Owners of Lands within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively,

Shares under
20% in Value
may be sold,
and the Pro-
prietors paid
in Money.

[Private.]

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in respect of their Rights and Interests therein, shall not, in the Judgment of the said Commissioner, exceed in the whole for each Individual the Sum of Twenty Pounds in Value, (except where the Lands of such respective Owners shall adjoin to or front or abut upon some Part of the said Commons, Commonable Lands, Wastes, or Waste Grounds,) it shall be lawful for the said Commissioner, and he is hereby authorized and empowered, instead of making any such Allotment or Allotments to such Owner or Owners respectively, to sell so much of the said Commons, Commonable Lands, Wastes, or Waste Grounds as such Owner or Owners collectively shall be entitled to in such Lots as the said Commissioner shall think proper, and to convey the same to the Purchaser or Purchasers thereof respectively, which Sale and Conveyance shall be in the same Manner in all respects as the Sale of Allotments herein-before directed for defraying the Costs, Charges, and Expences of and attending the applying for and obtaining and passing this Act, and carrying the same and the said recited Acts into effect; and the Receipt of the said Commissioner for the Purchase Money or respective Purchase Monies of the Commons, Commonable Lands, Wastes, and Waste Grounds so to be sold as last aforesaid shall effectually discharge the Purchaser or Purchasers thereof, and such Purchaser or Purchasers shall not be bound or concerned to inquire into the Propriety or Necessity of such last-mentioned Sale or Sales; and the Monies to arise from such Sale or Sales, after deducting the Costs and Expences attending such Sale or Sales, shall be divided and apportioned amongst the several and respective Parties and Persons who would otherwise have been entitled to Allotments of the Lands so to be sold, according and in proportion to their several and respective Rights and Interests therein, and shall be paid to them respectively accordingly.

Commis-
sioner may
deduct Land
to defray
Expences.

LVIII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and required, (if requested in Writing, at his Second or any subsequent Meeting, by any Person or Persons empowered to borrow Money on Mortgage of any Allotment or Allotments,) to deduct from the said Allotments so much of such Allotment or Allotments as, in the Judgment of the said Commissioner, shall be equal in Value to the Money which such Person or Persons is or are authorized to borrow on Mortgage of such Allotment or Allotments, not exceeding Five Pounds for each and every Acre thereof, and in every Case of such Deduction by Deed to convey in Fee Simple the Land so deducted to any Person or Persons who shall be willing to purchase the same, or to such Uses and in such Manner as the Purchaser or Purchasers, or his, her, or their Heirs or Assigns, shall direct, freed and absolutely discharged from all Estates, Rights, Interests, Incumbrances, Claims, and Demands whatsoever; and the Receipt of the said Commissioner for the Purchase Money or Purchase Monies shall be an effectual Discharge or effectual Discharges to all Intents and Purposes; and the Person or Persons who shall pay the same shall not be answerable for the Misapplication or Nonapplication of such Money or Monies, or any Part thereof, or bound to inquire into the Propriety or Necessity of the Sale or Sales: Provided always, that in all Cases where any Land shall be so deducted as aforesaid from the Allotment or Allotments of any of the said Proprietors or Persons it shall not be lawful for the Proprietor or Person from whose Allotment or Allotments Land shall be

so deducted to charge his, her, or their Lands, Tenements, or Hereditaments, by virtue of the said first-recited Act or this Act, with any Money towards Payment of any Charges and Expences authorized to be charged upon their Allotments by virtue of the said first-recited Act, unless the Money to be raised by means of such Deduction shall not be equal to the Sum of Five Pounds *per* Acre, and then and in every such Case the Excess or Difference may be raised by borrowing or charging under the other Powers or Provisions of this Act or the said recited Act.

LIX. And whereas there are divers Owners of Estates within the Manors of *Alveston* and *Tockington* aforesaid respectively who pay certain Chief Rents, Fee-farm Rents, Quit Rents, or other annual Payments in Money or in Kind to the Lord of the said Manors of *Alveston* and *Tockington* respectively; be it therefore enacted, That the said Commissioner shall and is hereby required, at the Request in Writing of the Lord of the said Manors respectively, to set out and allot unto the Lord of the said Manors respectively, out of the Shares or Allotments of such Person or Persons from whom such Chief Rents, Fee-farm Rents, Quit Rents, or other annual Payments are due and payable, such Part or Parts thereof as in the Judgment of the said Commissioner shall be equal in Value to such Chief Rents, Fee-farm Rents, Quit Rents, or other annual Payments respectively; and after such Allotments shall have been set out and awarded to the Lords of the said Manors respectively such Chief Rents, Fee-farm Rents, Quit Rents, or other annual Payments shall cease, determine, and be from thenceforth for ever extinguished.

Chief Rents may be extinguished.

LX. And be it further enacted, That the said Commissioner shall and may and he is hereby empowered to make or cause to be made (if necessary) Rhines or Drains of a sufficient Depth and Width to drain the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands hereby intended to be inclosed, and also to cause to be erected and made such Bridges over the said Rhines or Drains as shall be necessary for the Use and Convenience of the several Proprietors of Allotments to be made as aforesaid; and that the said Commissioner shall and may scour, widen, and repair all ancient Rhines, Drains, Watercourses, and Bridges in, through, or by the Side of any of the said Lands, or of any old Inclosure within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively, as he shall deem necessary, for the more effectually draining the Lands hereby intended to be inclosed, and also for the better and more effectually draining any old Inclosures within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively; and the said Commissioner shall and may and he is hereby required to direct in his Award at whose Expence and by whom the said Rhines, Drains, Bridges, and Watercourses shall be thereafter cleansed, repaired, and maintained: Provided always, that where any such Rhines or Drains shall be made for the exclusive Benefit of any old Inclosures, the same shall be done at the Expence of the Proprietors of such old Inclosures, to be paid and borne by them respectively in such Proportions, at such Time or Times, and in such Manner as the said Commissioner shall by any Writing under his Hand order and direct; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share or Proportion of such Expences accordingly, the same shall be levied and recovered in such and the same Manner as is herein-before mentioned

Rhines, Drains, &c. may be made.

or

or referred to for levying and recovering the Expences of this Act, in case the Money to arise from the Sale or Sales herein-before directed shall be insufficient for that Purpose: Provided also, that nothing in this Act contained shall extend or be construed to extend to abridge or lessen the Powers and Authorities of His Majesty's Commissioners of Sewers for the *Lower Level* of the said County of *Gloucester*, wherein the said Tithing of *Tockington Upper* is partly situate.

Exchanges.

LXI. 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 whatsoever within the said Parishes of *Alveston* and *Olveston* respectively in lieu of and in exchange for any other Lands, Tenements, or Hereditaments whatsoever within the said Parishes of *Alveston* and *Olveston*, or within any adjoining Parish, Township, 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 in Writing of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners be a Body or Bodies Politic, Corporate, or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or in Fee Tail, General or Special, or for One or more Life or Lives, or by the Curtesy of *England*, or for Years determinable on a Life or Lives, (by and with the Consent of the Lessor or Lessors, and not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any other legal Disability or Incapacity, 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 Exchange and Exchanges so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

Expences of Exchanges and Partitions by whom to be paid.

LXII. And be it further enacted, That the Costs, Charges, and Expences attending the making of any Exchange or Exchanges, Partition or Partitions, Sale or Sales, to be made by virtue of this Act or the said recited Acts, (other than Sales of Common, Commonable Land, Common Meadow, Waste, or Waste Ground, for raising the Expences of this Act,) shall be borne, paid, and defrayed by the several Persons making such Exchanges, Partitions, or Purchases, in such Shares and Proportions as the said Commissioner shall in and by his said Award, or any other Writing or Writings under his Hand, order and direct, and in case of Nonpayment thereof shall be recovered in the same Manner as is directed by the said first-recited Act in Cases where the Expences of obtaining and carrying into execution any Acts of Inclosure are to be paid in Money.

LXIII. And

LXIII. And be it further enacted, That every Tenant and Occupier under any Lease or Agreement for any Term of Years at Rack Rent now subsisting on any Lands or Hereditaments which shall be allotted or exchanged, by virtue of this Act, within the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively, or partly within both or either of them, shall, immediately after the signing of the Award of the said Commissioner, or at such other Time or Times as the said Commissioner shall appoint, and whereof Notice in Writing shall be given for that Purpose, deliver up the full and peaceable Possession of such allotted or exchanged Lands and Hereditaments to the Person or Persons to or with whom the same shall be allotted or exchanged, but the Tenants or Occupiers of such allotted or exchanged Lands and Hereditaments shall receive from the respective Owners and Proprietors thereof such Satisfaction as the said Commissioner shall ascertain, order, and direct to be paid to such Tenants respectively as an Equivalent for the Loss or Losses they may respectively sustain thereby; and if the Money to be ascertained as aforesaid shall not be paid to the Person or Persons entitled to receive the same within Ten Days after Demand thereof, it shall and may be lawful to and for the said Commissioner and he is hereby required to raise and levy the same for the Use and Benefit of the Person or Persons entitled thereto by such Ways and Means as the Costs, Charges, and Expences of executing this Act or any Part thereof can or may be raised or levied: Provided always, that nothing herein contained shall be considered to extend to or vacate any Lease or Leases otherwise than as aforesaid.

Tenants to give up allotted or exchanged Lands on having Satisfaction.

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

Application of Compensation if amounting to 200*l*,

[Private.]

u u

Tenant

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, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward, and shall when so paid in there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith or to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court of Exchequer shall authorize to be purchased or redeemed or paid or discharged, or such Part or Parts thereof as shall be necessary; or until the same shall, upon the like Application, be laid out in a summary Way, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the aforementioned Lands, Tenements, or Hereditaments stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime and until such Order 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 or Interest and annual Produce of the said Consolidated or Reduced Bank Annuities or Government or Real Securities shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

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

LXV. And be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiocy,

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

LXVI. And be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, for his, her, or their own Use and Benefit; or in case of Infancy, Idiotcy, 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 so entitled respectively. Where under 20l.

LXVII. And be it further enacted, That it shall be lawful for the said Commissioner to borrow and take up at Interest, of any Person or Persons willing to advance and lend the same, such Sum or Sums of Money as he shall from Time to Time deem necessary for defraying the Charges and Expences of applying for and obtaining this Act, and of carrying the same and the said recited Acts into execution; which said Sum and Sums of Money so to be borrowed shall be repaid, with lawful Interest, to the Person or Persons advancing the same, out of the first Monies to be raised for defraying the Expences of obtaining and executing this Act. Power to borrow Money, to be repaid with Interest.

LXVIII. And be it further enacted, That the said Commissioner shall not at any Time permit or suffer any just Claims upon him as such Commissioner to remain unpaid for a longer Period than Three Calendar Months, except such Sums as may from Time to Time be due and owing to the said Clerk for Attendances at Meetings to be held in pursuance of this Act; and once at least in every Three Calendar Months during the Execution of this Act, to be computed from the Day of passing this Act, the said Commissioner shall and he is hereby required to make a true and just Statement and Account of all Monies by him received and expended, or due to him or to the Clerk for their respective Trouble and Expences in the Execution of this Act or the said recited Acts; and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed. Commissioner to lay Accounts before a Justice.

disbursed ; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by him laid before any One or more of His Majesty's Justices of the Peace for the said County of *Gloucester* who shall be uninterested in the said Commons, Commonable Lands, Common Meadows, Wastes, Waste Grounds, and intermixed Lands, or the Division, Allotment, or Inclosure thereof, to be by him or them examined and balanced ; and such Balance shall be by such Justice or Justices stated in the Books of Accounts to be kept in the Office of the Clerk to the said Commissioner ; and an Abstract of such Account so examined and balanced shall, from Time to Time, within Fourteen Days after such Account shall have been so examined and balanced, be published in some One of the Newspapers circulated in the said County of *Gloucester* ; and no Charge or Item in such Accounts shall be binding on the Parties concerned or valid in Law until the same shall have been duly allowed by such Justice or Justices, and until such Account or the Abstract thereof shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Award to be deposited in the Hands of the Clerk of the Peace and in the Parish Churches.

LXIX. And be it further enacted, That the Award to be made by the said Commissioner under the Authority of this Act and the said first-recited Act shall be executed and published within Three Years from the passing of this Act, and, together with a proper Map or Plan of the said Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds thereunto annexed, shall, within Fourteen Days next after the Execution thereof, be delivered to the Clerk of the Peace for the said County of *Gloucester*, who is hereby required to deposit and keep the same among the Records of the said County, so that Recourse may be had thereto by any Person or Persons interested in the Premises ; for the Reception whereof the Fee of Two Pounds and Two Shillings shall be paid, and no more, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid ; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said first-recited Act ; and a Copy of the said Award fairly transcribed in a Book, with a proper Map or Plan of the Allotments to be set out to the Proprietors of Estates in the said Parish of *Alveston* and Tithing of *Tockington Upper* respectively, attested and signed by the said Commissioner, shall within the Time aforesaid be deposited in each of the Parish Churches of *Alveston* and *Olveston* aforesaid, and there kept in a Tin Box to be provided for that Purpose ; and the said Award and the Copy thereof so attested, and any other Copy of the said Award or 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.

Appeal to the Quarter Sessions.

LXX. And be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done in pursuance of this Act or the said recited Acts, (other than and except as to such Claims, Matters, and Things as shall be ascertained, settled, tried,

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

LXXI. Provided always, and be it further enacted and declared, That nothing in this Act contained shall prejudice, lessen, or defeat the Right, Title, or Interest of the Lords of the said Manors respectively of, in, and to all Quit Rents, Free Rents, and other Rents, (except such only as shall be extinguished under the Power for that Purpose herein-before contained,) Reliefs, Dues, Customs, Suits, and Services, Fines, Amerciaments, Courts Leet, and View of Frankpledge, Courts Baron, Profits and Perquisites of Courts and Leets, and all Things which to Courts Leet and View of Frankpledge and Courts Baron do belong and appertain, and all Goods and Chattels of Felons and Fugitives, Felons of themselves and put in Exigent, Deodands, Treasure Trove, Waifs, Estrays, Forfeitures, Escheats, Fairs, Markets, Tolls, Customs, Stallages, Dues, Rights, Royalties, Immunities, Jurisdictions, Franchises, Privileges, Profits, Commodities, Advantages, and Emoluments whatsoever to the said Manors respectively or to the respective Lords thereof for the Time being incident, belonging, or appertaining, (other than and except such as are expressed and intended to be barred or extinguished by this Act,) but that the Lords of the said Manors respectively shall and may from Time to Time and at all Times for ever hereafter have, hold, and enjoy the same in as full, ample, and

Saving the Rights of the Lords of the Manors.

[*Private.*]

x x

beneficial

beneficial a Manner to all Intents and Purposes as they respectively could or might have held or enjoyed the same if this Act had not been passed.

General
Saving of
Rights.

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

Act to be
be printed by
the King's
Printers.

LXXIII. 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.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1836.