ANNO SECUNDO

VICTORIÆ REGINÆ.

Cap. 5.

An Act for inclosing Lands in the Parishes of *Fretherne* and *Saul* in the County of *Gloucester*.

[14th *May* 1839.]

WHEREAS there are within the Parishes of *Fretherne* and *Saul* in the County of *Gloucester* certain Open and Common Arable, Meadow, and Pasture Lands and Fields, called *Lower Field, Wheatcroft, Marsh Field, Hill Field, Pool Field, Sand Field,* and *Saul's Meadow,* containing in the whole by Estimation Three hundred and eighty Acres or thereabouts, and other Commonable and Waste Lands and Grounds, containing in the whole by Estimation Six Acres or thereabouts: And whereas there is within the same Parishes of *Fretherne* and *Saul* a certain Open and Common Meadow or Pasture Field called *Saul's Warth,* containing by Estimation One hundred Acres or thereabouts: And whereas *Samuel White* Esquire is or claims to be Lord of the Manor of *Fretherne,* and as such to be entitled to the Soil of the Waste Lands within the said Manor: And whereas *Charles Owen Cambridge* Esquire is or claims to be Lord of the Manor of *Saul,* and as such to be entitled to the Soil of the Waste Lands within the said Manor: And whereas the said *Charles Owen Cambridge,* and *Thomas Morse, Edward Bloxsome* the younger, the Reverend *Robert Jermyn Cooper,*

and other Persons, are the Owners or Proprietors of or interested in the said Open and Common Arable, Meadow, and Pasture Lands and Fields, and also the said Commonable and Waste Lands and Grounds, or some or one of them: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas another Act was passed in the First and Second Years of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: And whereas the Lands of the several Owners or Proprietors in the said Open and Common Arable, Meadow, and Pasture Lands and Fields lie intermixed in small Parcels, and the same, as well as the Commonable and Waste Lands and Grounds, in their present State and Situation, are incapable of any considerable Improvement; and it would be greatly advantageous to the several Persons interested therein if the same were divided and allotted unto and among them according to their respective Rights and Interests therein, in order that such Allotments may be inclosed, and held in Severalty; but the same cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Richard Hall* of *Cirencester* in the County of *Gloucester*, Gentleman, and his Successor, to be appointed in manner herein-after mentioned, shall be and he is hereby appointed the Commissioner for dividing, allotting, and inclosing the said Open and Common Arable, Meadow, and Pasture Lands and Fields, and also the said Commonable and Waste Lands and Grounds, 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, which shall be applied, deemed, and taken as Part of this Act, except in such Cases only where the same are varied or altered by or are repugnant to the Provisions of this Act.

41 G. 3. c. 109.

1 & 2 G. 4. c. 23.

Appointment of Commissioner.

Power of appointing a new Commissioner.

II. And be it further enacted, That if the said *Richard Hall*, 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 Two Calendar Months to act, as a Commissioner in the Execution of this Act, it shall be lawful for the Majority in Value (to be ascertained by the Land Tax Assessments) of the Owners of or Persons interested in the said Open and Common Arable, Meadow, and Pasture Lands and Fields, and Commonable and Waste Lands and Grounds, hereby directed to be divided, allotted, and inclosed, within Thirty Days next after such Death, Incapacity, Refusal, or Neglect shall happen or be known, or as soon after as conveniently may be, at a public Meeting to be called by any Two or more of the said Proprietors for that Purpose, (of which Meeting Ten Days previous Notice shall be given by affixing such Notice on the principal Door of each of the Parish Churches of

Fretherne and *Saul* aforesaid, and inserting the same in the *Gloucester Journal*, or some other Newspaper usually circulated in the said 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 the said *Richard Hall*, and in the Room of any Commissioner so to be appointed in his Stead who shall die, or become incapacitated or refuse or neglect to act as aforesaid; and every Commissioner so to be appointed shall have the like Powers and Authorities for putting in execution this Act and the said recited Acts as if he had been named a Commissioner in and by this Act.

Commissioner not to act until he has made the following Declaration.

III. And be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act (except to make an Appointment for and to give Notice of his first Attendance to execute the same) until he shall have made and subscribed the Declaration following before One of Her Majesty's Justices of the Peace acting in and for the County of *Gloucester*, which Declaration such Justice is hereby empowered to receive or administer; (that is to say,)

'I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the Second Year of the Reign of Her Majesty Queen *Victoria*, intituled *An Act, &c.* [*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 whomsoever.'

And which Declaration shall be in lieu of and as a Substitution for the Oath or Affirmation required by the said first-recited Act to be taken and subscribed by Persons acting as Commissioner 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, and the said Declaration shall be annexed to and enrolled with the Award of the said Commissioner.

Commissioner may appoint a Surveyor.

Commissioner not to act as Surveyor.

IV. And be it further enacted, That it shall be lawful for any Commissioner for executing this Act to appoint a Surveyor for the Purposes of this Act and of the said recited Acts, and from Time to Time to make a new Appointment, as often as the said Office shall be vacant by reason of the Death, Refusal, Neglect, or Incapacity to act of any Surveyor; but no such Commissioner shall be employed to act as Surveyor in the Execution of this Act or the said recited Acts during the Time he shall so act as Commissioner.

Allowance to Surveyor.

V. And be it further enacted, That it shall be lawful for any such Commissioner 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

planning the Lands and Grounds necessary to be surveyed for the Purposes of this Act, 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 Allowance for 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 not to act until he has made the Declaration.

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

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

Surveyor's Declaration to be enrolled with the Award.

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 enrolled with the Award of the Commissioner under this Act.

Penalty on making false Declarations.

VII. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, who shall wilfully and corruptly make and subscribe the same, or who, having made and subscribed such Declaration, shall wilfully and corruptly act in contravention thereof, shall be subject to the like Pains and Penalties to which Persons guilty of a Misdemeanor are or may be liable.

Appointment of Clerk.

VIII. And be it further enacted, That every Commissioner for executing this Act shall have a Clerk to assist him in carrying this Act and the said recited Acts into execution, and that *Alfred Jackson* of *Dursley* in the County of *Gloucester*, Gentleman, is hereby appointed such Clerk; and in case of the Death, Incapacity, Refusal to act, or Neglect of Duty of him the said *Alfred Jackson*, or of any succeeding Clerk, the Commissioner shall without Delay appoint another proper and sufficient Person to be such Clerk in his Room.

Allowance to Commissioner and Clerk.

IX. 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 Clerk hereby appointed, or to be appointed by him as herein-before directed, shall respectively be paid, for each and every Day

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 Year next after the Date of the said Commissioner's Declaration, the Sum of Three Pounds and Three Shillings and no more, and after the Expiration of the said Year, until the Powers granted by this Act to the said Commissioner 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 Journeys 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 holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of Agreements, Notices, and Advertisements, and of drawing and preparing, copying, engrossing, and enrolling the Award of the said Commissioner, or in any Manner attendant thereupon or connected therewith, or preparatory or incidental thereto.

Regulating the Duration of Meetings.

X. And for regulating the Duration of all Meetings to be held for the Purposes of this Act between the said Commissioner and any Person whomsoever, 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*, exclusive of the Time occupied in travelling to and returning from the Place of Meeting, for which nothing shall be charged, and that any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged as only Half a Day, and the said Commissioner and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioner or his Clerk, in which shall be entered the several Days on which the said Commissioner shall hold his Meetings, and in such Book shall also be entered at what Hour the said Commissioner was present at such Meeting, and at what Hour he left the same; and such Book shall be signed by such Commissioner and his Clerk at the Termination of each Meeting, and shall be open to the Inspection of every Person interested in the said Inclosure, or his, her, or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act; and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioner to retain or to pay himself or 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-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 Date of the Award to be made in pursuance of this Act, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or the 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 Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due thereon.

Proprietors to pay their own Expences at Meetings.

XI. And be it further enacted, That the said Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioner at any of his Sittings or Meetings to be holden for putting this Act and the said recited Acts into execution.

Proceedings to be entered in a Book, and to be Evidence.

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

Notices of Meetings to be given.

XIII. And be it further enacted, That any Commissioner appointed by or under the Powers of this Act shall cause Notice to be given in the *Gloucester Journal*, or some other Newspaper usually circulated in the said County of *Gloucester*, and also a Notice to be affixed upon the principal outer Door of each of the Parish Churches of *Fretherne* and *Saul* aforesaid on some *Sunday* before Divine Service, of the Time and Place of his First and every subsequent Meeting or Attendance for executing the Powers hereby and by the said recited Acts vested in him, at least Seven Days before any such Meeting or Attendance shall be held (Meetings by Adjournment only excepted); and any such Commissioner may adjourn such Meetings from Time to Time as he shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings of any Commissioner for executing this Act shall be held at some convenient Place within the said Parishes of *Fretherne* or *Saul*, or within Three Miles thereof.

How other Notices are to be given.

XIV. Provided always, and be it further enacted, That all other Notices necessary to be given by any such Commissioner (except such as are herein-after otherwise directed) shall be given by Advertisement to be inserted in the said *Gloucester Journal*, or some other Newspaper usually circulated in the said County of *Gloucester*, and also by affixing such Notice on the principal outer Door of each of the Parish Churches of *Fretherne* and *Saul* aforesaid.

What Surveys, Plans, and Valuations are to be used.

XV. And be it further enacted, That nothing in the said recited Acts or this Act contained shall extend to require the said Commissioner, or any Surveyor to be employed by him, to make or cause to be made any Survey, Admeasurement, Plan, or Valuation of any of the inclosed Lands or Grounds, or of the said Open and Common Arable, Meadow, and Pasture Lands and Fields, or of the said Com-

monable and Waste Lands and Grounds, within the said Parishes of *Fretherne* and *Saul*, or either of them, but that the said Commissioner shall use for the Purposes of this Act and the said recited Acts the Surveys, Admeasurements, Plans, and Valuations of the said Parishes of *Fretherne* and *Saul* which shall have been made in effecting the Commutation of the Tithes of the said Parishes of *Fretherne* and *Saul*, making such Deductions and Alterations in respect of any Errors which may have been discovered therein or otherwise as he shall think just and proper.

Commissioner to settle Differences with respect to Rights.

XVI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties who now are, or before the Execution of the Award of any such Commissioner may be interested in the said intended Division and Allotment, touching their respective Rights and Interests in the said Lands to be divided, allotted, and inclosed by virtue of this Act, or any other Matter or Thing relating to the said intended Division or Allotment, it shall be lawful for such Commissioner, and he is hereby required, upon Examination of Witnesses upon Oath (which Oath the said Commissioner is hereby authorized to administer), or of any other proper Evidence, to inquire into, hear, and determine the same: Provided always, that nothing herein contained shall authorize or empower any Commissioner to determine the Title of any Parties to any Lands, Tenements, or Hereditaments whatsoever contrary to the Possession of such Parties, except in Cases of Encroachment as herein-after mentioned.

Power to award Costs.

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

Costs

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

Allowing Parties to try their Rights at Law.

XVIII. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said Division and Allotment, shall be dissatisfied with any Determination of the said Commissioner for the Time being touching or concerning any Claim or Claims of Right of Common or other Rights and Interests in, over, or upon or out of the Open and Common Arable, Meadow, and Pasture Lands and Fields, Commonable and Waste Lands and Grounds, hereby directed to be divided, allotted, and inclosed, or any Part or Parts thereof, or touching or concerning any Matter or Thing whatsoever relating to the said Division or Allotment, (except where the Determination of the Commissioner is directed to be final,) it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with any such Determination, to cause an Action to be brought in One of Her Majesty's Courts of Record at *Westminster*, upon a feigned Issue, against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioner shall have been notified in Writing to the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, against whom such Determination shall have been made, or to his, her, or their known Agent or Attorney; and the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied as aforesaid, shall proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the next or the following Assizes to be holden for the said County of *Gloucester* after such Action or Actions shall have been so commenced; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, Objection or Objections, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Persons and Person, Bodies and Body Politic, Corporate, and Collegiate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims, Right or Rights, Interest

or

or Interests thereby determined, according to the Event of such Trial or Trials: Provided always, that if no such Action at Law as aforesaid shall be commenced within the Time herein-before limited, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time and in the Manner herein-before mentioned, then the Determination of the said Commissioner shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

Deaths of Parties not to abate Actions.

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

Suits not to delay the Execution of this Act.

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

shall follow the Event of any such Suit or Suits, and may be had and taken by the Person or Persons, or Party or Parties, who upon the Determination of such Suit or Suits shall become entitled to the same.

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

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

Power to shorten Boundary Fences.

XXII. And be it further enacted, That for the Purpose of shortening or rendering straight the Boundary Fences between the said Parishes of *Fretherne* and *Saul*, in any Part thereof, or the Lands and Grounds by this Act directed to be divided and allotted, and the old inclosed Lands in the said Parishes of *Fretherne* and *Saul*, or either of them, or between the said allottable Lands and Grounds, or the said old inclosed Lands, or any of them, and the Lands and Grounds in any adjoining Manor, it shall be lawful for any Commissioner for executing this Act, with the Consent of the Lord of any Manor in which the Lands are respectively situate, and the Owners of the Lands adjoining to such Boundary Fences, testified by Writing under their respective Hands, or under the Common Seal of any of them, being a Corporation Aggregate, to alter and straighten or shorten the same Boundary Fences, or any of them, or any Part or Parts thereof, and to set out, ascertain, and determine such Boundaries in such Manner as the said Commissioner shall think proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, and determined, as well the same as the Boundary Line in any other Parts having no Fence, shall be made, fenced, ditched, or mounded by such Person or Persons, in such Manner, and at such Time or Times as the said Commissioner shall order and direct; and such Boundaries shall for ever thereafter be deemed and taken to be the Boundaries between the said allotted and old inclosed Lands respectively, or (as the Case may be) between either of the said Parishes of *Fretherne* and *Saul* and any adjoining Manor, any Law, Usage, or Custom to the contrary notwithstanding.

Commissioner to set out Ponds, &c., make Bridges, and to enlarge and turn Watercourses.

XXIII. And be it further enacted, That it shall be lawful for any Commissioner for executing this Act to set out, appoint, and make any common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges in, through, over, and upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and also to enlarge, widen, alter, turn, scour, and cleanse all or any of the present Drains, Ditches, Streams, or Watercourses, as well in,

through, and over the same Lands and Grounds, as in, through, and over any ancient Inclosures or other Lands and Grounds within the said Parishes of *Fretherne* and *Saul*, or either of them, in such Manner as to him the said Commissioner shall seem proper and necessary, making such Satisfaction to the Proprietors of such ancient Inclosures or other Lands or Grounds for the Damage done thereby as the said Commissioner shall think fair and reasonable; and the Costs and Expences of making, enlarging, widening, altering, turning, scouring, and cleansing of such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, shall be paid and borne by the Persons thereby benefited at such Time, and in such Manner, Shares, and Proportions, as the said Commissioner shall deem right and proper; or in case the same shall be for the Benefit of the said Parishes of *Fretherne* or *Saul* generally, then such Costs and Expences shall be raised and levied by the said Commissioner in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution; but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, scoured, and maintained by such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, and in such Manner, as the said Commissioner shall in and by his said Award order and direct: Provided that no Stream or Watercourse through any Lands or Grounds already inclosed shall be diverted or turned without the Consent in Writing of the Person or Persons from whose Lands the same may be diverted, and of the Person or Persons into whose Lands the same may be turned, or to the Prejudice of any Person or Persons entitled to or interested in such Stream or Watercourse, except with their Consent in Writing.

Commissioner may stop or alter existing Roads, &c.

XXIV. And be it further enacted, That it shall be lawful for the said Commissioner, if he shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter the Whole or any Part of the Carriage Roads, Highways, Bridle Roads, or Footways passing or leading through, over, or to any of the Lands or Grounds intended to be divided and allotted by virtue of this Act, or passing or leading through, over, or to any of the old Inclosures within the said Parishes of *Fretherne* and *Saul*, or either of them; and the Soil of the Roads and Ways so to be discontinued, stopped up, or diverted, so far as the same shall pass through Lands allottable under this Act, shall in all Cases 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 no such Carriage Road, Highway, Bridle Road, or Footway, passing or leading through, over, or to any of the old Inclosures, shall be discontinued, stopped up, diverted, turned, or altered without the Consent and Order in Writing of Two Justices of the Peace for the County of *Gloucester* in Petty Sessions assembled, such Justices not being interested in the said Division, Allotment, and Inclosure; provided also, that nothing herein contained shall authorize the diverting of any Turnpike Road leading through the said Parishes of *Fretherne* and *Saul*, or either of them, unless the Consent of the Majority of the Trustees of such Turnpike Road

assembled

assembled at a public Meeting is first had and obtained, of which Meeting, and of the Intention thereof, Ten Days Notice at least shall be given in Writing to the Clerk of the said Trustees.

Power to widen Roads, making Compensation.

XXV. And be it further enacted, That it shall be lawful for the said Commissioner, where he shall see it necessary, to widen any of the Roads or Highways within the said Parishes of *Fretherne* and *Saul*, or either of them, to take a sufficient Quantity of the Open and Common Arable, Meadow, and Pasture Lands and Fields, or of the inclosed Lands adjoining to such Roads or Highways (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House), and to make a full Compensation for the Value of the Land so to be taken, and for any Trees growing thereon, for the widening of any such Road or Highway, by a Payment in Money, or by allotting and awarding unto the Person from whom such inclosed Land shall be so taken an adequate Part of the said Open and Common Arable, Meadow, and Pasture Lands and Fields, Commonable and Waste Lands and Grounds, and also to make good and substantial Fences on each Side of all such widened Roads and Highways, for or in lieu of the Fences which shall be injured or destroyed by means of such widening.

What Notices to be given previously to stopping up or altering Roads.

XXVI. Provided always, and be it further enacted, That before any Order shall be made by such Two Justices as aforesaid, or any Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered by the said Commissioner, he shall cause to be affixed at each End of the said Carriage Road, Highway, Bridle Road, or Footpath so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, and the said Commissioner shall also cause the same Notice to be inserted in the *Gloucester Journal*, or some other Newspaper usually circulated in the said County of *Gloucester*, for Three successive Weeks, and shall also cause a like Notice to be affixed on the principal outer Door of each of the Parish Churches of *Fretherne* and *Saul* aforesaid on Three successive *Sundays*; and after the said several Notices shall have been so published and affixed as aforesaid, and after such Order as aforesaid shall have been made, the said Carriage Road, Highway, Bridle Road, or Foothpath shall be and 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 hereinafter mentioned.

Persons aggrieved may to appeal General or Quarter Sessions.

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 Footpath should be discontinued, stopped up, diverted, or altered, as the Case may be, to make his Complaint thereof by Appeal to the Justices of the Peace at any General or Quarter Sessions of the Peace to be holden for the said County of *Gloucester* within Four Calendar Months next after the making of the said Order, upon giving to the said Commissioner or his Clerk Ten Days Notice in Writing

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

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

XXVIII. And be it further enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether the said Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, diverted, or altered shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing could not be injured or aggrieved thereby, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the Order for discontinuing, stopping up, diverting, or altering any such Road shall be final and conclusive, and be of full Force and Effect; and the said Court of Quarter Sessions shall in all Cases award the Costs and Expences of resisting the said Appeal, or of supporting the said Order, to be paid to the said Commissioner by the Party giving Notice of such Appeal, 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 of the Forty-first Year of the Reign of His Majesty King *George* the Third; but if the said Jury shall return a Verdict that the Carriage Road, Highway, Bridle Road, or Footpath so to be discontinued, stopped up, diverted, or altered is not unnecessary, or that the same could not beneficially to the Public be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court of Quarter Sessions shall allow such Appeal, and such Carriage Road, Highway, Bridle Road, or Footpath shall not be discontinued, stopped up, diverted, or altered, or, in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring the same to its original State, and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party 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 him in such and the same Manner as he is hereby directed or empowered to raise the Money for discharging the Costs, Charges, and Expences of this Act.

Expences of discontinuing, widening, or altering Roads provided for.

XXIX. And be it further enacted, That the Charges and Expences attending or occasioned by the stopping up, discontinuing, diverting, or altering and widening of such Roads, and the making of such Fences as aforesaid, shall be paid by such Person as the said Commissioner

missioner may direct, or be raised in such and the like Manner as the Expences of passing and executing this Act are hereby directed to be raised and paid.

How public Carriage Roads are to be repaired when certified to be completed.

XXX. And be it further enacted, That when and so soon as any Two or more of Her Majesty's Justices of the Peace for the said County of *Gloucester*, not being interested in the said Division, Allotment, and Inclosure, shall, at any Petty or Special Sessions of the Peace, certify and declare under their Hands and Seals that any public Carriage Road set out or made under the Authority of this Act or either of the said recited Acts has been fully and sufficiently formed and completed, such Road or Roads, or so much thereof as shall in such Certificate be described or certified, shall thenceforth be supported and kept in repair by such Person or Persons, and in like Manner as the public Roads within the said Parishes of *Fretherne* and *Saul*, or either of them, are or ought to be by Law amended and kept in repair; and every such Certificate shall, at the General Quarter Sessions of the Peace to be holden for the said County of *Gloucester* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County, and be valid and effectual to all Intents and Purposes.

Commissioner to allot the Herbage of private Roads.

XXXI. And be it further enacted, That the said Commissioner shall in and by his Award order and appoint the Grass and Herbage growing and renewing upon all and every the private Roads to be set out by him by virtue of this Act to be and for ever thereafter remain to and for the Use and Benefit of such Persons as the said Commissioner shall in his Judgment think best entitled to the same.

Cattle not to be depastured in the Roads set out by the Commissioner for Seven Years after the Award made.

XXXII. And be it further enacted, That no Person whosoever shall graze or keep any Sort of Beast or Cattle in or upon any of the Roads or Ways which the said Commissioner shall order and direct to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the making and executing of his Award; and any Owner of Land within the said Parishes of *Fretherne* or *Saul*, his Servants and Labourers, and also the Haywards, Peace Officers, and Parish Officers of the said Parishes for the Time being, are hereby respectively empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid, as Cattle Damage feasant.

Encroachments.

XXXIII. And be it further enacted, That if it shall appear to the said Commissioner that any Encroachments have been made from or on any Part of the said Open Common Arable, Meadow, and Pasture Lands or Fields, or Commonable or Waste Lands and Grounds, within Twenty Years next before the passing of this Act, all such Encroachments shall be deemed Part and Parcel of the Lands by this Act directed to be divided, allotted, and inclosed, and shall be divided, allotted, and inclosed accordingly; and in case any Dispute shall arise touching any such Encroachments, or the Extent or Duration thereof, such Disputes shall be settled and determined by the Commisioner for the Time being for executing this Act.

XXXIV. Pro-

Encroachments in certain Cases to be allotted to the Owners of the Lands adjoining.

XXXIV. Provided always, and be it further enacted, That such of the said Encroachments as adjoin to or abut upon the Lands or Tenements of any Person having made such Encroachment, and having Right of Common upon the Lands or Grounds hereby directed to be divided, allotted, and inclosed, shall be allotted to such Person either as the Whole or Part of the Allotment to which such Person shall or may be entitled by virtue of this Act; and in case any such Encroachment shall in the Judgment of the said Commissioner be of greater Value than such Allotment, then the Person to whom such Encroachment shall be allotted shall pay to the said Commissioner, at or within such Time as he shall appoint, such Sum of Money as the said Commissioner shall adjudge to be the Value of such Encroachment, over and above the Value of the Allotment to which such Person shall be entitled; and in default of Payment the same shall be recoverable in the like Manner as the Expences of obtaining and executing this Act, and when paid shall be applied towards the general Purposes of this Act; but in estimating the Value of any such Encroachment the said Commissioner shall estimate the Value of the Land only, without regard to any Buildings which may have been erected thereon.

Commissioner to set out Land to be held by the Lords of the Manors for the Recreation of the Poor.

XXXV. And be it further enacted, That the said Commissioner shall set out, allot, and award unto the Lords of the Manors of *Fretherne* and *Saul*, out of the Waste Lands and Grounds to be inclosed by virtue of this Act, such Part or Parts thereof, not exceeding Five Acres nor less than Two Acres, for the Purposes of Exercise and Recreation of the Inhabitants of the said Parishes of *Fretherne* and *Saul*, and such Allotment shall be held by the Lords for the Time being of the said Manors for the Purposes aforesaid.

Allotment to the Lords of the Manors.

XXXVI. And be it further enacted, That the said Commissioner shall and he is hereby required to set out, allot, and award unto and for the Lords of the said Manors of *Fretherne* and *Saul* respectively, as a Compensation for their respective Right or Rights to the Soil of the said Waste Lands, so much and such Part of the said Waste Lands hereby authorized to be divided, allotted, and inclosed as shall in the Judgment of the said Commissioner be a full Recompence, Compensation, and Satisfaction to the Lords of the said Manors respectively for and in lieu of such their Rights to the said Soil, but not to exclude them from taking or receiving any other Allotment or Allotments to which they may be entitled under the Provisions of this Act.

Allotment of the Residue.

XXXVII. And be it further enacted, That the said Commissioner shall apportion, divide, set out, allot, and award all other the Lands and Grounds by this Act authorized to be divided, allotted, and inclosed unto and amongst the several Persons and Corporations, and other Owners and Proprietors thereof, who shall be entitled to any Estate, Right, or Interest therein, in such Quantities, Shares, Proportions, and Situations as the said Commissioner shall adjudge and determine to be proportionate to the Value of and a full Compensation and Satisfaction to them for their several respective Rights and Interests

Interests in, to, over, and upon the said Lands and Grounds by this Act directed to be divided, allotted, and inclosed.

Saul's Warth not to be allotted without Consent.

XXXVIII. Provided always, and be it further enacted, That nothing herein contained shall authorize the said Commissioner to divide and allot the said Common Meadow called *Saul*'s Warth, unless Persons entitled to Two Thirds of the Pasturage in the whole of the said Warth shall at any Time by Writing under their Hands request him so to do, or unless Persons entitled to Two Thirds of the Pasturage of the said Warth situate in either of the said Parishes of *Fretherne* and *Saul* shall at any Time by a like Writing request him to divide and allot the Portion thereof in either of those Parishes, in which Case the said Commissioner shall divide and allot either the Whole of the said Warth, or the Portion thereof situate and being in either of the said Parishes, according as the Request may be made to him, and shall exercise all such and the like Powers with respect to the said Division, Allotment, and Inclosure of *Saul*'s Warth as are hereby given with respect to the Inclosure of the Common Fields and Commonable Lands intended to be divided, allotted, and inclosed by virtue of this Act; and in case such Request to inclose *Saul*'s Warth shall be made after the Award of the said Commissioner shall be made and executed as herein-after mentioned, he shall and is hereby empowered to make and execute a supplemental Award for the Purpose aforesaid, which shall be enrolled in like Manner as the Award to be made in pursuance of this Act, and after Enrolment be kept therewith in like Manner as is herein-after directed with respect to the said first-mentioned Award; and all the Costs and Charges of making and incident to such supplemental Award shall be paid by the Persons interested therein, and be ascertained and recovered in like Manner as the Expences of obtaining and passing this Act, and of making and enrolling the said first-mentioned Award, are herein-after directed to be ascertained and recovered.

Commissioner may make Compensation for small Allotments in Money.

XXXIX. And be it further enacted, That in case any Person shall be desirous of receiving a Compensation in Money for his Right and Interest in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in lieu of such Allotment in respect thereof as is directed by this Act, and shall signify such Desire to the said Commissioner under his Hand, prior to the said Allotment being made, within such Time as the said Commissioner shall appoint for that Purpose, it shall be lawful for the said Commissioner and he is hereby required to estimate what Sum or Sums of Money ought to be awarded and allowed to such Person as and for such Compensation as aforesaid; and in every such Case in which such Compensation shall not exceed Twenty Pounds it shall be lawful for the said Commissioner and he is hereby required to pay the said Sum or Sums of Money so to be estimated to the Person entitled thereto by and out of the Monies which shall come to his Hands for the general Purposes of this Act.

Extinguishment or Suspension of Rights of Common.

XL. And be it further enacted, That it shall and may be lawful to and for the said Commissioner, at any Time when he in his Judgment shall think it convenient and proper, by Notice for that Purpose under

under his Hand, to be affixed on the principal outer Door of each of the said Parish Churches of *Fretherne* and *Saul* aforesaid on some *Sunday* immediately before Divine Service, to order the Right of Common in, upon, and over the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any of them, to be extinguished or suspended either in whole or in part, and from and after the Time or Times to be mentioned in and appointed by any such Notice all such Rights of Common as shall thereby be directed to be extinguished or suspended shall be extinguished or suspended accordingly.

Penalty on Persons stocking Lands after Extinguishment of Right of Common.

XLI. And be it further enacted, That if any Person or Persons, after any Rights of Common shall be extinguished or suspended as aforesaid, shall stock or depasture with Cattle, Sheep, or other Stock any Part of the said Lands or Grounds on which such Right of Common shall be so directed to be extinguished or suspended as aforesaid, it shall be lawful for any Person or Persons appointed by the said Commissioner 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 Rights of Common shall be so extinguished or suspended, and the same to impound, as Cattle Damage feasant.

Course of Husbandry.

XLII. And be it further enacted, That the said Commissioner shall, so soon after the passing of this Act as conveniently may be, and from Time to Time as he shall think fit, by Writing under his Hand, to be affixed on the principal outer Door of each of the Parish Churches of *Fretherne* and *Saul* aforesaid, order and direct what Course of Husbandry, and what Stint or Rule of stocking and enjoying, shall be respectively observed and used in, over, and upon the Open and Common Fields and other uninclosed Lands and Waste Grounds to be divided, allotted, and inclosed by virtue of this Act, until such Time as he shall have completed the said Division and Inclosure, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking the Commonable Lands and Fallows or Stubbles upon the said Lands or Grounds, and to make such Recompence for the same as he shall think right, and shall and may make such further Orders and Regulations touching the Conduct of the Farmers and Occupiers within the said Parishes of *Fretherne* and *Saul*, for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking, any of the said Lands and Grounds therein, until the said Division and Inclosure shall be completed, as to the said Commissioner shall seem proper and expedient; all which Orders and Regulations shall be binding and conclusive upon all Parties interested, their Farmers and Tenants; and the said Commissioner shall and may set and impose such pecuniary Penalties and Forfeitures on every Person not conforming to such Orders and Regulations as he shall think necessary, not exceeding the Sum of Five Pounds *per* Acre in case of cross-cropping or withholding from the Land its due Proportion of Manure, or Ten Pounds in any other Case, for any One Offence, and shall and may also settle, adjudge, and determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the Lands in his Occupation, by whom such Tenant shall be compensated

for any such Manure left or given up by him; and such Penalties, Forfeitures, and other Sum or Sums of Money so to be settled, ordered, adjudged, and determined to be paid for or on account of the several Matters and Things aforesaid, shall be recovered and recoverable in the Manner directed in and by the said first-recited Act with respect to the levying and recovering of Penalties.

Satisfaction to be made for growing Crops.

XLIII. And be it further enacted, That it shall be lawful for the said Commissioner by Writing under his Hand to ascertain, order, and appoint what Recompence or Satisfaction in Money shall be made to the Owner or Owners of any Crops growing upon the Lands or Grounds hereby directed to be divided, allotted, and inclosed, at the Time such Division and Allotment shall be made, for the said Crops, by the Person or Persons to whom the Lands and Grounds on which such Crops are growing shall be allotted, and also what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Tenants, or Occupier or Occupiers of any Land, as well as for ploughing, tilling, and manuring any of the Lands and Grounds which shall be divided and allotted by virtue of this Act, for the Benefit and Advantage accruing thereby to the Person or Persons to whom such Lands and Grounds shall be allotted, as for any Loss or Disadvantage which any such Tenant or Tenants, Occupier or Occupiers, shall or may sustain by the Loss of their following or waygoing Crops upon the Lands or Grounds by this Act directed to be divided and allotted; and if in any of the said Cases the Money to be paid for such Recompence and Satisfaction shall not be paid at the Time and in the Manner to be appointed as aforesaid by the said Commissioner, it shall be lawful for the said Commissioner and he is hereby authorized and required to raise and levy the same, for the Use of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are herein directed to be raised, levied, and recovered.

Allotment of old Inclosures.

XLIV. Provided always, and be it further enacted, That all Inclosures containing the Properties of Two or more Persons, or containing the Property of One Person only, if held by or under different Tenures or Interests, shall be deemed Part of the Land to be divided and allotted under this Act; and it shall be lawful for the said Commissioner, by and with the Consent in Writing and at the Request of the respective Owners or Proprietors of any Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parishes of *Fretherne* and *Saul*, or either of them, whether such Owners or Proprietors shall be a Corporation, or Tenant in Fee Simple or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor of any such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds holden for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, or the major Part of such Feoffees, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid who shall be Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act

for himself, (such Consent to be respectively testified in case of a Corporation by Writing under their Common Seal, and in the Case of an Individual under his Hand,) and with the Consent of the Patron and Ordinary where such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds shall be held in right of any Benefice, or shall belong to any Ecclesiastical Corporation, to deem such Homesteads, Gardens, Orchards, and old inclosed Lands as allottable, and Part and Parcel of the Lands, Grounds, and Hereditaments hereby authorized to be divided, allotted, and inclosed, and to allot the same accordingly; and such Allowance shall be made to the Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation or other beneficial Circumstances thereof, as the said Commissioner shall adjudge to be just and reasonable; and the said Commissioner shall and he is hereby required to set out, allot, and award unto and for the Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds or other Hereditaments, in lieu thereof, so much and such Part or Parts of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as he shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said first-recited Act mentioned.

Applications for Situations of Allotments.

XLV. And be it further enacted, That the said Commissioner shall and he is hereby required to appoint a Meeting for receiving Applications from the several Proprietors of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed touching the Situations in which they would respectively choose to have their Allotments set out and allotted, and shall give Fourteen Days Notice of the Time and Place of such Meeting, by Writing under his Hand, to be affixed on the principal outer Door of each of the Parish Churches of *Fretherne* and *Saul* aforesaid on some *Sunday* previous to Divine Service.

Meeting for giving Information of Allotments and hearing Objections.

XLVI. And be it further enacted, That when and so soon as the said Commissioner shall have ascertained the respective Rights and Interests of the several Proprietors in the Lands and Grounds to be divided, allotted, 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 hold a Meeting at some convenient Time and Place, of which Meeting Fourteen Days Notice shall be given by affixing the same on the principal outer Door of each of the Parish Churches of *Fretherne* and *Saul* aforesaid on some *Sunday* previous to Divine Service, when and where such Proprietors may be informed of the Situation of such intended Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and if any of the said Proprietors upon such Inspection shall be dissatisfied with the proposed Allotments, or the Situation thereof, the said Commissioner shall, at such Time and Place aforesaid, or at some other Time and Place to be appointed by him for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietor against any Allotment, and shall forthwith, or so soon after as conveniently may be, determine the same, and such Deter-

Determination shall be binding and conclusive on all Parties interested in such Allotment.

Directions for fencing Allotments.

XLVII. And be it further enacted, That the several Allotments to be made in pursuance of this Act shall be inclosed, ditched, and fenced at the Expence of such Persons, at such Times, in such Manner, and under and subject to such Regulations and Restrictions as the said Commissioner shall, by Writing under his Hand, or in or by his Award, order or direct, and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the said Commissioner shall by his Award order and direct.

Commissioner in certain Cases to make Allowance for Excess of Boundary Fences.

XLVIII. And be it further enacted, That in Cases where, through the Necessity of Situation, or on any other Account, the said Commissioner shall see fit to award to any of the said Proprietors more than an equal or proportionable Quantity of Boundary Fences, it shall be lawful for the said Commissioner so to do, and to consider and allow for the same in setting out the Allotment of the Proprietor who shall or may have too great a Proportion of mounding or fencing allotted to him, and for that Purpose, if necessary, to diminish the Allotment of any Proprietor who shall or may have less than an equal or proportionate Quantity of Boundary Fences allotted to him.

Commissioner may make Partitions.

XLIX. And be it further enacted, That it shall and may be lawful for the said Commissioner to make Partition of any Lands whatsoever within the said Parishes of *Fretherne* and *Saul*, or either of them, held by any Persons as Coparceners, Joint Tenants, or Tenants in Common, so as every such Partition be made upon Application from and with the Consent in Writing of the several Proprietors thereof, and so as every such Partition be specified in the Award of the said Commissioner, or some other Instrument under his Hand and Seal; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Allowing Exchanges to be made.

L. And be it further enacted, That it shall and may be lawful to and for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Parishes of *Fretherne* and *Saul*, or either if them, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Parishes, or within any adjoining Parish, Township, or Place; provided all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple or in Fee Tail, General or Special, or for One or more Life or Lives, or by the Courtesy of *England*, or for Years determinable on a Life or Lives, by and with the Consent of the Lessor or Lessors thereof (but not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owner as aforesaid who at the Time of making such Exchange or Exchanges shall be Infants, Femes Covert, Lunatics, or under any other legal Disability,

Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every 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 be situate.

Expences of Exchanges and Partitions by whom to be paid.

LI. And be it further enacted, That all the Costs, Charges, and Expences attending any Partition or Exchange to be made by virtue of this Act or the said first-recited Act shall be borne, paid, and defrayed by the several Persons whose Lands shall be partitioned or exchanged in such Shares and Proportions as the said Commissioner shall by any Writing under his Hand order and direct, and shall be recovered in the same Manner as by the said first-recited Act is directed respecting the Recovery of any Rate to be made for defraying any Part of the Charges and Expences of obtaining and executing this Act.

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

LII. 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 either of the said Parishes of *Fretherne* or *Saul*, shall, immediately after such Time as the said Commissioners shall by Writing under his Hand appoint, and whereof Notice in Writing shall be given to such Tenant or Occupier 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 made thereof, it shall be lawful 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 can or may be raised and levied: Provided always, that nothing herein contained shall be considered to extend to vacate any Lease or Leases otherwise than as aforesaid.

Tenure of Allotments to be the same as of the Lands in lieu of which they are allotted.

LIII. And be it further enacted, That all such Lands as shall be allotted by virtue of this Act shall be held by the Proprietors or Corporations to whom they are allotted, and by such other Person or Persons who may become entitled thereto on the Determination of the Estate of any such Proprietors of and in the Lands and Hereditaments

ments in respect of which such Allotments shall be made, by and under the same Tenures (whether Freehold, Copyhold, or Leasehold), and for such and the same Estates and Interests, and subject to the same Rents, Payments, Heriots, Fines, Customs, and Services, by, under, and subject to which the several Lands in lieu or in respect of which the same Allotments shall be so made were respectively held immediately before the passing of this Act, and all such Allotments shall thereupon become Freehold, Copyhold, or Leasehold, (as the Case may be,) and shall be so distinguished in the Award to be made by the said Commissioner, any Law or Custom to the contrary notwithstanding.

Separate Allotments to be made for Land held under differents Titles.

LIV. And be it further enacted, That when any Proprietor of Lands which shall be allotted or exchanged, or any Person to whom any Allotment is made, by virtue of this Act, shall hold such Lands, or the Lands in respect of which Allotment is made, under different Titles and for different Estates, the said Commissioner shall, so far as he may be enabled so to do, ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and in his Award set out and distinguish distinct and several Allotments for such respective Lands.

Where Allotments under different Titles are omitted to be distinguished by the Award, the Defect may be remedied by a separate Instrument.

LV. And be it further enacted, That if from Want of Information or other Cause the said Commissioner shall have omitted to distinguish in his Award the several Tenures under which any of the said Lands are or shall be holden, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments, as is hereby required, it shall be lawful for the said Commissioner, at any Time within Three Years after the Date and Execution of his Award, upon Request in Writing to him made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agents, to do all such Acts as shall be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if his Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish and set out the Allotments and Lands held by different Tenures, or for, by, or under different Estates or Titles respectively, in the same Manner as he is hereby authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by his Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award, and shall be enrolled therewith, and shall thenceforth be deemed and taken to be Part thereof, to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Person who shall have requested the said Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

Persons may sell or mortgage Estates before Execution of the Award.

LVI. And be it further enacted, That if any Person has sold or shall at any Time before the Execution of the Award of the Commissioner for the Time being sell his Right, Interest, and Property in the said Lands and Grounds hereby directed to be divided, allotted,

and inclosed, or any Part thereof, to any Person, then and in every such Case it shall be lawful for the said Commissioner, and he is hereby required, upon such Sale being notified to him in Writing, to make an Allotment of Land unto the Purchaser in every such Sale, or to his Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold as aforesaid; and every such Purchaser, or his 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 as aforesaid in the same Manner to all Intents and Purposes as the Venodr 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 remained vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person who shall be entitled to any Allotment under this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same, or all or any Part of his 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 entitled to any Allotment as aforesaid to sell, dispose of, and convey the Estate in right of which he may be entitled to any such Allotment separate and apart from and retaining to himself such Allotment, Common Right, and Interest, and the said Commissioner is hereby required to award such Allotment accordingly.

Wills and Settlements not to be affected.

LVII. 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, Freebench, 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 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, Partitions or Divisions respectively, be, remain, and enure, and be held and enjoyed by, and the several Persons to whom the same shall be allotted or given in Exchange shall from thenceforth stand and be seised and possessed thereof respectively to such and the same Uses, and for such and the same Estates, and with such and the same Powers and Authorities, and subject to the same Limitations, Conditions, Settlements, Provisions, Remainders, Reversions, Mortgages, Uses, Trusts, Powers, Provisoes, Rents, Debts, Charges, and Incumbrances, and the same shall pass by any Will already made, without any Republication thereof being necessary, as the several Messuages, Lands, Tenements, and other Hereditaments in respect or lieu whereof such Allotments and Exchanges shall be respectively made

were

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, save and except such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, and except where any other of the Provisions of this Act are to the contrary, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority of this Act or the said first-recited Act.

Provisions for defraying the Expences of this Act.

LVIII. And be it further enacted, That the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioner, Clerk, and Surveyor, for their Expences, Time, and Trouble, and the Costs and Charges that the Commissioner shall be put unto in respect of any Appeal against his Decision, or of any Suit or Suits at Law or in Equity, either before or after the Execution of his Award, and the Costs of preparing and enrolling the Award of the said Commissioner, and all other Costs, Charges, and Expences necessarily incurred in and about the carrying this Act and the said recited Acts into execution, except where it is herein otherwise directed, shall be borne, defrayed, and paid by the several Owners and Proprietors of and Persons interested in the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, not exceeding the Value of such Allotments, in such Shares and Proportions, and at such Time and Place, and to such Person as the said Commissioner shall, by Writing under his Hand, to be affixed upon the principal outer Door of each of the said Parish Churches of *Fretherne* and *Saul* aforesaid, or delivered to the Persons liable to the Payment of such Costs, Charges, and Expences, at least Fourteen Days before the Time appointed for such Payment, order and direct; and the said Commissioner is hereby empowered from Time to Time to make and form Estimates of all such Costs, Charges, and Expences, and to raise the Amount of such Estimates at such Time or Times as he shall deem necessary or proper, either before or after the Execution of his Award; and in case any Person or Persons shall refuse or neglect to pay his Proportion of such Costs, Charges, and Expences as aforesaid, or any Part thereof, within the Time and to such Person as the said Commissioner shall appoint, then the said Commissioner shall cause the same to be levied and recovered in manner directed by the said first-recited Act.

Power to make additional Rate in case of Deficiency.

LIX. Provided always, and be it further enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the said Commissioner, either before or after the Execution of his Award, that the Money to arise by any previous Rate shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Rate to be made and levied upon the several Persons interested in the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, in such Shares and Proportions, not exceeding Forty Shillings for every Acre of such Lands and Grounds respectively, within such Time, and to be paid to such Person as the said Commissioner shall from Time to Time direct; and in case any Person liable

liable to the Payment of any such Costs, Charges, and Expences as aforesaid shall neglect or refuse to pay his Share or Proportion of any such last-mentioned Rate as aforesaid, the same shall and may be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

Money may be recovered after Execution of the Award.

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

Commissioner may borrow Money to defray Expences.

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

Persons having limited Interests may raise Money by Sale or Mortgage to defray Expences.

LXII. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees, or Committees of such of the Proprietors of any of the Lands and Grounds to be by virtue of this Act or the said first-recited Act divided, allotted, and inclosed, as shall be under Coverture, Infants, Lunatics, Idiots, or Persons beyond the Seas, or otherwise incapacitated, and also for any Tenants in Tail or for Life only, or Feoffees for charitable or other Uses, or any of them, by and with the Consent of the said Commissioner, testified in Writing under his Hand and Seal, from Time to Time to sell or charge the Lands and Grounds which shall be so set out and allotted to them respectively by virtue of this Act or the said first-recited Act, or any Part thereof, for or with any Sum or Sums of Money which the said Commissioner shall in his Discretion judge necessary, for or towards their respective Proportions of the Expences occasioned by obtaining and carrying this Act into execution, and of making and preparing the Deed of such Charge, but in case of Charge the Amount to be raised shall not exceed the Sum of Five Pounds *per* Acre, and for securing the Repayment of such Sum and Sums of Money, with Interest, to grant, mortgage, lease, or demise the Lands and Grounds so to be set out and allotted as aforesaid, or any Part thereof, to any Person who shall advance and lend the same respectively, for any Term or Number of Years; but so that such Grant, Demise, Lease, or Mortgage be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby secured, with the Interest thereof, shall be fully paid and satisfied; and so as in every such Grant, Demise, Lease, or

Mortgage which shall be made, by or on behalf of any Person or Persons interested or entitled to any such mortgaged Premises for the Term of his natural Life there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his Life in such Manner as that no Person afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title of such Person shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Mortgages may be assigned.

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

Application of Compensation Money when amounting to 200*l.*

LXIV. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said recited Act of the Forty-first Year of the Reign of King *George* the Third, 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, or to any Person under any 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 be lawful 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 be charged upon any of the Lands, Tenements, or Hereditaments of such Body Politic or Person, 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 Body Politic or Person as aforesaid; 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 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 to the same or to the like Uses, Trusts, Intents, or Purposes as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part or Parts thereof as shall be necessary; or until the same shall, upon the like Application, be laid out, in a summary Way, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands, 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 Purchase shall be made, the said Money may, by Order of the said Court, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime, and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interests and annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by the 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.

1 G. 4. c. 35.

When under 200*l.* and amounting to 20*l.*

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

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 Money so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money so to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

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

Power to make Alterations in the Allotments before the Award.

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

Directions for executing and enrolling the Award.

LXVIII. And be it further enacted, That as soon as conveniently may be after the said Division or Allotment shall be completed the said Commissioner shall prepare and execute an Award, to which he shall annex a proper Map or Plan, on which the Lands, Roads, Paths, and Drains described in the Award shall be delineated; and the Execution

cution of such Award shall be made known by affixing a Notice thereof on the principal outer Door of the said Parish Churches of *Fretherne* and *Saul* on some *Sunday* within One Calendar Month after the Execution thereof; and the said Commissioner shall within the Time aforesaid cause the said Award, together with the said Map or Plan, to 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, 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, together with a Copy of the said Map or Plan, certified and signed by the said Clerk of the Peace, shall be deposited in each of the Parish Churches of *Fretherne* and *Saul* aforesaid, and there kept in proper Boxes to be provided for that Purpose, and paid for out of the Monies to be raised under the Provisions of this Act, to each of which said Boxes there shall be Two Locks and Two Keys, one of which Keys shall be kept by the Minister and the other by the Churchwardens for the Time being of the said Parishes respectively, there to remain for the Use and Inspection of all Persons interested therein; and the said Award, and each Copy thereof so attested, and any other Copy of the said Award, or of any Part or Parts thereof, attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Folio of which containing Seventy-two Words Sixpence and no more shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Accounts to be audited.

LXIX. And be it further enacted, That once at least in every Twelve Calendar Months during the Execution of this Act, the first of such Periods to be computed from the Time of the first Receipt of any Sum of Money under this Act, the said Commissioner shall make a true Statement and Account of all Sums of Money by him received and expended or applied in the Execution of this Act, and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum shall have been paid and disbursed; and the said Statement or Account, together with the Vouchers relating thereto, shall be laid before One of Her Majesty's Justices of the Peace for the said County of *Gloucester*, not interested in the said Inclosure, to be by him examined and balanced, and such Balance shall be stated in the Book of Accounts to be kept in the Office of the Person acting as Clerk to the said Commissioner; and an Abstract of such Account shall, within Fourteen Days after the same shall have been so examined and balanced, be published in some Newspaper printed and circulated in the County of *Gloucester*; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justice, and until such Account, or the Abstract thereof, shall have been so

published as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

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 said Accounts shall have been audited and allowed by the Justice or Justices as aforesaid, 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 Her Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without sufficient Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to the said Justices in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

Meaning of certain Words in this Act.

LXXI. And be it further enacted, That in the Construction of this Act every Word importing the Singular Number only shall mean and include several Persons or Parties as well as one Person or Party, and several Things as well as one Thing respectively, and the converse; and every Word importing the Masculine Gender only shall mean and include a Female as well as a Male; and the Word "Land" shall mean and include every Species of Land or Ground, whether Arable, Meadow, or Pasture, and whether Freehold or of any other Tenure, and any Messuage or Cottage or Building; and

the Word "Corporation" shall be understood to mean and include any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; and the Word "Commissioner" to mean and include any Commissioner for executing this Act; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

General Saving.

LXXII. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all and every other Persons and Person, and Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators respectively, all such Estate, Right, Title, and Interest (other than such as are meant and intended to be barred and destroyed 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 as printed by Queen's Printers to be Evidence.

LXXIII. And be it further enacted, That this Act shall be printed by the several Printers to the Queen's most Excellent Majesty duly authorized to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1839.