ANNO QUINQUAGESIMO QUARTO

GEORGII III. REGIS.

Cap. 147.

An Act for incloſing Lands in the Pariſh of *Gowran*, in the County of *Kilkenny*. [17th *June* 1814.]

WHEREAS there are within the Pariſh of *Gowran*, in the County of *Kilkenny*, in that Part of the United Kingdom of *Great Britain* and *Ireland* called *Ireland*, certain Commons, Commonable Lands, and Waſte Grounds, containing by Eſtimation One hundred and eighty-two Acres and Ten Perches, or thereabouts, Plantation Meaſure: And whereas the Right Honourable *Henry Welbore Agar Ellis* Lord Viſcount *Clifden*, is Lord or Owner of the Manor or reputed Manor of *Gowran*, in the ſaid Pariſh of *Gowran*, and is alſo Owner of divers Meſſuages, Lands, Tenements, and Hereditaments within the ſame; and the Reverend *Ridge* is Rector and Vicar of the Pariſh of *Gowran* aforeſaid, and as ſuch is Owner of a Houſe and certain Glebe Lands lying in the ſaid Pariſh of *Gowran*: And whereas *William Bayly* and *Edward Denroche* Eſquires, are Owners and Proprietors of Meſſuages, Lands, Tenements, and Hereditaments within the ſaid Pariſh, and as ſuch intereſted in the ſaid Commons, Commonable Lands, and Waſte Grounds: And whereas the ſaid Commons, Commonable Lands, and Waſte Grounds, are in their preſent State incapable of any conſiderable Improvement, and it would be advantageous to the ſaid Owners and Proprietors, and all other Perſons intereſted in the ſaid Lands and Grounds, if the ſame were divided, allotted, and incloſed; but, as ſuch Diviſion, Allotment, and Incloſure cannot be effected without the Aid and Authority of Parliament; may it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That

Commissioners. *George Rothe* of *Salisbury*, *John Power* of *Kilfane*, and *Thomas Nowlan* of *Johnswell*, all in the County of *Kilkenny* aforesaid, Esquires, and their Successors, to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Commons, Commonable Lands, and Waste Grounds, and for carrying this Act into Execution.

New Commissioners in case of Death.

II. And be it further enacted, That if any of the Commissioners herein named, or to be appointed by virtue of this Act, shall, before the Execution of all the Powers and Authorities hereby vested in him or them, die, or refuse to act, or become incapable of acting in the Execution of this Act, then and in every such Case it shall be lawful for the surviving or remaining Commissioners or Commissioner, and they and he are and is hereby required at any Time and from Time to Time within Thirty Days after such Death, Refusal or Incapacity shall be known to them or him, by Writing under their or his Hands or Hand, to appoint another Person (not interested in the said Division, Allotment, and Inclosure), to be a Commissioner in the Place of each Commissioner so dying, or refusing to act, or becoming incapable of acting; and every Commissioner so to be appointed as aforesaid shall, after taking the Oath herein mentioned, have the like Powers and Authorities for carrying this Act into Execution in all Respects as if he had been named and appointed a Commissioner in and by this Act; and that all Acts, Matters, and Things authorized or directed to be done or executed by the Commissioners herein named or to be elected as aforesaid, may be done and executed by any Two of them, and all such Acts, Matters, and Things shall be as valid and effectual as if the same had been done and executed by all the said Commissioners herein named or to be elected as herein mentioned.

Commissioners to take an Oath.

III. Provided also, and be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act, (except only in the Power hereby given of appointing the First Meeting, and administering the following Oath to the other Commissioners) until he shall have taken the following Oath; (that is to say),

'I *A. B.* do swear, That I will faithfully, impartially and honestly examine into, hear, and determine all such Matters and Things as shall be brought before me as a Commissioner, by virtue of an Act for inclosing Lands in the Parish of *Gowran* in the County of *Kilkenny*, and otherwise execute the Powers thereby in me reposed, according to the best of my Skill and Judgment, and without Favour or Affection for any Person or Persons whomsoever. So help me GOD.'

Which Oath it shall be lawful for any One of the said Commissioners to administer, and he is hereby required to administer the same to any other of the said Commissioners.

Commissioners to appoint a Clerk.

IV. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to nominate and appoint a Clerk to assist them in the Discharge of the Duties by this Act imposed, and from Time to Time to remove such Clerk, and in case of such Removal, or in case of the Death of such Clerk, to appoint any other Person as they shall find necessary or convenient, and to allow such Salary and Reward to such Clerk for his Trouble and Attendance as to them shall seem just and reasonable.

V. And

V. And be it further enacted, That each of the ſaid Commiſſioners and their Succeſſors reſpectively ſhall be entitled to have and receive the Sum of Three Guineas by the Day, for each and every Day they or any of them ſhall meet or attend, in Furtherance and Execution of this Act; which ſaid Sum ſhall, on each Day of Meeting, be inſerted by the ſaid Clerk in the Account herein-after directed to be kept by the ſaid Commiſſioners reſpectively.

Notice of Meeting of Commiſſioners.

VI. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to cauſe a Notice in Writing of the Time and Place of their Firſt and every other Meeting for the Execution of this Act to be placed on the principal Doors of the ſaid Pariſh Church of *Gowran*, and alſo cauſe Notice to be inſerted in the Newſpaper called *The Dublin Journal, or Dublin Evening Poſt*, if then publiſhed, and if not, then in ſome other Newſpaper printed in *Dublin*, and circulated within the ſaid County of *Kilkenny*, Ten Days at leaſt before every of ſuch Meetings, (Meetings by Adjournment only excepted); and if at any Meeting appointed to be holden by the ſaid Commiſſioners it ſhall happen that no more than One Commiſſioner ſhall attend, ſuch Commiſſioner may adjourn ſuch Meeting to any Time and Place within the ſaid Pariſhes, or within Eight Miles thereof, which he ſhall think moſt convenient: Provided alſo, that the ſeveral Perſons intereſted in ſuch Commons, Commonable Lands and Waſte Grounds, their Solicitors, Attornies, and Agents, ſhall pay their own Expences, when they or any of them ſhall attend the ſaid Commiſſioners at any of their Meetings to be holden in purſuance of this Act.

Claims to be delivered to the Commiſſioners.

VII. And be it further enacted, That all and every Perſon and Perſons, Body and Bodies Politic, Corporate, or Collegiate, having or claiming to have any Eſtate or Property, Right of Common, or other Right or Intereſt whatſoever, in, to, over, or upon the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, ſhall by himſelf, herſelf, or themſelves, or by his, her, or their Guardians, Truſtees, Agents or Tenants, and he, ſhe, and they is and are hereby reſpectively required, at the Firſt or Second Meeting of the ſaid Commiſſioners to be holden in purſuance of this Act, to deliver in Writing to the ſaid Commiſſioners, a true and juſt Account of the Meſſuages, Cottages, Lands and Tenements belonging to him, her or them reſpectively, for or in reſpect of which ſuch Eſtate, Property, Right of Common or other Right or Intereſt, ſhall be claimed, and alſo a true and juſt Account of his, her and their reſpective Claims, Rights and Intereſts, in, to, over or upon the ſaid Lands and Grounds hereby directed to be divided and allotted, or any Part thereof; and that no ſuch Accounts or Claims ſhall be received by the ſaid Commiſſioners after ſuch their Second Meeting, except for ſome Special Cauſe to be allowed by them; and all and every Perſon and Perſons, Body and Bodies Politic, Corporate or Collegiate, neglecting or refuſing to deliver ſuch Accounts as aforeſaid, ſhall be and is and are hereby excluded and debarred from all Rights of Common, and other Rights or Intereſts whatſoever, in, to, over or upon the Lands and Grounds hereby directed to be divided and allotted, or in, to, over or upon any Part or Parts of the ſame, to be aſſigned or allotted to any other Perſon or Perſons by virtue of or under this Act; and if any One or more of the ſaid Owners and Proprietors, or other Perſons intereſted

in

in the ſaid intended Diviſion and Allotments, ſhall have any Objection or Objections to the ſaid Accounts or Claims, or any of them, ſuch Objection or Objections ſhall be reduced into Writing and delivered to the ſaid Commiſſioners, and to ſuch other Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, whoſe Account or Accounts, Claim or Claims, ſhall be objected to, in ſuch Manner, and at ſuch Time or Times, as the ſaid Commiſſioners ſhall appoint.

Commiſſioners to ſettle Differences,

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

but not determine Titles.

Perſons in Poſſeſſion not to be moleſted without due Courſe of Law.

IX. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioners to determine any Right between any Parties, contrary to the Poſſeſſion of any of ſuch Parties (except in Caſes of Encroachments as herein-after mentioned); but in caſe the ſaid Commiſſioners ſhall be of opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, they ſhall forbear to make any Determination thereupon, until the Poſſeſſion ſhall have been given up by ſuch Perſon or Perſons, or recovered from ſuch Perſon or Perſons by Ejectment, or other due Courſe of Law.

Commiſſioners may ſummon Witneſſes.

X. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners and they are hereby required, from Time to Time as they ſhall ſee Occaſion, by any Writing under their Hands, to ſummon and require any Perſon or Perſons to appear before them, at any Time and Place in ſuch Writing mentioned, and to teſtify the Truth upon Oath (which Oath any One of the ſaid Commiſſioners is hereby empowered to adminiſter) touching any Matter, Difference, or Diſpute between any of the ſaid Proprietors or Perſons intereſted, or concerning any Matter or Thing wherein any Doubt or Difficulty ſhall occur to the ſaid Commiſſioners, and to cauſe a Duplicate Copy of ſuch Summons in Writing to be delivered to every ſuch Perſon whoſe Teſtimony ſhall be ſo required, or left at his or her laſt or uſual Place of Abode; and if any Perſon or Perſons having been ſo ſummoned as aforeſaid, and having been paid or tendered a ſufficient Sum of Money, to be aſcertained by the ſaid Commiſſioners, to defray the Charges of his, her or their Attendance or Attendances, ſhall without any juſt and reaſonable Excuſe neglect or refuſe to appear before the ſaid Commiſſioners purſuant to ſuch Summons or Writing, or appearing ſhall refuſe to be ſworn, or to be examined or to give Evidence touching the Premiſes, then and in every ſuch Caſe, due Proof being made upon Oath

Oath (which Oath any One of the ſaid Commiſſioners is hereby empowered to adminiſter) of the Service of ſuch Summons on the Perſon or Perſons ſo refuſing to appear at the Time and Place therein ſpecified, and of ſuch Perſon or Perſons having been paid or tendered a ſufficient Sum of Money to defray the Charges of his, her, or their Attendance, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby required, by Warrant under their Hands and Seals directed to any Perſon or Perſons whomſoever, to cauſe any Sum of Money, not exceeding Ten Pounds, to be levied by Diſtreſs and Sale of the Goods and Chattels of every Perſon ſo neglecting or refuſing to appear, or to be ſworn, or to be examined, or to give Evidence, rendering the Overplus (if any) upon Demand to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale; and the Money ſo to be levied ſhall be applied towards defraying the Coſts and Charges of obtaining and executing this Act.

Commiſſioners to aſſeſs Coſts.

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

Power to try Right by an Iſſue at Law.

XII. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Allotments, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners touching or concerning any Rights of Common, or other Rights or Intereſts, in, over, or upon the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, or touching or concerning any other Claim or Claims which ſhall be made in purſuance of this Act, it ſhall be lawful for ſuch Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, to proceed to a Trial at Law of the Matter ſo determined by the ſaid Commiſſioners; and for that Purpoſe the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, who ſhall be diſſatisfied with the Determination of the ſaid

Commiſſioners, ſhall cauſe an Action to be brought in One of His Majeſty's Courts of Law at *Dublin*, upon a feigned Iſſue, againſt the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, in whoſe Favour ſuch Determination ſhall have been made, within Three Calendar Months after ſuch Determination of the ſaid Commiſſioners, and ſhall proceed to Trial at the Firſt or Second Term after the Commencement of ſuch Action, or at the Sitting of Niſi Prius after ſuch Term or Terms; and the Defendant or Defendants in ſuch Action or Actions ſhall, and he, ſhe, and they 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, 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 the ſaid 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 Perſon and Perſons whomſoever, Body and Bodies Politic, Corporate, and Collegiate, 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, in caſe the ſaid Court ſhall think proper; and after ſuch Verdict or Verdicts ſhall be obtained, and not ſet aſide by the Court, the ſaid Commiſſioners ſhall and they are hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims, thereby determined, according to the Event of ſuch Trial or Trials; and the Coſts and Charges of ſuch Action or Actions ſhall be paid in ſuch Manner, and by ſuch Perſon or Perſons as the Judge before whom ſuch Iſſue or Iſſues ſhall be tried, ſhall order or direct; provided nevertheleſs, that if no ſuch Action ſhall be brought or proceeded in within the Time and in the Manner aforeſaid, the Determination of the ſaid Commiſſioners ſhall be final and concluſive.

Suits about Titles not to impede the Proceedings or the Execution of this Act.

XIII. And be it further enacted, That if any Suit or Suits ſhall be commenced or proſecuted touching or concerning the Title of any Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, in or to any Meſſuages, Lands, Tenements, or Hereditaments in the ſaid Pariſh of *Gowran*, ſuch Suit or Suits ſhall not impede, delay, or hinder the ſaid Commiſſioners from proceeding in the Execution of the Powers veſted in them by this Act; but the ſaid Diviſion, Allotment, and Incloſure ſhall be proceeded in notwithſtanding ſuch Diſpute or Suit; and ſuch Allotment or Allotments may be had and taken by the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, who upon the Determination of ſuch Difference or Suit ſhall become entitled to the ſame.

In caſe of Death of Parties before Actions brought, the ſame to be carried on and defended in their Names.

XIV. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politic, Corporate, or Collegiate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk or Clerks of the ſaid

Commiſſioners with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein in the ſame Manner as if ſuch Perſon or Perſons had been actually living, and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

For extinguiſhing or ſuſpending Rights of Common before the Award.

XV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized, at any Time before the Execution of the Award herein-after mentioned, by Writing under their Hands, to be affixed upon the principal Door of the Pariſh Church of *Gowran* aforeſaid, to order or direct all or any Part of the Rights of Common, or other Rights or Intereſts in, over, and upon the ſaid Commons, Commonable Lands, and Waſte Grounds, or any Part thereof, to be extinguiſhed, or the Exerciſe thereof to be ſuſpended for and during ſuch Time as ſhall be expreſſed in ſuch Writing; and all ſuch Rights as the ſaid Commiſſioners ſhall by ſuch Writing order and direct to be extinguiſhed, or the Exerciſe thereof to be ſuſpended as aforeſaid, ſhall, from the Time of affixing ſuch Writing on the ſaid Church Doors, ceaſe, determine, and be extinguiſhed, or the Exerciſe thereof ſhall be ſuſpended accordingly; any Law, Uſage, or Cuſtom to the contrary thereof notwithſtanding.

Survey to be made.

XVI. And be it further enacted, That with all convenient Speed after the paſſing of this Act, a true and perfect Admeaſurement of all the Lands and Grounds lying within the ſaid Pariſh of *Gowran*, or ſuch Part or Parts thereof as the ſaid Commiſſioners ſhall deem neceſſary, ſhall be made and aid down as a Survey or Plan, by ſuch Perſon or Perſons (not intereſted in the ſaid intended Diviſion, Allotment, and Incloſure) as the ſaid Commiſſioners ſhall appoint; and the ſaid Plan or Survey ſhall contain and ſet forth the Number of Meſſuages and Cottages, and of Acres, Roods, and Perches in Statute Meaſure, belonging to the ſeveral Owners or Proprietors reſpectively; and alſo the Number of Acres, Roods, and Perches contained in the ſaid Commons, Commonable Lands, and Waſte Grounds, and ſhall be uſed by the ſaid Commiſſioners as often as Occaſion ſhall require; and the ſaid Plan or Survey, together with all other Acts, Matters, and Things to be done by the Perſon or Perſons ſo to be appointed as aforeſaid, ſhall be verified by his or their Oath, (which Oath any One of the ſaid Commiſſioners is hereby empowered to adminiſter); and the ſaid Commiſſioners and Surveyor, their Aſſiſtants and Servants, and all and every other Perſon or Perſons employed by the ſaid Commiſſioners, ſhall and may, and they are hereby authorized and empowered, at any Time before the Execution of the Award herein-after mentioned, to enter into, view, examine, ſurvey, admeaſure, plan, and value the Lands and Grounds lying within the ſaid Pariſh of *Gowran*, and to fix Stakes or Land-marks thereon, and to do all Matters and Things which ſhall in the Judgment of the ſaid Commiſſioners be requiſite for carrying this Act into Execution; provided nevertheleſs, that if any Plan or Survey already made of the Lands and Grounds lying within the ſaid Pariſh of *Gowran*, or ſuch Part or Parts thereof as ſhall be deemed neceſſary,

necessary, shall be produced and laid before the said Commissioners, and of the Authenticity whereof they shall be satisfied, it shall be lawful for the said Commissioners to contract for and purchase the same, and to cause the same to be made use of by the Surveyor or Surveyors to be appointed by them as aforesaid.

Surveyor to take an Oath.

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

'I *A. B.* do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the 'Powers and Authorities vested in me as a Surveyor by virtue of an Act 'passed in the Fifty-fourth Year of the Reign of King *George* the Third, 'intituled, *An Act*, [*here set forth the Title of this Act*] according to 'Equity and good Conscience, and without Favour or Affection, Prejudice or 'Partiality, to any Person or Persons whomsoever. 'So help me GOD.'

Which Oath the said Commissioners are hereby authorized and required to administer to such Surveyor; and the said Oath so taken and subscribed by the said Surveyor, shall be annexed to and enrolled with the Award of the said Commissioners.

Encroachments within Thirty Years to be Part of the Lands to be divided.

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

Commissioners may bring Ejectments.

XIX. And be it further enacted, That if after the said Commissioners shall have adjudged any Parcel of Land to be an Encroachment upon and Part of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, and the Possessor or Possessors, Occupier or Occupiers thereof shall refuse or decline to yield up the Possession thereof, being thereunto duly required by a Notice or Notices in Writing signed by the said Commissioners, and affixed upon the Door of the Church of the said Parish of *Gowran*, Six Weeks at least before the Time to be expressed in the said Notice for yielding up such Possession to them, that then and in every such Case it shall be lawful for the said Commissioners to bring One or more Ejectment or Ejectments in the Name of the Lord or Lady of the Manor within the said Parish of *Gowran*, and of the Proprietors and Owners of Lands within the said Parish of *Gowran*, all or any One of them, as Lessor or Lessors in such Ejectment or Ejectments, for the Recovery of the Possession of the Lands and Grounds so adjudged and withheld; and if upon the Trial of such Ejectment or Ejectments it shall appear that the Adjudication of the said Commissioners was duly made pursuant to the Powers given to the said Commissioners by this Act, then and in every such Case the Plaintiff in such Ejectment or Ejectments shall be entitled to recover Judgment, and have Execution, and the Lands and Grounds so to be recovered, shall be deemed and taken to be Part and Parcel of the Lands

and

and Grounds to be divided, allotted, and inclosed by virtue of this Act, and shall be divided, allotted and inclosed accordingly.

Cottages built upon Encroachments not to receive an Allotment.

XX. And whereas Cottages and other Buildings have at different Times been built and erected on Encroachments made upon the said Commons, Commonable Lands and Waste Grounds; be it therefore further enacted, that no Person or Persons, Body or Bodies Politic, Corporate or Collegiate, shall be or be deemed to be entitled to any Share, Proportion or Allotment of the said Commons, Commonable Lands and Waste Grounds, for or in respect of any such Cottage or Building built or erected upon any such Encroachment upon the said Commons, Commonable Lands and Waste Grounds.

Roads.

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

The Powers of Grand Jury over the Roads *not to be* prejudiced.

XXII. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to derogate from, abridge, lessen, or prejudice the Powers or Authorities of the Grand Jury of the County of *Kilkenny*, as to the Line, Direction, Breadth, or other Matter or Thing, touching or concerning any of the Roads or Highways in, over, or upon the said Lands and Grounds, or to prevent the said Grand Jury from Time to Time from varying the Roads and Highways, or any of them, so to be laid out by the said Commissioners, as they shall think expedient; provided that none of the present Roads shall be shut up or discontinued until the new Roads which may be substituted by the said Commissioners in their Place or Stead, by virtue of this Act, shall be made safe and convenient for Horses, Cattle, and Carriages.

Old Roads not to be shut up until new ones are made.

Allotments of Part of the Waste Lands for Sale to defray the Expences of obtaining the Act and carrying it into Execution.

XXIII. And whereas it may be convenient to the several Persons interested in the said Division and Inclosure if a competent Part of the said Commons, Commonable Lands and Waste Grounds, were set apart and sold, and the Money arising from such Sale applied in defraying the Expences of obtaining and carrying this Act into Execution, be it therefore further enacted, That the said Commissioners shall and they are hereby authorized and empowered, whensoever required by the several Persons interested in the said Division and Inclosure, to set out so much of the said Commons, Commonable Lands and Waste Grounds, as in their Opinion will by the Sale thereof produce a Sum of Money sufficient to pay and defray all the Charges and Expences of obtaining this Act, and of surveying, admeasuring, planning, valuing, dividing, and allotting the Lands and Grounds hereby

hereby intended to be divided, allotted, and incloſed, and of incloſing with a Ring Fence the Land which ſhall be allotted to the ſaid Vicar in Right of his Parſonage Houſe and Glebe Lands, and of preparing the Award hereby directed to be made, and of ſetting out and making all Public Roads and Works, and all other Coſts, Charges, and Expences of carrying this Act into Execution; and ſuch Lands when ſo marked and ſet out, ſhall be and are hereby declared to be veſted in the ſaid Commiſſioners; and they are hereby directed and required to ſell the ſame to any Perſon or Perſons whomſoever for the beſt Price or Prices that can reaſonably be gotten for the ſame, by public Auction or Auctions (Notice of the Time and Place, or Times and Places of ſuch Sale or Sales being given Three Times in One or more of the ſaid public Newſpapers Six Weeks previous to ſuch Auction or Auctions); and the Perſon or Perſons who ſhall at ſuch Sale be the higheſt Bidder or Bidders for any ſuch Lands and Grounds, ſhall be deemed and taken to be the Purchaſer or Purchaſers thereof, and ſhall immediately pay to the Commiſſioners who may be preſent at ſuch Sale One Tenth Part of the Purchaſe Money as and for a Depoſit, and ſhall engage to pay the Reſidue of the Purchaſe Money within Three Calendar Months afterwards into the Hands of the ſaid Commiſſioners, who are hereby authorized to give Receipts for the ſame, and alſo for the Money to be paid as and for a Depoſit as aforeſaid; and if any Purchaſer, having made ſuch Depoſit as aforeſaid, ſhall not pay the Whole of the Purchaſe Money within the Time appointed for the Payment thereof, the Money ſo depoſited ſhall be forfeited to the ſaid Commiſſioners, and ſhall be applied towards defraying the Expences attending the obtaining and executing of this Act; and it ſhall be lawful for the ſaid Commiſſioners, on giving ſuch Notice as aforeſaid, to put up again to Sale ſuch Lands and Grounds for which the Whole of ſuch Purchaſe Money ſhall not have been paid, and ſo *toties quoties* until the ſame ſhall be ſold; or the ſaid Commiſſioners may if they think proper ſell and diſpoſe of ſuch Lands and Grounds by private Contract for the beſt Price that can reaſonably be gotten for the ſame; and the Money ariſing by the Sale or Sales of ſuch Lands and Grounds ſhall be applied by the ſaid Commiſſioners for the

Surplus. ſeveral Purpoſes aforeſaid; and in caſe there ſhall be any Surplus of the Money ariſing from the Sale of ſuch Parts of the ſaid Commons, Commonable Lands, and Waſte Grounds, after paying all the Charges and Expences of obtaining and executing this Act, ſuch Surplus ſhall be paid to or applied for the Benefit of the ſeveral Proprietors in the ſaid Commons, Commonable Lands, and Waſte Grounds, in Proportion to their reſpective Rights and Intereſts therein, and be paid to them if they ſhall be ſeized in Fee Simple, or otherwiſe ſuch Surplus ſhall be applied as herein-after directed.

Allotment to the Lord of the Manor. XXIV. And be it further enacted, That the ſaid Commiſſioners ſhall ſet out and allot unto the Lord or Lady of the ſaid Manor of *Gowran*, ſuch Part of the ſaid Commons, Commonable Lands and Waſte Grounds, as in the Judgment of the ſaid Commiſſioners ſhall be equal in Value to One Eighteenth Part thereof; and the ſaid Allotment or Allotments ſhall be a full Satisfaction and Compenſation for the Right of ſuch Lord or Lady in and to the Soil of the ſaid Commons, Commonable Lands, and Waſte Grounds.

XXV. And

Allotment for Glebe.

XXV. And be it further enacted, That the ſaid Commiſſioners ſhall in the next place ſet out and allot unto the ſaid *Ridge*, and his Succeſſors, Rectors as aforeſaid, ſuch Plot or Plots of the ſaid Commons, Commonable Lands, and Waſte Grounds, as in the Judgment of the ſaid Commiſſioners ſhall be a full Satisfaction and Compenſation in reſpect of and in Proportion to the yearly Value of the Glebe Houſe and Glebe Lands within the ſaid Pariſh of *Gowran*, belonging to the ſaid Rectory.

Allotment of the Reſidue.

XXVI. And be it further enacted, That the ſaid Commiſſioners ſhall then divide, ſet out, and allot, all the Reſidue and Remainder of the ſaid Commons, Commonable Lands, and Waſte Grounds unto and amongſt all and every the Perſons intereſted therein, or entitled thereto, in ſuch Shares and Proportions as in the Judgment of the ſaid Commiſſioners ſhall be juſt and reaſonable.

Allotments to be made in Bar of former Rights.

XXVII. And be it further enacted, That the ſeveral Allotments to be made unto and for the ſeveral Perſons, and Body or Bodies Politic, Corporate, or Collegiate, who by virtue of this Act ſhall be entitled to the ſame, ſhall be in full Satisfaction and Compenſation for their ſeveral Parts and Shares of the Lands and Grounds hereby directed to be divided and allotted, and for all their reſpective Rights and Intereſts in, over, and upon the ſame; and that from and immediately after the Execution of the ſaid Award all Rights of Common and other Intereſts whatſoever, belonging to or claimed by any Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, out of, in, over or upon the Lands and Grounds hereby directed to be divided and allotted, ſhall ceaſe, determine, and be for ever extinguiſhed.

Allotments to be accepted.

XXVIII. And be it further enacted, That the ſeveral Perſons, and Body or Bodies Politic, Corporate or Collegiate, to whom any Lands or Grounds ſhall be allotted by virtue of this Act, ſhall accept of their reſpective Allotments by taking Poſſeſſion thereof within the Space of Six Calendar Months next after the Execution of the ſaid Award, and Notice thereof in Writing to them reſpectively given by the ſaid Commiſſioners, or left at their reſpective uſual or laſt Places of Abode, or given to or left at the uſual Place of Abode of the known Agent or Clerk of any Body Politic, Corporate, or Collegiate; and in caſe any Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, ſhall neglect or refuſe to accept his, her, or their Allotment or Allotments within the Time herein for that Purpoſe mentioned, ſuch Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, ſhall be totally excluded from and debarred of any Eſtate, Intereſt, Right of Common, or any other Property whatſoever, in, to, over or upon any Lands or Grounds which ſhall be aſſigned or allotted to any other Perſon or Perſons, or Body or Bodies Politic, Corporate or Collegiate, in purſuance of this Act: Provided always, that the Guardians, Huſbands, Committees, Truſtees or Attornies of any Perſon or Perſons being Minors, under Coverture, Idiots, Lunatics, or beyond the Seas, or otherwiſe incapable by Law to accept ſuch Shares and Allotments as aforeſaid, ſhall and they are hereby enabled and required to accept thereof for the Uſe of ſuch Perſon or Perſons ſo incapacitated as aforeſaid, and ſuch Acceptance ſhall be and is hereby declared to be as valid and effectual as if the Perſon or Perſons, for or to whom ſuch Allotments ſhall be made reſpectively, were capable of acting for himſelf, herſelf,

ſelf, or themſelves, and had accepted ſuch Shares and Allotments as aforeſaid, any Law or Uſage to the contrary notwithſtanding: Provided alſo, that the Non-claim or Non-acceptance of any Guardian, Huſband, Executor, Committee or Truſtee, ſhall not exclude or prejudice the Right or Claim of any Infant, Feme Covert, or Perſon under any Diſability as aforeſaid, who ſhall claim or accept his or her Share or Allotment within the Space of Twelve Calendar Months next after ſuch Diſability or Incapacity ſhall be removed, nor ſhall any ſuch Non-claim or Non-acceptance exclude or prejudice the Claim or Right of any Perſon entitled as Heir, or in Remainder, after the Death of any Perſon dying under ſuch Diſability or Incapacity, the Perſon or Perſons ſo entitled claiming or accepting his, her, or their Share or Allotment within the Space of Twelve Calendar Months next after his, her, or their Right, Title, or Intereſt ſhall have deſcended or accrued.

For fencing Allotments.

XXIX. And be it further enacted, That the ſeveral Allotments of the Lands hereby directed to be divided and allotted ſhall be incloſed, hedged, and fenced by ſuch Perſon or Perſons, and Body or Bodies Politic, Corporate, or Collegiate (ſave and except the ſaid *Ridge*, and his Succeſſors, Rectors as aforeſaid), within ſuch Time and in ſuch Manner as the ſaid Commiſſioners ſhall in and by their Award order, direct, and appoint; and the Hedges, Ditches, Drains and Fences which ſhall be made purſuant to the ſaid Award ſhall at all Times thereafter be maintained and kept in Repair, and cleanſed by ſuch Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate as the ſaid Commiſſioners ſhall by their ſaid Award order and direct; and if any Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, ſhall neglect or refuſe to make and raiſe ſuch Ditches, Drains or Fences, according to the Award of the ſaid Commiſſioners, it ſhall be lawful for the ſaid Commiſſioners and they are hereby empowered and required to cauſe ſuch Hedges, Ditches, Drains or Fences to be raiſed and made by ſuch Perſon or Perſons, in ſuch Manner, and at ſuch Time or Times, as they the ſaid Commiſſioners ſhall think proper; and if the ſaid Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, who ought to have raiſed and made ſuch Hedges, Ditches, Drains, or Fences, ſhall neglect or refuſe to pay the Coſts and Expences of raiſing and making the ſame, (ſuch Coſts and Expences being ſettled by the ſaid Commiſſioners), within Ten Days after Demand made thereof, then and in ſuch Caſe it ſhall be lawful for the ſaid Commiſſioners, and they are hereby required to raiſe and levy the ſame by ſuch Ways and Means as the Coſts, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raiſed and levied in caſe the Lands and Grounds herein directed to be ſold are inſufficient for the Payment thereof; and for the better preſerving the Hedges, Ditches, Banks, Plants, Quickſets and Fences of the ſaid intended Incloſure, it ſhall be lawful for the ſaid reſpective Perſons, and Body or Bodies Politic, Corporate, or Collegiate to whom any Allotment or Allotments ſhall be made by virtue of this Act, from Time to Time and at all Times during the Term of Seven Years next after the Execution of the ſaid Award, to ſet or fix Poſts or Rails, or any other Guards, on the Outſide of the Hedges, Banks, and Fences, bounding their reſpective Allotments, not exceeding Three Feet from ſuch Hedges, Banks, and Fences, and at all ſeaſonable Times before the End of the ſaid Term to remove, take, and carry away ſuch Poſts, Rails, and other Guards, and to convert the ſame to their own reſpective Uſes.

XXX. And

Fences may be made before the Execution of the Award.

XXX. And be it further enacted, That when the ſaid Commiſſioners ſhall have ſtaked out the ſeveral Allotments intended to be made by virtue of this Act, it ſhall be lawful for any Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, to whom any Allotment or Allotments is or are intended to be made, at any Time before the Execution of the ſaid Award, to incloſe or fence ſuch Allotment or Allotments, in ſuch Manner as the ſaid Commiſſioners ſhall by Writing under their Hands appoint: Provided always, that convenient Gaps and Openings ſhall be left in the Fences and Incloſures to be made in purſuance of this Act, for the Space of Twelve Calendar Months next after the Execution of the ſaid Award, for the Paſſage of Cattle, Carts, and Carriages into and through the ſame, unleſs the ſeveral Parties intereſted ſhall agree that the ſame ſhall be ſooner fenced in, made up, and incloſed: Provided always, that in caſe, through Neceſſity of Situation, or any other Circumſtances, it ſhall happen that One or more of the ſaid Proprietors ſhall not have an equal or proportional Share of Boundary Mounds or Fences allotted to him, her, or them on the ſaid intended Incloſure, it ſhall be lawful for the ſaid Commiſſioners, when they ſhall judge it neceſſary and reaſonable, to award, order, aſcertain, and appoint, what Sum or Sums of Money ſuch Proprietor or Proprietors ſhall reſpectively pay and contribute towards the making the Mounds and Fences of the Allotments of ſuch other of the ſaid Proprietors, or either of them, who ſhall or may have too great a Share or Proportion of Mounding or Fencing allotted to him, her, or them, by virtue of this Act, the ſame to be ſettled by the ſaid Commiſſioners in ſuch Manner as they ſhall award, order, direct, or appoint; and the Money ſo ordered, directed, or appointed to be paid, ſhall be paid, raiſed, levied, and received in ſuch and the ſame Manner as the other Expences of this Act are herein ordered and directed to be raiſed, levied, and recovered, in caſe the Lands and Grounds herein directed to be ſold are inſufficient for the Payment of ſuch Expences.

For leaving Gaps.

Satisfaction for unequal Share of Fencing.

In caſe any Perſon ſhall ſell his Common Right, the Allotment is to be made to the Purchaſer.

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

Commiſſioners may convey the Lands ſo ſold to the Purchaſer.

XXXII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized, by Indentures of Leaſe and Releaſe, to be executed by them under their Hands and Seals, to grant and convey the Fee Simple and Inheritance of the Lands and Grounds which ſhall be ſold as herein-before mentioned, towards Payment of the Coſts and Expences of

of this Act, to the Purchaser or Purchasers thereof, his, her, or their Heirs and Assigns, or as he, she, or they shall direct or appoint; and all such Grants and Conveyances shall be valid and effectual in the Law to all Intents and Purposes whatsoever; and after the Execution of every such Grant and Conveyance the Lands and Grounds so granted and conveyed shall be held by every such Purchaser, his or her Heirs and Assigns, freed and discharged of and from all Rights of Common, Rights of Soil, and all other Rights and Interests (Tythes excepted) of any other Person or Persons whomsoever in, over, or upon the same, any Law, Custom, or Usage to the contrary thereof in anywise notwithstanding: Provided always, that the Purchaser or Purchasers of such Lands and Grounds so to be sold as aforesaid, shall be subject to the Performance of all Orders, Regulations, and Directions which shall be made by the said Commissioners and inserted in their Award for inclosing, fencing, and draining such Lands, and for maintaining and keeping the Drains and Fences belonging thereto, in good Repair.

Application of Compensation when amounting to 200l.

XXXIII. And be it further enacted, That in case there shall be any Money arising from the Sale of any Lands, Tenements, or Hereditaments, under or by virtue of the Powers of this Act, to be paid by the said Commissioners to any Body Politic, Corporate, or Collegiate, Feoffee in Trust, Executor Administrator, Husband, Guardian, Committee, or other Trustees for or on behalf of any Infant, Lunatic, Idiot, Feme Covert, or other *Cestuique* Trust, or to any Person whose Lands, Tenements, or Hereditaments are limited in Strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed, be paid into the Bank of *Ireland*, in the Name, and with the Privity of the Accountant General of the High Court of Chancery in *Ireland*, to be placed to his Account there, *ex parte* the said Commissioners, to the Intent that such Money shall be applied, under the Direction of, and with the Approbation of the said High Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, in the Discharge of any Debt or Debts, or other Incumbrances, or Part thereof, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments, standing settled therewith, to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the Lands, Tenements, and Hereditaments which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking Effect; and in the mean Time, and until such Purchase shall be made, the said Money shall, by Order of the said Court of Chancery upon Application thereto, be invested by the said Accountant General, in his Name, in Government Securities; and in the mean Time and until the said Government Securities shall be ordered by the said Court of Chancery to be sold for the Purpose aforesaid, the Dividends and annual Produce of such Government Securities shall, from Time to Time, be paid

by Order of the ſaid Court to the Perſon or Perſons who would for the Time being have been entitled to the Rents and Profits of the ſaid Lands, Tenements, or Hereditaments.

Application of Compenſation when leſs than 200l. but amounting to 20l.

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

Application where the Money is leſs than 20l.

XXXV. Provided alſo, and be it enacted, That where ſuch Money ſo agreed or awarded to be paid as next before mentioned ſhall be leſs than Twenty Pounds, then and in all ſuch Caſes the ſame ſhall be applied to the Uſe of the Perſon or Perſons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments, ſo purchaſed, taken, or uſed for the Purpoſes of this Act, in ſuch Manner as the ſaid Commiſſioners ſhall direct; or in caſe of Infancy or Lunacy, then ſuch Money ſhall be paid to his, her, or their Guardian or Guardians, Committee or Committees, to and for the Uſe of ſuch Perſon or Perſons ſo entitled reſpectively.

Allotments to be of the ſame Tenure as the ancient incloſed Lands for which they ſhall be allotted.

XXXVI. And be it further enacted, That all and ſingular the Commons, Commonable Lands, and Waſte Grounds which ſhall be allotted under and by virtue of this Act, ſhall (immediately after ſuch Allotments are made) be held by and be ſubject to ſuch and the ſame Tenures, Cuſtoms, Rents, and Services as the ſeveral and reſpective Meſſuages, Buildings, Lands, Tenements, and Hereditaments in reſpect whereof ſuch allotted Lands ſhall be made, are now ſubject to.

Rector may leaſe with the Conſent of the Biſhop and Patron.

XXXVII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid *Ridge*, and his Succeſſors, Rectors as aforeſaid, by and with the Conſent of the Lord Biſhop of the Dioceſe, and of the Patron of the ſaid Rectory, given in Writing under their Hands and Seals, to leaſe or demiſe all or any Part of the Lands and Grounds to be allotted to the ſaid Rector, and his Succeſſors, Rectors as aforeſaid to any Perſon or Perſons, for any Term or Number of Years, not exceeding Twenty-one Years, to be computed from the Twenty-ninth Day of *September* next after

after the Date of the ſaid Award, ſo as in every ſuch Leaſe there be reſerved and made payable to the ſaid Rector and his Succeſſors, the beſt and moſt improved Rent or Rents that can be reaſonably had or gotten for the ſame, without taking any Income, Fine, Premium, or Foregift in Conſideration of granting any ſuch Leaſe or Leaſes; but nevertheleſs with ſuch Abatement of Rent, or with ſuch Allowance as may be reaſonable, for or in reſpect or on account of the Expence which the ſaid Rector, or his Tenant or Tenants may be at or be put unto in ſubdividing the ſaid Allotments, and improving the ſame, and ſo as the Leſſees in every ſuch Leaſe be not thereby made diſpuniſhable of Waſte, and ſo as in every ſuch Leaſe there be contained a Power of Re-entry for Nonpayment of ſuch Rent to be thereby reſerved within a reaſonable Time to be therein limited, after the ſame ſhall become due, and ſo as a Counterpart of every ſuch Leaſe be made and executed by the Leſſee or Leſſees, and ſo as the Rents thereby to be reſerved and made payable to the ſaid Rector and his Succeſſors half-yearly, and other neceſſary and uſual Clauſes and Covenants, be contained in every ſuch Leaſe; and every ſuch Leaſe ſo made ſhall be good, valid, and effectual to all Intents and Purpoſes whatſoever, any Law, Statute, Uſage, or Cuſtom to the contrary thereof notwithſtanding.

Expences how to be paid, if Money by Sale of Land is not ſufficient.

XXXVIII. And be it further enacted, That in caſe the Money ariſing from the Sale or Sales of Land as herein-before directed ſhall not be ſufficient to pay and defray all ſuch Coſts, Charges and Expences as aforeſaid, of obtaining and paſſing this Act, and of carrying the ſame into Execution, then and in ſuch Caſe ſuch Deficiency ſhall be made up and paid by the ſeveral Perſons, Bodies Politic, Corporate or Collegiate, intereſted in the ſaid Commons, Commonable Lands and Waſte Grounds (ſave and except the Rector of the ſaid Pariſh for the Time being, for or in reſpect of any Allotment made to him as Rector) in ſuch Shares and Proportions, at ſuch Time or Times, and to ſuch Perſon or Perſons, as the ſaid Commiſſioners ſhall by Writing under their Hands appoint; and if any Perſon or Perſons ſhall refuſe or neglect to pay his, her or their Share or Shares of the ſaid Coſts, Charges, and Expences, to the Perſon or Perſons authorized to receive the ſame, at the Time or Times which ſhall be appointed by the ſaid Commiſſioners for the Payment thereof, then and in every ſuch Caſe the ſaid Commiſſioners ſhall and may, by Warrant under their Hands and Seals directed unto any Perſon or Perſons whomſoever, cauſe the ſame to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo refuſing or neglecting as aforeſaid, rendering the Overplus (if any) on Demand, after deducting the Charges and Expences attending ſuch Warrant, Diſtreſs and Sale, to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold; or otherwiſe it ſhall be lawful for the ſaid Commiſſioners by Writing under their Hands and Seals to authorize and empower One or more Perſon or Perſons to enter into and upon the Lands and Grounds to be allotted, or belonging to the Perſon or Perſons, Body or Bodies Corporate or Collegiate, refuſing, or neglecting as aforeſaid, and to take and receive the Rents, Iſſues and Profits of the ſame Premiſes, until thereby or therewith the Share or Shares of the ſaid Coſts, Charges, and Expences ſo appointed to be paid by ſuch Perſon or Perſons, Body or Bodies Corporate or Collegiate, ſo refuſing or neglecting as aforeſaid, with lawful Intereſt thereupon, from the Time the ſame ſhall have become due, and alſo all the Coſts and Expences occaſioned by or attending

ſuch

ſuch Entry on and Perception of the Rents and Profits of the ſaid Premiſes, ſhall reſpectively be fully paid and ſatisfied.

Book of Accounts to be left with the Clerk for the Inſpection of the Proprietors.

XXXIX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to enter in a Book or Books, to be provided for that Purpoſe, an Account of all Monies whatever received from the Proprietors or others during the ſaid Diviſion and Incloſure, and alſo of all Charges and Expences incurred in the Execution of this Act; which Book or Books of Accounts ſhall be kept at the Office of the Clerk to the ſaid Commiſſioners, and be open at all reaſonable Times during the Progreſs of the ſaid Diviſion and Incloſure, and till all the Accounts are finally ſettled for the Inſpection of any of the Proprietors without Fee or Reward; and in caſe the ſaid Commiſſioners or their Clerk ſhall neglect to procure and keep ſuch Book or Books of Accounts as aforeſaid, or refuſe the Inſpection thereof to any of the Proprietors at reaſonable Times, the Party or Parties ſo offending ſhall for every ſuch Offence forfeit and pay any Sum not exceeding Ten Pounds; and in caſe of Non-payment thereof, on Conviction of the Offenders reſpectively, on the Oath of any credible Witneſs or Witneſſes, or by the Party or Parties ſo offending, before ſome Juſtice of the Peace for the ſaid County of *Kilkenny*, ſuch Fine and Forfeiture ſhall be levied by Diſtreſs and Sale of the Goods and Chattels of the Offender or Offenders, by Warrant under the Hand and Seal of ſuch Juſtice; and all ſuch Fines and Forfeitures ſhall be applied and diſpoſed of towards defraying the Charges and Expences of obtaining and executing this Act; and the Overplus of the Money raiſed by ſuch Diſtreſs and Sale, after deducting the Fines or Forfeitures, and the Expences of ſuch Diſtreſs and Sale, ſhall be rendered to the Owner of the Goods and Chattels ſo diſtrained; and for want of ſufficient Diſtreſs, or in Caſe the Fine or Forfeiture ſhall not be forthwith paid, it ſhall and may be lawful to and for ſuch Juſtice, by Warrant under his Hand and Seal, to commit ſuch Offender or Offenders to the Common Gaol or Houſe of Correction, there to remain without Bail or Mainprize for any Time not exceeding Three Calendar Months, unleſs ſuch Fine, Penalty or Forfeiture, and all reaſonable Charges attending the Recovery thereof, ſhall be ſooner paid and ſatisfied.

Monies received, when amounting to 50l. to be paid into the Hands of ſuch Perſon as ſhall be appointed by a Majority in Value of the Proprietors.

XL. Provided always, and be it enacted, That all Sums of Money to be raiſed under and by virtue of the Powers contained in this Act, ſhall, as often as the ſame ſhall amount to the Sum of Fifty Pounds, be paid into the Hands of ſome Banker, or of ſuch other Perſon or Perſons as ſhall be approved by a Majority in Value of ſuch Proprietors who ſhall be preſent at the Firſt Meeting of the ſaid Commiſſioners; and in the Notice of which Meeting ſhall be expreſſed the Intention of then appointing ſuch Banker, or ſuch other Perſon or Perſons; and that no Monies ſhall be iſſued out of the Hands of ſuch Banker or other Perſon or Perſons, without an Order of the ſaid Commiſſioners, ſpecifying the Perſon to whom the ſame are payable, and the Service for which the ſame are due; and that the Balance (if any) upon the final Settlement of Accounts ſhall be immediately repaid to the Land Owners, in Proportion to the Sums reſpectively paid by them: Provided alſo, that if any Perſon or Perſons ſhall advance and pay any Money in diſcharge of the Fees or other Expences of preparing, ſoliciting, obtaining, or executing this Act, the Money ſo paid and advanced ſhall be repaid and ſatisfied to him, her, or them ſo advancing

Perſons advancing Money to be repaid with Intereſt.

advancing the ſame, together with lawful Intereſt for the ſame, out of the firſt Monies to be raiſed by virtue of this Act.

Commiſſioners Accounts to be examined Yearly.

XLI. Provided always, and be it enacted, That the ſeveral Commiſſioners acting from Time to Time in the Execution of this Act, and each of them, ſhall make out an Account containing a true Statement of all and every Sum and Sums of Money by him or them received or expended, or due to him or them for his or their own Trouble or Expences; and that ſuch Account ſhall once at leaſt in each and every Year from the Date of the paſſing of this Act, until ſuch Accounts ſhall be finally allowed, together with the Vouchers relating to the ſame, be examined by *John Power* Eſquire, or (in caſe of his Deceaſe or refuſing or neglecting to examine ſuch Accounts when thereunto required) by any Juſtice of the Peace acting for the ſaid County of *Kilkenny*; and the Amount or Balance thereof ſhall be by him the ſaid *John Power* or ſuch Juſtice ſtated in the Book of Accounts by this Act required to be kept in the Office of the Clerk of ſuch Commiſſioners; and that no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or be valid in Law, unleſs the ſame ſhall be duly allowed by the ſaid *John Power* or ſuch Juſtice, in Manner as aforeſaid.

Award to be made.

XLII. And be it further enacted, That ſo ſoon as conveniently may be after the ſaid Commiſſioners ſhall have completed the Diviſion and Allotments of the Lands and Grounds hereby directed to be divided and allotted, purſuant to the Directions of this Act, they ſhall form and draw up an Award or Inſtrument in Writing, which ſhall expreſs and denote the Quantity in Statute Meaſure of Acres, Roods, and Perches, of the ſaid Lands and Grounds, and the Quantity of each and every Part and Parcel thereof, which ſhall be aſſigned and allotted to each of the Parties entitled to or intereſted in the ſame; and ſhall alſo contain a Deſcription of the Situation, Abuttals, and Boundaries of the ſame Parcels and Allotments reſpectively, and ſuch Orders and Directions for raiſing and maintaining the Fences, and alſo for making, laying out, and maintaining proper Roads, Paſſages, Bridges, Gates, Stiles, Drains, Tunnels, and Watercourſes, in, through, over, and upon the ſame Premiſes; and ſuch other Orders and Regulations as the ſaid Commiſſioners ſhall think proper and neceſſary to be inſerted in ſuch Award, conformable to the true Purport and Tenor of this Act; and the ſaid Award ſhall be fairly engroſſed or written on Parchment, with a reduced Map or Plan of the ſaid Commons, Commonable Lands, or Waſte Grounds thereto annexed), and ſigned and ſealed by the ſaid Commiſſioners; and the ſaid Award ſhall, together with a Map or Plan thereto annexed, within Six Calendar Months after the Execution thereof, be inrolled with the Clerk of the Peace for the ſaid County of *Kilkenny*, or in One of His Majeſty's Courts of Record at *Dublin*, to the end Recourſe may be had thereto by any Perſon or Perſons intereſted in the ſaid Premiſes, for the Inrolment whereof the Sum of Two Pounds Two Shillings ſhall be paid, and for the Inſpection and Peruſal whereof the Sum of One Shilling and no more ſhall be paid; and the ſaid Award, after ſuch Inrolment as aforeſaid, ſhall, together with a Map or Plan thereto annexed, be depoſited and kept in the Pariſh Church of *Gowran*, or in ſuch other Place within the ſaid Pariſhes as the ſaid Commiſſioners ſhall appoint; and the ſaid Award, or a true Copy thereof, or of any Parts thereof, ſigned

by the ſaid Commiſſioners, or by the ſaid Clerk of the Peace or his Deputy, or by the proper Officer of the Court or his Deputy, where the ſame ſhall be inrolled as aforeſaid, (for which no more ſhall be paid than Four-pence *per* Sheet, each Sheet containing Seventy-two Words), ſhall from Time to Time and at all Times thereafter be admitted and allowed in all Courts whatſoever as legal Evidence of all Matters and Things therein contained; and the ſaid Award and the ſeveral Allotments, Partitions, Orders, Directions, Matters, and Things therein contained, ſhall be and is and are hereby declared to be binding and concluſive unto and upon all and every the ſeveral Parties intereſted in and entitled unto the ſeveral and reſpective Premiſes ſo to be divided, allotted, incloſed and exchanged as aforeſaid, their ſeveral and reſpective Heirs and Aſſigns.

Commiſſioners Award to be read and executed by them in the Preſence of the Proprietors, and proclaimed in the Pariſh Church.

XLIII. Provided always, and be it enacted, That the Award of the ſaid Commiſſioners ſhall be read and executed by them in the Preſence of the Proprietors who ſhall attend at a ſpecial Meeting called for that Purpoſe, of which Ten Days Notice at leaſt ſhall be given in the Newſpaper called *The Dublin Journal or Dublin Evening Poſt*, if then publiſhed, and if not, then in ſome other Newſpaper circulated in the ſaid County of *Kilkenny*, which Execution of ſuch Award ſhall be proclaimed the next *Sunday* in the Pariſh Church of *Gowran*, immediately after Divine Service, from the Time of which Proclamation only, and not before, ſuch Award ſhall be conſidered as complete.

Appeal to the Seſſions.

XLIV. 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 in purſuance of this Act (other than and except ſuch Orders and Determinations of the ſaid Commiſſioners as are herein ordered to be final and concluſive, and except in ſuch Caſes where an Iſſue at Law ſhall be tried as herein mentioned) then and in every ſuch Caſe, he, ſhe, or they may appeal to the Juſtices (not intereſted in the Premiſes, and who ſhall be of the Quorum) at the General Quarter Seſſion of the Peace which ſhall be holden for the ſaid County of *Kilkenny*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners, or any Two of them, Ten Days Notice in Writing of ſuch Appeal, and of the Matter thereof; and the ſaid Juſtices (not intereſted in the Premiſes) at their ſaid General Quarter Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and award ſuch Coſts and Damages, as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order and Warrant to levy the Coſts and Damages which ſhall be ſo awarded by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) on Demand, to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Warrant, Diſtreſs and Sale, and the Determination of ſuch Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed by *Certiorari* or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record in *Dublin* or elſewhere; but in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants, as to them in their Diſcretion ſhall ſeem reaſonable, and be levied in Manner aforeſaid.

XLV. Provided

Saving the Rights of Lords of Manors.

XLV. Provided always, and be it further enacted, That nothing in this Act contained, shall defeat, lessen, or prejudice, or be construed to defeat, lessen, or prejudice the Right, Title, or Interest of the Lord or Lady of the said Manor for the Time being, in or to the Seignory, Royalties, Rights, and Services incident and belonging to the said Manors, but that such Lord or Lady of the said Manor for the Time being, shall and may from Time to Time and at all Times hereafter, hold and enjoy all Rents Services, Courts, Perquisites, and Profits of Courts, Mines, Goods and Chattels of Felons, Fugitives, Felons of themselves, Persons put in Exigent, Deodands, Waifs, Estrays, Forfeitures, and all other Royalties, Jurisdictions, Rights and Pre-eminences whatsoever to the said Manor or to the Lord or Lady thereof for the Time being, incident, appendant, appurtenant, belonging or in anywise appertaining (save and except such Rights of Soil, and other Rights and Interests, as are hereby meant and intended to be barred and destroyed), in as full, large, ample and beneficial Manner to all Intents and Purposes as he, she, or they could or might have held and enjoyed the same in case this Act had not been passed.

General Saving.

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

Act to be printed by the King's Printers,

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1814.