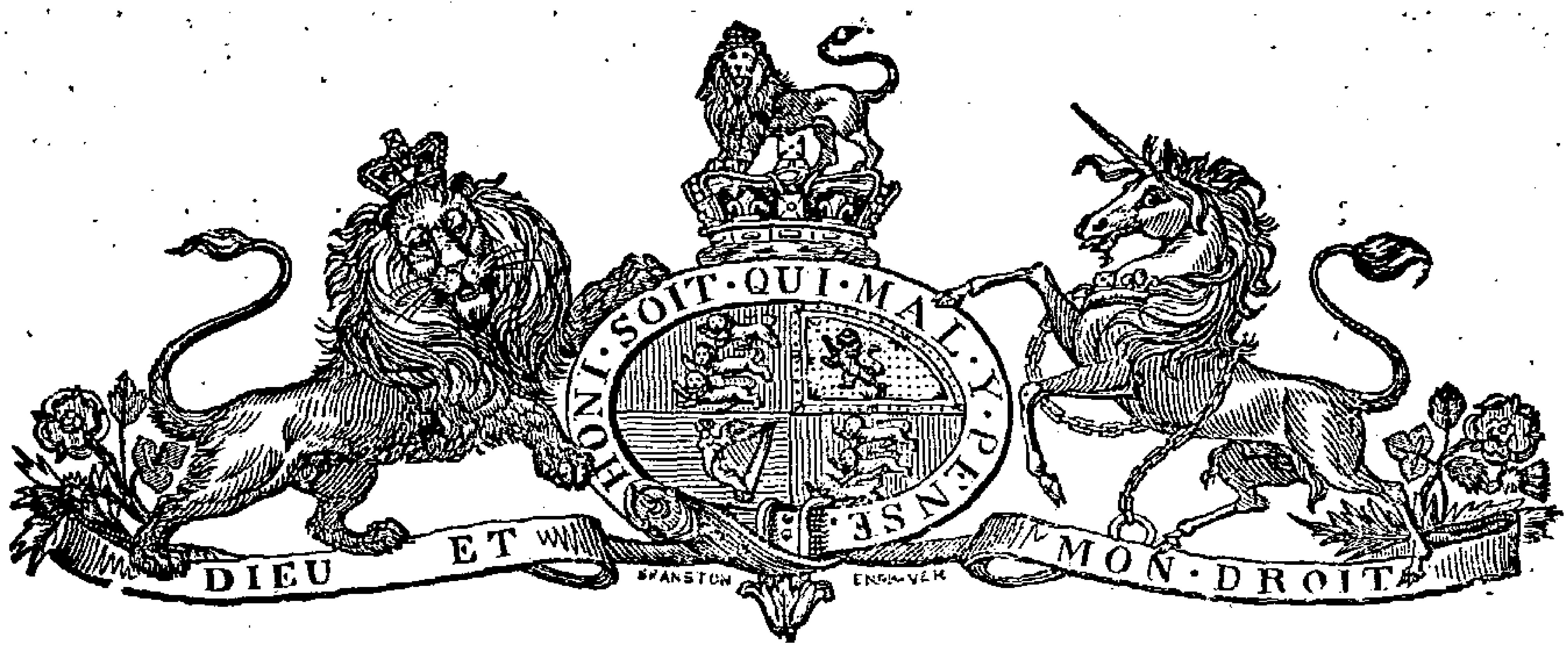


ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

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Cap. 17.

An Act for inclosing Lands in the Manor and Tithing of *Olveston* within the Parish of *Olveston* in the County of *Gloucester*. [21st *June* 1841.]

WHEREAS there are in the Manor and Tithing of *Olveston* within the Parish of *Olveston* in the County of *Gloucester* divers Open and Common Fields, Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds, containing in the whole by Estimation One hundred and eighty Acres, or thereabouts: And whereas *Robert Cann Lippincott* Esquire is or claims to be Lord of the said Manor of *Olveston*, and as such Lord of the Manor is entitled to the Soil of the Waste Lands within the said Manor: And whereas the said *Robert Cann Lippincott*, *Samuel Peach Peach* Esquire, *Alfred Ward* Esquire, *Thomas Llewellen* Esquire, Messieurs *Abraham Fisher*, *John York*, and divers other Persons, are the Owners or Proprietors of or otherwise interested in the said Open and Common Fields, Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds: And whereas the Lands of the said several Owners and Proprietors are in their present State incapable of any considerable Improvement, and it would be of great Advantage to the Proprietors thereof and Persons interested therein to have the same divided and inclosed, and

specific Parts thereof allotted to the Proprietors thereof, to be held in Severalty, and all Rights of Common therein extinguished; but the Purposes aforesaid cannot be effected without the Authority of Parliament: And whereas an Act was passed in the Forty-first Year
41 G. 3. c. 109. of the Reign of King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts:* And whereas another Act was passed in the First and Second Years of the Reign of King
1 & 2 G. 4. c. 23. *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: 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
Recited Acts to form Part of this Act. by the Authority of the same, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third and in the First and Second Years of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall from the passing of this Act be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

Appointment of Commissioner. II. And be it enacted, That *Young Sturge* of the City of *Bristol*, Gentleman, and his Successor for the Time being, to be elected or appointed in manner herein-after mentioned, shall be Commissioner for carrying this Act and the said recited Acts into execution; and it shall be lawful for the said Commissioner and he is hereby required to divide, allot, and inclose the said Open and Common Fields, Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds, according to the Regulations and Provisions con-
Qualification of Commissioner. tained in the said recited Acts and this Act: Provided always, that no Person shall be capable of acting as such Commissioner, except in signing and giving Notice of the First Meeting of the Commissioner, until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act; and such Declaration shall be in lieu of the Oath or Affirmation required by the said Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds.

Penalty on Persons acting not qualified. III. And be it enacted, That if any Person, not having so qualified himself, shall act as Commissioner, he shall for every such Offence forfeit the Sum of Fifty Pounds, with full Costs of Suit, to any Person who shall sue for the same, by Action of Debt or on the Case, in any of Her Majesty's Courts of Record at *Westminster*.

Penalty on making a false Declaration. IV. And be it enacted, That if any Person shall falsely or corruptly make and subscribe a Declaration, under the Authority of this Act, knowing the same to be untrue in any material Particular, he shall be guilty of a Misdemeanor.

V. And

Appointment of Commissioner on Vacancy.

V. And be it enacted, That in case the said *Young Sturge*, or any Person to be appointed a Commissioner in his Room by virtue of this Act, shall die, or become incapacitated, or neglect or refuse for the Space of Two Months to act as such Commissioner, it shall be lawful for the major Part in Value (such Value to be ascertained by the Land Tax Assessment for the Time being) of the several Proprietors of Lands within the said Manor and Tithing of *Olveston*, who shall attend, either personally or by their respective Agents, at any Meeting to be held for that Purpose, of which Meeting Notice shall be given by some One or more of the Persons interested in the said Inclosure by Advertisement, and also on the Church Door, as herein-after directed, at least Fourteen Days before such Meeting, to appoint, by Writing under their Hands, some fit Person to be a Commissioner in the Room of the said *Young Sturge*, or the Commissioner appointed in his Place, and so from Time to Time as often as any such Commissioner shall die, neglect or refuse or become incapable to act.

Appointment of Surveyor.

VI. And be it enacted, That it shall be lawful for the Commissioner from Time to Time, by Writing under his Hand, to appoint a fit Person to be a Surveyor for the Purposes of this Act during the Pleasure of the Commissioner, and on every Vacancy in like Manner to appoint some other Surveyor as often as there shall be Occasion: Provided always, that no Person shall act as such Surveyor until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration it shall be lawful for the Commissioner for the Time being, or any Justice of the Peace for the said County of *Gloucester*, to administer or receive; and the said Declaration, so made and subscribed, shall be annexed to and deposited with the Award of the Commissioner.

Surveyor to make a Declaration.

Old Surveys may be used.

VII. Provided always, and be it enacted, That it shall be lawful for the Commissioner to adopt and make use of any Survey, Admeasurement, or Plan already made of the said Open and Common Fields, Common Meadows, Commonable Lands, and Waste Grounds hereby authorized to be divided, allotted, and inclosed, or of any Part thereof respectively, without causing a new Survey, Admeasurement, or Plan to be made thereof: Provided also, that nothing in the said first-recited Act or in this Act contained shall extend to require the said Commissioner to make or cause to be made any Survey or Admeasurement of any of the Messuages, Cottages, Gardens, and Inclosures within the Manor and Tithing of *Olveston* aforesaid, but the said Commissioner shall, for the Purposes of the said Division, Allotment, and Inclosure, be at liberty to use and adopt the Plans and Surveys already or which may hereafter be made and used in effecting the Commutation of Tithes in the said Manor and Tithing of *Olveston*, or any other Plans or Surveys he may deem sufficient.

Appointment of Clerk.

VIII. And be it enacted, That it shall be lawful for the Commissioner to appoint a Clerk to assist him in carrying this Act into execution, and from Time to Time to remove such Clerk, and to appoint another in his Stead.

IX. And

Allowances to the Commissioner and Clerk.

IX. And be it enacted, That the Commissioner and the said Clerk shall be paid respectively, out of the Inclosure Expences Fund, for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act, as follows; (that is to say,) the Sum of Three Pounds and Three Shillings for each Day they shall respectively be engaged as aforesaid for the first Two Years after the passing of this Act, and the Sum of Two Pounds and Two Shillings *per* Day afterwards; and such Payments shall be in full Satisfaction to the Commissioner and Clerk respectively for their Time and Trouble, and for the several Expences incurred by them during their several Journies and Attendances in the Execution of this Act, except the Expence of the Room in which the Meetings of the Commissioner shall be holden, and the Expence of Appeals or other legal Proceedings against the Commissioner, and the Expence of Notices and Advertisements, and of preparing, proclaiming, and enrolling the Award, and such other like necessary Expences: Provided always, that it shall not be lawful for the Commissioner to retain or pay himself or the said Clerk any Money on account of the before-mentioned Allowances respectively beyond One Third of the Allowance to which they shall be respectively entitled, 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 Account of the 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 Commissioner or of the Clerk previous to the Execution of the said Award the Commissioner for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due thereon.

Length of Day for estimating Allowances.

X. And be it enacted, That in computing the aforesaid Allowance to the Commissioner and Clerk a Day shall be deemed to consist of Eight Hours during the Period between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and Six Hours during the Period between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March;* and where the Time occupied in going to and attending at and returning from any Meeting to be holden, or on other Business to be transacted, under the Provisions of this Act, shall be of less Duration than Eight Hours in the first of the Periods aforesaid, or of Six Hours in the second Period, the same shall be charged as only Half a Day, and the Commissioner and Clerk shall be paid accordingly.

Allowances to Surveyor.

XI. And be it enacted, That it shall be lawful for the Commissioner to pay to the Surveyor to be appointed by him, out of the Inclosure Expences Fund, the Sum of One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the Land requiring to be surveyed under the Provisions of this Act, if any such Survey, Map, or Plan shall be required, and the Sum of Two Pounds and Two Shillings for each Day that he shall be actually and wholly engaged in the Duties imposed by this Act, exclusive of the Time

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he may be engaged in surveying, measuring, mapping, and planning as aforesaid, and such Payments shall be in full Satisfaction for the Time and Trouble of the Surveyor, and for all travelling and other Expences of every Description to be incurred by him whilst engaged in the Duties of surveying under this Act.

Meetings, and Notices thereof.

XII. And be it enacted, That the Commissioner shall cause Notice to be given, by Advertisement or on the Church Door, of the Time and Place when and where his First and every subsequent Meeting shall be held (Meetings by Adjournment only excepted), and he may from Time to Time adjourn any such Meetings; and if at the Time and Place appointed for any such Meeting the Commissioner shall not attend, it shall be lawful for the Clerk to adjourn such Meeting for not more than Twenty-one Days, to be held at the same Place, giving timely Notice thereof to the Commissioner: Provided always, that all Meetings of the Commissioner for executing this Act shall be held at some convenient Place within the said Parish of *Olveston*, or within Eight Miles thereof.

Notices how to be given.

XIII. And be it enacted, That all Notices by this Act directed to be given by Advertisement shall be given by Advertisement to be inserted in some Newspaper or Newspapers printed or usually circulated in the said County; and all Notices directed to be given on the Church Door shall be by Writing under the Hand of the Party giving such Notice, to be affixed on the principal outer Door of the Parish Church of *Olveston* aforesaid on *Sunday* before Divine Service; and all Notices necessary to be given by the Commissioner, the Mode of giving which is not hereby particularly directed, shall be by one of the Methods aforesaid, and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate, any thing in the said first-recited Act to the contrary notwithstanding.

Persons summoned by the Commissioner and refusing to give Evidence to be punished.

XIV. And be it enacted, That if any Person, having been summoned to testify the Truth upon Oath touching any Matter relating to the Execution of this Act, and having been paid or tendered a sufficient Sum of Money, to be ascertained by the Commissioner, to defray the Charges of his Attendance, shall not appear before the Commissioner pursuant to such Summons, without assigning some reasonable Excuse for not appearing, or appearing shall refuse to be sworn or to give Evidence touching the Premises, it shall be lawful for the Commissioner, upon Proof of such Summons, and Tender made before him upon Oath (which Oath he may administer), by Warrant, directed to any Person whomsoever, to cause any Sum of Money not exceeding Ten Pounds to be levied by Distress upon the Person so neglecting or refusing to appear, be sworn, or give Evidence, and the Money so to be levied shall be considered as Part of the Inclosure Expences Fund, and shall be applied accordingly.

For regulating Distresses.

XV. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of a Penalty or otherwise, shall be directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same;

same; and the surplus Monies arising from such Sale, after satisfying such Sum of Money, and the Costs and Expences attending the Distress and Sale, shall, on Demand, be rendered to the Party whose Goods and Chattels shall have been distrained.

Proceedings to be entered in a Book.

XVI. And be it enacted, That all the Orders, Proceedings, and Determinations of the Commissioner at any Meeting to be held in pursuance of this Act shall be entered in a Book to be provided for that Purpose, and shall be signed by the Commissioner, and being so signed shall be deemed to be Originals; and all such Books shall be deposited with and kept by the Clerk to the Commissioner, and may be read as Evidence on all Cases of Appeals, Suits, Actions, and other Proceedings touching any thing done in relation to this Act.

Proprietors to pay their own Expences at Meetings.

XVII. Provided always, and be it enacted, That the several Persons interested in the said Inclosure, and their respective Agents, shall pay their own Expences whenever they shall attend any of the Meetings to be held in pursuance of this Act.

Debts to be paid, and Accounts to be audited.

XVIII. And be it enacted, That the Commissioner shall not at any Time permit any just Claim or Demand upon him as such Commissioner to remain unpaid for a longer Period than Three Months; and once at least in every Twelve Months during the Execution of this Act, and until the Accounts of the Commissioner shall be finally allowed, the first of such Periods to be computed from the Day of the passing hereof, he shall make out a true and accurate Account of all Sums of Money by him received and expended in the Execution of this Act, and of all Sums due to him for his own Trouble or Expences, and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid; and such Account, when so made out, together with the Vouchers relating thereto, shall be by the Commissioner laid before One or more of Her Majesty's Justices of the Peace for the said County of *Gloucester*, not interested in the Premises, to be by him or them examined and balanced.

Accounts to be published.

XIX. And be it enacted, That the Balance of such Account shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the Commissioner; and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be inserted in some Newspaper printed or usually circulated within the said County; and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by such Justice or Justices, nor until such Abstract thereof shall have been published in some such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

For shortening Boundaries.

XX. And be it enacted, That for the Purpose of shortening or rendering straight any Boundary Fences between the Lands to be inclosed and the old inclosed Lands in the said Tithing and Manor, or between such Lands, or any of them, and any adjoining Lands, it

shall be lawful for the Commissioner, with the Consent of the Lord of any adjoining Manor in which the Lands are situate, if Common or Waste Land of such Manor, or of the Owners of any other such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them, being a Corporation Aggregate, to set out and determine the Boundaries between any such Lands as he shall judge proper for the Purposes aforesaid; and after such Boundaries shall have been so set out and determined as aforesaid the same shall be made, fenced, ditched, or mounded by such Person, in such Manner, and at such Times as the Commissioner shall direct, and shall for ever thereafter be deemed the Boundaries between such Lands.

Commissioner to set out Drains, and enlarge and turn Watercourses.

XXI. And be it enacted, That it shall be lawful for the Commissioner to set out and make such Common Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, of such Extent and Form, and in such Situations, as he shall deem necessary, in the Lands to be inclosed, and also to enlarge, cleanse, or alter the Course of and improve any of the present Ditches or Watercourses, Banks or Bridges, as well in and over the same Lands as also in any ancient Inclosures or other Lands within the said Manor and Tithing of *Olveston*, as the Commissioner shall deem necessary, making such Satisfaction to the Proprietors of such ancient Inclosures or Lands, for the Damage done thereby, as the Commissioners shall think just; and the Expences of making and enlarging, altering and cleansing such Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first done, in pursuance of this Act, if not otherwise provided for, shall be raised by the Commissioner by a Rate upon the Parties interested therein or benefited thereby, and in case of Non-payment, upon Demand, shall be levied by Distress; but all such Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Persons and in such Manner as the Commissioner shall by his Award direct; provided that no Watercourse be diverted or turned without the Consent in Writing of the Persons from whose Lands the same may be diverted, and of the Persons into whose Lands the same may be turned, or to the Prejudice of any Person interested in such Watercourse, except with his Consent in Writing; provided also, that nothing in this Act contained shall extend or be construed to extend to abridge or lessen the Powers and Authorities of Her Majesty's Commissioners of Sewers for the Lower Level of the said County of *Gloucester* wherein the said Manor and Tithing of *Olveston* are partly situate.

Commissioner, with Consent of Trustees of the Road described, may set out the same to a Width of Thirty Feet.

XXII. And whereas a certain Turnpike Road leading from a Place called *Alveston Down*, in the Parish of *Alveston* in the said County of *Gloucester*, to or near to the respective Villages of *Olveston* and *Tockington* in the said County, and being Part of the Turnpike Road called the *Aust* and *Latteridge* Division of the *Sodbury* District of Roads, runs through and over certain Parts of the Lands to be inclosed for the Space of One Mile and upwards: And whereas the passing and repassing along the said Part of the said Turnpike Road is very inconsiderable, and is not likely materially to increase,

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and the average Width of the said Turnpike Road between the ancient Inclosures near the said Lands to be inclosed is less than Thirty Feet, and there is no Market Town on the Line of the said Turnpike Road within Three Miles of the said Manor and Tithing of *Olveston*; be it therefore enacted, That it shall be lawful for the Commissioner and he is hereby authorized and empowered to set out and appoint the said Turnpike Road through and over the Lands to be inclosed of the Width of Thirty Feet, and no more: Provided always, that the Commissioner, before he shall proceed to set out and appoint the said Road of such Width, shall obtain the Consent thereto in Writing of Three of the Trustees of the said Turnpike Road not interested in the said Division, Allotment, and Inclosure hereby directed to be made.

Power to widen Roads, making Compensation to LandOwners.

XXIII. And be it enacted, That it shall be lawful for the Commissioner to widen any of the public Roads or Highways where he shall think it necessary within the said Tithing and Manor of *Olveston*, to any Extent he shall think fit, not exceeding Thirty Feet, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands adjoining such Roads (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House), the Commissioner making a full Compensation for the Value of the Land so taken, either by allotting and awarding unto the Persons from whom any such inclosed Land shall be so taken an adequate Part of the Lands to be inclosed, or out of the Inclosure Expences Fund, and also making good and substantial Fences on each Side of all such widened public Roads and Highways, in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to stop up or divert Roads, &c.

XXIV. And be it enacted, That in setting out the several public Carriage Roads, Highways, Bridle Roads, and Footpaths, in pursuance of this Act or of the first-recited Act, the Commissioner may, if he think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the County of *Gloucester*, discontinue, stop up, divert, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footpaths passing through any of the Lands to be inclosed, or any of the old Inclosures, within the said Manor and Tithing of *Olveston*; and the Soil of such of the Roads and Ways so to be discontinued and stopped up as pass through allottable Lands shall be deemed Part of the Lands to be inclosed: Provided always, that nothing herein contained shall authorize the altering or diverting of any Turnpike Road, unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first obtained.

Proceedings previously to stopping up or diverting Roads, &c.

XXV. Provided always, and be it enacted, That before any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered by the Commissioner, or any such Order of Two Justices shall be made, the Commissioner shall cause to be affixed at each End of such public Carriage Road, Highway, Bridle Road, or Footpath, a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered, as

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the Case may be, by the Commissioner, and the Commissioner shall also cause the same Notice to be given by Advertisement for Four successive Weeks, and also on the Church Door on the Four *Sundays* of the said Four successive Weeks, and after the said several Notices shall have been so given, and after such Order as herein-before mentioned shall have been made, such public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject, however, to such Appeal as is herein-after mentioned.

Appeal to the Quarter Sessions.

XXVI. Provided also, and be it 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, or altered, as the Case may be, within Four Months after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the Quarter Sessions for the said County, upon giving to the Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been given as aforesaid, nor on any Hearing of Appeal to go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

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

XXVII. And be it enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether such public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be thereby 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 such public Carriage Road, Highway, Bridle Road, or Footpath is unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such Appeal, and shall award the Costs of resisting the said Appeal to be paid by the Appellant to the Commissioner, and the same shall be recoverable in the same Manner as any Penalties and Forfeitures are recoverable under the said first-recited Act; but if the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath 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 shall allow such Appeal, and such public 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 shall award to the Appellant the Costs of prosecuting such Appeal, and such Costs shall be paid by the Commissioner out of the Inclosure Expences Fund.

Expence of discontinuing or widening Roads.

XXVIII. And be it enacted, That the Expences attending the purchasing of the Soil of such Roads, or the discontinuing, stopping up, diverting, and altering of such Roads, and the Money Compensation in respect thereof, shall be paid out of the Inclosure Expences Fund.

Commissioner may suspend or extinguish Rights of Common.

XXIX. And be it enacted, That it shall be lawful for the Commissioner, at such Time as he shall think proper, and before the Execution of his Award, by Notice on the Church Door, to order all or or any Part of the Rights of Common or Feeding, or other Rights in or over the Lands to be inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended during such Time as shall be expressed in such Notice, and from the Time mentioned in such Notice such Right shall be extinguished or suspended accordingly.

Claims to be delivered to the Commissioner.

XXX. And be it enacted, That all Persons claiming any Interest in any of the Lands to be inclosed shall deliver their respective Claims in Writing, under their Hands or the Hands of their Agents, unto the Commissioner, at the Meetings to be held for that Purpose, stating the several Particulars in respect whereof such Claims are made, and distinguishing Freehold and Leasehold Property from each other; and no such Claim shall be received by the Commissioner after the last Meeting to be held for that Purpose of which due Notice shall have been given, and so expressed therein, except for some special Cause to be allowed by the Commissioner.

Adjudication upon Claims.

XXXI. And be it enacted, That after the said Claims shall be so received the Commissioner shall cause Notice on the Church Door to be given of a Time (at least Ten Days distant) and a Place for all Parties concerned to appear before him, and show Cause for or against the Allowance or Disallowance of the said Claims; and at such Meeting the Commissioner shall proceed to examine into and determine the same, and shall make such Order therein as to him shall appear just; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Differences shall happen between any of the said Proprietors touching their respective Rights or Claims, or touching the respective Shares which they ought to have in the Allotments, the Commissioner shall, by Examination of Witnesses upon Oath, (which Oath the Commissioner is hereby empowered to administer,) and by such other Evidence as to him shall seem proper, hear and determine the same, and shall make such Order therein as to the Commissioner shall appear just, which Order shall be final, unless any Party shall be dissatisfied with the Determination of the Commissioner, and shall proceed to try his Rights by an Issue at Law, as herein-after mentioned.

Commissioner not to determine Titles contrary to Possession.

XXXII. And be it enacted, That this Act shall not authorize the Commissioner to determine the Title to any Lands, or to determine any Right between any Parties, contrary to the actual Possession of such Parties (except in respect of Encroachments as herein-after mentioned), but in case the Commissioner shall be of opinion against the Rights of the Party in possession, he shall forbear to make any

Determination thereon until the Possession shall have been given up by such Party, or recovered from him by due Course of Law.

Parties dissatisfied authorized to try their Rights at Law.

XXXIII. And be it enacted, That if any Person claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the Commissioner concerning any Claim or any Right or Interest in or to the Lands to be inclosed, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action upon a feigned Issue against the Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent; and thereupon the Person so dissatisfied may proceed to a Trial at Law at the then next Assizes, or at the Assizes immediately following such next Assizes which may be holden for the said County after such Action shall have been commenced; and the Defendant in such Action shall, upon being served with the usual Process therein, appear and plead thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim, and the Right and Interest thereby insisted on, may be tried and determined, such Issues to be settled by the proper Officer of the Court in which such Action shall be commenced, in case the Parties differ; and the Verdict given upon the Trial of such Action shall be binding and conclusive upon all the Parties thereto, unless the Court shall set aside such Verdict, and order a new Trial to be had; and after such Verdict shall be given, and final Judgment obtained thereon, the Commissioner shall act in conformity thereto, and allow or disallow the Claim thereby determined, according to the Event of such Trial; and the Costs attending any such Actions shall abide the Event of the Trial.

If no Action brought within Time limited.

XXXIV. Provided always, and be it enacted, That if no such Action shall be commenced, or if the Plaintiff therein shall not proceed to Trial within the Time herein-before limited for that Purpose, unless the Court for sufficient Cause put off such Trial, the Determination of the Commissioner shall be final.

Parties dissatisfied with the Determination of the Commissioner on a Question of Law may state a Special Case for the Opinion of the Courts at Westminster.

XXXV. And be it enacted, That in case any such Determination of the Commissioner shall involve a Question of Law only, and the Parties in difference shall be agreed upon the Facts relating thereto, and whereon such Determination shall have been founded, the Commissioner, at the Request of the Party dissatisfied, such Request to be made in Writing by such Party or his Agent within Ten Days after such Decision, shall direct a Case to be stated for the Opinion of One of Her Majesty's Courts of Law at *Westminster*, which Case shall be settled by the Commissioner, or under his Direction, in case the Parties differ about the same, and may be set down for Argument, and brought before the Court, in like Manner as other Cases are brought before the Court; and the Decision of such Court in every Case so brought before it shall be binding upon the Commissioner and upon all Parties concerned therein: Provided always, that the Costs of stating such Case, and of obtaining a Decision thereon, and otherwise incident thereto, shall be in the Discretion of the Court in or by which the same shall be decided, which may order the same to be

be taxed by the proper Officer of the Court, and the like Execution may be had for the same as if such Costs had been recovered upon a Judgment of Record of such Court.

Deaths of Parties not to abate Proceedings; and in case Parties die before Action brought, the Suits to be carried on and defended in their Names.

XXXVI. And be it enacted, That if any Person, Plaintiff or Defendant in any Action to be brought as aforesaid, shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened (the Heir or Devisee or other Person entitled to the Interest of the deceased Party in the Matter in question being served with Process in the Action); and if any Person 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 Action brought, it shall be lawful for the Person who might have brought such Action to bring the same within the Time so limited as aforesaid against such Person as if actually living, and to serve the Commissioner or his Clerk with the usual Process for commencing such Action, in the same Manner as the deceased Person might have been served therewith if living; and it shall thereupon be incumbent on such Clerk to serve with such Process the Heir or Devisee or personal Representative of the deceased Person, or other the Person who shall claim the Benefit of such Determination as aforesaid; and on such Process being served such Heir or Devisee or personal Representative, or other Person, shall appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had thereon in the same Manner as if such Person had been living; and the Rights, Interests, and Claims of all Parties shall be equally bound by the Event of any Action so brought or continued as aforesaid as if the Decease of any of the Persons interested therein had not occurred.

Suits not to delay the Execution of the Act.

XXXVII. Provided always, and be it enacted, That no such Difference, Suit, or Proceeding as aforesaid, nor any Difference, Suit, or Proceeding respecting the Title to any Lands, shall impede or delay the Proceedings of the Commissioner in the Execution of this Act, but the Inclosure shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding; and the Allotment to which any such Difference, Suit, or Proceeding respectively shall relate shall be taken by the Party who by the Determination of such Difference, Suit, or Proceeding respectively shall become entitled to the same.

If Parties die before Inclosure completed, the Allotments to be made to their Representatives.

XXXVIII. And be it enacted, That if any Person interested in the said Inclosure shall die before the same shall have been completed, the Powers and Authorities hereby vested in the Commissioner shall not be thereby determined or suspended, but he shall proceed in the Execution of such Powers and Authorities in such Manner as he might have done in case such Person had not died; and the Share of the Person so dying shall be allotted to such Person as by Law shall become entitled to the same, and shall be accepted and fenced by such Person according to the Directions of this Act, and he shall be liable to the Charges and Expences and other Conditions of this Act.

XXXIX. And

Commissioner to award Costs.

XXXIX. And be it enacted, That in case the Commissioner, upon the Determination of any Claim or Objection to be delivered to him in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for him, upon Application, to assess and award such Costs as he shall think reasonable to be paid, by the Person whose Claim or Objection shall have been disallowed, to the Person in whose Favour any Determination shall have been made; and in case any Person liable to pay such Costs shall refuse or neglect to pay the same, upon Demand, the Commissioner shall, by Warrant, directed to any Person whomsoever, cause the same to be levied by Distress; and if there be no Goods or Chattels whereon to levy such Costs, it shall be lawful for the Persons in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Action 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 Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Wills and Settlements not to be affected.

XL. Provided always, and be it enacted, That nothing in this Act contained shall extend to revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance, out of or affecting any of the Lands to be inclosed, or any of the Lands which may be exchanged or parted with in pursuance of this Act, but that as well as the Lands allotted and exchanged as the Lands which shall be assigned in Partition or in Compensation for any other Estate or Right, by virtue of this Act, shall, immediately after such Allotment, Exchange, or Partition, be and enure, and the several Persons to whom the same shall be so allotted or given in Exchange or Partition as aforesaid shall be seised and possessed thereof respectively, to, for, and upon the same Estates, Uses, Trusts, Intents, and Purposes, and subject to the same Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Partitions shall have been made would have stood limited for or been subject to in case the same respectively had not been allotted, exchanged, or parted with as aforesaid, or as if this Act had not been passed; subject, nevertheless, to all such Mortgages and Sales as shall be made by virtue of this Act.

Persons may sell their Common Rights, and Persons entitled to have Allotments may mortgage, &c. before Execution of the Award.

XLI. And be it enacted, That if at any Time before the Execution of the Award of the Commissioner any Person shall sell his Right or Interest in the Lands to be inclosed, or any Part thereof, to any Person, the Commissioner shall, upon any such Sale being made, make an Allotment of Land to the Purchaser, or to his Heirs or Assigns, in respect of the Right or Interest so sold; and every such Purchaser, or his Heirs or Assigns, shall, from the Execution of the said Award, hold and enjoy the Land so to be allotted to him in the same Manner as the Vendor might or ought to have done in case such Sale had not been made; and it shall be lawful for any Person who shall be entitled to any Allotment under this Act to devise, grant, surrender, mortgage, or otherwise convey and assure the same

same Allotment, or all or any Part of his Interest therein, at any Time before the Execution of the said Award; and every such Devise, Grant, Surrender, and other Assurance shall be of the same 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 to sell, dispose of, and convey the Estate in right of which he may be entitled to such Allotment separate from and retaining to himself such Allotment, Common Right, and Interest, and the Commissioner is hereby required to award such Allotment accordingly.

Encroachments.

XLII. And be it enacted, That all Encroachments and Inclosures which shall have been made by any Person from or upon any Part of the Lands to be inclosed within Twenty Years next before the passing of this Act, whether any Amerciament, annual Rent, or any Money Payment or Acknowledgment, hath or hath not been paid in respect of the same, to or for the Use of the Lord of the Soil, or any other Person, shall be deemed Parcel of the Lands to be inclosed, and shall be divided, allotted, and inclosed accordingly.

Allotments of old Inclosures with Consent of Proprietors.

XLIII. And be it enacted, That it shall be lawful for the Commissioner, with the Consent in Writing and at the Request of any Owner or Proprietor of any Houses, Homesteads, Gardens, Orchards, or old inclosed Lands within the said Tithing and Manor of *Olveston*, whether such Owner or Proprietor shall be a Corporation, Tenant in Fee Simple, or for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Lives, (with the Consent of the Lessor of any such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands holden for Years determinable as aforesaid, and not otherwise,) or with the Consent of the Guardian, Trustee, Feoffee for charitable or other Uses, Husband, Committee, or Attorney of or acting for any such Proprietor as aforesaid who shall be an Infant, Feme Covert, Lunatic, 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, or by Writing under the Hand of the Agent of such Corporation, and in case of an Individual under his Hand,) to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable, and Parcel of the Lands to be inclosed; and such Allowance shall be made to the Proprietors of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands, on account of the Situation or other beneficial Circumstances thereof, as the Commissioner shall adjudge to be just and reasonable, and he shall allot and award unto such Proprietors so much and such Part of the Lands to be inclosed as he shall think reasonable and just.

Allotment for Repair of Highways.

XLIV. And be it enacted, That the Commisioner shall, if he shall see fit, allot to the Surveyor of the Highways for the Time being of the said Tithing of *Olveston*, and to his Successors for ever, such Part of the Lands to be inclosed as he shall think necessary and most convenient for supplying Stone and other Materials for the Repair of

the several Roads and Ways by this Act authorized to be made, and of the several other Roads and Ways within the said Tithing and Manor of *Olveston*; and such Allotments shall be inclosed and fenced as the Commissioner shall direct, and shall from the Execution of his Award be vested in the Surveyor of the Highways within the said Tithing for the Time being, in Trust for the Purposes aforesaid; and the Grass and Herbage of such Allotment shall belong to such Person as the Commissioner shall by his Award direct; and if he shall make no such Direction, then such Surveyor shall from Time to Time let the Herbage for the most Money that can be obtained for the same, and shall apply the Rents and Profits towards the Repairs of the public Roads or Highways within the said Tithing and Manor; and the said Surveyor shall account for such Rents and Profits in the same Manner as he is by Law accountable for other Monies that shall come to his Hands in the Capacity of Surveyor of the Highways, and shall be subject to the like Penalties for the Neglect thereof.

Allotment to be set out for Recreation of the Inhabitants.

XLV. And be it enacted, That the Commissioner shall allot and award unto the Churchwardens and Overseers of the Poor for the Time being of the said Parish of *Olveston*, in the most appropriate Situation, out of the Common and Waste Lands to be inclosed, One Piece of Land not less than Three Acres, as a Place of Exercise and Recreation of the neighbouring Population; and such Allotment shall be held by the Churchwardens and Overseers for the Time being for the Purposes aforesaid, and shall be, in the first instance, fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Parish in such Proportions and Manner as shall be directed by the Award of the Commissioner.

Allotment for Right of Soil.

XLVI. And be it enacted, That the Commissioner shall set out, allot, and award to the said *Robert Cann Lippincott*, or such other Person as is or shall be entitled to the Soil of the said Commons, Commonable Lands, Wastes, or Waste Grounds, One Sixteenth Part in Value of the whole of the said Commons, Commonable Lands, Wastes, and Waste Grounds, (after deducting Roads only,) which shall be a full Compensation for his Right or Rights to the Soil of the said Commons, Commonable Lands, Wastes, and Waste Grounds.

Allotment to Owners of Upper Hazle Farm.

XLVII. And be it enacted, That the Commissioner shall set out, allot, and award, out of the Lands to be inclosed, unto the Owners of the Estate in the said Manor and Tithing of *Olveston* called *Upper Hazle Farm*, now in the Occupation of *Mary Ward* or her Under-tenants, and of a Cottage in the said Manor and Tithing late in the Occupation of *Edward Jones*, and now of *James Jefferies*, for and in lieu of the Rights and Interests in such Lands in respect of the said Estate and Cottage respectively, the Pieces or Parcels of Land herein-after mentioned; that is to say, One Piece of Land situate on *Alveston Down*, being the Eastern Extremity of the Waste there, containing by Admeasurement One Acre and Two Roods, bounded North by Part of the said Estate called *Upper Hazle Farm*, East by the Highway leading from the *Bristol* Turnpike Road by *Greenhill*

Greenhill to *Kington*, South by the Turnpike Road leading from *Alveston Ship* to the *Old Passage*, and West by other Part of the Land to be inclosed; One other Piece of Land situate on and being Part of *Stroud Common*, containing by Estimation Two Acres or thereabouts, bounded on the South by the said Turnpike Road leading from *Alveston Ship* to the *Old Passage*, and on all other Parts by the said Estate called *Upper Hazle Farm*; and One other Piece of Land, being the Eastward Extremity of *Old Down*, containing by Admeasurement Two Acres and Twenty Perches, bounded Southward by the said Turnpike Road leading from *Alveston Ship* to the *Old Passage*, Northward by the said Estate called *Upper Hazle Farm*, and Westward by other Part of the Land to be inclosed: Provided always, that in case the said Pieces or Parcels of Land herein-before particularly described, and directed to be set out, allotted, and awarded to the Owners of the said Estates for such Rights and Interests as aforesaid, shall, in the Judgment of the Commissioner, amount to more than an Equivalent for such Rights and Interests, then the Owners of the said Estates shall pay to the Commissioner, as the Price or Consideration for the Overplus thereof, such Sum of Money, and at such Time, as he shall by Writing under his Hand, to be delivered to or left at their usual Place of Abode One Calendar Month previously to such Time of Payment, order and direct, which Sum of Money shall be and be considered and applied by the Commissioner as Part of the Inclosure Expences Fund; and in case such Payment shall not be made accordingly, then so much of the said Pieces or Parcels of Land as shall, in the Judgment of the Commissioner, exceed a fair Equivalent for such Rights and Interests of the Owners of the said Estates, shall be sold by the Commissioner as Part of the Sale Allotment for raising the Inclosure Expences Fund, and the Produce thereof be applied by him accordingly.

Certain Wells to be allotted, and Pumps erected for the Use of the Inhabitants.

XLVIII. And be it enacted, That the Commissioner shall allot and award the Five several Wells or Springs of Water on the Lands to be inclosed, Two of which are situated in the Village of *Olveston*, One other on *Old Down*, One other in *Dropping* or *Dipping Well Lane*, and the other at *Lower Hazle*, and all of which have been heretofore immemorially used by the Inhabitants of the said Tithing and Manor of *Olveston*, unto and for the Use of such Inhabitants for ever, and shall erect and set up thereon good and sufficient Pumps and Troughs; and such Wells, Pumps, and Troughs respectively, from and after the Commissioner shall have made and published his Award, shall for ever be cleansed and repaired by the Surveyor of the Highways for the said Tithing of *Olveston* for the Time being, by and out of the Highway Rates of the said Tithing, or by such other Person and out of such other Rate as sahll for the Time being be substituted in lieu thereof.

Commissioner to set out Allotments for Sale, to defray Expences.

XLIX. And be it enacted, That the Commissioner shall set out and allot such Parts of the said Lands to be inclosed as he shall judge will by the Sale thereof be fully sufficient for the Payment of the Inclosure Expences; that is to say, the Costs and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed

allowed to the said Commissioner, Clerk, and Surveyor, for Expences, Time, and Trouble, and the Costs and Expences of Sales, and the Costs and Expences of preparing and enrolling the Award of the Commissioner, and all Costs and Expences that the Commissioner shall be be put unto in respect of any Appeal against his Decision, or of any Suit at Law or in Equity that may be instituted by or against him as Commissioner in the Execution of this Act, either before or after the Execution of the said Award, and all other Costs and Expences whatsoever of carrying this Act into execution, so far as the same relate to the Division, Allotment, and Inclosure hereby authorized to be made; and the Commissioner shall sell such Allotments for the best Price that can be gotten for the same, by private Contract or by public Auction, of which Three Weeks previous Notice shall be given; and every Allotment for which the full Purchase Money shall be paid shall be conveyed by the Commissioner, either by Indentures of Lease and Release, or by Feoffment with Livery of Seisin, to the Purchaser, his Heirs and Assigns, or otherwise as he shall direct or appoint.

Application of Purchase Money.

L. And be it enacted, That the said Purchase Money shall be applied by the Commissioner in defraying such Costs, Charges, and Expences as aforesaid, and the Overplus of such Purchase Money, (if any,) after deducting such Costs, Charges, and Expences, shall be distributed amongst the several Persons interested in the said Lands to be inclosed respectively in proportion to their several and respective Rights and Interests therein; and such Money shall be paid to such Persons, in case they shall be seised in Fee Simple of the several Allotments to be made to them respectively by virtue of this Act, or otherwise such Money shall be applied and disposed of by the Commissioner in manner herein-after directed where any Sum of Money is to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands, to be settled to the same Uses.

Deficiency, if any, how to be raised.

LI. And be it enacted, That in case, after Application of the Monies arising from such Sales of Allotments herein-before directed to be sold, the whole of the Costs, Charges, and Expences of the Inclosure shall not be defrayed and discharged, the Deficiency shall be borne and defrayed by the several Persons interested in the Lands to be inclosed (except the Churchwardens and Overseers in respect of the Allotment herein-before authorized or directed to be made to them), in such Shares and Proportions, and shall be made at such Time and Place, and to such Persons, as the Commissioner shall, by Notice on the Church Door, or delivered to the respective Persons liable to the Payment of such Costs and Expences, at least Fourteen Days before the Time appointed for such Payment, order; and the Commissioner shall from Time to Time make Estimates of all such Costs and Expences, and raise the Amount of such Estimates at such Times as he shall deem necessary or proper, either before or after the Execution of his Award.

Remedies in case of Non-payment.

LII. And be it enacted, That if any Person shall refuse or neglect to pay his Proportion of such Expences within the Time and to such Person as the Commissioner shall appoint, it shall be lawful for the Commissioner to recover the same, together with lawful Interest, to be computed from the Day on which the same ought to have been paid, by Action at Law in his own Name in any of Her Majesty's Courts of Record at *Westminster*, or it shall be lawful for him, by Warrant directed to any Person whomsoever, to cause the same, with such Interest thereon as aforesaid, to be levied by Distress; or it shall be lawful for the Commissioner, or any Person authorized by him, immediately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person, and demise the same, and receive the Rents and Profits thereof, until thereby or otherwise such Share or Proportion, with lawful Interest as aforesaid, and also all the Costs and Expences attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

Allotment of Residue of Common Fields and Meadows.

LIII. And be it enacted, That the Commissioner shall allot and award the Residue of the Common Fields and Common Meadows hereby directed to be divided, allotted, and inclosed, unto and amongst the several Owners thereof, according to their several and respective Rights and Interests therein.

Allotment of Residue.

LIV. And be it enacted, That after the several Allotments herein-before directed shall have been set out and made the Commissioner shall divide, allot, and award all the Remainder of the Lands to be inclosed unto and amongst the several Owners and Proprietors and Persons who shall be entitled to any Estate, Right, or Interest therein, in such Shares and Proportions as the Commissioner shall adjudge and determine to be proportionate to the Value of their respective Rights and Interests therein: Provided always, that the Commissioner shall, in ascertaining and determining such Value, estimate the annual Value of each Messuage, Cottage, or Toft, (with the Curtilage thereto belonging,) claiming and being allowed Right of Common, at the annual Value of Twenty Pounds, and no more.

Shares under 20*l.* in Value may be sold, and the Proprietors paid in Money.

LV. And be it enacted, That in all Cases where the Value of any Allotments of the said Lands to be inclosed, to be made to any Owner of Lands in respect of his Rights and Interests therein, shall not in the Judgment of the Commissioner exceed in the whole the Sum of Twenty Pounds, (except where the Lands of such Owner shall adjoin to or front or abut upon some Part of the said Commons, Commonable Lands, Wastes, or Waste Grounds,) it shall be lawful for the Commissioner, instead of making Allotments to any such Owner, to sell so much of the said Lands as all such Owners collectively shall be entitled to, in such Lots as the Commissioner shall think proper, and to convey the same to the Purchasers thereof respectively; and such Sale and Conveyance shall be in the same Manner in all respects as the Sale of Allotments herein-before directed for raising the Inclosure Expences Fund; and the Commissioner shall have and be invested with all the same Powers and Authorities, with

with respect to the Sale and Conveyance of such last-mentioned Allotments, as are given to or vested in him by this Act or the said recited Acts with respect to the Sale and Conveyance of the Allotments herein-before directed to be made for raising the Inclosure Expences Fund; and the Monies to arise from such Sales, after deducting the Costs and Expences attending the same, shall be divided and apportioned amongst the several and respective Parties who would otherwise have been entitled to Allotments of the Lands so to be sold as last aforesaid, according and in proportion to their several and respective Rights and Interests therein, and shall be paid to them respectively accordingly.

Applications for Situations of Allotments.

LVI. And be it enacted, That the Commissioner shall appoint a Meeting for receiving Applications from the several Proprietors of the Lands to be inclosed, touching the Situations in which they would respectively choose to have their Allotments set out, and shall give Ten Days Notice of the Time and Place of such Meeting by Advertisement or on the Church Door.

Allotments to be made.

LVII. Provided always, and be it enacted, That it shall be lawful for the Commissioner to allot the Right or Share of any such Proprietors in all or any of the said Common Fields, Common Meadows, Commons, Wastes, and Waste Grounds to be inclosed, in any One or more of such Common Fields, Common Meadows, Commons, Wastes, and Waste Grounds respectively.

For determining Objections to Allotments.

LVIII. And be it enacted, That as soon as the Commissioner shall have ascertained the respective Rights and Interests of the several Parties interested in the Lands to be inclosed, and also the Allotments by him proposed to be made to such Parties respectively in lieu of such Interests, he shall hold a Meeting, of which Ten Days Notice shall be given by Advertisement or on the Church Door, where such Parties may be informed of the Situation of such intended Allotments, and see the same delineated upon a Map or Plan to be produced for their Inspection; and if any of such Parties upon such Inspection shall be dissatisfied with the proposed Allotments, the Commissioner shall at such Meeting, or at some other Meeting to be appointed by him for that Purpose, receive Statements in Writing of Complaints and Objections thereto, and shall forthwith, or as soon after as conveniently may be, determine the same, and such Determinations shall be final.

Allotments to be fenced.

LIX. And be it enacted, That the several Allotments to be made in pursuance of this Act (except the Allotment to the Churchwardens and Overseers of the Poor) shall be inclosed, ditched, or fenced at the Expence of the respective Persons to whom the same shall be allotted, in such Manner and within such Times as the Commissioner shall by his Award, or any Writing under his Hand, direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the Commissioner shall by his Award direct.

LX. And

The Allotments to be of the same Tenure as the Lands in lieu of which they were made.

LX. And be it enacted, That all such Lands as shall be given in Exchange or on Partition, or be allotted, by virtue of this Act, shall be held by the Person to whom they are given in Exchange or on Partition, or allotted, under the same Tenures, Rents, Customs, and Services as the Lands in respect of which such Lands were given in Exchange or on Partition, or allotted, would have been held in case this Act had not been passed; and the Lands given in Exchange or on Partition, or allotted, in respect of Freeholds, shall be deemed Freehold, and the Lands given in Exchange or on Partition, or allotted, in respect of Leasehold Lands, shall be deemed Leasehold, and shall be held under the same Rents and Covenants as the Lands in respect of which they may be allotted were held, and the Remainder or Reversion thereof shall be vested in the same Lessors respectively as the Remainder or Reversion of such other Lands was vested before the passing of this Act, except where otherwise particularly directed by this Act, any Law or Usage to the contrary notwithstanding.

Power for Commissioner to make Alterations in Allotments.

LXI. And be it enacted, That it shall be lawful for the Commissioner, at any Time before the Execution of his Award, to make any Alterations which he may think right and expedient in the Allotments or in the Fences which he may have set out and ordered, or in the private Roads over such Allotments, or in any of the Orders or Directions relating thereto which he may have made in pursuance of this Act; and in case any Person shall be injured by any such Alteration, on account of any Expences he may have incurred or otherwise, the 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 Inclosure Expences Fund, or shall 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.

Separate Allotments for Lands held by different Titles.

LXII. And be it enacted, That when any Person to whom any Allotment shall be made, or Lands assigned in Exchange, by virtue of this Act, shall hold such Lands, or the Lands in respect of which such Allotment or Exchange is made, under different Titles, or for different Estates, the Commissioner shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall accordingly in his Award set out distinct and several Allotments for such respective Lands.

Power of Exchange.

LXIII. And be it enacted, That it shall be lawful for the Commissioner to allot and award any Lands within the said Parish of *Olveston* in Exchange for any other Lands within the said Parish, or any adjoining Parish, Township, or Place; provided that all such Exchanges be specified and declared in the Award of the Commissioner, and be made with the Consent in Writing of the Owner of the Lands so exchanged, whether such Owner shall be a Corporation, or a Tenant in Fee Simple, or for Life, or in Fee Tail, General

or Special, or by the Curtesy of *England*, or for Years determinable on any Lives, (with the Consent of the Lessor thereof, but not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, 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 every such Exchange 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 held in right of any Church or Chapel or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands shall be situate.

Expences of Exchanges and Partitions by whom to be paid.

LXIV. And be it enacted, That the Costs, Charges, and Expences attending the making and completing of any Exchanges, Partitions, or Sales, to be made by virtue of this Act or the said recited Acts, (other than Sales of Land for raising the Inclosure Expences Fund,) shall be borne, paid, and defrayed by the several Parties making such Exchanges, Partitions, or Sales, in such Shares and Proportions as the Commissioner shall by his Award, or any other Writing under his Hand, order and direct, and in case of Non-payment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power to apply Compensation Money coming to Parties under Disability towards Inclosure Expences and substantial Improvements.

LXV. And be it enacted, That when any Money is, under the Provisions of the said first-recited Act or of this Act, directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee, for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person whose Lands are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, to be settled to the same Uses, it shall be lawful for the Commissioner out of such Money to defray the Proportion, if any, of the Inclosure Expences which shall be charged upon any of the Lands of the respective Parties in possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, or on which such Timber or Wood actually grew, and also to defray the Expence of any permanent Improvement, such as building, subdividing, dividing, draining, inclosing, or planting, and the like, which shall in the Judgment of the 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 Parties.

Investment of Surplus when amounting to 200*l.*

LXVI. And be it enacted, That if the Surplus of any such Monies shall amount 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 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, without Fee or Reward; and shall, when so paid, 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 Parties who would have been entitled to the Rents and Profits of the said Lands, be applied to either of the following Purposes; (that is to say,)

1 G. 4. c. 35.

The Redemption or Discharge of the Land Tax, or of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses or Trusts:

The Purchase of other Lands, to be conveyed or settled upon the like Uses or Trusts, or such of them as shall be then existing undetermined or capable of taking effect.

Payment of Dividends meanwhile.

LXVII. And be it enacted, That in the meantime, and until such Application shall be made, the said Money may, by Order of the said Court, to be made upon the like Petition, 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 of other Government or Real Securities; and the Dividends or Interest of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so to be purchased, conveyed, and settled.

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

LXVIII. And be it enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees, in Cases of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the 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, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the Commissioner, and

such Nomination and Approbation to be signified in Writing under the Hands or Common Seal, as the Case may be, of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England*, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

LXIX. And be it enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit, or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, for the Use and Benefit of the Parties respectively entitled thereto.

Power to Commissioner to borrow Money.

LXX. And be it enacted, That if before the said Monies herein-before authorized to be raised by the Commissioner can be raised and received by him he shall find it necessary or expedient to obtain by Loan any Money for or towards defraying the Charges and Expences of applying for and obtaining this Act, and of carrying the same and the said recited Acts into execution, it shall be lawful for him to borrow and take up at Interest such Sums of Money as he shall from Time to Time think necessary for the Purposes aforesaid, which Money so to be borrowed shall be repaid by the Commissioner, with Interest for the same, out of the Monies to be raised and received by him by the Means aforesaid.

Monies may be recovered after the Execution of the Award.

LXXI. Provided always, and be it 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 ordered to be paid by virtue of this Act, it shall be lawful for the Commissioner and he is hereby required to levy and raise the same in like Manner as he might have done before the Execution of his Award.

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

LXXII. And be it enacted, That the Commissioner shall apportion the Costs, Charges, and Expences of and attending the obtaining and passing of this Act, and carrying of the same and the said recited Acts into execution, between and amongst the several Common Fields, Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds respectively, in proportion to the Benefit and Advantage which such Common Fields, Commons, Commonable Lands, Common Meadows, Wastes, and Waste Grounds respectively may derive from the passing of this Act, or the Inclosure hereby directed to be made.

Commissioner may, on Application, sell Allotments to defray Expences.

LXXIII. And be it enacted, That it shall be lawful for the Commissioner, on Application made to him in Writing by any of the Proprietors of Allotments to be made by virtue of this Act, or by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any such Proprietors, being under Coverture, Minors, Idiots, Lunatics,

Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies respectively, or by any of the said Proprietors, being Tenants in Tail or for Life or Lives, or on any other Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, to sell any Part of any such Allotments for raising any Sum or Sums of Money which the said Commissioner shall judge necessary for the Purpose of inclosing, fencing, and dividing their respective Allotments, and for defraying the proportionable Part of the Inclosure Expences which shall be charged upon such Parties, and of the Expences of making and completing such Sale.

Sales to be made according to general Inclosure Act.

LXXIV. And be it enacted, That such Sales shall be made by the Commissioner in the same Manner and subject to the same Regulations as are prescribed by the said first-recited Act in respect to the Sale of Land towards defraying the Expences of obtaining and carrying into execution any Act for dividing, allotting, and inclosing any Lands or Grounds; and every such Allotment for which the full Purchase Money shall be paid shall be vested in the said Commissioner, and be conveyed, by Lease and Release, executed by him, at the Expence of the Purchaser, unto and to the Use of or in Trust for such Purchaser and his Heirs, or as he shall appoint, and shall be inclosed, and held by such Purchaser in Severalty.

Receipt for and Application of Purchase Money.

LXXV. And be it enacted, That the Receipt of the Commissioner shall be a sufficient Discharge to the Purchasers for the said Purchase Money, and such Purchase Money shall be applied by the Commissioner in or towards defraying the Costs and Expences for raising which such Sale shall have been made, and the Surplus (if any) shall be paid to the Parties from whose Allotments such Sale shall have been so made respectively; and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of the other Proprietors of such surplus Money shall be applied and disposed of in manner by this Act directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon.

Parties may pay their Share of the Expences in Money.

LXXVI. And be it enacted, That in case any Proprietors of the said Lands to be inclosed shall be desirous of paying in Money their respective Shares of the Inclosure Expences, and shall give Notice to the Commissioner in Writing, within Three Calendar Months from the Time of the passing of this Act, of such their Desire, then such Expences shall be paid, borne, and defrayed by such respective Parties, in such Proportions, and at such Times, and to such Persons, as the Commissioner shall by Writing under his Hand, to be delivered to such Parties, or left for them at their usual or last Place of Abode at least Ten Days before such Times of Payment, order and direct; and in case such Parties shall refuse or neglect to pay their Proportions of such Expences within the Time directed by the Commissioner, the same shall be levied and recovered in manner provided and directed by the said first-recited Act for Recovery of any Charges or Expences.

LXXVII. And

Chief Rents may be extinguished.

LXXVII. And whereas there are divers Persons Owners of Estates within the said Manor and Tithing of *Olveston* who pay certain annual Chief Rents, Fee Farm Rents, Quit Rents, or other Payments or Renders in Money or in Kind to the Lord of the said Manor of *Olveston*; be it therefore enacted, That the Commissioner shall, at the Request in Writing of the Lord of the said Manor, set out, allot, and award unto him such Part of the Shares or Allotments of such Persons respectively as in the Judgment of the Commissioner shall be equal in Value to such respective Chief Rents, Fee Farm Rents, Quit Rents, or other Payments or Renders; and after such Allotments shall have been set out and awarded to the Lord of the said Manor such Chief Rents, Fee Farm Rents, Quit Rents, or other Payments or Renders shall cease and be extinguished.

An Award to be executed.

LXXVIII. And be it enacted, That as soon as conveniently may be after the said Inclosure shall be completed the Commissioner shall draw up and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday*, by affixing a Proclamation on or near the outer Door of the Church of the said Parish previously to Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered as complete; and within Three Calendar Months after the Commissioner shall have so made and executed the said Award he shall cause the same together with a proper Map or Plan of the Lands to be inclosed, 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 interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings shall be paid, and no more, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall from the Delivery thereof to the said Clerk of the Peace be deemed to be enrolled according to the Direction and within the Meaning of the said first-recited Act.

The Award with a Plan of the Parish to be delivered to the Clerk of the Peace.

A Copy of the Award and of the Plan to be deposited in the Parish Church.

LXXIX. And be it enacted, That a Copy of the said Award, fairly transcribed in a Book on plain or unstamped Paper or Parchment, and of the Map or Plan thereunto annexed, shall, within the Time aforesaid, be deposited in the Parish Church of *Olveston*, and there kept in a Box to be provided for that Purpose by the Commissioner; and the said Award, and the said Copy thereof, and any other Copy of the said Award, or of any Part thereof, attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall thereafter be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Power of Appeal.

LXXX. And be it enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act, except as to the Allotments, and except as to such other Determinations as are by this Act directed to be final, and except such Cases wherein an Issue at Law shall be tried, as herein-before is mentioned, he may

appeal to 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 Commissioner and to the Parties concerned Ten Days previous Notice in Writing of such Appeal and the Matter thereof (except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within One Month after the Enrolment of the Award, on giving to the Commissioner such Notice as last aforesaid); and the Justices (not interested in the Premises) in such Sessions assembled 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 shall seem reasonable; and in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, they shall award such Costs to be paid by the Appellant as to them shall seem reasonable; and the Costs and Damages which shall be so awarded shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

Order on Appeal to be final.

LXXXI. And be it enacted, That every Order and Determination of the said Justices upon every such Appeal shall be final, 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.

Saving of Manorial Rights.

LXXXII. Provided always, and be it enacted, That nothing in this Act contained shall prejudice, defeat, lessen, or affect the Right, Title, or Interest of the Lord of the said Manor of *Olveston* in or to the Rents or Services, or any other Rights, Privileges, or Emoluments belonging to the said Manor, other than and except such as are expressed or intended to be barred or extinguished by this Act.

General Saving.

LXXXIII. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all other Persons, Bodies Politic, Corporate, and Collegiate, their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest, Claim and Demand, (other than and except such as are expressly barred or compensated for, or intended to be barred or compensated for and extinguished by this Act,) as they or any of them could or might have had, in, to, or in respect of the Lands hereby authorized to be divided, allotted, and inclosed, in case this Act had not been passed.

Interpretation of Terms in this Act.

LXXXIV. And be it enacted, That in the Construction of this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number:

Words importing the Masculine Gender only shall extend to Females as well as Males:

The Word "Month" shall mean Calendar Month:

The Word "Lands" shall include Tenements and Hereditaments:

The Expression "Lands to be inclosed" shall be understood to mean the Lands by this Act authorized to be divided, allotted, and inclosed:

The Expression "the Inclosure Expences Fund" shall be understood to mean the Monies by this Act authorized to be raised for defraying the Expences of obtaining this Act, and carrying the same into execution:

The Expression "the Commissioner" shall mean the Commissioner appointed for the Time being acting by virtue of this Act.

Act as printed by Queen's Printers to be Evidence.

LXXXV. And be it 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.

SCHE-

SCHEDULE referred to in the foregoing Act.

Form of Declaration by Commissioner or Surveyor.

I *A. B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Powers and Authorities vested and reposed in me as a Commissioner [*or* Surveyor, *as the Case may be,*] by virtue of an Act passed in the 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 Malice, to any Person whomsoever.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1841.