ANNO PRIMO

VICTORIÆ REGINÆ.

****

Cap. 3.

An Act for inclosing Lands in the Parish of *Quedgley* in the County of *Gloucester.*

[11th *April* 1838.]

WHEREAS there are within the Parish of *Quedgley* in the County of *Gloucester* divers Open and Common Fields and Common Meadows, and also divers Commons and Waste Lands, containing together by Estimation Ninety-three Acres or thereabouts: And whereas *John Beach* Esquire is or claims to be Lord of the Manor of *Quedgley* aforesaid, and Owner of the Soil of the said Commons and Waste Lands: And whereas *Albinia Frances Curtis Hayward* is or claims to be seised of the Tithes of the said Commons and Waste Lands: And whereas the said *John Beach*, *William Beach*, *John Kemebrey*, and divers other Persons, are the Owners and Proprietors of or interested in the said Open Fields and Meadows within the Parish of *Quedgley* aforesaid: And whereas the said *John Beach*, *Albinia Frances Curtis Hayward*, *William Beach*, *John Wallington*, *Mary Smith*, *John Kemebrey*, and divers other Persons, are the Owners and Proprietors of or interested in ancient Messuages, Cottages, Lands, and Hereditaments within the said Parish of *Quedgley*, and in respect thereof, and also of the said Open Fields and Meadows, severally claim to be entitled to Right of Common in and upon the said several Commons and Waste Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain* 41G.3.c.109.
Provisions

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
1&2G.4,c.23. Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Law respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands, in* England: And whereas the several Lands of the respective Proprietors of the said Open Fields and Meadows are much intermixed and dispersed, and the said Lands and also the said Commons and Waste Lands might be greatly improved if the same were divided, allotted, and inclosed; but the Purposes aforesaid 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 Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled,

General Inclosure Acts to form Part of this Act.

and 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 of the said recited Acts, shall, from and after the passing of this Act, be deemed and taken to be and be applied and executed as Part of this Act for all Purposes and to all Intents whatsoever, except in those Cases in which the same Acts are hereby respectively repealed or varied, or in which the same shall by this Act or otherwise become or be inapplicable to any of the Purposes of this Act.

Rules for the Interpretation of this Act.

II. And be it further enacted, That where in this Act any Word shall be used importing the Singular Number only such Word shall be understood to include several Matters as well as one Matter, and several Persons as well as one Person; and where the Word "Lands" shall be used, the same shall be understood to include Tenements and Hereditaments; and where the Word "Corporation" shall be used, the same shall be understood to mean any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; and any Word importing the Masculine Gender only shall be understood to include Females as well as Males; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Appointment of Commissioner.

III. And be it further enacted, That *Josiah Castree* of the City of *Gloucester*, Gentleman, and his Successors for the Time being, to be elected or appointed in manner herein-after mentioned, shall be and each of them respectively is hereby appointed Commissioner for carrying this Act into execution.

Commissioner to make a Declaration.

IV. And be it further enacted, That no Person shall be capable of acting as Commissioner in the Execution of this Act until he shall have made and subscribed the Declaration following before One of Her Majesty's Justices of the Peace for the County of *Gloucester*, which Declaration the said Justice is hereby empowered to receive or administer; (that is to say,)

Form of Declaration.

'I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability,

'execute

'execute and perform the several Trusts, Powers, and Authorities vested
'and reposed in me as Commissioner by virtue of an Act passed in the
'First Year of the Reign of Queen *Victoria*, intituled [*here insert the*
'*Title of this Act*], according to Equity and good Conscience, and without
'Favour or Affection, Prejudice or Partiality, to any Person whomsoever.'

And such Declaration shall be in lieu of and as a Substitution for the Oath or Affirmation required by the said first-recited Act to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands; and such Declaration, when duly made and subscribed, shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

Appointment of future Commissioners.

V. And be it further enacted, That if the said *Josiah Castree*, or any future Commissioner to be appointed in his Stead, as herein-after mentioned, shall die, or neglect, refuse, or become incapable to act as Commissioner, before all the Powers of this Act shall be fully executed and performed, then and in every such Case, and so often as the same shall happen, a public Meeting of the Proprietors of or Persons interested in the Lands by this Act directed to be divided, allotted, and inclosed shall be called by any Two or more such Proprietors or Persons (of which Meeting and the Purport thereof Ten Days previous Notice at the least shall be given in the Manner herein directed with respect to the Commissioner's Notices of Meetings), and the Persons then and there assembled, or the major Part of them in Value (such Value to be ascertained by the Poor Rate Assessment for the Time being), or their respective Agents (duly authorized by Writing under the Hands of such respective Persons) shall and they are hereby required by Writing under their respective Hands to appoint some other Person (not being interested in the said Division, Allotment, and Inclosure,) to be a Commissioner in the Room or Stead of the Commissioner occasioning such Vacancy; and every Person so appointed shall, after making and subscribing the Declaration herein-before prescribed, be invested with and have the same Powers and Authorities in all respects for carrying this Act into execution, and shall be subject to the same Regulations, as if he had been hereby originally nominated a Commissioner; and every such Appointment, together with the Declaration of such Commissioner, shall be enrolled in like Manner as the Award of the Commissioner for carrying this Act into execution is directed to be enrolled, and an Office Copy of the Enrolment thereof shall be admitted as legal Evidence thereof.

Appointment of Clerk and Surveyor.

VI. And be it further enacted, That it shall be lawful for the said Commissioner to appoint a Clerk and a Surveyor to assist him in carrying this Act into execution, and from Time to Time to remove such Clerk and Surveyor, or either of them, and appoint others in their Stead.

Surveyor to make a Declaration.

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

Form of Declaration.

'I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability,

'execute

‘ execute and perform the several Duties incumbent on me as Surveyor ‘ by virtue of an Act passed in the First Year of the Reign of Queen ‘ *Victoria*, intituled [*here insert the Title of this Act*], according to Equity ‘ and good Conscience, and without Partiality, Favour or Affection, Pre- ‘ judice or Malice, to any Person whomsoever.’

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

Penalty on making a false Declaration.

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

Allowance to Commissioner and Clerk.

IX. And be it further enacted, That out of the Money which shall be raised for the Purpose of defraying the Expense of obtaining and carrying this Act into execution the said Commissioner and Clerk for the Time being shall respectively be paid, for every Day they shall be employed in travelling to, attending at, and returning from the Meetings to be holden for or otherwise engaged in the Execution of this Act, during the first Three Years after the passing of this Act, the Sum of Three Guineas, and no more, and after the Expiration of the said Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Guineas, and no more, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall respectively be put unto during their several Journies and Attendances in the Execution of this Act, other than and except the Expences for the Use of Rooms in which the Meetings shall be holden for carrying this Act into execution, and the Costs and Expences of Notices and Advertisements, and of drawing, copying, ingrossing, and enrolling the Award, or attendant thereupon or connected therewith.

For regulating Allowances to Commissioner and Clerk.

X. And for regulating the Allowances to the said Commissioner and Clerk under the Provisions of this Act, be it further enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that where the Time occupied in going to, attending at, and returning from any Meetings to be holden or other Business transacted for the Purposes of this Act shall be of less Duration than Eight or Six Hours (as the Case may be) the same shall be charged as only Half a Day, and the said Commissioner and his Clerk shall be paid accordingly; and a Book shall be provided and shall be kept by the Clerk of the said Commissioner, in which shall be entered the several Days on which the said Commissioner shall hold his Meetings, and also at what Hour the said Commissioner and his Clerk were respectively present at such Meeting, and at what Hour they respectively left the same; and such Book shall be signed by such Commissioner and his Clerk at the Termination of each Meeting, and shall be open to the Inspection

Inspection of any Person interested in the said Inclosure, or his Agent or Attorney, during any Meeting to be held in pursuance of this Act; and all such Persons may take Copies of or Extracts from such Book without paying any thing for the same.

Commissioner and Clerk not to be paid more than Two Thirds of the Allowance until Six Months after Execution of the Award.

XI. And be it further enacted, That it shall not be lawful for the said Commissioner to retain or pay himself or his Clerk, out of any Monies to be received by him, or over which he may have any Control, by virtue of this Act, any Sum of Money on account of the Allowances herein-before directed to be made to such Commissioner and Clerk respectively beyond Two Thirds of such Allowance as they shall be respectively entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award herein-after directed to be made, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or his Clerk previous to the Execution of such Award, the Commissioner for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due to them respectively.

Allowance to Surveyor.

XII. And be it further enacted, That the said Commissioner, whilst acting as a Surveyor, or any other Person who may be appointed Surveyor for the Purposes of this Act, shall, out of the Monies to be raised for the Purpose of defraying the Expences of obtaining and carrying this Act into execution, be allowed for his Time and Trouble any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, and planning the said Lands, and also any Sum not exceeding Two Guineas for each and every Day he shall be actually and wholly employed as Surveyor in the Business of the said Inclosure (exclusive of the Survey aforesaid), which said several Allowances shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by the said Commissioner or other Person whilst acting as Surveyor in and about the Execution of this Act-

Notice of Meetings.

XIII. And be it further enacted, That the said Commissioner shall and he is hereby required to cause public Notice to be given in manner herein-after provided of the Time and Place of his First and every subsequent Meeting for executing the Powers vested in him by virtue of this Act, Seven Days at least before every such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioner may from Time to Time adjourn any such Meeting to such Time and Place as he shall think proper; and if the said Commissioner shall not attend at any such Meeting within One Hour after the Time appointed for the holding thereof, it shall be lawful for the Clerk to the said Commissioner (if present) to adjourn such Meeting for any Time not exceeding Twenty-one Days from the Day of such Adjournment, to be held at the same Place; and the Clerk making such Adjournment is hereby required to give Notice thereof to the said Commissioner: Provided always, that if neither the said Commissioner nor his Clerk shall attend at such Meeting within

within One Hour after the Time appointed for the holding thereof such Meeting shall be considered as adjourned to the Seventh Day then next ensuing, at the same Hour and Place.

Place of Meeting.

XIV. And be it further enacted, That all Meetings for the Purposes of this Act shall be held within the Parish of *Quedgley* aforesaid, or within Six Miles of the Boundary thereof.

Proprietors to pay their own Expences.

XV. And be it further enacted, That every Proprietor and other Person interested in the said Lands, and their respective Agents and Attornies, who shall attend any Meeting to be held by the said Commissioner, shall bear and pay his and their own Expences.

Publication and Service of Notices.

XVI. And be it further enacted, That all Notices of Meetings (except those of Adjournment) of the said Commissioner, and all other Notices necessary to be given by the said Commissioner, shall (unless otherwise directed by this Act) be given by Advertisement inserted in some one or more Newspaper or Newspapers published in the County of *Gloucester* aforesaid, and also by Affixion thereof upon the principal outer Door of the Parish Church of *Quedgley* aforesaid on some *Sunday* immediately before Divine Service.

Proceedings to be entered in a Book.

XVII. And be it further enacted, That all Orders, Proceedings, and Determinations of the said Commissioner at any of the Meetings 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 said Commissioner, and being so signed shall be deemed and taken to be Originals; and every such Book shall be deposited with and kept by the Clerk of the said Commissioner, and shall and may be read in Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any Matter or Thing to be done in pursuance of or in relation to this Act.

Claims to be made within a limited Time.

XVIII. And be it further enacted, That all Persons claiming or having any Rights in or upon the said Lands hereby directed to be divided, allotted, and inclosed shall and they are hereby required, by themselves or their Agents respectively, at such Meeting as the said Commissioner shall appoint, to give and deliver to the said Commissioner in Writing under their Hands an Account of their Claims, specifying in what respects they severally claim such Rights as aforesaid, and distinguishing the Freehold, Copyhold, and Leasehold Property from each other; and every Person so neglecting to give or deliver, or cause to be given or delivered, such Claims, with a full Description and Particular thereof, shall be and he is hereby excluded of and from all Right or Title of, in, or to the Lands to be divided, allotted, and inclosed by virtue of this Act, or from any Allotment thereof, unless the said Commissioner shall see good Cause to prolong the Time for producing such Claims; and after the said Claims shall be so received the said Commissioner shall cause public Notice to be given by affixing such Notice on some principal outer Door of the Parish Church of *Quedgley* aforesaid on a *Sunday*, and shall in such Notice appoint a Time (at least Twenty Days distant) and also a Place when and where all Parties concerned may appear before him, and show Cause for or against the Allowance or Disallowance of the said Claims; and

at such Meeting the said Commissioner shall proceed to examine into and settle and determine the same, and shall make such Order therein as to him shall appear just and equitable.

Objections to Claims.

XIX. And be it further enacted, That if any of the Parties interested in the Lands hereby directed to be divided, allotted, and inclosed, shall have any Objection to any of the Accounts or Claims which shall be delivered to the said Commissioner by virtue of this Act, such Objection shall be reduced into Writing, and Two Parts thereof shall be signed by the Party making the same, or by some Person on his Behalf; and One Part thereof shall be served, in the Manner by this Act directed, upon the Party whose Claim or Account shall be objected to, at such Time as the said Commissioner shall appoint for that Purpose, and the other Part shall be delivered to the said Commissioner.

Existing Surveys may be adopted.

XX. And be it further enacted, That in case any Person having in his Custody any actual Survey, Map, or Plan of the Lands or any Part of the Lands within the said Parish of *Quedgley* shall deliver such Survey, Map, or Plan to the said Commissioner at such Times as he may appoint for that Purpose, it shall be lawful for the said Commissioner thereupon to inquire into the Authenticity and Accuracy thereof on the solemn Declaration as well of the Person producing and delivering the same as of such other Person as he shall think fit (which Declaration the said Commissioner is hereby authorized to administer), or by such other Means as he shall think proper; and in case the said Commissioner shall be satisfied that the same are authentic and accurate, and will answer the Purpose of new Surveys, Maps, or Plans, he is hereby authorized to make use of the same, so far as the same shall be available, for the Purpose of carrying this Act into execution, and also out of the Monies to be raised for the Purposes of this Act to make unto the Owner of or Person producing such Survey, Map, or Plan a just and fair Allowance for any Damage which the same may receive by the Use thereof.

Commissioner to settle Disputes;

but not to determine Titles contrary to Possession.

XXI. 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 Lands hereby directed to be divided, allotted, and inclosed, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have therein, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall be lawful for the said Commissioner and he is hereby required, upon Examination of Witnesses on their solemn Declaration (which Declaration the said Commissioner is hereby authorized to administer), or any other proper Evidence, to examine into, hear, and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioner to determine the Title to any Manor or Lands whatsoever, nor to determine any Right between any of the Parties in the said Lands contrary to the Possession of such Parties (except in Cases of Encroachment as herein mentioned); but in case the said Commissioner shall be of opinion against the Right of the Party so in Possession he shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or have been recovered from such Party by due Course of Law.

XXII. And

Power to award Costs.

XXII. And be it further enacted, That in case the said Commissioner shall, upon the hearing and determining of any Claim or Objection to be delivered in pursuance of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioner, upon Application made to him for that Purpose, to settle, assess, and award such Costs as he shall think reasonable, to be paid either for the public Account for or towards the Expences occasioned in or relating to the Investigation, settling, and determining of such Claim, if finally disallowed, or to the Party in whose Favour any Determination of the said Commissioner shall be made, by the Person whose Claim or Objection shall be thereby disallowed or overruled, or against whom the said Commissioner shall have determined as aforesaid; and in case the Person who shall be liable to pay such Costs shall neglect or refuse to pay the same, on Demand, it shall be lawful for the said Commissioner and he is hereby required, by Warrant under his Hand and Seal, directed to any Person whomsoever, to cause such Costs to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to such Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Persons dissatisfied may try their Rights at Law.

XXIII. Provided always, and be it further enacted, That in case any Person interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioner touching or concerning any Claim or Objection which shall be delivered to the said Commissioner in pursuance of this Act, or touching or concerning any Property, Right, or Interest intended to be affected by such Determination, (except where the Determination of the said Commissioner is hereby declared to be final,) it shall be lawful for the Person so dissatisfied 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 of *Gloucester* after such Action shall have been commenced; and the Defendant in such Action shall and he is hereby required to name an Attorney, who shall appear thereto and file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Right in question, and the Property, Right, and Interest insisted upon, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action shall be commenced, in case the Parties shall differ about the same; and the Verdict which shall be given upon the Trial of such Action shall be final, binding, and conclusive upon all the Parties thereto, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had therein, which it shall be lawful for the said Court to do, as is usual in other Cases; and after such Verdict shall be obtained, and not set aside, the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim, Property, Right, or Interest thereby determined, according to the Event of such Trial:

Provided

Provided always, that if no such Action shall be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then the Determination of the said Commissioner shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

Actions not to abate by the Death of Parties.

XXIV. Provided also, and be it further enacted, That if any of the Parties in any such Action to be commenced as aforesaid shall die before the Determination thereof, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and if any Person in whose Favour such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action, it shall be lawful for the Person who might have brought such Action against the Person so dying to bring the same within the Time so limited as aforesaid against such Person as aforesaid as if actually living, and to serve the Clerk of the said Commissioner, and also the Heir of the Party so dying, or other the Person who shall claim the Benefit of such Determination, with Process for commencing such Action, in the same Manner as the Party so dying might have been served therewith if living; and it shall thereupon be incumbent upon the Heir or other Person who shall claim the Benefit of such Determination as aforesaid to appear and defend such Action in the Name of the Person so dead; and Proceedings shall be had therein in the same Manner as if such Person had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action.

Disputes as to Titles not to suspend the Execution of this Act.

XXV. And be it further enacted, That no Difference, Dispute, or Proceeding touching the Title to any Lands within the said Manor or Parish of *Quedgley* shall impede or delay the said Commissioner in the Execution of this Act, but the Division, Allotment, and Inclosure hereby directed to be made shall be proceeded in notwithstanding any such Difference, Dispute, or Proceeding.

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

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

Commissioner may extinguish or suspend Rights of Common.

XXVII. And be it further enacted, That it shall be lawful for the said Commissioner, at such Time before the Execution of his Award as he shall think proper, by Notice given in manner herein-before provided, to order the Rights of Common in, upon, and over the Lands hereby directed to be divided, allotted, and inclosed, or any of them, to be extinguished or suspended, either in whole or in part; and from and after

after the Time to be mentioned in and appointed by any such Notice all such Rights of Common as shall be thereby directed to be extinguished or suspended shall cease and be extinguished or suspended accordingly, any Law, Usage, or Custom to the contrary notwithstanding; and if any Person shall, after such Extinguishment or during such Suspension of Common Right as aforesaid, stock or depasture with Sheep or other Cattle on any Part of the said Lands contrary to such Notice as aforesaid, it shall be lawful for any Proprietor of the said Lands, or any Person to be appointed by the said Commissioner, from Time to Time to distrain all such Sheep and other Cattle found grazing or depasturing upon any of the said Lands contrary to such Notice, and to impound such Sheep or other Cattle until the Person offending shall have paid to the Person so distraining the Sum of Two Shillings *per* Head for every Sheep or Pig, and the Sum of Five Shillings *per* Head for every Beast and other Kind of Live Stock, so distrained.

Penalty on Breach of Commissioner's Order.

For shortening Boundary Fences.

XXVIII. And be it further enacted, That for the Purpose of shortening or rendering straight or otherwise improving any Boundary Fence between the Lands hereby directed to be divided, allotted, and inclosed, or any of them, and the old inclosed or other Lands, or any of them, in the said Parish of *Quedgley*, or between such Allotments and inclosed or other Lands, or any of them, and any adjoining Lands and Grounds, it shall be lawful for the said Commissioner (with the Consent in Writing of the Lord of any Manor in which the Lands are respectively situate, and of the Owner of any such adjoining Lands,) to set out, ascertain, and determine the Boundary between the Lands hereby directed to be divided, allotted, and inclosed, and any such adjoining Lands and Grounds, in such Manner as the said Commissioner shall think proper for the Purposes aforesaid; and after such Boundaries shall have been so set out, ascertained, 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 said Commissioner shall direct, and shall for ever thereafter be deemed and taken to be the Boundaries between the said allotted and inclosed Lands respectively, or (as the Case may be) between the Allotments or inclosed or other Lands, and such adjoining Lands or Grounds, any Law, Usage, or Custom to the contrary notwithstanding.

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

XXIX. And be it further enacted, That it shall be lawful for the said Commissioner to set out, appoint, and make such common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, of such Size, Extent, and Form, and in such Situations, as the said Commissioner shall deem necessary, in, through, over, and upon the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, and also to enlarge, widen, turn, scour, and cleanse or alter the Course of and improve any of the present Drains, Ditches, Streams, or Watercourses, Banks, and Bridges, as well in, through, and over the same Lands and Grounds as also in, through, and over any ancient Inclosure or other Lands and Grounds within the said Parish of *Quedgley*, as the said Commissioner shall deem necessary (making such Satisfaction to the Proprietor of such ancient Inclosures or other Lands and Grounds for the Damage done thereby as the said Commissioner shall think fair and equitable); and the Costs and Expences of making and enlarging, widening, altering, turning, scouring, and cleansing such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels,

Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, if not otherwise discharged or provided for, shall be raised and levied by the said Commissioner in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution; but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Persons and in such Manner as the said Commissioner shall in and by his said Award order and direct: Provided that no Stream or Watercourse be diverted or turned without the Consent in Writing of the Person from whose Lands the same may be diverted, and of the Person into whose Lands the same may be turned, or to the Prejudice or Injury of any Person interested in such Stream or Watercourse, except with his Consent.

Power to widen Roads, making Compensation to the Owners.

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

Commissioner may discontinue or alter Roads.

XXXI. And be it further enacted, That it shall be lawful for the said Commissioner, if he shall think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the said County of *Gloucester* (not being interested in the Lands to be divided, allotted, and inclosed under this Act), to continue or discontinue, stop up, divert, turn, or alter, any of the Carriage Roads, Highways, Bridle Roads, or Footways, (other than and except Turnpike Roads,) passing or leading through or over any of the Lands to be divided and allotted by virtue of this Act, or passing or leading through or over any of the Lands in the Parish of *Quedgley* aforesaid; and the Soil of the Roads and Ways so to be discontinued and stopped up, and which may pass through or over any of the Lands to be inclosed by virtue of this Act, but not otherwise, shall be deemed and taken to be Part of the Lands to be divided, allotted, and inclosed by virtue of this Act.

Proceedings previously to diverting or stopping up Highways.

XXXII. Provided always, and be it further enacted, That before any Highway shall be discontinued, stopped up, diverted, or altered by the said Commissioner, or any such Order as is herein-before mentioned shall be obtained for that Purpose, the said Commissioner shall cause to be affixed at each End of the said Highway so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered (as the Case may be) by the said Commissioner; and the said Commissioner shall also cause the same Notice to be inserted in some One or more Newspaper or

Newspapers

Newspapers published in the County of *Gloucester* aforesaid for Four successive Weeks, and shall also cause a like Notice to be affixed on the principal outer Door of the Parish Church of *Quedgley* aforesaid on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid, and such Order as is herein-before mentioned shall have been obtained, the said Highway shall be and shall be deemed to be discontinued, stopped up, diverted, or altered, (as the Case may be,) subject however to such Appeal to the Court of General Quarter Sessions for the said County of *Gloucester* as is herein-after mentioned.

Persons aggrieved by any Road being diverted, &c. may appeal.

XXXIII. Provided always, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Highway should be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to the Justices at any General or Quarter Sessions of the Peace to be holden for the said County of *Gloucester* within Four Calendar Months next after the Date of such Notice, giving to the said Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal, unless such Notice and Statement shall have been so given as aforesaid, nor on any Hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

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

XXXIV. And be it further enacted, That in case of such Appeal the Justices at the said Quarter Sessions shall, for the Purpose of determining whether the Highway so discontinued, stopped up, diverted, or altered, or intended to be discontinued, stopped up, diverted, or altered, shall remain, or shall be discontinued, stopped up, diverted, or altered, (as the Case may be,) or whether the Party appealing would be injured or aggrieved thereby, impannel a Jury of Twelve indifferent Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the Highway so discontinued, stopped up, diverted, or altered, or intended so to be, is wholly 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 of Quarter Sessions shall dismiss such Appeal; and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid to the said Commissioner by the Party appealing, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said first-recited Act; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up, or intended so to be, is not unnecessary, or that the said Highway so diverted or altered, or intended so to be, could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court of Quarter Sessions shall allow such Appeal, and the said Highway shall not be discontinued, stopped up, diverted, or altered; or in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring the same to its original State; and in that Case the said Court of Quarter Sessions is hereby authorized and

required to award to the Party appealing such Costs and Expences as shall be incurred in prosecuting such Appeal; and such Costs and Expences shall be paid by the said Commissioner, and shall be raised by him in such and the same Manner as he is hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

Order of the Commissioner after Dismissal of Appeal to be final.

XXXV. Provided always, and be it further enacted, That from and after the Dismissal of any such Appeal as aforesaid the Order or Award of the said Commissioner for discontinuing, stopping up, diverting, or altering any such Highway shall be final and conclusive, and be of full Force and Effect; any thing in this Act contained to the contrary notwithstanding.

Expences of discontinuing or widening Roads.

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

Justices may declare any of the Carriage Roads completed.

XXXVII. And be it further enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the said County of *Gloucester* at any Special Sessions shall under their Hands and Seals certify any of the public Carriage Roads to be set out in pursuance of this Act to be fully and sufficiently formed and completed, such Roads shall thenceforth be supported and kept in repair by such Persons and in such Manner as the public Roads within the said Parish of *Quedgley* are or ought by Law to be amended and kept in repair; and every such Certificate shall, at the General or Quarter Sessions of the Peace to be holden for the said County of *Gloucester* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County, and be valid and effectual to all Intents and Purposes.

Encroachments.

XXXVIII. And be it further enacted, That all Encroachments, Intakes, or Inclosures which may at any Time within the Space of Twenty Years previous to the passing of this Act, without the Consent of the Lord of the Manor, have been made in or upon the said Lands hereby directed to be divided, allotted, and inclosed, shall be deemed and considered Part of the Lands to be divided, allotted, and inclosed by virtue of this Act, as if the same were lying open and uninclosed: Provided always, that every such Encroachment, Intake, or Inclosure shall be allotted to the Person who shall at the Time of making the Allotment be in Possession of such Encroachment, Intake, or Inclosure, or in Receipt of the Rents and Profits, as the Whole or Part of the Share or Proportion of the said Lands to which such Person may be entitled by virtue of this Act, at the Value of the Land only, without considering the Value of any Erection or other Improvements made thereon; and if any such Person shall not be entitled to any Allotment equal to the Value of such Encroachment, Intake, or Inclosure, but shall be willing to purchase the same, then the said Commissioner shall ascertain the Price thereof, or of such Part thereof as shall exceed the Value of the Allotment to which such Person shall be entitled under this Act, in ascertaining

ascertaining which Price the said Commissioner shall not value the Buildings or other Improvements thereon, but shall value the Land only; and upon such Person paying such Price to the said Commissioner at such Time as he shall appoint for that Purpose, and taking his Receipt for the same, every such Encroachment, Intake, or Inclosure, or such Part thereof as shall be so purchased, shall be allotted to such Person, and shall be held and enjoyed by him accordingly, and the Purchase Money shall be applied by the said Commissioner to the Purposes of this Act.

Commissioner to direct the Course of Husbandry.

XXXIX. And be it further enacted, That from and after the passing of this Act, until such Division and Allotment shall be made as aforesaid, all Tillage and other Lands lying in the said Open Fields hereby directed to be divided, allotted, and inclosed shall be stocked with such Cattle, and planted, cropped, or sown by the respective Owners or Occupiers thereof with such Corn, Grain, or other Seeds, at such Times and in such Proportions and Manner, and shall be kept, ordered, and continued in such Course of Husbandry, and subject to such Regulations, as well with respect to the Management as to quitting the same respectively, as the said Commissioner shall from Time to Time, by Notice in Writing duly published in like Manner as other Notices in that Behalf, order, direct, or appoint; and the said Commissioner shall set and impose such pecuniary Penalties and Forfeitures upon every Person not conforming to such Orders and Regulations as he shall think necessary, not exceeding the Rate of Five Pounds *per* Acre in case of Cross-cropping or withholding from the Land its due Proportion of Manure, or Ten Pounds in any other Case for any One Offence; all which Penalties shall be paid to such Person and for such Uses and Purposes as the said Commissioner by any such Notice as aforesaid, or any Writing under his Hand, shall direct; and the several Owners or Occupiers of such Lands shall pay or receive such pecuniary or other Compensation on account of such Management, stocking, planting, sowing, or quitting, from such Person, as the said Commissioner shall think just and equitable, and shall by any Writing under his Hand from Time to Time order, direct, or appoint, and which Order of the said Commissioner shall be final, binding, and conclusive on all Parties whomsoever; and in case such Compensation and other Penalties shall not be paid to the Person entitled to receive the same at the Time and in manner to be appointed by the said Commissioner, it shall be lawful for the said Commissioner and he is hereby authorized and required to raise and levy the same for the Use of the Person entitled thereto by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are directed to be raised, levied, and recovered.

Satisfaction to be made for growing Crops.

XL. And be it further enacted, That the said Commissioner shall, by Writing under his Hand, ascertain, order, and appoint what Recompence and Satisfaction in Money shall be made to the Owner of any Crops growing upon the Lands hereby directed to be divided, allotted, and inclosed at the Time of such Division and Allotment, for the said Crops, by the Person to whom the Lands on which such Crops are growing shall be allotted, unless such Owner shall, within the Time to be appointed by the said Commissioner for that Purpose, declare his Intention to cut, reap, and carry away the same; and in case of Nonpayment of such Re-

compence and Satisfaction for such Crops, at the Time and in the Manner to be directed by the said Commissioner, or in case of such Election to cut, reap, and take away the same, then it shall be lawful for such Owner, and his Servants and Workmen, with Horses, Carts, and Carriages, to enter into and upon the Lands whereon such Crops shall be growing, and reap, cut, and carry away the same for his own Use; and the said Commissioner shall also, by any Writing under his Hand, ascertain, order, and appoint what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Occupier of any Land to be inclosed as aforesaid, as well for ploughing, tilling, or manuring, or other customary Tenant-right in any of the Lands which shall be divided and allotted by virtue of this Act, for the Benefit and Advantage accruing thereby to the Person to whom such Lands shall be allotted, as for any Loss or Disadvantage which any such Tenant or Occupier shall or may sustain by the Loss of his following or waygoing Crops upon the Lands by this Act directed to be divided, allotted, and inclosed; and if in any of the said Cases the Money to be paid for such Recompence and Satisfaction shall not be paid at the Time and in the Manner to be appointed by the said Commissioner, it shall be lawful for the said Commissioner and he is hereby authorized and required to raise and levy the same for the Use of the Person entitled thereto by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are directed to be raised, levied, and recovered.

Applications for Situations of Allotments.

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

For determining Objections to Allotments.

XLII. And be it further enacted, That when and so soon as the said Commissioner shall have ascertained the respective Rights and Interests of the several Proprietors of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, and of the Persons entitled to commonable or other Rights thereon, and also the respective Shares and Proportions by him proposed to be allotted to such Proprietors and Persons respectively in lieu thereof, the said Commissioner shall hold a Meeting at some convenient Time and Place, of which Meeting Fourteen Days Notice shall be given, by affixing the same upon some principal Door of the Parish Church of *Quedgley* aforesaid, upon some *Sunday* previous to Divine Service, when and where the said Proprietors and Persons aforesaid may be informed of the Situation of such intended Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and if any of the said Proprietors or other Persons aforesaid, upon such Inspection, shall be dissatisfied with the proposed Allotments, the said Commissioner shall, at such Time and Place aforesaid, or at some other Time and Place to be appointed by him for that Purpose, receive Statements in Writing of such Complaints and Objections of any Proprietors or other Persons aforesaid against any such

Allotments,

Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same; and such Determination shall be final, binding, and conclusive on all Parties interested in such Allotments.

Allotment of the Open Fields.

XLIII. And be it further enacted, That the said Commissioner shall apportion, divide, and set out, allot, and award the said several Open Fields and Meadows unto and amongst the several Proprietors thereof and Persons interested therein respectively, in proportion to their respective Shares, Rights, Property, and Interests therein respectively, and in proportion to the true and real Value of their several Shares, Rights, Property, and Interests therein, in such Manner as the said Commissioner shall in his Judgment think most just and equitable (subject nevertheless and without Prejudice to the several other Provisions herein contained); and the same, when so apportioned, divided, set out, allotted, and awarded, shall be taken in lieu and full Satisfaction of and for such their said several Shares, Rights, Property, and Interests which previously thereto they severally had and enjoyed or were entitled to in and upon the said several Open Fields and Meadows respectively.

Allotment in lieu of Tithes.

XLIV. And be it further enacted, That the said Commissioner shall set out, allot, and award unto and for the said *Albinia Frances Curtis Hayward*, or other the Person for the Time being entitled to the Tithes of the said Commons and Waste Grounds, so much and such Part, Share, and Proportion of the said Commons and Waste Grounds as shall be equal in Value to One Ninth Part of the said Commons and Waste Grounds, in lieu of and as a Compensation for the Tithes arising, renewing, or increasing, or which might arise, renew, or increase, out of or from the said Commons and Waste Grounds.

Allotment to the Lord of the Manor.

XLV. And be it further enacted, That the said Commissioner shall set out, allot, and award unto the said *John Beach*, as Lord of the Manor of *Quedgley* aforesaid, or other the Lord for the Time being, for and in lieu of and as a Compensation for his Right and Interest in and to the Soil of the said Commons and Waste Grounds within the same Manor, such Part of the Residue of the same Commons and Waste Grounds as shall in the Judgment of the said Commissioner be equal in Value to One Fourteenth Part of the said Commons and Waste Grounds, over and above and exclusive of such Share, Proportion, and Allotment of the said Commons and Waste Grounds as he shall or may be entitled to in respect of any ancient Messuages, Cottages, Lands, and Hereditaments, in like Manner as other Proprietors.

Allotment to be set out for the Recreation of the Poor.

XLVI. And be it further enacted, That the said Commissioner shall and he is hereby required to set out and allot to the Lord for the Time being of the said Manor, out of any Part of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, a Piece of Land or Ground, not being less than Two Acres, as a Place of Exercise and Recreation for the Inhabitants in the Neighbourhood of such Common or Waste Lands; and such Allotment shall be holden by the Lord for the Time being of the said Manor for the Purposes aforesaid.

Allotment of Residue.

XLVII. And be it further enacted, That the said Commissioner shall set out, allot, and award the Residue of the said Commons and Waste Lands

Lands hereby directed to be divided, allotted, and inclosed unto and amongst the several Persons who at the Time of such Division, Allotment, and Inclosure shall be interested therein, according to their several or respective Rights and Interests therein respectively; and in setting out the several Allotments to be made under and by virtue of this Act the said Commissioner shall and he is hereby required to have due Regard to the Situation and Convenience, as well as to the Quantity and Quality, of the Lands to be allotted, so as that the Allotments of all Persons be laid as near together and as contiguous to their several Farms and Estates as conveniently may be, consistently with the general Convenience of the Parties interested in the said Division, Allotment, and Inclosure.

Small Strips of Waste to be awarded to the adjoining Proprietors.

XLVIII. Provided always, and be it further enacted, That all small Strips or Pieces of Common or Waste Land, the Soil of which shall be the Property of the Lord of the Manor, lying between any Highway and any old Inclosures within the said Parish of *Quedgley*, shall be set out, allotted, and awarded to the Proprietor of or Person interested in such Inclosures, in full or part Satisfaction of his manorial or other Right or Interest in or upon the Lands hereby directed to be divided, allotted, and inclosed: Provided also, that in case the said Commissioner shall be of opinion that the Value of such Strips or Pieces of Land shall exceed the Value of the Allotment to which such Proprietor shall be entitled, then the said Commissioner shall and he is hereby authorized and required to fix a Sum of Money which shall in his Judgment be a full Equivalent for the Value of such Strip or Parcel of Land, over and above the Value of the Allotment to which such Proprietor shall appear to him to be entitled as aforesaid, and shall deliver or cause to be delivered to such Proprietor, or to his Agent or Attorney, a Notice in Writing signed by the said Commissioner, specifying the Amount of such Equivalent in Money as aforesaid, and requiring such Proprietor to pay the same to the said Commissioner, or as he shall appoint, to be applied by him for the general Purposes of this Act, within Two Calendar Months next after the Delivery of such Notice; and in case such Proprietor shall neglect or refuse to pay the Sum of Money therein to be specified, agreeably to the Terms and Directions of such Notice, then and in such Case (but not otherwise) it shall be lawful for the said Commissioner to allot and award the Whole or any Part of such Strip or Parcel of Land to any other Person interested in the said Lands, or to sell and dispose of the same towards defraying the Expences of this Act, and carrying the same into execution, and to convey the same by any Writing under his Hand and Seal to the Purchaser thereof, his Heirs and Assigns.

Power to allot ancient Inclosures, with Consent.

XLIX. And be it further enacted, That it shall be lawful for the said Commissioner, by and with the Consent in Writing and at the Request of the respective Proprietors of any Houses, Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds within the said Parish of *Quedgley*, to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds to be considered as allottable Lands and Part and Parcel of the Lands hereby authorized to be divided, allotted, and inclosed; and such Allowance shall be made to the respective Owners of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation and other beneficial Circumstances thereof,

thereof, as the said Commissioner shall adjudge to be just and reasonable; and the said Commissioner shall set out, allot, and award, unto and for the respective Proprietors of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, in lieu thereof, so much and such Part of the Lands hereby directed to be divided, allotted, and inclosed as he shall think reasonable and just, subject to the Rules, Orders, and Directions in this and the said first-recited Act mentioned.

Proprietors of old Inclosures may redeem their Tithes.

L. And be it further enacted, That in case the Proprietors of any Houses, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds within the said Parish of *Quedgley*, liable to the Payment of Tithes, shall be desirous of discharging such Houses, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds from the Payment of Tithes, it shall be lawful for the said Commissioner, upon the Application in Writing of any such Proprietor, and with the Consent of the said *Albinia Frances Curtis Hayward*, or other the Person for the Time being entitled to such Tithes, (to be signified in Writing under her, their, or his Hand or Hands at or previously to such Time as shall be appointed by the said Commissioner for receiving such Consent,) to set out, allot, and award, unto and for the said *Albinia Frances Curtis Hayward* or other the Person for the Time being entitled to such Tithes, so much and such Part, Share, and Proportion of the Allotment of the said Common and Waste Lands to which such Proprietor shall be entitled under or by virtue of this Act as shall in the Judgment of the said Commissioner be a just and full Compensation and Satisfaction for the Tithes payable by such Proprietors in respect of such Houses, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds; and such Allotment, when so set out and awarded, shall for ever thereafter be deemed, taken, and considered to be a full Satisfaction for and Discharge from the Payment of such Tithes.

Proprietors of old Inclosures, &c. not having sufficient Common and Waste Lands, &c., to make Compensation in Money for their Tithes.

LI. Provided always, and be it further enacted, That in case the Proprietor of any such Houses, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds shall not be entitled to any or not to sufficient Land or Property in the Common and Waste Lands hereby authorized to be divided, allotted, and inclosed, to make Compensation for such Tithes, or in case any such Proprietor shall be desirous, in lieu of having a Portion of his Allotment set out to discharge such inclosed Lands from Tithes as herein-before mentioned, to make a Compensation in Money for such Tithes, it shall be lawful for the said Commissioner (upon the like Application and with the like Consent as is herein-before mentioned) to ascertain and determine what Sum of Money will in the Judgment of the said Commissioner be a just and full Compensation and Satisfaction for the Tithes payable by such Proprietor in respect of such Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds respectively, or such Part of the same for which such Proprietor may not be possessed of Land or Property in such Common and Waste Lands sufficient to make such Compensation by an Allotment of Land as aforesaid; and such Sum of Money, when so ascertained and determined, shall be paid to the said *Albinia Frances Curtis Hayward*, her Heirs or Assigns, or other the Person for the Time being entitled to such Tithes, in case the said *Albinia Frances Curtis Hayward*, her Heirs or Assigns, or such other Person, shall be entitled to such Tithes, in Fee Simple, or into the Bank of

England, in the Manner herein-after prescribed (as the Case may require); and such Sum of Money, when so paid, shall for ever thereafter be deemed, taken, and considered to be a full Satisfaction for and Discharge from the Payment of such Tithes; and in case any Person shall refuse or neglect to pay such Sum of Money at the Day and Time to be appointed for Payment thereof it shall be lawful for the said Commissioner, by Warrant under his Hand and Seal, directed to any Person whomsoever, to cause such Sum of Money to be levied by Distress and Sale of the Goods and Chattels of the Person so making default in Payment as aforesaid, wheresoever the same shall be found, rendering the Overplus (if any), on Demand, to the Owner of such Goods and Chattels, the reasonable Charges of such Distress and Sale being first deducted, together with Interest after the Rate of Five Pounds *per Centum per Annum*, to be computed on such Sum of Money from the Time the same shall be directed by the said Commissioner to be paid as aforesaid; or otherwise it shall be lawful for the said Commissioner, or any Person authorized by him, to enter upon and take possession of the Lands belonging to the Person so refusing or neglecting to pay as aforesaid, and which shall have been discharged from Tithes by virtue of this Act, and to receive and take the Rents and Profits thereof, until thereby or therewith or otherwise such Sum of Money, and the Costs and Charges so ordered and directed by the said Commissioner to be paid by such Person as aforesaid, and all Interest on such Sum of Money, to be computed from the Time the same shall be by the said Commissioner directed to be paid as aforesaid, and also all Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the same Premises, shall be fully paid and satisfied; and such Proprietor shall also pay such Sum of Money as the said Commissioner shall determine to be just and fair for the Proprietors of such old inclosed Lands to contribute towards defraying the Costs, Charges, and Expences of obtaining and passing this Act, and carrying the same into execution; such last-mentioned Sum of Money to be levied and recovered in the same Manner as the Money to be assessed and awarded by the said Commissioner as a Compensation for Tithes is herein-before directed to be levied and recovered.

Part of inclosed Lands, &c. may be given by Consent to commute the Tithes of the Remainder.

LII. Provided nevertheless, and be it further enacted, That if the Proprietor of any such old Inclosures, not having any or sufficient Interest in the Lands and Grounds hereby authorized to be divided, allotted, and inclosed to discharge his Houses, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds from the Payment of Tithes, shall be desirous of having a Part of such inclosed Lands or Grounds assigned or set apart to discharge his Houses, Homesteads, Gardens, Orchards, or inclosed Lands from the Payment of Tithes, it shall be lawful for the said Commissioner (upon the like Application and with the like Consent as is herein-before mentioned) to set out, allot, and award unto the said *Albinia Frances Curtis Hayward*, or other the Person for the Time being entitled to such Tithes, so much and such Part of such old Inclosures as shall be equal in Value to the Tithes, both great and small, payable by the Owner of such inclosed Lands, in respect of his Houses, Homesteads, Gardens, Orchards, and inclosed Lands and Grounds within the said Parish, or such Part of them for which Compensation cannot be made as before mentioned; and such Allotment, when so set out and awarded, shall for ever thereafter be deemed, taken, and considered

dered to be a full Satisfaction and Discharge from the Payment of such Tithes.

Directions for fencing Allotments.

LIII. And be it further enacted, That the several Allotments to be made of the said Lands hereby directed to be divided, allotted, and inclosed, after the Division thereof, shall, within Six Calendar Months, to be computed from the signing and sealing of the Award of the said Commissioner, or within any shorter or earlier Space of Time to be appointed by the said Commissioner, either before or after the Execution of his Award, of which Notice shall be given by him in manner aforesaid, be inclosed with Stone or Brick Walls at least Four-and-a-half Feet in Height, or with Fences planted with young Quicksets; and such Fences, where the same shall adjoin upon any public or private Road or Way, and in such other Places as the said Commissioner shall think fit, shall be guarded with good and substantial Posts and Rails, or otherwise, and with such Ditches on either or each Side thereof, as the said Commissioner shall direct and appoint, and also with good and substantial Gates and Stiles, to be made where necessary in the said Walls or Fences, all which said Walls or Fences shall be so planted and guarded as aforesaid, and the Gates and Stiles shall be made by and at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, in such Manner, Shares, and Proportions as the said Commissioner shall in and by his said Award, or sooner, order and direct.

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

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

No Sheep to be kept on the new Inclosures for Seven Years.

LV. And be it further enacted, That no Sheep or Lambs shall be kept in any of the said new Inclosures during the Space of Seven Years from the Time the Fences thereof shall have been made and completed, unless the Person keeping such Sheep or Lambs shall first, at his own Expence, fence his Neighbours Quicksets adjoining the Inclosures where such Sheep or Lambs shall be kept, so as to prevent any Damage being done to such Quicksets by such Sheep or Lambs; and every Person making Default herein shall pay a Sum not exceeding Ten Pounds, to be recovered as directed by the said first-recited Act: 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 Passage of Persons, Cattle, Carts, and Carriages, in such Places and for such Period next ensuing the Execution of the said Award by the said Commissioner as he shall in and by such Award direct and appoint.

Allotments to be of the

LVI. And be it further enacted, That all Lands to be allotted or exchanged by virtue of this Act shall be held of the same Manor, under and

and by virtue of the same Rents, Customs, and Services, and shall be thereafter deemed to be of the same Quality and Tenure, whether Freehold, Leasehold, or Copyhold, as the Lands in respect of which such Allotments or Exchange shall be made were respectively held or deemed to be of immediately before the making of every such Allotment or Exchange respectively, and the said Commissioner shall in and by his Award distinguish, express, and declare of what Tenure the said Lands so to be allotted or exchanged as aforesaid respectively are, and of or within what Manor the same shall in future be held or deemed to be: Provided always, that all and every the Lands which by virtue of this Act shall be allotted to any Person for or in lieu or in respect of any Lands to which such Person shall have been duly admitted (other than as herein-after provided in Cases of Exchange and Partition) shall, from and immediately after the Execution of the said Award, be well and effectually vested in such Person without his being admitted thereto, and without paying any Fine or Heriot or other customary Payment in respect of the same, an Entry thereof being made in the Court Rolls of the Manor; but in case such Person shall not have been admitted to the Lands in lieu or in respect of which such Allotment shall be made, or before the Execution of the said Award shall die or alienate the same, then the Person thereby becoming entitled to such Allotment of Lands shall be duly admitted to the same, and shall pay the Fines, Heriots, or other customary Payments (if any) due in respect of such Admission.

same Tenure as the Lands in lieu of which they were made.

LVII. And be it further enacted, That it shall be lawful for any Person interested in the said Allotments to be made by virtue of this Act to give, grant, bargain, sell, mortgage, demise, surrender, limit, convey, and assure all or any Part of his Estate, Right, Title, Interest, and Property which he shall have in or to the said Lands hereby directed to be divided, allotted, and inclosed, and the Allotment set out or to be set out in lieu thereof, before the Execution of the Award of the said Commissioner; and every such Gift, Grant, Bargain, Sale, Mortgage, Demise, Surrender, Limitation, Conveyance, and Assurance shall be of the same Force and Validity as if made after the Execution of the said Award; and it shall be lawful for any Owner of or Person interested in the Lands hereby directed to be divided, allotted, and inclosed, before the Execution of the said Award, to sell, dispose of, and convey his Common Right, or the Allotment set out or to be set out in respect thereof, by virtue of this Act, separately and distinctly from the Estate in right of which he is entitled to the same, or to sell, dispose of, and convey the Estate in right of which he may be entitled to such Common Right or Allotment separate and apart from and retaining to himself such Allotment, Common Right, and Interest; and in all and every the Cases aforesaid it shall be lawful for the said Commissioner and he is hereby required to make the Allotment in question to the Vendee or Purchaser in every such Sale, or otherwise according as the Circumstances of each particular Case shall require; and in default thereof such Conveyance or other Instrument shall be valid and effectual in the Law for the particular Purpose for which the same is intended, to all Intents and Purposes whatsoever.

Proprietors may convey or mortgage Allotments before the Award.

LVIII. And be it further enacted, That it shall be lawful for the said Commissioner to make Partition of any Lands whatsoever within the said Parish of *Quedgley*, held by any Persons as Coparceners, Joint

Commissioner may make Partitions.

Tenants, or Tenants in Common, so as every such Partition be made upon Application from and with the Consent in Writing of any One or more of the several Proprietors thereof, and so as every such Partition be specified in the Award of the said Commissioner, or some other Instrument under his Hand and Seal; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Power to make Exchanges.

LIX. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Parish of *Quedgley*, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Parish of *Quedgley*, or any adjoining Parish, Township, or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner of the Lands which shall be so exchanged, whether such Owner shall be a Body Politic, Corporate, or Collegiate, or a Tenant in Fee Simple or in Fee Tail, General or Special, or for Life, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, by and 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 or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself; such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every Exchanges and Exchange so to be made shall be good, valid, and effectual in the Law, to all Intents, Effects, 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 so to be exchanged shall be situate: Provided also, that no such Exchange shall be made of Copyhold Lands without the Consent of the Lord of the Manor whereof the same shall be holden.

Exchanges and Partitions of Copyholds to be perfected by Admittance.

LX. And be it further enacted, That every Person to whom any Copyhold Lands shall be allotted in Exchange or upon any Partition as aforesaid shall, within Twelve Calendar Months next after the Execution of the said Award, or at the then next General Court Baron to be held for the Manor whereof such Copyhold Lands shall be holden, be admitted Tenant of the Copyhold Lands so allotted.

Expence of Partitions and Exchanges.

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

LXII. Pro-

Leases at Rackrent may be avoided.

LXII. Provided always, and be it further enacted, That all Leases, Agreements, and Tenancies at Rackrent subsisting at the Time of the passing of this Act, of any Part of the Lands hereby directed to be divided, allotted, and inclosed, or which shall be exchanged in pursuance of this Act, shall (so far only as respects the Lands hereby authorized to be divided, allotted, and inclosed or exchanged,) cease and be void at such Time as the said Commissioner shall by Writing under his Hand direct or appoint, so as the respective Lessors or Landlords of such Lands do, before or at the respective Times at which such Leases or Tenancies shall be directed to cease, make and pay such Satisfaction to the respective Lessees or Tenants for the Loss which shall be sustained by them by the Determination of such Leases respectively, so far as regards the said Lands the Tenancies and Leases whereof are hereby authorized to be determined, as shall be mutually settled and agreed between them, or as the said Commissioner (being required by either of the Parties) shall ascertain and direct; and the said Commissioner, being so required, is hereby empowered and directed to apportion a reasonable and proportionable Part, according to the Season of the Year, of the Rent reserved on any such Lease or Agreement, for or in respect of the Time which shall have elapsed between the last Day on which any Portion of the Rent shall have become due and the Determination of any such Lease or Agreement; and such Part of the Rent shall be recoverable by such Ways and Means as may by Law be used for the Recovery of Rent in arrear; and the said Commissioner is hereby empowered and directed, in every Case in which such Lands shall be held by virtue of such Lease or Agreement together with other Lands by one entire Rent, to apportion and determine what Part of such Rent shall be deducted, in respect of such of the Lands in such Lease or Agreement comprised, as to which the same shall be determined as aforesaid, and from what Time such Deduction shall take place; and the rest of the Rent reserved on any such Lease or Agreement shall, during the Remainder of the Term thereof, be the Rent of and for the Residue of such Lands, and shall be payable and recoverable in like Manner as the entire Rent reserved by such Lease or Agreement shall immediately before such Apportionment be payable and recoverable.

Act not to affect Settlements.

LXIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend to revoke, make void, alter, or annul any Settlement, Deed, Will, or Lease, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Rent Charge, Debt, or Incumbrance whatsoever, in, out of, upon, or affecting any of the Lands hereby directed to be divided, allotted, and inclosed, or which shall be exchanged or assigned in Compensation for any other Estate or Right in pursuance of this Act; but as well the Lands allotted, as the Lands which shall be assigned in Exchange, or as a Compensation for any other Estate or Right, shall, immediately after such Allotment, Exchange, or Assignment shall have been made, be vested, remain, and enure, and the several Persons to whom the same shall be allotted, assigned, or given in Exchange as aforesaid shall thenceforth stand and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Deeds, Wills, Settlements, Limitations, and Remainders, Conditions, Charges, Tenures, Rents, Services, and Incumbrances, as the several Lands in respect whereof such Allotments, Assignments, and Exchanges shall

shall have been made should or would have stood severally limited, settled, or subject or liable to or been held by in case the same had not been allotted, assigned, or exchanged, and this Act had not been passed or acted upon (save and except such Leases and Tenancies at Rackrents as shall become void by virtue of this Act, and subject nevertheless to all such Mortgages and Sales as shall be made by the Authority of this Act).

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

LXIV. And be it further enacted, That whenever any Sum of Money is under the Provisions of this Act and the said first-recited Act, or either of them, to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Person under any 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 said Commissioner, out of such Sums, to defray such Proportion of the Expence of passing this Act and of carrying the same into execution as shall be charged upon any of the Lands of such Person as aforesaid, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioner be proper to be made, and shall be made, under his Direction, upon any Lands to be by virtue of this Act allotted to such Person as aforesaid; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds the same shall with all convenient Speed be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there, *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for 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 in, there remain until the same shall, by Order of the said Court, made upon a Petition to be preferred to the said Court in a summary Way by the Person who would have been entitled to the Rents and Profits of the said Lands, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands belonging to such Person, or settled therewith to the same Uses, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part thereof as shall be necessary; or until the same shall, upon the like Application in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the before-mentioned Lands stood limited or settled, or such of them, as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank

1 G. 4. c. 35.

Annuities or Real Securities; and in the meantime and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid the Dividends and Annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by Order of the said Court, to the Person who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, and settled.

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

LXV. Provided always, and be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or of his Guardian or Committee, in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Commissioner (to be signified in Writing under his Hand), be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the said Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Person 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 said Commissioner, and such Nomination and Approbation to be signified in Writing under the Hand or Common Seal (as the Case may be) of the nominating and approving Party; and the Money so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

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

Power for Commissioner to make Alterations in in Allotments.

LXVII. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time before the Execution of his Award, to make any Alterations in the Allotments, or in the Fences which he may have set out and ordered, or in the private Roads laid or to be laid over such Allotments, or in any of the Orders or Directions relating thereto which he may have made in pursuance of this Act, or as he may think right and expedient; and in case any Person shall be injured by any such Alteration, on account of any Expences he may have incurred or otherwise, the said Commissioner shall ascertain and determine what Recompence shall be made to him for such Injury, and shall either pay the Amount thereof out of the Monies to come to his Hands in the Execution of this

Act, or shall order and direct by whom and in what Manner such Recompence shall be made; and in case of Nonpayment thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

Separate Allotments for Land held by different Titles.

LXVIII. And be it further enacted, That when any Proprietor of Lands which shall be divided, allotted, inclosed, or exchanged, or any Person to whom any Allotment is made by virtue of this Act, shall hold such Lands, or the Lands in respect of which such Allotment is made, under different Titles and for different Estates, the said 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 and distinguish distinct and several Allotments for such respective Lands.

Land held by different Tenures or Titles omitted to be distinguished by the Award, may be distinguished by a separate Instrument.

LXIX. And be it further enacted, That where from any Cause the said Commissioner shall have omitted to distinguish in his Award the several Tenures or Liabilities to or Exemption from Tithes under which any of the said Lands are or shall be holden, or the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same are or shall be subject, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments, as is hereby required, it shall be lawful for the said Commissioner and he is hereby authorized, at any Time and from Time to Time, within Five Years after the Date and Execution of his Award, upon Request in Writing to him made by the respective Proprietors of or Persons interested in any such Allotments or Lands, to do all such Acts as shall be necessary for supplying any such Omission, and for that Purpose to examine Witnesses, and to proceed as if his Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish, ascertain, and set out the Lands held by different Tenures, or for, by, or under different Estates or Titles respectively, and the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same respectively are subject, in the same Manner as he is hereby authorized and required to do in his Award; and every such separate Instrument shall be enrolled and deposited and Evidence thereof shall be given in the same Manner as is hereby directed with respect to the Award of the said Commissioner, and such Instrument shall thenceforth be deemed and taken to be Part thereof, to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry and separate Instrument as aforesaid shall be paid by the Person who shall have requested the said Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

For defraying the Expences of this Act.

LXX. And be it further enacted, That all Costs, Charges, and Expences incident to and attending the obtaining of this Act, and of surveying, admeasuring, planning, valuing, dividing, and allotting the Lands hereby directed to be divided, allotted, and inclosed, and of preparing and enrolling the Award of the said Commissioner, and of the Copies thereof, and all Charges and Expences of the said Commissioner, his Assistants and Servants, and all other necessary Expences of the several Persons to be employed by the said Commissioner in and about the Premises, either before or after the Execution of the said Award, and all the Expences of forming, com-

pleting, and repairing the public Carriage Roads and Highways to be set out and appointed by the said Commissioner, and the Costs and Charges that the said Commissioner shall be put unto in respect of any Appeal against his Decision, and of any Suit at Law or in Equity that may be instituted by or against such Commissioner, either before or after the Execution of his Award, in respect of any thing done by him in pursuance of the Powers and Authorities of this Act, and all other Costs, Charges, and Expences necessarily incurred in carrying this Act into execution, shall be paid, borne, and defrayed by the several and respective Proprietors of and Persons interested in the said Lands to be divided, allotted, and inclosed by virtue of this Act (save and except all Persons whose Allotments shall not exceed Twenty Pounds in Value, such Value to be made and ascertained by the said Commissioner), in such Shares and Proportions, within such Time, in such Manner, and to such Person as the said Commissioner shall by Writing under his Hand from Time to Time direct; and in case any Person shall refuse or neglect to pay his Share or Proportion of such Costs, Charges, and Expences as aforesaid, or any Part thereof, within such Time and to such Person as the said Commissioner shall appoint, then and in every such Case the said Commissioner shall cause the same to be levied and recovered in manner directed by the said first-recited Act.

Monies may be recovered after Execution of Award.

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

Money advanced to be repaid with Interest.

LXXII. And be it further enacted, That if any Money shall have been advanced by any Person for the Purpose of defraying the Expences of applying for and obtaining this Act, or shall be advanced or lent to the said Commissioner for carrying the same into execution (and which Monies he is hereby fully authorized and empowered from Time to Time to borrow, as Occasion may require), the same shall be repaid, with lawful Interest for the same, to the Person lending, advancing, or paying the same, out of the first Monies to be raised for defraying the Expences of obtaining and carrying this Act into execution.

Empowering Commissioner, upon Application, to sell Part of Allotments to defray Expences.

LXXIII. And be it further enacted, That it shall be lawful for the said 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 of such Proprietors, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies, 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, not exceeding (together with the Sums raised by Mortgage) the Proportion of Five Pounds for every Acre allotted, of any Allotment to be made by virtue of this Act, to the Person or Persons by whom or on whose Behalf any such Application shall

shall be made, for the Purpose of raising a Sum of Money sufficient to defray the proportionable Part of the Costs, Charges, and Expences of obtaining and carrying into execution this Act and the said recited Acts, and of fencing and inclosing and subdividing their respective Allotments, which shall be charged upon such Parties, and of the Costs, Charges, and Expences of making and completing such Sale; and such Sale shall be made by the said Commissioner in such and the same Manner, and subject to such and the same Rules and Regulations, as are mentioned and prescribed in and by the said first-recited Act in respect of the Sale of Lands 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 such Commissioner to the Purchaser thereof, at the Expence of such 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; and the Receipt of the said Commissioner shall be a good and sufficient Discharge to the Purchaser for the Purchase Money; and such Purchase Money shall be applied by the said Commissioner in or towards defraying such Costs, Charges, and Expences; and if any Surplus shall remain in the Hands of the said Commissioner such surplus Money shall be paid to the Parties from whose Allotment such Sales shall be 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 Lands, Tenements, or Hereditaments, or of Timber or Wood growing thereon.

Power for Tenants for Life, &c. to borrow Money.

LXXIV. And be it further enacted, That it shall be lawful for the Proprietor of any Allotment, or any Person interested in the Lands hereby directed to be divided, allotted, and inclosed, being Tenant in Tail, or for Life or for Lives only, and also for the Husband, Guardian, Trustee, Committee, or Attorney of any Proprietor being under Coverture, Minor, Idiot, Lunatic, or beyond the Seas, or otherwise incapable of acting for himself, by and with the Consent of the said Commissioner (testified in Writing under his Hand and Seal), from Time to Time after such Allotment and Division shall have been made, and either before or after the Execution of his said Award, to charge the Lands which shall be so set out and allotted to such Proprietors respectively with any Sum of Money for or towards the Expence of inclosing, subdividing, draining, and fencing their Allotments, and for defraying the Expences of carrying this Act into execution, not exceeding (together with any Sum paid by the said Commissioner for such Purposes under this or the said recited Act) the Proportion of Five Pounds for each Acre of the said Lands so to be allotted; and for securing the Repayment of such Sum of Money, with Interest, to grant, mortgage, lease, or demise or otherwise subject the said Lands, or any Part thereof, unto or in Trust for such Person as shall advance or lend the same, his Executors, Administrators, or Assigns, for any Term or Number of Years, or other Estate or Interest, so that such Grant, Mortgage, Lease, or Demise be made with a Proviso or Condition for Cesser, Reconveyance, Resurrender, or Reassignment, on Payment of

of such Sum of Money, with the Interest thereof, to be therein limited; and every such Grant, Mortgage, Lease, or Demise shall be good, valid, and effectual in the Law, for the Purposes thereby intended.

Such Tenants to keep down the Interest of Money borrowed.

LXXV. And be it further enacted, That every such Tenant for Life or Lives or in Tail, and every other Person, who shall be entitled to the said mortgaged Premises, shall pay and keep down the Interest of the Principal Money so to be borrowed as aforesaid during his Life in such Manner that no Person entitled in Reversion or Remainder, becoming possessed of such mortgaged Premises, shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Period when his Title to such Possession shall accrue or commence.

Mortgages may be assigned.

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

Award.

LXXVII. And be it further enacted, That the Award to be made by the said Commissioner under the Authority of this Act shall be executed and published as soon as conveniently may be after the passing of this Act, and, together with a proper Map or Plan of the said Lands hereby directed to be divided, allotted, and inclosed thereto annexed, shall, within Six Calendar Months after the Execution thereof, be deposited with 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 therein, for the Reception whereof the Fee of Three Guineas shall be paid, and no more; and for the Inspection and Perusal thereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace for the said County of *Gloucester*, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said first-recited Act; and a Copy of the said Award, fairly transcribed in a Book, with a Map or Plan, certified as true Copies of the said Award and Plan respectively by the Signature of the said Commissioner, shall within the Time aforesaid be deposited in the Parish Church of *Quedgley* aforesaid, and there kept for the Inspection of all Persons interested therein; and the said

Award, and Copies thereof, and any other Copy of the said Award, or any Part thereof, attested by the said Clerk of the Peace or his Deputy (for every Sheet of which Copy containing Seventy-two Words Four-pence, and no more, shall be paid), shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Settling Commissioner's Accounts.

LXXVIII. And be it further enacted, That once at least in every Year during the Execution of this Act, to be computed from the Day of the passing of this Act, the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended or due to him and any other Person to be employed by him in carrying this Act into execution, for their Trouble and Expences in the Execution of this Act; and in every such Account shall be particularly stated and specified the several Items and Articles for which each particular Sum shall have been paid or disbursed; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before some Justice of the Peace for the said County of *Gloucester* (not interested in the Premises), to be by him examined and balanced, and such Balance shall be by such Justice stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner; and an Abstract of such Account, so examined and balanced, shall be from Time to Time published in some One or more Newspaper or Newspapers published in the said County; and no Charge or Items in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice, and until such Account, or the Abstract thereof, shall have been published in such Newspaper or Newspapers as aforesaid; subject nevertheless to the Power of Appeal herein-after contained.

Appeal.

LXXIX. And be it further enacted, That it shall be lawful for any Person who shall think himself aggrieved by any thing done by the said Commissioner in pursuance of this Act (except in Cases where the Act or Determination of the said Commissioner is by this Act declared to be final, binding, and conclusive, and except in Cases where an Issue at Law may be tried, as herein-before mentioned,) to appeal to any General Quarter Sessions of the Peace to be holden for the said County of *Gloucester* within Six Calendar Months next after the Cause of Complaint shall have arisen, first giving to the said Commissioner and to the Party particularly concerned (if any) Notice in Writing of such Appeal and of the Matter thereof within Twenty-eight Days after the Cause of Complaint shall have arisen, and Twenty-one Days at the least before such General Quarter Sessions; and the Justices (not interested in the Premises) at their said Quarter Sessions assembled, or any Adjournment thereof, are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs, as they in their Discretion shall deem meet, and by their Warrant to levy the Costs awarded by Distress and Sale of the Goods and Chattels of the Party adjudged to pay the same, rendering the Overplus (if any) to the Owner of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and every Order and Determination of the said Justices upon every such Appeal shall be final and conclusive on all Parties concerned; and no such Complaint, Appeal, or Proceeding shall be removed or

removeable by Certiorari, or any other Writ or Proceeding whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the said Appellant as to them in their Discretion shall seem reasonable, and such Costs shall be levied in manner aforesaid.

General Saving.

LXXX. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all other Persons and Corporations, 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 and compensated for and extinguished by this Act,) which they, every, or any of them, could or might have had, held, or enjoyed, of, in, to, or in respect of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, in case this Act had not been passed.

Copy of Act as printed by the Queen's Printers to be Evidence

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

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1838.