

Commis-
sioner.

Allotment, and Inclosure cannot be effectually made and established without the Aid and Authority of Parliament: May it therefore please Your Majesty, That it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Young Sturge*, of the City of *Bristol* Surveyor, and his Successor or Successors, to be appointed in Manner herein-after mentioned, shall be, and he is hereby appointed Commissioner for setting out, dividing, and allotting the said Commons and Waste Lands, in Manner herein-after directed, and for carrying this Act into Execution, with, under, and subject to such of the Powers, Authorities, Directions, Rules, Orders, Clauses, and Provisions contained in the said recited Act as are not varied or altered, or repugnant to, or otherwise provided for by this Act.

Election of
Commis-
sioner.

II. And be it further enacted, That in case the said Commissioner, or his Successor, to be appointed as hereinafter mentioned, shall die or neglect to act for the Space of Two Months, when Occasion shall require his Attendance on the Business of the said Division and Inclosure, or shall refuse to act, or shall be rendered incapable of acting by Sickness, or any other Cause whatsoever, before the Powers and Authorities hereby vested in him shall be fully accomplished, then and in every such Case, a new Commissioner (not interested in the said Inclosure) shall be chosen in the Stead of such Commissioner so dying, refusing, neglecting, or becoming incapable to act, by a Majority in Value of the Proprietors of, or Persons interested in the said Commons and Waste Lands hereby directed to be divided and inclosed, or his, her, or their Agents, duly authorized by Writing under his, her, or their Hands, who shall be present at any Meeting to be appointed for that Purpose, by order of any Person or Persons interested in the said intended Division and Inclosure, within Forty-two Days after such Death, Refusal, Neglect or Incapacity; of which Meeting Ten Days Notice at the least shall be given in the Chapel of *Rangeworthy*, and Parish Church of *Thornbury* aforesaid, upon a *Sunday*, immediately before Divine Service, and by Writing, to be affixed on the Outside of the most public Outer Door of the same Chapel and Church, and also by Notice to be given in the Newspaper called the *Gloucester Journal*, if then published, and if not, then in some other public Newspaper, to be circulated in the County of *Gloucester*; and every such Appointment of a new Commissioner shall be reduced into Writing, and signed by the Person or Persons making the same; and such new Commissioner shall be invested with, and have the same Powers and Authorities for carrying this Act into Execution, as if he had been originally nominated and appointed in and by this Act.

Commis-
sioner.

III. And be it further enacted, That the said Commissioner shall, and he is hereby authorized and empowered to appoint a Clerk to assist him in the Execution of the Powers of this Act.

Notice of
Meetings.

IV. And be it further enacted, That the said Commissioner shall cause Public Notice to be given, upon some *Sunday* before or during Divine Service, by Writing, to be affixed on One of the Principal outer Doors

of the Chapel of *Rangeworthy*, and of the Parish Church of *Thornbury*, and also by Advertisement, to be inserted in the said Newspaper called the *Gloucester Journal*, and in case of that Paper being discontinued, in some other Newspaper circulated in the Neighbourhood of *Rangeworthy* aforesaid, of the Time and Place of the First and every subsequent Meeting for the Execution of this Act, Ten Days at least before such Meeting shall be held (Meetings by Adjournment, which the said Commissioner is hereby authorized from Time to Time to make, only excepted); and that all other Notices necessary or requisite to be made and given by the said Commissioner, in the Execution of this or the said recited Act, shall be made and given by Writing and Advertisement in like Manner as hereinbefore is mentioned, provided that all the Meetings of the said Commissioner and Proprietors, in pursuance of this Act, shall be held in *Rangeworthy* aforesaid, or within the Distance of Eight Miles from the Boundary thereof.

V. And be it further enacted, That all Encroachments which shall have been made upon, or from the said Commons and Waste Lands, whereon any Cottages or Buildings have been erected, and for which any Rents or Acknowledgments have been paid to the said *John Delafield Phelps*, or to any former Lord of the said Manor, within the Period of Twenty Years, shall be deemed to belong to the said *John Delafield Phelps* and his Heirs, and that such other Encroachments which shall have been made upon or from the said Commons or Waste Lands, for Twenty Years and upwards, without legal Entry or Interruption, before the First Day of *January* One thousand eight hundred and ten, and for which no Rents or Acknowledgments have been paid to the said *John Delafield Phelps*; or to any former Lord of the said Manor, within that Period, shall, with the Cottages and Buildings thereon, be deemed to belong to, and to be the Property of the Person or Persons in his, her, or their own Right, occupying or receiving Rent for the same; but neither the said *John Delafield Phelps*, nor any such Person or Persons to whom the Encroachments last hereinbefore mentioned are given, shall be entitled to any Allotment in respect of such Encroachment.

Encroachments made above Twenty Years.

VI. And be it further enacted, That all other Encroachments which shall have been made upon or from the said Commons or Waste Lands, by any Person or Persons whomsoever, shall be deemed Part of such Commons and Waste Lands, and shall be divided, inclosed and allotted accordingly.

All other Encroachments.

VII. And be it further enacted, That after the said Commissioner shall have set out and allotted the Public Roads or Highways, in pursuance of the said recited Act, he, the said Commissioner, shall, and he is hereby required, to sell and dispose of, pursuant to the Directions of the said recited Act, so much and such Part and Parts of the said Commons and Waste Lands intended to be divided, allotted, and inclosed, by virtue of this Act, which he shall think best adapted for Sale, and most for the Benefit of the Proprietors and Persons interested therein, as he the said Commissioner shall think sufficient, for the Purpose of defraying the whole of the Costs, Charges, and Expences of preparing and obtaining this Act, and of making Surveys, Admeasurements and Valuations in pursuance of this Act, and of dividing and allotting the said Commons and Waste Lands, and of preparing

Commissioners to sell Lands to defray Expences.

preparing and inrolling the Award of the said Commissioner, and all the Charges and Expences of the said Commissioner, his Clerks, 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 setting out, forming, completing, and repairing the Public Carriage Roads and Highways, to be set out and appointed by the said Commissioner, pursuant to the said recited Act, and also the Expences of laying out, forming, and fencing the outward Boundaries of the said Commons and Waste Lands, or such of them as the said Commissioner shall think fit, and of making such other Fences and such Drains or Watercourses as the Commissioner shall deem necessary.

If not sufficient sold to pay Expences, Remainder to raised by a Rate.

VIII. Provided always, and be it further enacted, That in case the said Commissioner shall find that he has not raised, by virtue of the several Provisions herein-before contained, sufficient Monies to defray and pay the whole of such Costs, Charges and Expences, then, and in such Case, the several and respective Persons interested in the said Commons and Waste Lands, so intended to be divided and inclosed, shall pay and contribute such Sum and Sums of Money towards paying the Remainder of the said Costs, Charges and Expences, in Proportion and according to the Value of their several and respective Shares and Interests in and to the said Commons and Waste Lands, at such Time and Place, or Times and Places as the said Commissioner shall, either before or after the Execution of the said Award, by Notice or Notices, in Writing under his Hand, direct or appoint, and the said Commissioner shall, and he is hereby authorized to make a Rate or Assessment thereof accordingly under his Hand; and if the said Commissioner shall happen to raise more Money by Sale of the said Commons and Waste Lands as aforesaid, than will pay and defray the whole of the said Costs, Charges, and Expences, then and in that Case if such Overplus shall amount to the Sum of Twenty Pounds or upwards, such Surplus shall be divided between the several Persons interested in the said Lands and Grounds, in Proportion to their respective Interest and Property therein, and the Shares of such of them as shall be Tenants thereof in Fee Simple, shall be paid to them respectively, and the Shares of such other Persons respectively, shall be applied in the Manner directed by the said recited Act with respect to Money to be paid for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses; but if such Overplus shall not amount to the Sum of Twenty Pounds, then the said Commissioner shall, by his Award, or any Writing under his Hand, direct in what Manner such last-mentioned Overplus shall be applied for the general Benefit of the Persons interested in the said Commons and Waste Lands, and shall pay and apply the same accordingly.

If more Money raised by Sale than necessary, how to be disposed of.

Allotmentsto the Lord of the Manor in lieu of Right of Soil to be One-eighteenth.

IX. And be it further enacted, That the said Commissioner shall, and he is hereby required in the next Place, to allot and award unto and for the said *John Delafield Phelps*, his Heirs and Assigns, as Lord of the said Manor of *Rangeworthy* for the Time being, so much and such Part and Parts of the Residue of the said Commons and Waste Lands as shall, in the Judgment of the said Commissioner, be equal in Value to one full Eighteenth

Eighteenth Part or Share of such Residue in lieu of, and full Recompence and Satisfaction for all their Right and Interest in and to the Soil of the said Commons and Waste Lands.

X. And be it further enacted, That the said Commissioner shall, and he is hereby authorized and required in the next Place to divide, set out and allot, all the Residue and Remainder of the said Commons and Waste Lands hereby intended to be divided and inclosed unto, between, and amongst all and every the several Owners and Proprietors of Messuages, Lands, Tenements, and Hereditaments, who are entitled to Rights of Common in and upon the said Commons and Waste Lands, in Proportion to the Annual Value of such Messuages, Lands, Tenements, and Hereditaments.

Allotment of the Remainder to the Persons having Right of Common.

XI. And be it further enacted, That it shall and may be lawful for the said Commissioner to lay out, form, and fence the outward Boundaries of the said Commons or Waste Lands, or such of them as he shall think fit, and to make such other Fences and such Drains or Watercourses as he shall deem necessary, and the Expence whereof shall be raised and paid in Manner herein-before provided for, and that the several Allotments to be made by virtue of this Act shall, except as to such Fences which shall be so made by the said Commissioner, be well and sufficiently inclosed, walled, hedged, ditched, and fenced, by and at the Expence of the respective Proprietors, to whom such Fences shall be allotted or directed to belong, to the Satisfaction of the said Commissioner, and within such Time, and in such Manner, as by his said Award, or any other Writing under his Hand, the said Commissioner shall direct or appoint.

Allotments to be fenced by Proprietors as directed by Commissioner.

XII. And be it further enacted, That the said Commissioner shall, and may from Time to Time, as he shall find it convenient, deliver to the several Persons interested in the several Divisions and Allotments to be set out under this Act, Possession of their respective Allotments hereby directed to be made and set out; and such Possession so delivered, shall be kept and retained by the several Persons entitled thereto, against all Persons whomsoever, although the Award of the said Commissioner shall not then be made and executed: Provided always, that it shall be lawful for the said Commissioner, at any Time before executing his said Award, to make any Alterations in all or any of the Allotments and Fences which he may have set out and ordered, or Private Roads laid, or to be laid over, or to such Allotment or Allotments that he shall think right and expedient; and in case any Person or Persons be injured by any such Alterations on account of any Expences he, she, or they may have been at, the said Commissioner shall ascertain and determine what Recompence shall be made to him, her, or them, and shall direct by whom and in what Manner such Recompence shall be made, and which is hereby directed to be made accordingly.

Commissioner to deliver Possession of the Allotments.

XIII. And be it further enacted, That if any Question or Dispute shall arise, between any Person or Persons interested in the said Commons and Waste Lands, or touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have, in, upon, or over the same Commons and Waste Lands, or touching or concerning

Commissioner to settle Disputes.

[Loc. & Per.]

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cerning any other Matter or Thing relating to the said Division, Allotment and Inclosure, then it shall be lawful for the said Commissioner 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 Messuages, Cottages, Lands, or Hereditaments whatsoever.

Commis-
sioner to have
Power to
assess Costs
where any
Disputes.

XIV. And be it further enacted, That in case the said Commissioner shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioner, and he is hereby empowered upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on demand, then, and in every such Case, it shall be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant under his Hand directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus, (if any) upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Parties al-
lowed to try
their Rights
by a Issue at
Law.

XV. Provided always, and be it further enacted, That in case any Person or Persons interested, or claiming to be interested, in the said Division or Allotment, shall be dissatisfied with the Determination of the said Commissioner, touching or concerning their respective Rights or Interests in, over, or upon the said Commons and Waste Lands, hereby directed to be divided, allotted, and inclosed, or any Part thereof, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the then next or at the following Assizes to be holden for the said County of *Gloucester*, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioner, shall cause an Action to be brought or commenced on a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioner shall have been made known to such Person or Persons, and shall proceed to Trial therein as aforesaid, and the Defendant or Defendants in such Action or Actions shall, and he, she, or they, is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept one or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same; and if at the Trial of any Issue or Issues it shall appear that the
Party

Party claiming is entitled to any qualified or less Right or Rights, or Interests than was or were claimed by such Party, then it shall and may be lawful for the Jury, by whom such Issue or Issues shall be tried, to find and declare the same by their Verdict, which shall be indorsed on the Postea, in addition to their Verdict given on the Issue or Issues joined; but, nevertheless, the Costs of such Action or Actions shall abide and be determined by the Verdict given upon the Issue or Issues joined, as if no such special finding had been made, and the Verdict or Verdicts which shall be given in such Action or Actions upon the Issue or Issues therein joined, in case there shall be no such special Finding and Indorsement, or such special Finding and Indorsement, if any such shall be made, shall be binding and conclusive upon and to all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, or Finding and Indorsement, and order a new Trial or Trials to be had thereupon, which it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict or Verdicts, or special Finding or Indorsement, shall be obtained, and not set aside by the Court, the said Commissioner shall, and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims, Right or Rights, or Interest or Interests thereby determined, according to such Verdict or Verdicts, or Finding and Indorsement as aforesaid: Provided always, that the Determination of the said Commissioner, touching such Rights or Interests in, over, or upon the said Commons and Waste Lands, hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive to all Parties.

XVI. And be it further enacted, That if any of the Parties, in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened, and the Executors and Administrators of the deceased shall be liable to the Costs thereof, as if such Action had been tried and Judgement therein given, in the Life-time of the Testator or Intestate, but so nevertheless as not to affect any Payment made before such Judgement shall be signed, or to make any Executor or Administrator liable to be charged with a Devastavit by reason thereof.

If any of the Parties die, Proceedings not to abate.

XVII. Provided also, That if any Person or Persons, in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought, if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Bodies Politic or Corporate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same, within the Time so limited as aforesaid, against such Person or Persons, as if actually living, and to serve the Clerk of the said Commissioner with Notice of such Action or Actions in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim

Actions allowed to be brought after Deaths of Parties.

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the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein, in the same Manner as if such Person or Persons had been actually living, and the Right of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

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

XVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioner to determine any Right between any Parties contrary to the Possession of any such Parties (except as herein is particularly mentioned), but in case the said Commissioner shall be of Opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon, until the Possession shall have been taken from such Person or Persons by Ejectment or other due Course of Law.

This Act not to prejudice any Will, Settlement, &c]

XIX. Provided also, and be it further enacted, That nothing in this Act contained, shall extend or be construed to extend to revoke, make void, alter, or annul any Will, Settlement, or other Deed, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Estates, Debts, Rents, or Incumbrances out of, upon, or affecting any of the Lands and Hereditaments to be divided, allotted, and inclosed, or which shall be exchanged by virtue of this Act, or the said recited Act, or any Part or Parts thereof respectively, but that the respective Persons, to whom any Lands or Hereditaments shall be divided, allotted, or given in Exchange by virtue of this Act, or the said recited Act, shall be seized thereof, to such and the same Uses, and for such and the same Estates, and under and subject to such and the same Settlements, Limitations, Remainders, Jointures, Rents, Charges, and Incumbrances, and under such and the same Restrictions, Covenants, and Agreements, as the several Messuages, Lands, Tenements, or Hereditaments, whereof such Persons respectively were seized or possessed at, or immediately before the Execution of the Award to be made by the said Commissioner, or for which, or in lieu, or respect whereof such Division, Allotment, or Exchange shall be made as aforesaid, would have been subject to, charged with, or affected by, in case this Act had not been made.]

Power to Commissioner for vacating Leases at Rack Rent when necessary, and making Satisfaction to Tenants.

XX. And be it further enacted, That the said Commissioner may, and he is hereby directed and authorized, (on Application made to him for that Purpose, by any Landlord or Tenant) to declare void every Lease or Leases, Agreement or Agreements, at Rack Rent now subsisting, or which may affect any of the Lands to be inclosed, exchanged, or divided by virtue of this Act, and the same shall accordingly cease at such Time or Times as the said Commissioner shall, by Writing under his Hand, order and appoint; and the said Commissioner is hereby empowered to adjudge and determine such Recompence and Satisfaction to be made to the Lessee or Lessees, Tenant or Tenants respectively, for the avoiding such Lease or Leases, Agreement or Agreements, as the said Commissioner shall deem adequate to the Benefit and Interest which the said Lessee or Lessees, Tenant or Tenants, had or derived under the said Lease or Leases, Agreement or Agreements before the passing of this Act, or which such Lessee or Lessees, Tenant or Tenants, could or might have enjoyed, had not this Act been made or passed, and also by whom, and at what Time such Recompence and Satisfaction shall be made, and in case such Recompence

and Satisfaction shall not be made accordingly, then it shall be lawful to sue for and recover the same in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt, or on the Case: Provided always, that if there be any such Lease of Lands, Part of which shall lie in the said Manor and Part in any adjoining Manor, all and every such Lease or Leases, upon Rack Rent, may be vacated; but where any Lands shall have been taken in Exchange, which Lands shall be under such Lease or Agreement, and wholly situate in any adjoining Manor, such last-mentioned Lease or Agreement shall not be vacated.

XXI. And be it further enacted, That in all Cases where an Allotment or Allotments of any Part of the said Commons and Waste Lands shall be made for, or in respect of the Rights of Common belonging to any Messuages, Lands, or Tenements within the said Manor, which are held by any Tenants or Occupiers, for a Term of Years, by virtue of any Lease or Agreement, at Rack Rent, heretofore made thereof, and such Tenants or Occupiers do not, or shall not come to an Agreement with the Person or Persons to whom such Allotments shall be made for the Use and Occupation thereof, such Tenants or Occupiers shall not be entitled to enter upon, occupy, or hold the said Allotment or Allotments, but shall, nevertheless, have and receive from the respective Owners and Proprietors thereof, such an Abatement from the Yearly Rent or Rents, reserved and made payable in and by such Lease or Leases, Agreement or Agreements, for the Remainder of the Term or Terms, then to come therein, as the said Commissioner shall adjudge to be a reasonable Compensation to such Tenants or Occupiers, for the Right of Common which hath been accustomed to be used and exercised by such Tenants or Occupiers, and which shall be extinguished by this Act.

Satisfaction to be made to the Tenants who shall not agree to take the Allotments of Common set out in respect of their Farms.

XXII. Provided always, and be it further enacted, That if any Person or Persons hath or have sold, or shall at any Time before the Execution of the Award of the said Commissioner, sell his, her, or their Right, Interest, or Property, in, over, or upon the said Commons and Waste Lands, or any Part thereof, to any other Person or Persons, then and in every such Case, it shall be lawful for the said Commissioner, and he is hereby directed, authorized and required to make an Allotment of Land to the Purchaser or Purchasers, in such Sale; or to his, her, or their Heirs or Assigns, for or in respect of such Right, Interest, or Property, so sold as aforesaid, and every such Purchaser or Purchasers, his, her, or their Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him, her, or them as aforesaid in the same Manner, to all Intents and Purposes, as the Vendor or Vendors in every such Sale might, could, or ought to have held and enjoyed the same, in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendee at the Time of making such Allotment as aforesaid.

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

XXIII. And be it further enacted, That the said Commissioner shall, and he is hereby required to allot to every Proprietor, the Share or Proportion of public or private Fencing, to be done by them or the future Owner or Owners of every respective Allotment which shall be fenced,
[*Loc. & Per.*]

Shares of Fencing to be allotted by Commissioner.

which Share or Proportion of Fencing shall be specified in Chains and Links, and set forth either fully in the Award of the said Commissioner, or by Reference to some Plan to be annexed thereto; and the said Commissioner shall also cause the same to be marked and delineated in the Plan to be annexed to the said Award.

Distinct Allotments to be made for Lands holden for different Estates.

XXIV. And be it further enacted, That in case any Proprietor or Proprietors of any Lands or other Hereditaments, hereby authorized to be divided, allotted, or exchanged, shall hold their respective Lands or Hereditaments for different Estates or by different Tenures, the said Commissioner shall ascertain and distinguish the Lands or Hereditaments held for each of such Estates, and by each of such Tenures respectively, and shall also set out and distinguish the different Allotments or other Hereditaments, to be accepted and taken as an Equivalent in respect of each of them; and the said Commissioner shall and he is hereby authorized and required to set forth and declare, in and by his said Award, in Right of what Estates in particular such Allotments shall have been respectively made, and therein also separately to describe and ascertain the Situation of every such Allotment.

When Commissioner shall not have made distinct Allotments for Lands holden by different Titles, he may declare the same by Deed after making his Award.

XXV. And be it further enacted, That when the Proprietor or Proprietors of any Lands or other Hereditaments, which shall be divided, allotted, or exchanged by virtue of this or the said recited Act, shall hold his, her, or their Lands and Hereditaments for different Estates or by different Tenures, and where, from the Want of the necessary Information before the said Commissioner, or from any other Cause, his Award shall have omitted the distinguishing and ascertaining of the Lands or other Hereditaments holden for each of such Estates and by different Tenures, and the setting out and awarding of several distinct Allotments for such respective Lands or other Hereditaments as herein-before is required, and within Twelve Calendar Months after the making of the said Award, Request shall be made to the said Commissioner by any Person or Persons interested, by Writing, under his, her, or their Hand or Hands, to have such Omission supplied by a separate Instrument, then, and in every such Case, the said Commissioner is hereby authorized to do every Thing necessary for supplying such Omission, and so far as that Purpose shall require, to examine Witnesses, and in every other Respect to proceed and act as if his Award had not been made; and when he shall have obtained what he shall think sufficient Information, he is hereby also authorized, by any Deed under his Hand and Seal, to distinguish and ascertain the Difference of such Estates and Tenures respectively, and accordingly to make distinct and several Allotments in the same Manner as is hereby required, where such Discrimination shall be contained in the said Award; and every such separate Instrument shall be annexed to and enrolled and deposited with the said Award, and Evidence thereof shall be given in the same Manner as by the said recited Act, and this Act, or either of them, is directed concerning the said Award, and all reasonable Expences incurred in or about such separate Instrument as aforesaid shall be payable by the Person or Persons who shall have so requested the said Commissioner to make and execute the same, or by his, her, or their Heirs, Executors, or Administrators; and every such separate Instrument shall, from and immediately after the due Execution thereof by the said Commissioner, have the same Effect to all Intents and Purposes, as if the

Contents thereof had been inserted and contained in his said Award, and a Duplicate of the same shall be delivered to the Person or Persons upon whose Request any such Omission shall have been supplied, or to the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title to the Premises in Question shall, in the Opinion of the said Commissioner, most properly belong.

XXVI. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized at any Time or Times before the Execution of the said Award, by Notice, in Writing, under his Hand to be affixed upon the principal outer Door of the Chapel of *Rangeworthy* and the Parish Church of *Thornbury* aforesaid, to order and direct all or any Part of the Rights of Common, in, over, or upon the said Commons and Waste Lands, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Writing; and that all such Rights of Common as the said Commissioner shall, by such Writing, order and direct to be extinguished, or the Exercise thereof suspended as aforesaid, shall, from the Time of affixing such Writing on the said Chapel and Church Doors, cease, determine, and be extinguished, or the Exercise thereof be suspended accordingly, any Law, Usage, or Custom to the contrary thereof notwithstanding.

Commis-
sioner to di-
rect a Time for
extinguishing
or suspending
Rights of
Common.

XXVII. And be it further enacted, That the said Commissioner shall, and he is hereby authorized and required in all Cases where in his Judgment it shall appear to be requisite or proper; or for the more convenient Occupation of the Lands and Tenements within the said Manor, to divert and turn away any old or accustomed Road, Way, or Path, passing or leading through or over any Part of the old Inclosures within the said Manor, or to stop up, or discontinue such Road, Way, and Path, as to the said Commissioner shall seem meet and proper: Provided always, that no such Road, Way, or Path, shall be diverted, turned, stopped up, or discontinued, without such Concurrence and Order, and subject to such Appeal as is mentioned or referred to in and by the said recited Act.

Commis-
sioner to di-
vert Roads.

XXVIII. And be it further enacted, That it shall be lawful for the Trustees or Trustee, Feoffees or Feoffee, and also for any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who are or shall be Proprietors or Owners of Messuages, Buildings, Lands, Grounds, or other Hereditaments, lying within the said Manor of *Rangeworthy*; and also to and for the Husbands, Guardians, Committees, and Trustees of any of the said Owners and Proprietors, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or otherwise incapable of acting for themselves; and also to and for all Persons acting as Guardians, Trustees, or Committees, of any such Owners or Proprietors being under any Disability whatsoever, whether such Owners or Proprietors be Tenants in Fee Simple, Tenants for Life, with or without Impeachment of Waste, Tenants in Fee Tail, General or Special, Tenants by the Curtesy of *England*, Tenants for Years determinable on any Life or Lives or otherwise, from Time to Time to exchange all or any of his, her, or their Messuages, Buildings, old Inclosures, Lands, Tenements, Allotments, Rights, Interests, Heriots, Chief Rents, or other Hereditaments, within the said Manor of *Rangeworthy*, for any other Hereditaments lying

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lying within the same, or any other adjoining Manor or Parish; and also for the Lord of the said Manor of *Rangeworthy*, and the Lord or Lords of any adjoining Manor or Manors, to exchange such Part or Parts of the Commons or Waste Lands within or Part of their respective Manors, as shall be necessary for making a more direct and convenient Boundary, Line, or Division between the respective Manors aforesaid, so that all and every such Exchange or Exchanges be made by and with the Consent and Approbation of the said Commissioner, and shall be ascertained, specified, and declared in his said Award; and all and every such Exchange or Exchanges shall be good and valid in the Law, to all Intents and Purposes whatsoever; and shall be specified and set forth in the Award of the said Commissioner.

XXIX. Provided always, That no Exchange shall be made by virtue of this Act, of any Lands, Tenements, or Hereditaments, holden in Right of any Church or Chapel, without the Consent of the Patron thereof, and of the Bishop of the Diocese for the Time being respectively, in which such Lands, Tenements, or Hereditaments shall lie or be situate.

Expences of Exchanges and Partitions shall be borne by the Persons making them.

Proprietors and Agents to pay their own Expences.

XXX. Provided always, and be it further enacted, That the Costs, Charges, and Expences attending the making of any Exchange or Exchanges, Partition or Partitions, Sale or Sales to be made by virtue of this or the said recited Act, shall be borne, paid and defrayed by the several Persons making such Exchanges, Partitions or Purchases, and the Sales hereby directed for raising Money for defraying the Expences of this and the said recited Act, and for carrying the same into Execution, in such Shares and Proportions as the said Commissioner shall, in and by his said Award, order and direct: Provided always, that the said Proprietors, their Attornies and Agents, shall pay their own Expences, when they or any of them shall attend the said Commissioner at any Meeting to be holden in pursuance of this Act.

Crops on exchanged Lands to be valued.

XXXI. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby required to settle and ascertain what Recompence shall be paid to the Owner of any Crop growing at the Time of any Exchange to be made in Manner aforesaid, for the Value of the said Crop, by the Person to whom the Land on which such Crop is growing is or shall be given in Exchange, or otherwise, that the Owner of such Crop shall be at Liberty to lead and carry away the same, within the Term to be limited for that Purpose by the said Commissioner, without any Molestation or Hindrance from the Person to whom the Land on which the Crop was growing shall be given in Exchange, the Owner of such Crop, on carrying away the same, making such Satisfaction to the Person who shall be entitled to the Land on which such Crop was growing, as the said Commissioner shall direct for the Standage thereof, and Manure and Tillage by the Person or Persons to whom the same shall be given in Exchange; and in case any Person or Persons, who shall be directed to pay any Sum or Sums of Money on such Account, shall refuse or neglect to pay the same on Demand, the same shall be recoverable for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Charges and Expences of obtaining and executing this Act are directed to be recovered in and by the said recited Act.

XXXII. And

XXXII. And be it further enacted, That in case any Person or Persons shall advance any Sum or Sums of Money for the Purpose of defraying the Expences of obtaining and passing this Act, and of carrying the same into Execution, every such Person shall be repaid the same, together with lawful Interest from the Time of advancing thereof, out of the First Monies that shall be raised for defraying such Expences, under and by virtue of this Act.

Interest allowed on Money advanced for Expences of Act and Inclosures.

XXXIII. Provided always, and be it further enacted, That nothing in this Act shall be construed to defeat, lessen, or prejudice the Right, Title, or Interest of the said *John Delafield Phelps*, as Lord of the said Manor of *Rangeworthy* for the Time being, or any future Lord or Lords of the said Manor, to the Mines, Beds, Veins, and Seams of Coal, Canal, Slack, and Ironstone, or other Mines and Minerals in or under the said Commons or Waste Lands hereby intended to be inclosed (save and except Stone, Gravel, Clay, and Sand), or to any Rights, Seignories, or Royalties incident or belonging to the said Manor, the same being hereby reserved to him the said *John Delafield Phelps*, and the future Lord or Lords of the said Manor, with full and free Liberty, Power, and Authority for them, from Time to Time, and at all Times hereafter, to have, hold, win, work, and enjoy all Mines, Beds, Veins, and Seams of Coal, Canal, Slack, and Ironstone, and other Mines and Minerals of what Nature or Kind soever, save and except as aforesaid, within and under the said Commons and Waste Lands hereby intended to be inclosed, together with all convenient and necessary Roads, Ways, and Passages, and Liberty of laying, making, and repairing all necessary Roads or Ways in, over, and along the same, or any of them, or any Part thereof, and of searching for, winning and working the said Mines and Minerals, and stacking, leading, and carrying away the Coal, Canal, Slack, Ironstone, or other Produce thereof, and sinking, digging, and making Pits, Shafts, Pit-rooms, Heap-rooms, Stand-yards, Air-pits, Drifts, Levels, Ways, and Water-courses, and of erecting and using Fire Engines, or other Engines, Hovels, Weighing Machines, Weighing Houses, Stables, and other necessary and convenient Buildings, and of altering, changing, pulling down, and carrying away the same, or any of the Materials thereof, and to have and use any Stone got in the sinking Pits or Shafts, or working or getting the said Minerals so reserved as aforesaid at their own free Will and Pleasure, and to do, employ, use, and exercise all such other Machines, Acts, and Things either now in use, or hereafter to be invented, as may be necessary and convenient for the full and complete Enjoyment thereof in as full, ample, and beneficial a Manner, to all Intents and Purposes as they could or might have done had this Act not been made, he the said *John Delafield Phelps*, or any future Lord or Lords of the said Manor from Time to Time paying, making, and allowing to the several Owners or Occupiers of such Allotments respectively a reasonable and adequate Recompence and Satisfaction for all such Damages as shall from Time to Time be thereby done to such Allotments, or to any Erections or Buildings that may at the Time of working or getting the said Mines and Minerals, or exercising the Privileges aforesaid, be erected or built thereupon.

Mines reserved to the Lord of the Manor.

XXXIV. And be it further enacted, That once at least in each and every Year during the Execution of this Act, (the first Year to be computed from the Day of passing thereof,) the said Commissioner shall, and he is

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hereby

Commissioner to lay his Accounts before Two Justices once every Year.

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 for his own Trouble and Expences in and about the Execution of this Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before any Two or more of His Majesty's Justices of the Peace acting in and for the said County of *Gloucester*, and not interested in the Premises, to be by them examined and balanced, and such Balance shall be, by such Justice or Justices, stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner, and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in the Law, unless the same shall have been duly allowed by such Justice or Justices.

Award to be deposited in the Church.

XXXV. And be it further enacted, That the Award to be made by the said Commissioner, when enrolled in Manner directed by the said recited Act, shall be deposited and kept in the Parish Church of *Thornbury* aforesaid, to the end that Recourse may be had thereto by any Person or Persons interested in the said Inclosure.

Appeal to the Quarter Sessions.

XXXVI. And be it further enacted, That if any Person or Persons shall think him, her, or themselves aggrieved by any Thing done in pursuance of this Act, or the said recited Act, then and in such Case (except as to such Claims, Matters and Things as are hereinbefore directed or authorized to be tried, settled, or determined by the Verdict of a Jury, or where any of the Clauses or Provisions of the said recited Act, or of this Act, shall express that the same shall be final), he, she or they may appeal to any General Quarter Sessions of the Peace which shall be held for the said County of *Gloucester*, within Six Calendar Months next after the Cause of Complaint shall have arisen, giving Ten Days Notice of such Appeal to the said Commissioner; and the Justices at the said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and make such Orders therein, and award such Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant, to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Surplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; and which Determination of the said Justices shall be final and conclusive upon all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*.

General Saving.

XXXVII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest (other than such as are meant and intended to be compensated for, barred, or destroyed by this Act), of, in, to or in respect of the Commons and Waste Lands and Hereditaments to be divided, allotted, and inclosed, or exchanged by virtue of this or the said recited Act, as he, she, or they might or could have enjoyed, in case this Act had not been made.

51° GEORGII III. *Cap. 7.*

103.

XXXVIII. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty, and a Copy thereof so printed shall be admitted as Evidence by all Judges, Justices, and others. Act may be given in Evidence.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1811.

