



ANNO QUINQUAGESIMO TERTIO

GEORGI III. REGIS.

Cap. 198.

An Act for inclosing Lands in the Parish of *Withington*,
in the County of *Gloucester*. [2d July 1813.]

WHEREAS there are within the Parish of *Withington*, in the County of *Gloucester*, divers Open and Common Fields, Common Pastures, and Commonable Woods and Waste Lands: And whereas the Right Reverend *Folliott* Lord Bishop of *Worcester*, in Right of his Episcopal See, is Lord of the Manor of *Withington* aforesaid, and claims to be Owner of the Soil of the Waste Lands within the said Manor of *Withington*; and *Elizabeth Smith* is Lessee under the said Bishop of *Worcester*, of the same Manor; and *Ann Sylvester*, *Sarah Ansell*, and *Maria Ansell*, are Ladies of the Manor of *Foxcote* within the same Parish, and as such claim to be Owners of the Soil of the Waste Lands within the said last-mentioned Manor; and *William Lawrence* Esquire claims to be Lord of the Manor of *Owdeswell*, within the same Parish, and as such claims to be Owner of the Soil of the Waste Lands within the same: And whereas the said Lord Bishop of *Worcester* is Patron of the Rectory of the Parish Church of *Withington* aforesaid; and the Reverend *Benjamin Grisdale* Clerk is Rector thereof, and as such is entitled to all the Tithes arising within the said Parish, and to the Glebe Lands within the same: And whereas the said Lord Bishop of *Worcester*, the Right Honourable Sir *William Scott* Knight, Sir *Charles Morice Pole* Baronet, *Henry Knapp* Esquire, and *Ann Knapp*, *Ann Sylvester*, *Sarah Ansell*, and *Maria Ansell*; *John Elwes* Esquire, *Henry Brooke* Esquire, *Thomas Day*, and several other Persons, are respectively entitled to or interested in the said Open and Common Fields, Common Pastures, and

[Loc. & Per.]

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Commonable

41G.3.c.109. Commonable Woods, and Waste Lands: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosures, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said Open and Common Fields, Common Pastures, and Commonable Woods, and Waste Lands, are in their present State incapable of any considerable Improvement; and it would be of Advantage to the several Proprietors thereof, if the Commonable Rights therein were extinguished, and the same were divided and inclosed, and specific Shares thereof allotted to the several Proprietors and Persons interested, according to their respective Rights and Interests therein, and such Allotments inclosed, and Satisfaction made for the Tithes arising from the Open and Common Fields, Common Pastures, and Commonable Woods, and Waste Lands, and other Lands within the said Parish; but the same cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Frederick Phelps* of *Evesham* in the County of *Worcester*, Gentleman, *John Davies* of *Bloxham* in the County of *Oxford*, Gentleman, *Robert Wright Hall* of *Cirencester* in the County of *Gloucester*, Gentleman, and *Joseph Large* of *Broadwell* in the County of *Oxford*, Gentleman, and their Successors to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, allotting, and inclosing the said Open and Common Fields, Common Pastures, and Commonable Woods and Waste Lands within the Parish of *Withington* aforesaid, and for carrying this Act and the said recited Act into Execution, save and except such Parts of the said recited Act as are hereby varied and altered; and that all Acts, Matters, and Things hereby and by the said recited Act directed to be done and executed by the said Commissioners, may be done and executed by any Three of them, and the same shall be as valid and effectual as if done and executed by all the said Commissioners.

Commissioners.

II. And be it further enacted, That if the said *Frederick Phelps* shall die, refuse to act, or become incapable of acting as a Commissioner, before the Powers and Authorities in him vested as a Commissioner shall be fully executed, then, that *William Phelps* of *Puckrup*, in the Parish of *Twynning*, in the County of *Gloucester*, Gentleman, shall be and he is hereby appointed a Commissioner in the Room of the said *Frederick Phelps*, and shall have the like Powers and Authorities as fully in all respects as the said *Frederick Phelps* would have had in case he had acted as a Commissioner in the Execution of this Act.

New Commissioners.

III. And be it further enacted, That if any Commissioner or Commissioners appointed by this Act, or any other Commissioner or Commissioners to be appointed as herein-after is mentioned, shall die, refuse to act, or become incapable of acting, before the Powers and Authorities hereby in them vested shall be fully executed, then the surviving or other Commissioner or Commissioners shall from Time to Time, by Writing under his or their Hand or Hands, within Six Calendar Months after the Death

Death of any Commissioner or Commissioners, or his or their Death, Refusal, or Incapacity shall be known, appoint a Commissioner or Commissioners (not interested in the said Division and Inclosure) in the Room of such Commissioner or Commissioners as shall so die, or refuse to act, or become incapable of acting; and in case all the Commissioners for the Time being shall die, or refuse or neglect to act, or become incapable of acting, before the Execution of all the Powers and Authorities hereby in them vested, then it shall be lawful for the major Part in Value (such Value to be ascertained by the Land Tax Assessment) of the Proprietors or Persons interested in the Lands directed by this Act to be divided, allotted, and inclosed, or their known Agents or Attornies who shall be present at a Meeting to be held in the Parish of *Witbington* aforesaid, in pursuance of a Notice to be given by Writing to be affixed upon the principal Outer Door of the Parish Church of *Witbington* aforesaid, at least Twenty-one Days before such Meeting, to appoint another Commissioner or other Commissioners, not interested in the said intended Division and Inclosure, by Writing under their Hands, in the Room of the Commissioner or Commissioners who shall die, or refuse, or neglect to act, or become incapable of acting, and so from Time to Time and as often as any Commissioner or Commissioners shall die, or refuse or neglect to act, or become incapable of acting, as aforesaid; and the Commissioner or Commissioners so appointed shall have the like Power and Authority to act in the Execution of this Act and the said recited Act, as the Commissioner or Commissioners in whose Place he or they shall be appointed, was or were vested with by virtue of this and the said recited Act.

IV. And for preventing the Inconveniencies that may arise in Cases where the Commissioners may be equally divided in Opinion, in any Matters or Things concerning the Execution of this Act, or the said recited Act; be it enacted, That *Thomas Fuljames* of *Haresfield* in the said County of *Gloucester*, Gentleman, and his Successor for the Time being, to be appointed in Manner herein-after mentioned, shall be and he is hereby appointed an Umpire in such Cases, to act therein with the said Commissioners; and in all such Cases the said Umpire for the Time being shall have the same Powers and Authorities as are given to each of the said Commissioners by this and the said recited Act or either of them; and in such Cases wherein the said Umpire for the Time being shall act in pursuance of the Power hereby given to him, all Matters and Things which shall be done and executed by Two of them the said Commissioners and the Umpire, shall be as good and effectual as if the same had been done and executed by all the said Commissioners; and in case the said *Thomas Fuljames*, or the Umpire for the Time being under this Act, shall die, refuse to act, or become incapable of acting, before the Powers and Authorities hereby in him vested shall be fully executed, then and in every such Case a new Umpire, not interested in the said Division and Inclosure, shall be appointed in his Room by the Commissioners for the Time being under this Act.

Appointment
of an Umpire.

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

Umpire to be
sworn.

‘ I do swear, [or, being one of the People called *Quakers*,
 ‘ do solemnly affirm,] That I will faithfully, impartially, and honestly,
 ‘ according to the best of my Skill and Ability, execute and perform the
 ‘ Powers and Authorities reposed in me as an Umpire, by virtue of an
 ‘ Act, passed in the Fifty-third Year of the Reign of King *George* the
 ‘ Third, intituled, [*here insert the Title of this Act*] according to Equity
 ‘ and good Conscience, and without Favour or Affection, Prejudice or
 ‘ Malice to any Person or Persons whomsoever. So help me GOD.’

Which Oath or Affirmation it shall be lawful for either of the said Commissioners to administer, who are hereby respectively empowered and required to administer the same; and such Oath or Affirmation, when so taken or subscribed by such Umpire, shall be annexed to and enrolled with the Award of the said Commissioners.

Notice of Meetings.

VI. And be it further enacted, That the said Commissioners shall cause Notice to be given in the Parish Church of *Witbington* aforesaid, upon some *Sunday* during or immediately after Divine Service, or by Writing under their Hands, to be affixed upon the principal Outer Door of the said Church, and also by Advertisement to be inserted in One of the *Gloucester* Newspapers (if any shall then be), of the Time and Place of the First and every subsequent Meeting for the Execution of this Act, Ten Days at the least before any such Meeting shall be held (Meetings by Adjournment, which the said Commissioners are hereby authorized to make, only excepted); and if at the Time and Place appointed for any such Meeting, no more than One Commissioner shall attend, such Commissioner may adjourn such Meeting to such Time and Place as he shall think most convenient; and if no Commissioner shall attend at such Time and Place, then it shall be lawful for the Person who shall act as Clerk to the said Commissioners, to adjourn such Meeting to any future Day, not exceeding Twenty-one Days from the Day of Adjournment; and that all such Meetings shall be held in the Parish of *Witbington* aforesaid, or within the Distance of Eight Miles thereof.

Other Notices.

VII. And be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners, shall be so made and given by Advertisement to be inserted in One of the *Gloucester* Newspapers, or in some other Newspapers circulated in the said County of *Gloucester*.

Settling Disputes.

VIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Division and Allotments, touching or concerning the respective Properties, Rights, or Interests which they or any of them shall have, or claim to have in the same, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall be lawful for the said Commissioners, and they are hereby authorized and required to examine into, hear, and determine the same.

Commissioners not to determine any Title to Lands, nor molest Possession.

IX. Provided always, and be it further enacted, That nothing in this Act contained shall extend to authorize or empower the said Commissioners to determine any Difference or Dispute which may arise, touching or concerning the Title of any Person or Persons to any Messuages, Lands, or Hereditaments

Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments); but in case the said Commissioners shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law.

X. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; 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 upon Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever; to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person and Persons so neglecting and 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.

Commissioners may award Costs.

XI. Provided always, and be it further enacted, That in case any Person or Persons interested in the said intended Division and Inclosure, shall be dissatisfied with the Determination of the said Commissioners, touching or concerning any Rights or Interests in, over, and upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, or touching or concerning any Common Rights, or other Rights or Interests which they or any of them may have or claim in, upon, or over the same, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, 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 Commissioners, 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 Commissioners, shall cause an Action to be brought upon 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 Commissioners; 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 upon may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the

Allowing a Trial at Law.

[Loc. & Per.]

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Verdict

Verdict or Verdicts which shall be given in such Action or Actions, shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, and Body or Bodies Corporate or Collegiate, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and that after such Verdict or Verdicts shall be obtained and not set aside by the Court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners touching such Claim or Claims to such Common Rights, or other Rights or Interests in, over, or upon the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to within the Time and in Manner aforesaid, 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 upon all Parties.

Deaths not to abate Actions.

XII. 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.

In case of Deaths of Parties before Action is brought, the same to be defended and carried on in their Names.

XIII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before 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, Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the said Commissioners or their Clerk with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, or in his, her, or their own Name or Names, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

The Death of Persons not to hinder the Commissioners from proceeding in the Inclosure.

XIV. And be it further enacted, That if any of the Parties interested in the said intended Division and Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioners shall not be thereby determined or suspended, but that the said Commissioners shall proceed in the Execution of the Powers given to them by this Act or the said recited Act, in such Manner as they might have done in case such Parties had not died; and that the Share or Shares of the Person or Persons so dying shall be allotted to such Person or Persons who shall by Law become entitled to the same, and shall be accepted and fenced

fenced by him, her, or them, according to the Directions of this or the said recited Act, and he, she, or they shall be liable to the Charges and Expences and other Conditions of this and the said recited Act.

XV. And be it further enacted, That *Richard Hall* of *Cirencester*, in the County of *Gloucester*, Land Surveyor, shall be and he is hereby appointed Surveyor for making such Survey, Admeasurement, or Plan, and for reducing the same into Writing, and specifying and setting forth such Particulars as are in that Behalf required, under and by virtue of the said recited Act; and in case he the said *Richard Hall* shall die, or refuse or neglect to act, or be or become incapable of acting, the said Commissioners or any Three of them, shall and they are hereby required and authorized forthwith to elect and appoint another Surveyor in his Stead, and so from Time to Time as often as any Surveyor for the Purposes of this Act shall die, or refuse or neglect to act, or be or become incapable of acting; and no Person shall act as such Surveyor until he shall have taken and subscribed the Oath or Affirmation following; (that is to say),

‘ I *A. B.* do swear, [or, being one of the People called *Quakers*, do solemnly affirm] that I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the Duties incumbent on me as a Surveyor, by virtue of an Act for inclosing Lands in the Parish of *Withington*, in the County of *Gloucester*, according to Equity and good Conscience, and without Partiality, Favour, or Affection, Prejudice or Malice, to any Person or Persons whomsoever.
‘ So help me GOD.’

Which Oath or Affirmation the said Commissioners, or either of them, are or is hereby authorized and required to administer; and the said Oath or Affirmation, so taken and subscribed by such Surveyor or Surveyors, shall be annexed to the Award of the Commissioners.

XVI. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to stop up, alter, or change any old Carriage Road, Bridleway, or Footpath leading through and over the said Common or Waste Lands hereby directed to be divided and inclosed, or passing or leading through any of the old Inclosures within the said Parish; and the Soil of the Roads and Ways so to be stopped up, altered or changed, shall be deemed and taken as Part of the Lands and Grounds so to be divided and inclosed; provided that no such Carriage Road, Bridleway, or Footpath passing or leading through any of the old Inclosures in the said Parish, shall be stopped up, altered or changed without the Concurrence and Order of Two Justices of the Peace for the said County of *Gloucester*, and not interested in the Repair of such Roads, and which Order shall be subject to an Appeal to the Quarter Sessions for the said County of *Gloucester*, in like Manner and under such Forms and Restrictions as if the same had been originally made by such Justices.

XVII. And be it further enacted, That all Encroachments and Inclosures made or taken in or from any of the said Commonable and Waste Lands by this Act intended to be divided and inclosed (except such as shall be proved, to the Satisfaction of the said Commissioners, to have been held and enjoyed without Interruption or Acknowledgment for the Space of Twenty
Twenty

Twenty Years next before the passing of this Act) shall severally be deemed Parcel of the Commons and Waste Lands in or from whence such Encroachments and Inclosures have respectively been made or taken, and shall be divided and allotted as such accordingly; provided nevertheless, that all such Encroachments and Inclosures shall be allotted and awarded to the Person or Persons who shall at the Time of making the said Allotments be in the Possession thereof, or in the Receipt of the Rents and Profits thereof, as the Whole or Part of the Share or Portion of the said Commons and Waste Lands to which such Person or Persons may be entitled under or by virtue of this Act, subject to such Orders and Regulations, and to such Deductions for Roads or otherwise, as the said Commissioners shall by their Award or otherwise direct; and in case any such Encroachment or Inclosure shall be found to exceed the Quantity of Land which the Owner or Possessor thereof may be entitled to, for his, her, or their Share or Allotment as aforesaid, that then and in every such Case the Overplus of such Encroachment or Inclosure shall be deemed and considered Open and Commonable Land, and shall be subject to such Distribution as if the same had never been taken in or inclosed, unless the said Owner or Possessor shall pay to the said Commissioners, or any Three of them, so much Money as they shall adjudge to be equivalent to such Overplus, the same to be paid at such Time or Times as the said Commissioners shall appoint, and to be considered and applied by them as Part of the Money to be raised for defraying the Expences of carrying this Act into Execution; and if any Surplus shall remain after the Payment of such Expences, such Surplus shall be disposed of in Manner herein-after mentioned or referred to.

Lands liable
to be allotted.

XVIII. And be it further enacted, That all Open Fields and Meadows, where the Whole or greater Part of the Lands lie within the said Parish, and all Inclosures containing the Property of Two or more Persons within One Fence, and also all Inclosures containing the Property of One Person only, if the same be held by or under different Tenures or Interests, and also all Inclosures detached from Homesteads, not exceeding Four Acres, shall be deemed Part of the Land to be divided and allotted under this Act, in case the Commissioners shall be satisfied that the same can be so considered without any material Injury to the Parties entitled thereto respectively.

Allotments
for Stone
Pits, &c.

XIX. And be it further enacted, That the said Commissioners shall, and they are hereby authorized, before they make any other Allotments of the said Open and Common Fields, Common Pastures, and other Commonable and Waste Lands to set out or allot such Parcel or Parcels of the said Commonable Lands, within the said Parish of *Withington*, as they shall judge proper, not exceeding Five Acres, as and for public Stone and Gravel Pits, with convenient Roads and Ways to and from the same respectively, to be used in common by the respective Proprietors of Lands and Estates and their Tenants, as well for their own respective necessary Uses within the said Parish, as for the Repair of the public and private Roads and Ways within the same; and such Allotment or Allotments shall be vested in the Surveyors of the Highways of the said Parish of *Withington* for the Time being, in Trust for the Purposes aforesaid, and shall be inclosed and fenced in such Manner as the said Commissioners shall in and by their Award order and direct.

XX. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out such Parcel or Parcels and Quantity of the Lands and Grounds within the said Parish of *Withington*, by this Act authorized to be divided and allotted and inclosed, as they shall think proper, for raising Money by Sales thereof, to defray the Whole of the Charges and Expences attending the obtaining and passing of this Act, and of carrying the same and the said recited Act in all Respects into Execution (save and except so much of the said Charges and Expences, as shall be paid by Proprietors of inclosed Lands and Hereditaments in the said Parish, not having a Sufficiency of Lands and Grounds in the Common Fields and Lands to be divided and inclosed); and the said Commissioners shall and they are hereby authorized and required to expose the Land which shall be so set out and allotted to Sale, by public Auction, private Contract, or otherwise, in Manner and subject to the Regulations mentioned in the said recited Act, and to apply the Money which shall arise by such Sale in defraying the Charges and Expences aforesaid; and in case any Surplus of Monies arising by such Sale shall remain after all such Charges and Expences shall have been fully paid and satisfied, such Surplus shall be divided and apportioned between the several Proprietors of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, according to their several and respective Interests therein, in case they shall be Tenants thereof in Fee Simple, or otherwise such Surplus shall be paid into the Bank of *England*, in Manner directed by the said recited Act, with respect to Money thereby directed to be paid into the Bank 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.

Allotment
for Sale to
pay Ex-
pences.

XXI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out and allot, unto and for the Lord of the Manor of *Withington* aforesaid, or his Lessee, such Parts of the Common and Waste Lands within the same Manor, and hereby directed to be divided and allotted, as in the Judgment of the said Commissioners shall be equal in Value to One Fifteenth Part thereof (Roads excepted), in lieu of and as a full Recompence and Satisfaction for his Rights of Soil in the said Commons and Waste Lands; which Allotment, when made, shall by the said Commissioners making the same, be awarded to the said Bishop of *Worcester* and his Successors, Lords of the said Manor, or his and their Lessee for the Time being.

Allotment to
the Lord of
the Manor of
Withington.

XXII. And be it further enacted, That the said Commissioners shall in the next Place set out, allot, and award, unto and for the Lord or Lords, Lady or Ladies of the Manors of *Foxcote* and *Owdeswell* aforesaid, such Parts of the Common and Waste Lands within the said Manors respectively, and hereby directed to be divided and allotted, as in the Judgment of the said Commissioners shall be equal in Value to One Fifteenth Part thereof respectively (Roads excepted), in lieu of and as a full Recompence and Satisfaction for their respective Rights of Soil in the said Commons and Waste Lands respectively.

Allotment to
the Lord and
Ladies of the
Manors of
Foxcote and
Owdeswell.

XXIII. And be it further enacted, That the said Commissioners shall in the next Place set out, allot and award, unto and for the said *Benjamin Grisdale*,
[*Loc. & Per.*]

Allotment to
the Rector
for *Glebe*.

Grisdale, as Rector of *Withington* aforesaid, and his Successors, Rectors as aforesaid for the Time being, so much and such Part or Parts of the Commonable Lands and Grounds hereby intended to be divided and inclosed, as in the Judgment of the said Commissioners shall be a full Equivalent, Compensation and Satisfaction for all the Glebe Land and Right of Common belonging to the said Rectory, within the aforesaid Open and Common Fields, Common Pastures, and Commonable Woods and Waste Lands in the Parish of *Withington* aforesaid.

Allotment
for Tithes.

XXIV. And be it further enacted, That the said Commissioners shall and they are hereby authorized to set out and allot, unto the said *Benjamin Grisdale*, as Rector aforesaid, and his Successors, Rectors of the said Rectory for the Time being, so much and such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted and inclosed, for and in lieu of the Great and Small Tithes issuing and payable out of all the Lands, Grounds and Hereditaments within the said Parish of *Withington*, as (together with such Rents and inclosed Lands, and Hereditaments as shall be set out to or for him and them for Tithes as herein-after is directed) shall in the Judgment of the said Commissioners be equal to Two Ninths of all the Arable Lands within the said Parish, and to One Ninth of all the Homesteads, Orchards, and old inclosed Meadow and Pasture Lands, Woods, Commons, and Waste Grounds therein respectively; and that the said Allotments so to be set out and allotted unto the said *Benjamin Grisdale* and his Successors, Rectors as aforesaid, shall be in lieu and full Compensation and Satisfaction for all Great and Small Tithes whatsoever growing, arising, renewing, increasing and happening, or due and payable to him and them, in, upon, from and out of the said Open and Common Fields, Common Pastures, and Commonable Woods, and Waste Lands, Homesteads, Orchards, Old Inclosures, or other Tithable Tenements in the said Parish of *Withington* (except *Easter Offerings*, Mortuaries and other Surplice Fees.)

Corn Rents to
be allotted
for Tithes
of Old In-
closures.

XXV. And be it further enacted, That in case any of the Owners or Proprietors of any Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds within the said Parish of *Withington*, shall not be entitled to a sufficient Quantity of the said Open and Common Fields, Common Pastures, and Commonable Woods and Waste Lands, or other Lands and Grounds hereby directed to be divided, allotted, and inclosed, to make Satisfaction for the Great and Small Tithes of all his, her, or their said respective Lands, Grounds, and other Hereditaments within the said Parish, in the Proportions aforesaid; then and in every such Case, the said Commissioners shall and they are hereby required to make a just and true Valuation of all the Tithes both Great and Small, arising, issuing, and payable out of, for or in respect of such Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds, according to the Value and Proportion herein-before directed; and such Yearly Sum of lawful Money of *Great Britain*, as according to the Valuation aforesaid is equivalent to such Tithes, shall in all such Cases be charged upon such last-mentioned Messuages, Homesteads, Gardens, Orchards, and other inclosed Lands or Grounds, as Yearly Rents payable thereout to the said Rector and his Successors, in lieu of the Tithes thereof; and the same Rents shall be and they are hereby charged on the said several Messuages, Homesteads,

Homesteads, Gardens, Orchards, and other inclosed Lands and Grounds of such Proprietors respectively.

XXVI. And in order to fix the Amount of such Yearly Corn Rents or Sums of Money, be it enacted; That the said Commissioners shall and they are hereby authorized and required, after having made an Estimate of the Value of the Tithes of such Messuages, Homesteads, Gardens, Orchards, and other inclosed Lands and Grounds, to ascertain from the *London Gazette*, or by such other Ways and Means as they shall think most proper what hath been the Market Price of good marketable Wheat in the County of *Gloucester* during the Term of Seven Years next preceding the passing of this Act, and shall in and by their Award, or by any Schedule to be annexed thereto, ascertain and distinctly set forth the Annual Value of the Tithes arising, or due, or payable out of, or for the Lands, according to the Estimate to be made as aforesaid, and what Quantity of such Wheat shall in their Judgment (according to such Average Price aforesaid) be equal in Value to the said Tithes; and that there shall be issuing and payable from Time to Time, and for ever, to the said Rector and his Successors, such respective Yearly Rents or Sums of Money out of such Lands, as shall be by the said Commissioners set forth as aforesaid, and which shall be equal in Value to the Quantity of Wheat to be ascertained and set forth as aforesaid; which said several and respective Yearly Rents or Sums of Money shall be paid by the Person or Persons who for the Time being shall be in Possession or Occupation of the Messuages, Lands, Grounds and Hereditaments out of which the said several and respective Yearly Rents or Sums shall be issuing, and shall be payable in such Proportion and Manner, and upon such Day or Days in every Year as the said Commissioners shall in and by their said Award direct and appoint.

Mode of
ascertaining
Corn Rents.

XXVII. And whereas for the Purpose of Sale of the Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds which pursuant to this Act are to be charged with Rents in lieu of Tithes, or some of them, or some Part or Parts thereof, or for some other Purpose it may be necessary or convenient to divide and apportion the said Corn Rents, or some of them charged thereon respectively; be it further enacted, That it shall and may be lawful to and for the Owner or Owners for the Time being of each and every of the said Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds so as aforesaid to be charged with Rents in lieu of Tithes, upon a Division thereof either by Sale or otherwise, to apportion and charge each and every Part of such Messuages, Homesteads, Gardens, Orchards or other inclosed Lands or Grounds so divided, with a due and fair Proportion of the said Corn Rent so charged thereon and set forth by the said Commissioners, provided in every such Division due Regard be had to the Quantity of Acres and the Rate of Rent in lieu of Tithes by the Acre ascertained by the said Commissioners upon the whole of such Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds so to be divided, and that each and every Division may be made to bear a fair and just Proportion of the said Corn Rents so ascertained by the said Commissioners as near as may be; and as the Power of recovering the Arrears of such Rent is therein-before extended to the Whole of each and every Messuage, Homestead,

For apportioning
Corn Rents.

stead, Garden, Orchard, or other inclosed Land or Ground, the said Power shall continue and remain until such Division of the said Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands and Apportionment of the said Yearly Corn Rent, shall be made known to the said Rector and his Successors by a written Notice of such Owner or Owners, setting forth the Divisions of such Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds, and the Corn Rent from thenceforth to be charged upon each such Division, and after a Duplicate of such Notice shall be delivered to such Rector or his Successors, or left at the Rectory House in *Witbington* aforesaid, the Power for the Recovery of the Rents so apportioned, and being in Arrear, shall extend only to the Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds liable to the Payment thereof, as specified in such Notice.

For re-ascertaining Corn Rents.

XXVIII. And be it further enacted, That at any Time or Times after the Expiration of Seven Years from the Day on which the said Yearly Corn Rents or Sums of Money shall be directed respectively to commence, it shall be lawful for the said Rector and his Successors, or any Owners or Proprietors of the said Messuages, Homesteads, Gardens, Orchards, and other inclosed Lands or Grounds so charged with such Rents, to apply by Writing to the Justices of the Peace, at any General Quarter Sessions of the Peace to be holden for the said County of *Gloucester* (having first given Notice in Writing to the other Party or Parties, Thirty Days at the least before such Application, of his, her, or their Intention so to do), to have the Average Price of Wheat again enquired of and ascertained; and the Justices shall and may and they are hereby required, at the same Sessions, or at the farthest the next General Quarter Sessions to be holden for the same County, to ascertain the Average Price of good marketable Wheat within the said County of *Gloucester*, for the Term of Seven Years next preceding such Application; and for this Purpose, the Justices so assembled in Session shall and may, if they think fit, nominate and appoint a Person to be Arbitrator for ascertaining the Average Price of a *Winchester* Bushel of good marketable Wheat within the said County of *Gloucester*, for the Term of Seven Years then last past; and such Arbitrator is hereby authorized and required, from the *London Gazette*, or by such other Ways and Means as he shall think proper, to ascertain the Average Price of a *Winchester* Bushel of good marketable Wheat in the said County of *Gloucester* during the said Term of Seven Years then last past, and by his Report in Writing under his Hand, to be delivered to the Court of Quarter Sessions to be held for the said County next after their Appointment, set forth such Average Price; and if such Average Price shall be found more or less by the Value of Two-pence *per* Bushel or upwards, than the Average Price of Wheat set forth in the Award of the Commissioners, or at the End of the then last Period of Seven Years, then the said Yearly Rents or Sums then charged upon each Proprietor's Estate in lieu of Tithes, shall be varied, and increased or diminished in Proportion to the Amount which the Average Price so found by the Arbitrator shall bear to the Average Price so ascertained and set forth by the said Commissioners under this Act, or at the last Valuation as aforesaid; and the said Arbitrator shall by his said Report, set forth the exact Amount to which each of such Yearly Rents or Sums shall be increased or diminished as aforesaid; and the said several Yearly Rents or Sums so varied and ascertained as aforesaid,

said, shall from the Quarter Day of Payment then last preceding, be, remain and continue issuing and payable to the said Rector and his Successors, for and out of the said Messuages, Homesteads, Gardens, Orchards, and other inclosed Lands and Grounds charged therewith, for the Term of Seven Years, and until the same Yearly Rents or Sums shall afterwards, upon a like Application, be again varied and ascertained according to the Average Price of Wheat during the Term of Seven Years then last past; and the Parties are hereby respectively authorized to make such further Applications from Time to Time, after the Expiration of every Term of Seven Years for ever in such or the like Manner and Form as hereinbefore mentioned and directed with respect to the first Application; but the Costs, Charges and Expences of every such Application to the Court of Quarter Sessions, and of varying and re-ascertaining such several Yearly Rents or Sums as aforesaid, shall be defrayed by the Person or Persons who shall give such Notice as aforesaid.

XXIX. And be it further enacted, That the said Rector and his Successors shall and may have and exercise such and the same Powers and Remedies for recovering the same Yearly Corn Rents respectively, when in Arrear, as by Common Law or Statute are provided and given to Landlords for the Recovery of Rack Rent when in Arrear; provided nevertheless, that whenever the said Rector or his Successors shall by Death or otherwise cease to be entitled to such Yearly Rents, his Executors or Administrators shall be entitled to receive a proportionable Part of such Rents or Sums up to the Day of his so ceasing to be entitled.

How Rents may be recovered.

XXX. Provided always, and be it further enacted, That if any Proprietor or Proprietors of any Messuages, Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds in the said Parish of *Wibington*, shall be desirous of making Satisfaction for the Tithes arising or payable thereout respectively, by having any of the same Homesteads, Gardens, Orchards, or other inclosed Lands or Grounds, or any Part thereof respectively, set out and allotted, either for the Whole or in Part of such Satisfaction, instead of Satisfaction being made for the same by a Rent or Rents as aforesaid, and of such Desire shall give Notice in Writing under his, her, or their Hand or Hands to the said Commissioners at their First or Second Meeting under this Act, or within such further Time as the said Commissioners shall think proper to allow, then and in every such Case the said Commissioners are hereby authorized and directed, with such Consent as is herein-after in that Behalf directed, to set out and allot to the said *Benjamin Grisdale* as Rector as aforesaid, and his Successors, Rectors of the said Parish for the Time being, such and so much of the said Homesteads, Gardens, Orchards, and other inclosed Lands and Grounds of the said Owners or Proprietors respectively as shall be sufficient to make such Compensation or Satisfaction as last aforesaid, according to the respective Proportions herein-before mentioned, but so nevertheless as that all such inclosed Lands, Grounds or Hereditaments as shall be set out and allotted as last aforesaid, shall be so set out and allotted with the Consent of the respective Owners, Proprietors, or other Persons seized thereof, or of the Husbands, Guardians, Trustees, Committees, Attornies acting for or on Behalf of such Owners or Proprietors respectively, as are under Coverture, Minors, Lunatics, or beyond the Seas, or any other Disability or Incapacity of acting for themselves, such Consent to be testified in Writing under their respective Hands and not otherwise.

Old Inclosures may be allotted for Tithes with Consent of Parties.

Tithes payable till Allotments made.

XXXI. And be it further enacted, That until the said Allotments herein directed to be set out, and the said Rents herein-before directed to be ascertained and set forth as aforesaid for the said Rector in lieu of Tithes, shall have been made, ascertained, and set forth by the said Commissioners, and Possession of the said Allotments given to him, the said Rector and his Successors shall be entitled to and shall receive and enjoy such and the same Tithes and other Payments which he or they could, might, or ought to have respectively received and enjoyed in case this Act had not been passed.

Allotment of the Residue.

XXXII. And be it further enacted, That after the several Allotments of Lands and Grounds hereby directed to be divided and inclosed shall be made, the said Commissioners shall assign, set out, and allot all the Residue and Remainder of the said Open and Common Fields, Common Pastures and Commonable Woods and Waste Lands by this Act directed to be divided and inclosed, unto the several other Persons who are, shall or may be Owners or Proprietors thereof, whether Freeholders, Copyholders or Leaseholders, and Persons entitled to or having Right of Common or other Interest therein, in such Shares, Quantities and Proportions; and in such Manner as the said Commissioners shall adjudge and determine to be a fair, just and reasonable Compensation and Satisfaction, and equal in Value to their several and respective Shares, Proportions, Rights and Interests of, in, to and over the same Lands and Grounds.

Fencing Glebe and Tithe Allotments.

XXXIII. And be it further enacted, That the several Allotments to be awarded to the said *Benjamin Grisdale*, Rector of the said Parish, in lieu of his Glebe Lands, Tithes and Right of Common, shall be inclosed and fenced on the outward Boundary thereof with Stone Walls of the Height of Four Feet, or with Ditches and Quickset Hedges, sufficiently guarded on both Sides with good Posts and Rails, to be made in a proper workmanlike Manner by or at the Expence of such other of the said Proprietors whose Lands are subject to the Payment of Tithes, in such Manner and in such Proportions; and at such Time and Times as the said Commissioners by their Award shall appoint, order or direct; and the said Commissioners are hereby authorized and required to assess such Expences upon the several Persons so chargeable with the Payment thereof, and the same shall and may be recovered by the same Ways and Means as the General Expences of obtaining and carrying this Act and the said recited Act into Execution are provided for and made recoverable; which Fences shall, for the Space of Three Years from the Date of the said Award, be maintained, preserved and kept in Repair by and at the Expence of such respective Persons, and in such Manner as the said Commissioners shall in and by such Award direct and appoint; and from and after the Expiration of the said Term of Three Years, such Fences shall be supported and maintained by and at the Expence of the said *Benjamin Grisdale*, as such Rector as aforesaid, and his Successors for ever: Provided always, that convenient Gaps and Openings shall be left in the Fences of any Allotments to be made by virtue of this Act, for the Space of Six Calendar Months next after the Execution of the said Award, for passing of Cattle, Carts, and Carriages in and through the same, unless the said Commissioners shall in and by their said Award, or other Instrument in Writing under their Hands, appoint a longer Time for that Purpose, and then for such Time as they shall appoint.

XXXIV. And

XXXIV. And be it further enacted, That all and every the Allotment and Allotments to be made by virtue of this Act, in or upon the said Lands and Grounds hereby intended to be divided and inclosed, shall, from and after the making and executing the Award of the said Commissioners, be held under and subject to the same Tenures, Services, Rents, Chief Rents, Quit Rents, Covenants, Uses, Settlements, Charges, Terms and Provisoës, as the Lands and other Property, in respect of which they were so respectively allotted were held and enjoyed.

Allotments
to be of the
same Tenure.

XXXV. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Messuages, Cottages, Lands, Tenements, or Hereditaments within the said Parish of *Withington*, in lieu of and in Exchange for any other Messuages, Cottages, Lands, Tenements, or Hereditaments within the said Parish or within any adjoining Parish, Township, Hamlet, Manor, or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for Charitable or other Uses, Husbands, Committees, Attornies of or acting for any such Owners or Proprietors as aforesaid, who at the Time of making any such Exchange or Exchanges shall be respectively Infants, Females 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 such Exchange and Exchanges so to be made, shall be good, valid, and effectual in Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate: Provided always, that all Costs, Charges, and Expences attending the making any Exchanges and Partitions, shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner or in such Proportions as the said Commissioners shall by their Award order or direct.

Exchanges

XXXVI. Provided always, and be it further enacted, That all Leases and Agreements upon Rack Rent now subsisting, of all or any Part or Parts of the said Lands by this Act directed to be divided, allotted or inclosed, or of any Messuages, Buildings, Homesleas, Gardens, Orchards, or old inclosed Lands held within the said Parish, or which shall be exchanged within the said Parish of *Withington* by virtue thereof, (save and except such Leases or Agreements as by the express Terms thereof are not to be void in case of an Inclosure,) shall cease, determine, and be void at such Time as the said Commissioners by Writing under their Hands, to be affixed upon One of the Church Doors of the said Parish, shall direct; and that the respective Tenants thereof, whose Lease or Agree-

Leases at
Rack Rent.

ment shall be so made void, shall be paid by the respective Proprietors of the same Premises so leased or otherwise held, such Sum or Sums of Money as the said Commissioners shall by Writing under their Hands ascertain as reasonable to be paid to such Tenants respectively, as an Equivalent for the Avoidance of such Leases, and that such Tenants respectively shall be at Liberty to cut, carry, and lay upon some Part of the respective Farms and Lands, their respective Crops which shall during the present Year grow thereon, for their own Use and Benefit and shall have the Use of the Fold Yards, and of the Barns and other Buildings thereon, as the said Commissioners shall under their Hands appoint, for threshing and ending such Crops, such Tenants respectively making such Satisfaction to their respective Landlords for the Growth of such Crops, and such other Privileges as the said Commissioners shall in Manner aforesaid appoint, and leaving all the Dung arising from the said Crops and all former Crops in the Fold Yards, or some other convenient Places of the said Farm and Lands, and which they shall respectively be obliged to do for the Benefit of the respective Proprietors of the same and their respective Tenants thereof: Provided always, that if there shall be any Lease of Lands, Part of which shall be in the said Parish of *Withington*, and Part in any adjoining Parish, all and every such Lease and Leases upon Rack Rent now subsisting may be vacated; but where any Land shall have been taken in Exchange, which Land shall be under Lease, and wholly situate in an adjoining Parish, the Lease of such last-mentioned Land shall not be vacated.

Wills and Settlements not to be affected.

XXXVII. 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 or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents or Incumbrances, out of, or upon or affecting any of the Messuages, Buildings, Lands, or Grounds to be divided, allotted and exchanged as aforesaid, or any Part or Parts thereof respectively; but that the respective Persons to whom any Lands or Hereditaments shall be allotted or given in Exchange by virtue of this Act, shall stand and be seised thereof, to, for and upon such and the same Uses, Trusts, Estates and Interests, and subject to such and the same Wills, Jointures, Rents, Charges, and Incumbrances, as the Messuages, Buildings, Lands, Grounds and Hereditaments whereof such Person was seised or possessed at or immediately before the Execution of the Award to be made by the said Commissioners, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to, charged with, or affected by, in case this Act had not been made.

Directing that Deficiencies shall be made up by the Proprietors.

XXXVIII. And be it enacted, That if the Money to be produced by Sale or Sales of Land herein-before directed for Payment of Expences, shall not be sufficient to defray all such Costs, Charges and Expences as aforesaid, then in such Case the Deficiency shall be borne, defrayed, and paid by the respective Owners or Proprietors of Lands within the said Parish of *Withington*, in such Proportions, and shall be paid to such Person or Persons, and at such Time or Times, as the said Commissioners shall order and direct; and in case any Owners or Proprietors shall refuse or neglect to pay his, her, or their Share or Proportion of the said Deficiency, then and in such Case the said Commissioners shall and they are hereby empowered and required, by Warrant under their Hands and Seals,

to cause the same to be levied by Distress and Sale of the Goods and Chattels of the Owner or Owners, or the Occupier or Occupiers of the Allotment or Allotments of the Owners or Proprietors so refusing or neglecting such Payment as aforesaid, together with the Charges of such Warrant, Distress, and Sale, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels upon Demand; and every Occupier or Tenant who shall make such Payment under such Distress or otherwise by Order of the said Commissioners, is hereby authorized to deduct and retain out of his, her, or their then next Payment of Rent, so much Money as he, she, or they shall so pay on that Account: Provided always, that in case any of the Owners or Proprietors of Lands within the said Parish shall, in order to prevent the Sale of any Part of their Proportions of the Lands hereby authorized and directed to be sold as aforesaid, be desirous of paying in Money their respective Shares of the Costs and Charges attending the obtaining and passing of this Act, and of carrying the same into Execution, and of such their Desire shall give Notice to the said Commissioners before the Sale of the Allotments to be set out for Sale as herein-before directed, then and in such Case the said Commissioners shall and they are hereby directed to receive in Money the respective Shares of such Owners or Proprietors respectively, of and in such Costs and Charges, and on Payment thereof, shall allot and award to such Owners or Proprietors respectively, the Whole of their respective Proportions of and in the Lands and Grounds hereby authorized and intended to be divided and allotted, without any Deduction on account of such Costs and Charges, any Thing herein-before contained to the contrary notwithstanding.

XXXIX. And be it further enacted, That in case any of the Owners or Proprietors of any Homesteads, Gardens, Orchards, Homecloses, or other inclosed Lands and Grounds within the said Parish, shall not have, or purchase, or otherwise be entitled to a sufficient Quantity of the said Open and Common Fields, Common Pastures, and Commonable Woods, and Waste Lands, or other Lands and Grounds hereby directed to be divided, allotted, and inclosed, to defray his, her, or their Share or Shares of the Charges and Expences attending the obtaining and passing this Act, and of carrying the same and the said recited Act in all respects into Execution, such Owners or Proprietors shall respectively pay or cause to be paid to such Person or Persons, and at such Time or Times as the said Commissioners shall direct, such Sum or Sums of Money as the said Commissioners shall adjudge to be the full Share or Shares of such Owners or Proprietors respectively of the said Charges and Expences, which Sum or Sums of Money shall be apportioned and applied towards defraying the Charges and Expences of passing and executing this Act and the laid recited Act, or such Parts or Shares thereof as the said Commissioners shall appoint; and which said Sum or Sums of Money shall or may be raised, levied and recovered in like Manner, and by such Ways and Means as the Expences of passing Acts of Inclosure are in and by the said recited Act authorized to be raised, levied, and recovered.

Proprietors not entitled to an Allotment sufficient to pay Expences of Act, to make up the Deficiency in Money.

XL. And be it enacted, That it shall and may be lawful for the said Rector and his Successors to charge the Lands which shall be allotted to him and them as aforesaid, or any Part thereof, and also the said Rents or any of them, with such Sum or Sums of Money as in the

Rector may charge his Allotments.

[Loc. & Per.]

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Judgment

Judgment of the said Commissioners shall be sufficient to defray the Expences of making such interior or Subdivision Fences, and of erecting and making such Buildings and other Conveniencies as the said Commissioners shall think necessary, for the Occupation of the Allotments to be made to the said Rector as aforesaid, not exceeding in the Whole the Sum of Five hundred Pounds; and for securing the Re-payment of the Money so to be borrowed with Interest for the same, it shall be lawful for the said Rector or his Successors, by any Deed or Deeds under his and their Hand and Seal, or Hands and Seals, to grant, mortgage, or demise the said Lands, Rents, and Hereditaments, or any Part or Parts thereof, unto the Person or Persons who shall advance and lend such Money, and his, her, or their Executors, Administrators, and Assigns respectively, for any Term or Number of Years not exceeding Twenty-one Years; so as every such Grant, Mortgage, or Demise be made within Twelve Calendar Months from the Execution of the said Award, and with a Proviso to cease and be void, or with an express Trust or Condition to be surrendered when such Sum or Sums of Money thereby to be secured shall be fully paid and satisfied; and so as that the said Rector and his Successors do and shall respectively pay and keep down the Interest of the Money to be borrowed, in such Manner as that no further or larger Arrear of Interest than for One Year shall be or remain due at any One Time; and so as that he and they do and shall pay off and discharge One One-and-twentieth Part of the Principal Sum yearly and every Year, so and in such Manner as that the Whole of such Money to be borrowed, and all Interest thereof, shall be fully discharged and paid off within the Term of Twenty-one Years from the Date of such Deed or Deeds respectively, the First of which Annual Payments shall be made at the End of Twelve Calendar Months next after the Date and Execution of such Grant, Mortgage, or Demise.

Money to be repaid with Interest.

XLI. And be it further enacted, That the Money which shall be advanced and laid out in discharge of the Fees or other Expences of obtaining this Act, shall be paid first to the Person or Persons obtaining the same, together with Interest thereof after the Rate of Five Pounds *per Centum per Annum*, out of the Monies which shall be first raised to defray the Expences thereof.

Allowance to Commissioners.

XLII. And be it further enacted, That the said Commissioners and Umpire shall be allowed Three Guineas each and no more for their Trouble and Expences every Day they shall necessarily attend or travel in the Execution of this or the said recited Act.

Commissioners Accounts to be audited once a Year.

XLIII. And be it further enacted, That once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of passing of this Act), the Commissioners shall and they are hereby authorized to make a true and perfect Statement and Account of all Sums of Money by them received and expended, or due to them for their own Trouble or Expences in the Execution of this Act and the said recited Act; and such Statement and Account when so made, together with the Vouchers relating thereto, shall be by them laid before Two Justices of the Peace in and for the County of *Gloucester*, to be by them examined and balanced, and such Balance shall be by such Justices stated in the Book of Accounts to be kept in the Office of the Clerk of the

the said Commissioners, and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justices.

XLIV. And be it further enacted, That the Award to be made by the said Commissioners, when enrolled in Manner directed by the said recited Act, shall, together with a Plan annexed, be deposited in the Church of the said Parish of *Withington*. Award to be deposited in Parish Church.

XLV. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done or omitted to be done in pursuance of this or the said recited Act, then and in every such Case (except where the Orders, Determinations, and Proceedings of the said Commissioners are by this or the said recited Act declared to be final and conclusive, and except in such Cases where any Issue at Law shall be tried, as herein-before mentioned) he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be holden for the said County of *Gloucester*, within Six Calendar Months next after the Cause of Complaint shall have arisen, such Appellant first giving to the said Commissioners or their Clerk, or to the Party or Parties interested therein, Twenty-one Days Notice at least in Writing of such Appeal and of the Matter thereof; and the Justices at such General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and award such Costs 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 Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices shall be final and conclusive upon all Parties concerned, and shall not be removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere. Appeal.

XLVI. 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 those meant and intended to be barred and destroyed by this Act), which he, they, every or any of them had and enjoyed, of, in, to, or out of the said Open Fields and Commonable Lands intended to be divided and inclosed as aforesaid, before the passing of this Act, or would or could or might have had and enjoyed in case the same had not been made. General Saving.

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

