

seized by any officer or officers of customs) and the commissioners of excise in *England, Scotland, and Ireland* respectively (in case the same shall be seized by any officer or officers of excise) shall also reward the officer or officers who shall seize any books which shall be so made waste paper of, with such sum or sums of money as they the said respective commissioners shall think fit, not exceeding the value of such books; such reward respectively to be paid by the said respective commissioners, out of any money in their hands respectively arising from the duties of customs and excise: provided, That no person or persons shall be liable to any of the last mentioned penalties or forfeitures, for or by reason or means of the importation of any book or books which has not been printed or re-printed in some part of the said united kingdom, within twenty years next before the same shall be imported, or of any book or books re-printed abroad, and inserted among other books or tracts to be sold therewith in any collection, where the greatest part of such collection shall have been first composed or written abroad.

Not to extend to books not having been printed in the united kingdom for 20 years.

VIII. And be it further enacted, That if any action or suit shall be commenced or brought against any person or persons whomsoever, for doing or causing to be done any thing in pursuance of this act, the defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath; and that all actions, suits, bills, indictments, or informations, for any offence that shall be committed against this act, shall be brought, sued, and commenced within six months next after such offence committed, or else the same shall be void and of none effect.

General issue.

Limitation of actions under this act six months.

C A P. CVIII.

An act for enabling his Majesty to grant commissions for executing an act made in the thirty-ninth and fortieth years of the reign of his present Majesty, intituled, An act for the better preservation of timber in the new forest in the county of Southampton, and for ascertaining the boundaries of the said forest and of the lands of the crown within the same.—[July 2, 1801]

His Majesty may issue a commission under the great seal appointing Giles Templeman, esquire, to be a commissioner in the room of Nathaniel Bond, esquire, to put in execution act 39 and 40 Geo. 3. c. 86. In case of the death or resignation of any commissioner under the said act his Majesty may issue a commission appointing another.

C A P. CIX.

An act for consolidating in one act certain provisions usually inserted in acts of inclosure; and for facilitating the mode of proving the several facts usually required on the passing of such acts.—[July 2, 1801.]

Preamble.

WHEREAS, in order to diminish the expence attending the passing of acts of inclosure, it is expedient that certain clauses usually contained in such acts should be comprised in one law, and certain regulations adopted for facilitating the mode of proving the several facts usually required by parliament on the passing of such acts; 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 no person shall be capable of acting as a commissioner in the execution of any of the powers to be given by any act hereafter to be passed for dividing, allotting, or inclosing any lands or grounds, except the power of signing and giving notice of the first meeting of the commissioner or commissioners for executing any such act, and of administering the oath, or affirmation herein-after directed, until he shall have taken and subscribed the oath or affirmation following:

No person shall act as a commissioner under any future act for inclosing lands, except signing notice of first meeting and administering an oath, until he shall have taken the oath herein-mentioned.

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 several trusts, powers, and authorities vested and reposed in me as a commissioner, by virtue of an act for [*here insert the title of the act*] according to equity and good conscience, and without favour or affection, prejudice or partiality, to any person or persons whomsoever.

So help me GOD.

Oaths, and appointment of new commissioners, to be inrolled with the award, and a copy of the inrolment admitted as evidence.

Which oath or affirmation it shall be lawful for any one of the commissioners, where more than one shall be appointed by any such act, or any one justice of the peace for the county within which the said lands or grounds shall be situated, where only one commissioner shall be so appointed, to administer, and they are hereby respectively required to administer the same; and the said oath or affirmation, so to be taken and subscribed by each commissioner, and also the appointment of every new commissioner, shall be annexed to and inrolled with the award of any commissioner or commissioners, and a copy of the inrolment thereof shall be admitted as legal evidence.

Commissioners declining to act, to give notice of such intention to the other commissioners; and none shall purchase any lands within any parish in which the inclosures are to be made, for a limited time.

II. And be it further enacted, That every person appointed a commissioner in or by virtue of any such act, who shall refuse or decline to act as such, shall forthwith give notice in writing to the other commissioner or commissioners of his intention to refuse or decline acting as a commissioner: provided always, That no such commissioner shall be capable of being a purchaser of any part or parts of the lands, tenements, or hereditaments within any parish in which the lands and grounds intended to be inclosed are situate, either in his own name, or in the name or names of any person or persons, until five years after the date and execution of the award to be made by any such commissioner or commissioners.

III. And

III. *And whereas disputes or doubts may arise, concerning the boundaries of parishes, manors, hamlets, or districts, to be divided and inclosed, and of parishes, manors, hamlets or districts, adjoining thereto;*

be it therefore enacted, That the commissioner or commissioners appointed in or by virtue of any such act shall, and he or they is and are hereby authorized and required, by examination of witnesses upon oath or affirmation (which oath or affirmation any one of such commissioners is hereby impowered to administer), and by such other legal ways and means as he or they shall think proper, to enquire into the boundaries of such several parishes, manors, hamlets, or districts; and in case it shall appear to such commissioner or commissioners that the boundaries of the same respectively are not then sufficiently ascertained and distinguished, such commissioner or commissioners shall, and he or they is and are hereby authorized and required to ascertain, set out, determine, and fix the same respectively; and after the said boundaries shall be so ascertained, set out, determined, and fixed, the same shall and are hereby declared to be, the boundaries of such parishes, manors, hamlets, or districts: provided always, That such commissioners or commissioners (before he or they proceed to ascertain and set out the boundaries of such parishes, manors, hamlets, or districts) shall, and he or they is and are hereby required to give publick notice, by writing under his or their hands to be affixed on the most publick doors of the churches of such parishes, and also by advertisement to be inserted in some newspaper to be named in such act, and also by writing to be delivered to or left at the last or usual places of the abode of the respective lords or stewards of the lords of the manors in which the lands and grounds to be inclosed shall be situate, and of such adjoining manor or manors, ten days at least before the time of setting out such boundaries, of his or their intention to ascertain, set out, determine, and fix the same respectively; and such commissioner or commissioners shall, within one month after his or their ascertaining and setting out the same boundaries, cause a description thereof in writing to be delivered to or left at the places of abode of one of the churchwardens or overseers of the poor of the respective parishes, and also of such respective lords or stewards: provided always, That if any person or persons interested in the determination of the said commissioner or commissioners respecting the said boundaries, shall be dissatisfied with such determination, such person or persons may appeal to the justices of the peace acting in and for the county in which such lands or grounds shall be situate at any general quarter session of the peace to be holden within four calendar months next after the aforesaid publication of the said boundaries, by delivering or leaving such description as aforesaid, the party or parties making such appeal, giving eight days notice of such appeal and of the matter thereof in writing to the commissioners; and the decision of the said justices therein shall be final and conclusive, and shall not be removed or removeable by *Certiorari* or any other writ

Commissioners shall inquire into the boundaries of parishes, and if not sufficiently ascertained, they shall fix them, giving previous notice of their intention so to do.

Commissioners shall cause a description of boundaries to be delivered to one of the churchwardens, &c. of the respective parishes, and the lords of manors or their stewards.

Persons dissatisfied may appeal to the quarter sessions.

Decision at the sessions to be final.

or process whatsoever, into any of his Majesty's courts of record at *Westminster*, or elsewhere.

A survey, admeasurement, plan, and valuation of the lands, &c. to be inclosed shall be made, and kept by the commissioners, which shall be verified by the persons making them.

IV. And be it further enacted, That a true, exact, and particular survey, admeasurement, plan, and valuation, of all the lands and grounds to be divided, allotted, and inclosed by any such act, and also of all the messuages, cottages, orchards, gardens, homesteads, ancient inclosed lands and grounds, within any such parish or manor, shall be made and reduced in writing, by such commissioner or commissioners, or by such other person or persons as he or they shall nominate and appoint, as soon as conveniently may be, for the purposes of such act, and the number of acres and decimal parts of an acre, in statute measure, contained in all the lands and grounds directed or authorised to be divided, allotted, and inclosed, and also in all the ancient inclosed lands, grounds, and homesteads aforesaid, and of each and every proprietor's distinct property in the same respectively, at the time of making such survey and admeasurement, shall be therein set forth and specified; and that the said survey, admeasurement, plan, and valuation, shall be kept by such commissioner or commissioners; and the person or persons who shall make such survey, admeasurement, plan, and valuation, shall verify the same upon oath or affirmation, at any meeting to be held after the making thereof (which oath or affirmation the commissioners, or any one of them, are and is hereby empowered and required to administer); and the proprietors and their respective agents, and all persons interested therein, shall at all reasonable times have liberty to peruse and inspect such admeasurement and plan only, and to take copies thereof and extracts therefrom respectively.

Proprietors may inspect admeasurements and plans, and take copies. Until the division shall be completed the lands may be entered by the commissioners, or any persons they may appoint, to make surveys, &c.

V. And be it further enacted, That for surveying, admeasuring, and valuing all the said lands and grounds, and for other the purposes of such act, it shall be lawful for such commissioner or commissioners, every or any of them, or the person or persons to be appointed by him or them, to make such survey, admeasurement, plan, and valuation, together with their and every of their assistants and servants, at any time or times whatsoever, until such division shall be completed, to enter, view, and examine, survey and admeasure, all and every part of the lands and grounds intended to be divided and allotted, and also all the ancient inclosed lands, grounds, and homesteads, directed to be surveyed, and to do or cause to be done any act or thing necessary for putting such act into execution: provided always, That any map or survey made at the time of passing any such act, which shall be tendered to such commissioner or commissioners, and which shall be in his or their judgement, and to his or their satisfaction a just and true map or survey, proper for the purpose of carrying such act into execution, may be used for that purpose, if the said commissioner or commissioners shall think fit, without any new map or survey being made of such part of the lands and grounds, as shall be comprised in any such approved map or survey as aforesaid.

Maps made at the time of passing acts may be used, without making new ones, if the commissioners shall think fit.

VI. And

VI. And be it further enacted, That all persons, and bodies corporate or politick, who shall have or claim any common or other right to or in any such lands so to be inclosed, shall deliver or cause to be delivered to such commissioner or commissioners, or one of them, at some one of such meetings as the said commissioner or commissioners shall appoint for the purpose (or within such further time, if any, as the said commissioner or commissioners shall for some special reason think proper to allow for that purpose) an account or schedule in writing, signed by them, or their respective husbands, guardians, trustees, committees, or agents, of such their respective rights or claims, and therein describe the lands and grounds, and the respective messuages, lands, tenements, and hereditaments, in respect whereof they shall respectively claim to be entitled to any and which of such rights in and upon the same or any part thereof, with the name or names of the person or persons then in the actual possession thereof, and the particular computed quantities of the same respectively, and of what nature and extent such right is, and also in what rights, and for what estates and interests they claim the same respectively, distinguishing the freehold from the copyhold or leasehold; or on non-compliance therewith, every of them making default therein shall, as far only as respects any claim so neglected to be delivered, be totally barred and excluded of and from all right and title in or upon such lands so to be divided respectively, and of and from all benefit and advantage in or to any share or allotment thereof; all which said claims or accounts shall, at all seasonable times until after the execution of the said award, be open to the inspection and perusal of all parties interested or claiming to be interested in the premises, their respective agents or attornies, who may take copies thereof, or extracts therefrom respectively; and if any person or persons, or body politick or corporate interested, or claiming to be interested in the premises, shall have any objection to offer to any such account or claim, the particulars of such objection shall be reduced into writing, and signed by them or their respective husbands, guardians, trustees, committees, or agents, and shall be delivered to the said commissioner or commissioners, at or before some other meeting of such commissioner or commissioners, to be by him or them appointed for that purpose; and no such objection shall afterwards be received, unless for some legal disability or special cause to be allowed by the said commissioner or commissioners.

Claimants of rights in lands to be inclosed, to deliver to the commissioners schedules of particulars, or shall be excluded, which claims may be inspected, and copies taken.

Objections to claims to be delivered to the commissioners at or before the meeting appointed for that purpose, or shall not be received, except for special cause.

VII. Provided also, and be it further enacted, That nothing herein contained shall authorise such commissioner or commissioners to hear and determine any difference or dispute which may arise, touching the right or title to any lands, tenements, or hereditaments, but such commissioner or commissioners shall assign and set out the several allotments directed to be made unto the person or persons, who, at the time of the division and inclosure, shall have the actual seisin or possession of the lands, tenements, or hereditaments, in lieu or in right whereof such

Commissioners not hereby authorised to determine disputes touching rights; but they shall assign the allotments to the persons in actual possession of the

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lands, in lieu of whereof made. allotment shall be respectively made: provided also, That no difference or suit, touching the title to any lands, tenements, or hereditaments, shall impede or delay the commissioner or commissioners in the execution of the powers vested in him or them, by virtue of any such act; but the division or inclosure directed to be made shall be proceeded in, notwithstanding such difference or suit.

Commissioners before making any allotments to appoint publick carriage roads, and prepare a map thereof to be deposited with their clerk, and give notice thereof, and appoint a meeting, at which, if any person shall object, the commissioners, with a justice of the division, shall determine the matter.

VIII. And be it further enacted, That such commissioner or commissioners shall, and he or they is and are hereby authorized and required, in the first place, before he or they proceed to make any of the divisions and allotments directed in and by any such act, to set out and appoint the publick carriage roads and highways, through and over the lands and grounds intended to be divided, allotted, and inclosed, and to divert, turn, and stop up, any of the roads and tracts, upon and over, all, or any part of the said lands and grounds, as he or they shall judge necessary, so as such roads and highways shall be, and remain thirty feet wide at the least, and so as the same shall be set out in such directions as shall, upon the whole, appear to him or them most commodious to the publick, and he or they are hereby further required to ascertain the same by marks and bounds, and to prepare a map in which such intended roads shall be accurately laid down and described, and to cause the same, being signed by such commissioner, if only one, or the major part of such commissioners, to be deposited with the clerk of the said commissioner or commissioners, for the inspection of all persons concerned; and as soon as may be after such carriage roads shall have been so set out, and such map so deposited, to give notice in some newspaper to be named in such bill, and also by affixing the same upon the church door of the parish, in which any of the lands so to be inclosed shall lie, of his or their having set out such roads, and deposited such map, and also of the general lines of such intended carriage roads, and to appoint in and by the same notice, a meeting to be held by the said commissioner or commissioners, at some convenient place, in or near to the parish or township within which the said inclosure is to be made, and not sooner than three weeks from the date and publication of such notice, at which meeting, it shall and may be lawful, for any person who may be injured or aggrieved by the setting out of such roads to attend; and if any such person shall object to the setting out of the same, then such commissioner or commissioners, together with any justice or justices of peace, acting in and for the division of the county in which such inclosure shall be made, and not being interested in the same, who may attend such meeting, shall hear and determine such objection, and the objections of any other such person, to any alteration that the said commissioner or commissioners, together with such justice or justices, may in consequence propose to make, and shall, and he or they are hereby required, according to the best of their judgement upon the whole, to order and finally direct how such carriage roads shall be set out, and either to confirm the said

If the commissioners, by

map or make such alterations therein as the case may require: provided always, That in case such commissioner or commissioners shall by such bill be empowered to stop up any old or accustomed road, passing or leading through any part of the old inclosures in such parish, township, or place, the same shall in no case be done without the concurrence and order of two justices of the peace, acting in and for such division, and not interested in the repair of such roads, and which order shall be subject to an appeal to the quarter sessions, in like manner and under the same forms and restrictions as if the same had been originally made by such justice as aforesaid.

any bill, shall be empowered to stop up any old road, it shall not be done without the order of two justices, and which shall be subject to appeal to the quarter sessions.

IX. And be it further enacted, That such carriage roads so to be set out as aforesaid, shall be well and sufficiently fenced on both sides, by such of the owners and proprietors of the lands and grounds intended to be divided, allotted, and inclosed, and within such time as such commissioner or commissioners shall, by any writing under his or their hands, direct or appoint, and that it shall not be lawful for any person or persons to set up or erect any gate across any such carriage road, or to plant any trees in or near to the hedges on the sides thereof, at a less distance from each other than fifty yards; and such commissioner or commissioners shall, and he or they is and are hereby empowered and required, by writing under his or their hands, to nominate and appoint one or more surveyor or surveyors, with or without a salary, for the first forming and completing such parts of the said carriage roads as shall be newly made, and for putting into complete repair such part of the same as shall have been previously made, which salary (if any) and also the expence of forming, completing, and repairing such roads respectively, over and above a proportion of the statute duty on the roads so to be repaired, shall be raised in like manner as the charges and expences of obtaining and passing any such act, and of carrying the same into execution, shall be thereby directed to be raised, and shall be paid to such surveyor or surveyors on or before the execution of the award of such commissioner or commissioners; and in case the same shall be thereby provided to be raised by sale of any part of the lands so to be divided and inclosed, that then such commissioner or commissioners shall make a conditional rate upon the owners and proprietors of the same, in case the produce of such sale should prove insufficient for the purposes aforesaid; and such surveyor or surveyors shall, and he or they is and are hereby directed to be in all respects subject to the jurisdiction and controul of the justices of the peace acting in and for the county in which such roads shall respectively lie, and shall account to such justices in like manner for all monies so to be by him or them received and expended, and for the re-payment of any surplus which may remain in his or their hands to such persons as shall have been made liable to contribute thereto, according to the proportion so as above ascertained by such commissioner or commissioners; and such justices shall have the like powers of levying any such rate as may by them

The carriage roads shall be fenced on both sides by such of the land owners as the commissioners shall direct, and no person shall erect any gate across any road, or plant any trees on the sides, at less than 50 yards distance.

The commissioners shall appoint surveyors, and if with a salary, such salary and the expence of making the road, over and above the statute duty, shall be raised as other expences, and paid on or before execution of the award.

Surveyors to be subject to the controul of the justices, and shall account to them for monies received.

Justices may levy rates.

If surveyors neglect to complete roads within a limited time, they shall forfeit 20l. and the inhabitants shall not be chargeable to them (except statute duty), till declared to be completed at a special sessions.

Commissioners shall appoint private roads, &c.

The grass and herbage on roads shall belong to the proprietors of the lands adjoining on either side; and all roads which shall not be set out shall be allotted and inclosed.

No turnpike road shall be altered with-

be thought necessary for the purposes aforesaid, according to the proportions previously ascertained by such commissioner or commissioners, as if such surveyor or surveyors had been appointed under or by virtue of the general highway act passed in the thirteenth year of the reign of his present Majesty; and in case such surveyor or surveyors shall neglect to complete and repair such roads respectively within the space of two years after such award, unless a further time, not exceeding one year, shall for that purpose be allowed by such justices, and then within such further time, he or they shall forfeit the sum of twenty pounds, and the inhabitants at large of the parish, township, or place wherein such roads shall be respectively situate, shall be in no wise charged or chargeable towards forming or repairing the said roads respectively, except such proportion of such statute duty as aforesaid, till such time as the same shall, by such justices in their special sessions, be declared to be fully and sufficiently formed, completed, and repaired, from which time, and for ever thereafter, the same shall be supported and kept in repair by such persons, and in like manner as the other publick roads within such parish, township, or place, are by law to be amended and kept in repair.

X. And be it further enacted, That such commissioner or commissioners shall, and he or they is and are hereby empowered and required to set out and appoint such private roads, bridleways, footways, ditches, drains, watercourses, watering places, quarries, bridges, gates, stiles, mounds, fences, banks, bounds, and land marks, in, over, upon, and through or by the sides of the allotments to be made and set out in pursuance of such act, as he or they shall think requisite, giving such notice and subject to such examination as to any private roads or paths, as are above required in the case of publick roads, and the same shall be made, and at all times for ever thereafter be supported and kept in repair, by and at the expence of the owners and proprietors for the time being of the lands and grounds directed to be divided and inclosed, in such shares and proportions as the commissioner or commissioners shall in and by his or their award order and direct.

XI. And be it further enacted, That after such publick and private roads and ways shall have been set out and made, the grass and herbage arising thereon shall for ever belong to and be the sole right of the proprietors of the lands and grounds which shall next adjoin the said roads and ways on either side thereof, as far as the crown of the road; and all roads, ways, and paths, over, through, and upon such lands and grounds which shall not be set out as aforesaid, shall be for ever stopped up and extinguished, and shall be deemed and taken as part of the lands and grounds to be divided, allotted, and inclosed, and shall be divided, allotted, and inclosed accordingly: provided, That nothing herein contained shall extend, or be construed to extend, to give such commissioner or commissioners any power or authority to divert, change, or alter any turnpike road that shall or

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may lead over any such lands and grounds, unless the consent of the majority of the trustees of such turnpike road, assembled at some publick meeting called for that purpose on ten days notice, be first had and obtained.

out the consent of the trustees.

XII. And be it further enacted, That such commissioner or commissioners in making the severall allotments directed by any such act, shall have due regard as well to the situation of the respective houses or homesteads of the proprietors, as to the quantity and quality of the lands and grounds to be allotted to them respectively, so far as may be consistent with the general convenience of the said proprietors; and that such commissioner or commissioners in making the said allotments shall have particular regard to the convenience of the owners or proprietors of the smallest estates in the lands and grounds directed to be allotted and exchanged.

Commissioners, in making allotments, to have regard to the situation of houses as well as the quantity and quality of land, as far as may be consistent with general convenience.

XIII. *And whereas the proprietors and persons interested in open common fields, meadows, pastures, commons, and waste lands, directed to be divided and allotted, whose allotments thereof will be small, and expensive to inclose, may be desirous of stocking and depasturing their allotments in common, and of sharing such produce as may grow thereon, under proper regulations;* be it therefore further enacted, That such commissioner or commissioners shall be, and he or they is and are hereby fully authorized and empowered, on application of the parties interested at their first or second meeting for receiving claims, and on an attentive view and full consideration of the premises, to award, order, and direct any such allotments to be laid together and ring-fenced, and to be stocked and depastured in common, and to make such orders and regulations for the equitable enjoyment thereof, and for the participation of any produce growing or to grow thereon, as such commissioner or commissioners may think beneficial and proper for the said severall parties interested therein.

Commissioners may direct small allotments to be laid together and ring-fenced, and stocked and depastured in common by the proprietors.

XIV. And be it further enacted, That the severall shares of and in any lands or grounds which shall upon any such division be assigned, set out, allotted, and applied, unto and for the severall persons who shall be entitled to the same, shall, when so allotted, be and be taken to be in full bar of and satisfaction and compensation for their severall and respective lands, grounds, rights of common, and all other rights and properties whatsoever, which they respectively had or were entitled to, in and over the said lands and grounds, immediately before the passing of any such act; and that from and immediately after the making the said division and allotments, and the execution of the award of such commissioner or commissioners, or at any other time as such commissioner or commissioners shall, by writing under his or their hands, to be affixed on the principal door of the church of the parish in which the lands and grounds shall be situate, direct or appoint, all rights of common, and all rights whatsoever, by such act intended to be extinguished, belonging to or claimed by any person or persons whomsoever, bodies politick

Allotments to be in full compensation for all rights in the lands, which shall cease on notice from the commissioners being affixed on the door of the parish church.

or

or corporate, in, over, or upon such lands or grounds, shall cease, determine, and be for ever extinguished.

Commissioners may exchange by allotments, messuages, lands, &c. with the consent of the proprietors, or if belonging to churches, &c. with the consent of the bishop and of the patron.

XV. And be it further enacted, That such commissioner or commissioners shall, and he or they is and are hereby authorised, to set out, allot, and award any messuages, buildings, lands, tenements, hereditaments, new allotments, or old inclosures, within such parish or manors, in lieu of or in exchange for any other messuages, buildings, lands, tenements, hereditaments, new allotments, or old inclosures within the said parish or manors, or within any adjoining parish or place; so as that all such exchanges be made with the consent of the respective owners, proprietors, or other persons, seised of the lands, hereditaments, and premises which shall respectively be so exchanged as aforesaid, or of the husbands, guardians, trustees, committees or attornies acting for or on behalf of such owners, proprietors, or other persons respectively, who are under coverture, minors, lunaticks, or beyond the seas, or under any other disability or incapacity of acting for themselves (such consent to be testified by writing under their respective hands); and so that all such exchanges be ascertained, specified, and set forth in the award of such commissioner or commissioners; and so that all such exchanges of any lands, tenements, or hereditaments, belonging to or held in right of any church, chapel, or ecclesiastical benefice, shall also be made with the like consent, in writing, of the bishop of the diocese, and of the patron of any church, chapel, or ecclesiastical benefice for the time being; and all such exchanges so made as aforesaid shall be for ever good, valid, and effectual in the law, to all intents and purposes whatsoever.

Commissioners may make allotments in severalty to joint tenants, or tenants in common.

XVI. *And whereas it may happen that some of the proprietors of messuages, cottages, tenements, or lands, in any such parish or manor, and persons entitled to allotment or allotments to be made by virtue of any such act, may be seized thereof or entitled thereto in joint tenancy, or as coparceners or tenants in common, and cannot, by reason of infancy, settlement, or absence beyond the seas make an effectual division thereof;* be it therefore further enacted, That it shall be lawful for any such commissioner or commissioners, and he or they is and are hereby authorised and empowered (upon the request in writing of such joint tenants or coparceners, or tenants in common, or any or either of them, or of the husbands, guardians, trustees, committees, or attorneys of such as are under coverture, minors, lunaticks, or under any other incapacity as aforesaid, or absent beyond seas) to make partition and division of the messuages, cottages, tenements, lands, and allotment or allotments, to such of the said owners or proprietors who shall be entitled to the same as joint tenants, coparceners, or tenants in common, and to allot the same accordingly to such owners and proprietors in severalty; and from and immediately after the said allotments shall be so made and declared, the same shall be holden and enjoyed by the person or persons to whom the same shall be allotted in severalty, in such and the same manner, and subject to such and

the same uses, as the undivided parts or shares of such estates would have been held in case such partition and division had not been made.

XVII. And be it further enacted, That all and every person or persons, to whom any allotment or allotments shall be made by virtue of any such act, shall, and he, she, or they is and are hereby required to accept his, her, and their respective allotments within the space of two calendar months next after the execution of the award, directed to be made in and by any such act; and in case any person or persons shall neglect or refuse to accept of his, her, or their share or allotment within the time before mentioned, such person or persons so neglecting or refusing shall be totally excluded from having or receiving any estate or interest, or right of common whatsoever, in any part of the lands and grounds to be divided and inclosed by virtue of any such act.

Persons to accept their allotments in a limited time, or to forfeit their right.

XVIII. Provided always, and be it further enacted, That it shall and may be lawful for the respective guardians, husbands, trustees, committees, or attorneys of any person or persons being minors, femes covert, lunatics, beyond the seas, or otherwise incapable by law to accept any such allotment as shall be made by virtue of any such act, to and for the use of such person or persons so incapacitated as aforesaid; and also that any person or persons entitled to any allotment or allotments as tenant or tenants for life or lives, shall be, and he, she, and they is and are hereby respectively enabled and enquired to accept of and take such allotment or allotments respectively; and every such acceptance respectively shall be and is hereby declared to be valid and effectual, to all intents and purposes whatsoever: provided further, That the non-claim or non-acceptance of any such guardian, husband, trustee, committee, or attorney, shall not exclude or in any way prejudice the right of any infant, feme covert, lunatic, or other person or persons being under any disability or incapacity as aforesaid, or absent beyond the seas, who shall claim or accept such share or allotment within twelve calendar months next after such disability or incapacity shall be removed, or of any person entitled as heir in remainder after the death of any person dying during such incapacity or disability, who shall claim or accept the same within one year next after his, her, or their right, title or interest shall have accrued, descended, or vested, or be known so to be.

Guardians, &c. may accept for incapacitated persons, and tenants for life shall accept of allotments.

Non-acceptance of guardians, &c. shall not prejudice the rights of incapacitated persons, who shall accept in a limited time after enabled so to do.

XIX. And be it further enacted, That after the allotments shall be set out by such commissioner or commissioners, and at any time before the execution of his or their award, it shall be lawful for any person or persons to whom any allotment or allotments shall be so made, and staked or marked out, by and with the consent of such commissioner or commissioners in writing under his or their hands, to ditch, fence off, and inclose their respective allotments, in such manner as such commissioner or commissioners shall so direct and appoint.

Before execution of the award, allotments may be ditched and inclosed, with the consent of the commissioners.

XX. And be it further enacted, That the timber trees and other

Trees, &c. to be allotted

with the lands whereon they stand, the parties paying to the owners such sums as the commissioners shall direct; but in case of neglect the owners may cut them down and take them away.

Where money is to be paid for lands, &c. and which ought to be laid out in other purchases to be settled to the same uses, the commissioners may thereout defray a proportion of the expences of passing the act, and putting it in execution, &c.; and if the surplus amount to 200l. it shall, as soon as may be, be laid out in other purchases, and in the mean time be paid into the bank and applied under the direction of the court of chancery.

other trees, thorns and bushes, standing and growing upon any waste lands or other lands to be allotted by such act, shall be allotted and go along with the lands whereon they respectively stand, and shall be deemed the property of the several persons to whom the same lands shall be respectively allotted, such persons paying to the owner or respective owners of the said trees, such sums of money for the same, and at such time or times, and place or places, as the said commissioner or commissioners shall by writing under his or their hand or hands direct; but if the said parties who are to make such respective payments shall neglect or refuse to make the same accordingly, then it shall be lawful to and for the respective parties who shall be entitled to have and receive such payments, to enter on the said lands, and cut down, take and carry away to their own use, the said trees, thorns, or bushes, in respect of which the said payments were respectively to be made to them, at any seasonable time or times within one year next after such neglect or default, they doing as little damage on the said lands as may be.

XXI. And be it further enacted, That whenever any sum of money is, under the provision of this act, or any such bill, to be paid for the purchase or exchange of any lands, tenements, or hereditaments, or of any timber or wood growing thereon, and which sum of money ought to be laid out in the purchase of other lands, tenements, or hereditaments, to be settled to the same uses, it shall and may be lawful, to and for such commissioner or commissioners, out of such sum to defray such proportion of the expence of passing such act, and of carrying the same into execution, as shall, if any be, charged upon any of the lands, tenements or hereditaments, of the person or persons, body politick or corporate, trustees or feoffees, in possession of the lands, tenements, or hereditaments so sold or exchanged, or on which such timber or wood actually grew, and also the expence of any permanent improvement, such as building, sub-dividing, draining or planting, and the like, which shall in the judgement of such commissioner or commissioners be proper to be made, and shall be made under his or their direction, upon any lands to be by virtue of such act allotted to such person or persons, body politick or corporate, trustees or feoffees respectively; and in case the surplus of such money shall amount to the sum of two hundred pounds, then the same shall, with all convenient speed, be invested in the purchase of any lands or hereditaments, which shall be conveyed and settled upon, and subject to the like uses, trusts and limitations, as such lands so sold or exchanged, or the lands on which such timber grew, were settled, limited or assured; and in the mean time, and until such purchase can be made, such money shall be paid into the bank of *England*, in the name and with the privity of the accountant general of the high court of chancery, to be placed to his account there *ex parte* the said commissioner or commissioners, without fee or reward, to the intent that such money shall be applied, under the direction and with the approbation of the said court, to be signified by an order made upon a petition

to be preferred in a summary way, by the person or persons who would have been entitled to such lands, tenements, and hereditaments, or timber respectively, either in or towards the redemption or purchase of land tax, or towards the discharge of any debts or incumbrances affecting the lands or hereditaments so purchased or exchanged, or on which such timber grew, or until the same shall, upon the like application, in a summary way, be laid out by order of the said court in the purchase of other lands, or hereditaments to be settled to the like uses; and in the mean time and until order can be made, such money may, by order of the said court, be laid out in some of the publick funds, or on government or real securities, and the dividends or interest arising therefrom, shall, by order of the said court, be paid to such person or persons, as would, for the time being, be entitled to the rents and profits of such lands, tenements and hereditaments, so to be purchased conveyed and settled.

XXII. Provided always, and be it further enacted, That if any such money shall be less than the sum of two hundred pounds, and shall exceed the sum of twenty pounds, then and in such case the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the lands or hereditaments so purchased, or of his, her, or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the bank in the name and with the privity of the said accountant general of the high court of chancery, and be placed to his account as aforesaid, in order to be applied in the manner before directed; or otherwise the same shall be paid at the like option to two trustees to be nominated by the person or persons making such option, and approved of by the commissioner or commissioners (such nomination and approbation to be signified in writing under the hands of the nominating and approving parties) in order that such principal money and the dividends arising thereon may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said court of chancery.

If such money be less than 200l. and upwards of 20l. it shall at the option of the person entitled to the rents of the lands, be paid into the bank, or to two trustees to be approved of by the commissioners, to be applied as before directed;

XXIII. Provided also, and be it further enacted, That where such money shall be less than twenty pounds, then and in such case the same shall be applied to the use of the person or persons who would for the time being have been entitled to the rents and profits of the lands or hereditaments so purchased, in such manner as the said commissioner or commissioners shall think fit, or in case of infancy or lunacy, then to his, her, or their guardian or guardians, committee or committees to and for the use and benefit of such person or persons so entitled respectively.

and if less than 20l. it shall be applied to the use of the person intitled to the rents of the lands, as the commissioners shall think fit.

XXIV. And be it further enacted, That if any person to whom any allotment or allotments shall be made, or any guardian, husband, trustees, feoffees, committees, or attorney of any infant, feme covert, charity or charities, lunatick, idiot, person or persons beyond the seas, or otherwise incapable of acting respectively, or any tenant in tail, or for life, or trustee or trustees for any settlement,

If any person does not accept, inclose, and fence his allotment as the commissioners shall direct, they may cause it

to be inclosed and fenced and let, and receive the rents until the expences are satisfied, or they may charge them upon the proprietor.

Within seven years after fencing of allotments, fences may be erected on the outside of the ditches, and the materials carried away by the proprietors.

No fences or hedges standing when any act is passed, shall be destroyed till the execution of the award, without consent of the commissioners, and if assigned by them as a boundary or division fences, they shall be left uncut, the persons to whom the allotments shall belong making compensation to the former owners.

Where the boundary of any common

ment, or any mortgagee or mortgagees, or other creditor in possession, shall neglect or refuse to accept, inclose, and fence his, her, or their allotment or allotments, within such time or times as such commissioner or commissioners, by any writing as aforesaid, or by his or their award, shall order or direct, it shall be lawful for such commissioner or commissioners to cause such allotment or allotments to be inclosed and fenced, and to let the same to any person or persons he or they may think proper, and to receive the rents and profits thereof, until the expences attending the inclosure and fencing thereof are paid and satisfied, or to charge such expences upon the proprietor or proprietors of the same allotment or allotments; and by any such writing as aforesaid, or by his or their said award, to appoint to whom, and at what time or times the same shall be paid, subject to the same mode, and with the like powers of recovery thereof, as may be provided respecting the other expences of passing any such act, and carrying the same into execution, or otherwise directed by any such act.

XXV. And be it further enacted, That it shall be lawful for the several proprietors of the allotments to be made in pursuance of any such act, their agents or workmen, at any reasonable time or times, within the space of seven years next after the fencing of any allotment or allotments, to set up and erect posts and rails, or other dead fences, on the outside of the ditches bounding their respective allotments, not exceeding three feet from such ditches, for the preservation of their quickset hedges, and at any reasonable time or times before the expiration of the said term, to take and carry away the materials of such outside fences when they shall think proper.

XXVI. And be it further enacted, That no fences or hedges which at the time of the passing of any such act shall be standing or growing in or upon any of the lands directed to be divided and inclosed, shall be cut down or destroyed by the owners and proprietors thereof, after the passing of such act, until the execution of the award, without the consent of such commissioner or commissioners first had and obtained in writing for that purpose; and if any such fences or hedges shall be assigned or approved by such commissioner or commissioners as and for a boundary fence, or as and for a subdivision fence to and for any of the allotments to be made in pursuance of such act, all such fences and hedges shall be left uncut for the benefit of the person or persons to whom such allotment or allotments shall belong; and he, she, or they shall make such compensation in money to the former owners and proprietors thereof, as such commissioner or commissioners shall, by writing under his or their hand or hands in that behalf order and appoint, subject to the same mode, and with the like powers of recovery thereof, as may in such act be provided respecting the other expences of passing any such act, and carrying the same into execution.

XXVII. Provided always, and be it further enacted, That no proprietors whose allotments or shares shall, upon any such inclosure, lie and be situate next and adjoining to any common fields

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or inclosed grounds, the boundary of which shall be fenced by any mound, fence, brook, or rivulet, shall be compelled to make or erect any hedges, ditches, or fences, next adjoining to any such common fields or inclosed grounds, for inclosing such their allotments or shares; but that the whole mound, fence, brook or rivulet, or other sufficient fences which divide any such common fields or inclosed grounds from such allotments, shall for ever be and remain a boundary fence for the purpose of such division, and shall from time to time be maintained, kept, cleansed, scoured, and repaired, by the respective proprietors thereof, in the same manner as before the passing of this act, or in such other manner as such commissioner or commissioners shall order and direct: provided nevertheless, That in case it shall happen that some of the proprietors shall have a greater proportion of fences to make and maintain upon any of the lands directed to be divided and inclosed, than in the judgement of such commissioner or commissioners the allotments of such proprietors ought to be charged with, it shall be lawful for such commissioner or commissioners, where he or they shall judge it proper, to ascertain and appoint such sum of money to be paid to every such proprietor towards making and maintaining such fences, by such other of the proprietors who may have a less proportion of fencing, according to the value and quantity of the lands to be allotted to them, and to grant such other relief in respect thereof, out of the money to be raised for defraying the expences of carrying such act into execution, as he or they shall think reasonable, and in case any such money shall be so directed to be raised, in order that the said boundary fences may be brought as near as may be to a just and equal proportion.

XXVIII. And be it further enacted, That in case any person or persons shall wilfully and unlawfully break down, destroy, carry away, or damage any fence, stile, post, rail, gate, bridge, or tunnel, which may be put up or placed under the authority and for the purposes of any such act, every person so offending, and being thereof convicted before any justice of the peace for the county in which the lands or grounds to be inclosed shall be situate, on confession or on proof of the offence, by oath of one or more credible witness or witnesses (which oath the said justice is hereby authorized to administer) shall for every such offence forfeit and pay any sum not exceeding five pounds; and every person shall be allowed to give evidence of such offence notwithstanding he may be a proprietor or occupier of lands within, or an inhabitant of such parish, and notwithstanding he may be the owner of any such fence, stile, post, rail, gate, bridge, or tunnel; to be recovered as herein after provided.

XXIX. *And whereas it may often be provided by such act, that the expences of obtaining the same, and also the expences of carrying the same into execution, shall be paid in proportion by the proprietors of lands or grounds to whom any allotments shall be made;* be it further enacted, That in such case, when and so often as any such person or persons, except the person or persons thereby exempted from payment of any such charges and expences, shall refuse or neglect

fields or inclosed grounds shall be fenced by any mound, &c. the proprietors of the adjoining allotments shall not be compelled to fence them next such common fields and inclosed grounds, and such boundaries shall be maintained by the respective proprietors; the expences of which the commissioners may apportion.

If any person shall destroy or damage any fence, &c. put up under the authority of any act, he shall forfeit 5l. and the proprietor of the lands, &c. may give evidence.

If it shall be provided by any act, that the expences

of obtaining and carrying it into execution, shall be paid by the proprietors, and they neglect so to do, the commissioners may cause the same to be levied by distress, or may take possession of the allotments, and receive the rents, till satisfied.

lect to pay his, her, or their proportion of the charges and expences; or shall refuse or neglect to pay the expences attending the inclosing and fencing of any such allotments, as upon the neglect or refusal of the proprietors shall be inclosed and fenced by such commissioner or commissioners as herein-after mentioned, at the respective days and times to be appointed for payment of such charges and expences, it shall be lawful for such commissioner or commissioners, by any warrant or warrants under his or their hands and seals, directed to any person or persons whomsoever, to cause the said costs, charges, and expences, and sum, or sums of money respectively, to be levied by distress and sale of the goods and chattels of the person or persons so making default in payment as aforesaid, his, her, or their husbands, guardians, trustees, committees, or attornies, wheresoever the same shall be found, rendering the overplus (if any) on demand, to the owner or owners of such goods and chattels, the reasonable charges of such warrant, distress, and sale being first deducted, together with the interest after the rate of five pounds *per centum per annum*, to be computed on such share or shares, proportion or proportions, from the time the same shall be directed to be paid by such commissioner or commissioners as aforesaid; or otherwise it shall be lawful for such commissioner or commissioners, or any person or persons authorised by him or them, to enter upon and take possession of the premises so to be allotted to such person or persons refusing or neglecting to pay as aforesaid, and to receive and take the rents and profits thereof, until thereby, therewith, or otherwise, the share, or shares, proportion or proportions, and the said costs and charges so ordered and directed by such commissioner or commissioners to be paid by such person or persons as aforesaid, and all such interest on such share or shares, proportion or proportions, to be computed from the time the same shall by such commissioner or commissioners be directed to be paid as aforesaid, and also all costs, charges, and expences, occasioned by or attending such entry upon and perception of the rents and profits of the said premises shall be fully paid and satisfied.

Husbands, &c. may charge allotments with such sums as the commissioners shall adjudge necessary for defraying the aforesaid expences; and if persons in possession liable to a share thereof, or enabled to charge the lands with the same shall advance the mo-

XXX. And be it further enacted, That in such case as last aforesaid, it shall be lawful for the husbands, guardians, trustees, committees, or attornies of any of the owners or proprietors of such allotment or exchanged lands, being under coverture, minors, lunatics, beyond the seas, or under any other disability, and for any of the said owners or proprietors being tenants in tail, or for life or lives or years determinable on a life or lives or on any other contingency, or otherwise, interested as aforesaid (except the rector or vicar of such parish) to charge such allotments, or exchanged lands and premises, with such sum or sums of money as such commissioner or commissioners shall by his or their award, or by writing under his or their hands, either before or after the execution of such award, adjudge necessary to pay and defray the said respective shares of the charges and expences incident to and attending the obtaining such act, and carrying the same into execution, and of charging the said lands as aforesaid, so that
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the same shall not exceed five pounds for every acre of such allotments or exchanged lands, and to grant, mortgage, surrender, lease, or demise, or otherwise subject the lands, tenements, and hereditaments so to be charged, under such person or persons who shall advance and lend the same respectively, his, her, or their executors, administrators, and assigns, for any term or number of years; or in case any person in possession, who shall or may be liable to and charged with a share of the expences as aforesaid, or enabled by this or any such act to charge such lands and grounds with the same, shall choose to advance, pay, and discharge such sum or sums of money, then it shall be lawful for the said commissioner or commissioners, by any deed or writing under his or their hands and seals, to be attested by two or more credible witnesses, in like manner to grant, mortgage, surrender, lease, demise, or otherwise subject the said lands, tenements, and hereditaments, to such person or persons respectively, paying and discharging the same, his, her, or their executors, administrators, and assigns, for any term or number of years, to and for the payment of such sum and sums of money so advanced, paid, and discharged by him or them, with interest for the same, to commence on the termination of his, her, or their right in the premises; so that every such grant, mortgage, surrender, lease, or demise, be made with a proviso or condition to cease and be void, or with an express trust to be surrendered or re-assigned, when such sum or sums of money thereby to be secured shall be fully paid and satisfied; and also with a covenant to pay and keep down the interest, so that no person or persons afterwards becoming possessed or entitled to any such lands, tenements, or hereditaments, shall be liable to pay any further or larger arrear of interest than for six calendar months preceeding the time when the title to such possession shall have commenced; and that every such charge, grant, mortgage, surrender, lease, or demise, shall be good, valid and effectual in the law for the purposes thereby intended.

XXXI. And whereas in such cases as aforesaid, where provision may be made in any such act for charging the expences of passing such act, or of executing the powers therein contained, or of fencing the respective allotments on the several proprietors thereof, it may be more convenient for the feoffees or trustees of any charity lands or school lands, to have lands deducted from the respective allotments to be made for such charity lands or school lands, for paying the proportionable share in respect of such allotments of such expences respectively, than to raise money on mortgage for those purposes; be it therefore further enacted, That it shall be lawful for any such commissioner or commissioners, if he or they shall judge it right or expedient, to deduct from the respective allotments to be made to such feoffees or trustees as aforesaid, so much land as shall in the judgement of such commissioner or commissioners be equal in value to their respective proportions of the said expences, and to allot, assign, and award the same to such person or persons as such commissioner or commissioners shall think proper, and who will undertake to pay and defray, and shall pay and defray, all such expences.

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ney, the commissioners may mortgage the lands to them for reimbursement.

Commissioners may deduct, from allotments for charity or school lands, what shall be deemed equal to the proportionable share of the expences of passing and executing any act, and allot the same to such persons as will undertake to pay it.

If it shall be provided by any act that the expences of obtaining and carrying it into execution shall be paid by sale of part of the lands, the commissioners shall set out and sell such part as they think will raise a sufficient sum, and the purchasers shall immediately deposit a part of the purchase money, which shall be forfeited, if the remainder be not duly paid.

XXXII. And be it further enacted, That in case it shall be provided by any such act, that the expences attending the same shall be paid by sale of any part of the land so to be inclosed, the said commissioner or commissioners shall mark and set out such part or parts of the said waste or commonable lands, as in his or their opinion will by sale thereof raise a sum of money sufficient to pay and discharge all such charges and expences as may by any such act be directed to be paid and discharged out of the same; and the said commissioner or commissioners shall sell such part or parts of the said lands to any person or persons for the best price or prices that can be gotten for the same, by private contract, or or by publick auction or auctions to be holden for that purpose, of which six weeks previous notice shall be given, in such manner as shall by any such act be directed with respect to the other notices thereby required; and the person or persons so purchasing the same, shall immediately pay (by way of deposit) into the hands of the said commissioner or commissioners, or such person or persons as he or they shall direct and appoint, one tenth part of his, her, or their purchase money, and pay the remainder thereof within three calendar months next after, or at such other time as the said commissioner or commissioners shall appoint, and in default thereof, the money so deposited shall be forfeited, and shall be applied in carrying such act into execution; and the said allotment or allotments for which the whole of such purchase money shall not have been so paid, or for which there shall be no bidding at such auction, shall be again put up to sale, and sold in manner aforesaid, for the best price or prices that can be gotten for the same, or be sold by the said commissioner or commissioners by private contract, for any sum or sums not less than the remaining nine tenths of the price or respective prices for which the same was or were respectively before sold, or the amount of one bidding above the sum or respective sums at which the same was or were respectively put up in the said former auction; and every allotment for which the full purchase money shall be paid, shall immediately thereupon be absolutely discharged of and from all common and other right thereon or therein, and be vested in fee simple in, and be inclosed, and thenceforth held in severalty by such purchaser or purchasers thereof respectively, as his, her, or their private and absolute property, and shall be allotted accordingly by the said commissioner or commissioners; and the said purchase money shall be applied in defraying such charges and expences as may be in any such act directed to be paid and discharged by the sale of such land.

Commissioners may summon witnesses, who shall be subject to penalty for neglect.

XXXIII. *And, for the better enabling such commissioner or commissioners to determine the several matters and things by this or any such act referred to his or their determination, be it enacted, That it shall be lawful to and for the said commissioner or commissioners from time to time, as he or they shall see occasion, by any writing or writings under his or their hand or hands, to summon and require any person or persons to appear before them at any time and place in such writing to be appointed, to*
testify

testify the truth touching the matter in dispute between any proprietors or interested persons, or otherwise relating to the execution of the powers given by this or any such act, and to cause a copy of such writing to be served on such person or persons required to give evidence, or to be left at his, her, or their usual or last place of abode; and every person or persons so summoned, who shall not appear before the said commissioner or commissioners pursuant to such summons (without assigning some reasonable excuse for not appearing) or appearing shall refuse to be sworn or examined on oath or affirmation, which oath or affirmation the said commissioner or commissioners is and are hereby empowered and required to administer, (such person or persons having been paid or tendered to him, her, or them, the reasonable charges of his, her, or their attendance) and being thereof convicted before one of his Majesty's justices of the peace of the county or district in which such lands are situated, upon information thereof upon oath made before any such justice, shall, for every such neglect or refusal, forfeit and pay such sum of money, not exceeding ten pounds, nor less than five pounds, as such justice or justices shall think fit and order.

XXXIV. Provided always, and be it further enacted, That no witnesses summoned to attend such commissioner or commissioners, shall be obliged to travel above eight miles from the boundary of the parish, manor, or district, by any such act intended to be inclosed.

No witness shall be obliged to travel beyond a certain distance.

XXXV. And be it further enacted, That as soon as conveniently may be after the division and allotment of the said lands and grounds shall be finished, pursuant to the purport and directions of this or any such act, the said commissioner or commissioners shall form and draw up, or cause to be formed and drawn up, an award in writing, which shall express the quantity of acres, roods, and perches, in statute measure, contained in the said lands and grounds, and the quantity of each and every part and parcel thereof which shall be so allotted, assigned, or exchanged, and the situations and descriptions of the same respectively, and shall also contain a description of the roads, ways, footpaths, watercourses, watering places, quarries, bridges, fences, and land marks, set out and appointed by the said commissioner or commissioners respectively as aforesaid, and all such other rules, orders, agreements, regulations, directions, and determinations, as the said commissioner or commissioners shall think necessary, proper, or beneficial to the parties; which said award shall be fairly ingrossed or written on parchment, and shall be read and executed by the commissioner or commissioners, in the presence of the proprietors who may attend at a special general meeting called for that purpose, of which ten days notice at least shall be given in some paper to be named in such act and circulating in the county, which execution of such award shall be proclaimed the next *Sunday* in the church of the parish in which such lands shall be, from the time of which proclamation only and not before, such award shall be considered

Commissioners shall draw up an award, containing fundry particulars, which shall be read and executed at a meeting of the proprietors, and proclaimed the next *Sunday* in the parish church, and then considered as complete.

Award to be inrolled in a court of record at Westminster, or with the clerk of the peace of the county, and may be inspected, and copies obtained for a certain sum.

Award and copies to be legal evidence, and award to be binding on all parties interested.

Commissioners may form maps of the grounds, which shall be annexed to the award, and deemed part thereof.

Commissioners shall keep an account of all monies received and disbursed, which may be inspected at their clerk's office gratis.

Penalty for not keeping such account, or for refusing the inspection thereof.

as complete; and shall, within twelve calendar months after the same shall be so signed and sealed, or so soon as conveniently may be, be inrolled in one of his Majesty's courts of record at Westminster, or with the clerk of the peace for the county in which such lands shall be situated, to the end that recourse may be had thereto by any person or persons interested therein, for the inspection and perusal whereof no more than one shilling shall be paid; and a copy of the said award, or any part thereof signed by the proper officer of the court wherein the same shall be inrolled, or by the clerk of the peace for such county, or his deputy, purporting the same to be a true copy, shall from time to time be made and delivered by such officer or clerk of the peace for the time being as aforesaid, to any person requesting the same, for which no more shall be paid than two-pence for every sheet of seventy-two words; and the said award, and each copy of the same, or of any part thereof, signed as aforesaid, shall at all times be admitted and allowed in all courts whatever as legal evidence; and the said award or instrument, and the several allotments, partitions, regulations, agreements, exchanges, orders, directions, determinations, and all other matters and things therein mentioned and contained, shall, to all intents and purposes, be binding and conclusive, except where some provision to the contrary is herein or shall be by any such act contained, unto and upon the said proprietors, and all parties and persons concerned or interested in the same, or in any of the lands, grounds, or premises aforesaid; and also that the said respective commissioners, if they think it necessary, shall form or draw, or cause to be formed and drawn, on parchment or vellum, such maps or plans of the said lands and grounds, the better to describe the several new allotments or divisions to be made, and premises that shall be exchanged by virtue of this act, and which shall express the quantity of each allotment in acres, roods, and perches, together with the names of the respective proprietors at the time of such division and allotment; which said maps and plans shall be annexed to and inrolled with the said respective award, and shall be deemed and construed in every respect as and for part of the said award.

XXXVI. And be it further enacted, That such commissioner or commissioners shall, and he or they is and are hereby required to enter in a book to be provided for that purpose, a particular account of all sums of money whatever received from the proprietors or others during the progress of the inclosure; and also of all the charges, expences, and disbursements which shall accrue or be made by virtue of any such act, and in carrying the same into execution; which book of accounts shall be kept at the office of their clerk, open at all seasonable times during the progress of the inclosure, and till all the accounts are finally settled, for the inspection of any of the proprietors, without fee or reward; and in case any such commissioner or commissioners, or his or their clerk, shall neglect to provide and keep such book of accounts as aforesaid, or refuse the inspection thereof to any of the pro-

proprietors at seasonable times in manner before-mentioned, and shall be convicted thereof, upon the oath of one or more credible witness or witnesses not interested in the intended division and inclosure, before any justice of the peace of the county in which the lands or grounds to be inclosed shall be situate, or of such other county or place where such commissioner or clerk so offending shall be or reside, every such commissioner or clerk so causing such neglect or refusal, and convicted as aforesaid, shall forfeit and pay for every such offence any sum not exceeding ten pounds nor less than five pounds, to be levied, recovered, and applied in the same manner as other penalties are by this act directed to be levied, recovered, and applied.

XXXVII. And be it further enacted, That all monies to be raised under and by virtue of the powers contained in any such act, shall, from time to time, as often as the same shall amount to the sum of fifty pounds, be paid to and deposited in the hands of some banker, or such person or persons as shall be approved by a majority in value of the proprietors who may be present at the first meeting of such commissioner or commissioners; and in the notice of which meeting shall be expressed the intention of then appointing such banker, or such other person or persons; and no such monies deposited or paid into the hands of such banker, or other person or persons to be appointed as aforesaid, shall be issued or paid by him or them, without an order in writing under the hands of such commissioner or commissioners, specifying the person or persons to whom the same are respectively payable, and the service or consideration for which the same are due; and the balance, if any, upon the final settlement of accounts, shall be immediately repaid to the land owners in proportion to the sums respectively paid by them.

Monies raised under any act shall be deposited as may be approved by a majority in value of the proprietors, and not issued without an order from the commissioners.

XXXVIII. And be it further enacted, That it shall be lawful for the rector or vicar for the time being of any parish wherein the lands and grounds intended to be inclosed shall be situate, by indenture or indentures, under his hand and seal, with the consent and approbation of the bishop of the diocese, and of the patron of the said rectory or vicarage, to lease or demise all or any part or parts of the allotment or allotments to be set out and allotted to any such rector or vicar, by virtue of any such act, to any person or persons whomsoever, for any term not exceeding twenty-one years, to commence within twelve calendar months next after the executing the award; so that the rent or rents for the same shall be thereby reserved to the rector or vicar for the time being, by four equal quarterly payments in every year; and so that there be thereby also reserved and made payable to such rector or vicar, the best and most improved rent or rents that can reasonably be had or gotten for the same, without taking any fine, foregift, premium, sum of money, or other consideration, for the making or granting any such lease or demise; and so that no such lessee by any such lease or demise be made punishable for waste, by any express words to be therein contained; and so that there be inserted in every such lease, power

The rector or vicar with the consent of the bishop of the diocese, and of the patron of the living, may lease allotments for 21 years, upon certain conditions.

of re-entry on non-payment of the rent or rents to be thereby reserved, within a reasonable time to be therein limited, after the same shall become due; and so that a counterpart of such lease be duly executed by the lessee or lessees to whom such lease shall be so made as aforesaid; and every such lease shall be valid and effectual, any law or usage to the contrary notwithstanding.

Recovery and application of penalties.

XXXIX. And be it further enacted, That all penalties and forfeitures imposed by this or any such act, or which shall be imposed by such commissioner or commissioners under or by virtue of the authority of this or any such act, shall be levied and recovered before any one justice of the peace for the county in which the lands or grounds to be inclosed shall be situate, and residing near any such parish, and not interested in the matter in question; for which purpose it shall be lawful for any such justice of the peace, upon complaint made to him, to summon the party accused, and the witnesses on both sides; and upon the appearance or contempt of the party accused, to examine such witnesses upon oath, (which oath any such justice is hereby empowered to administer), and upon such evidence to give judgment accordingly, and to condemn the party accused (proof of the accusation being made by one or more witnesses or witnesses as aforesaid) in such penalties and forfeitures as the offenders shall have incurred, and to levy such penalties and forfeitures by distress and sale of the offender's goods and chattels, together with reasonable costs; all which penalties and forfeitures, the application whereof is not particularly directed by any such act or this act, shall, when and so soon as the same shall be levied, be paid and applied to and for such uses, intents, or purposes, as such commissioner or commissioners, in and by any writing or writings under his or their hands, or in and by his or their award, shall order, direct, or appoint.

Saving of the rights of lords of manors.

XL. And be it further enacted and declared, That nothing in such act contained shall lessen, prejudice, or defeat the right, title, or interest of any lord or lady of any manor or lordship, or reputed manor or lordship, within the jurisdiction or limits whereof the lands and grounds thereby directed to be divided and allotted are situate, lying, and being, of, in, or to the feignories, rights, and royalties incident or belonging to such manor or lordship, or reputed manor or lordship, or to the lord or lady thereof, or to any person or persons claiming under him or her, but the same (other than and except the interest and other property as is or are meant or intended to be barred by such act) shall remain, in as full, ample, and beneficial manner, to all intents and purposes, as he or she might or ought to have held or enjoyed such rights before the passing of such act, or in case the same had never been made.

General saving.

XLI. Saving always to the King's most excellent majesty, his heirs and successors, and to all and every other person and persons, bodies politick and corporate, and his, her, and their heirs, successors, executors, and administrators, all such estate, right, title, and interest, (other than and except such as are hereby intended to be barred, destroyed or extinguished) as they, every,

or

or any of them, had or enjoyed of, in, to, or out of, or in respect of the said lands, grounds, and premises so directed to be divided, allotted, and inclosed, or exchanged as aforesaid, before the passing of such act, or could or might have had or enjoyed in case the same had never been made.

XLII. And be it further enacted, That it shall and may be lawful for any two or more justices of the peace to take affidavits on oath or affirmation (which oath or affirmation such justices are hereby authorised and empowered to administer) of the notices required for such bills having been given, of the consents of the parties interested therein, of the allegations contained in the preambles of such bills, and of the quantity of the land to be inclosed; and that such affidavits shall respectively be in the forms contained in the schedule hereunto annexed, as near as the circumstances of the case will admit; and that such affidavits shall not be subject or liable to any stamp duties whatsoever.

Two justices may take affidavits of the notices required having been given, &c. in the forms in the schedule, without stamps.

XLIII. And be it further enacted, That if any person or persons shall, in any examination, affidavit, deposition, or affirmation, to be had or taken in pursuance of this act, before such justice or justices, or such commissioner or commissioners, knowingly and wilfully swear or affirm any matter or thing which shall be false or untrue, every such person so offending shall, on conviction thereof, be deemed guilty of perjury, and shall suffer the like pains and penalties as persons guilty of wilful and corrupt perjury are now subject and liable to.

Persons forswearing themselves to be deemed guilty of perjury.

XLIV. Provided always, and be it enacted, That all and every the powers, authorities, directions, and provisions in this act contained, shall be only so far effective and binding in each particular case, as they or any of them shall not be otherwise provided and enacted in any such act hereafter to be passed as aforesaid.

Powers of this act to be binding only as far as not otherwise provided in any future act.

SCHEDULE to which the Act refers,

(A.)

FORM of AFFIDAVIT of NOTICES.

A. B. of _____ maketh oath and saith, [*or, being one of the people called Quakers, upon his solemn affirmation, saith*] That he did see a copy of the notice hereunto annexed affixed on the church door of the parish of _____ in the county of _____ [*or, on the several church doors of the respective parishes of _____ in the county of _____ or, in the several counties of _____ and _____*] on the several *Sundays* hereinafter mentioned; *videlicet* [*specifying the days on which the notices were affixed.*] Signed *A. B.*

Sworn [*or, solemnly affirmed*] before us, two of his Majesty's justices of the peace acting in and for the _____ and subscribed in our presence, by the above named *A. B.* this _____ day of _____ in the year _____ as witness our hands and seals.

(B.)

FORM of AFFIDAVIT of CONSENT.

A. B. of maketh oath and faith [*or, being one of the people called Quakers, upon his or her solemn affirmation, faith*] That he [*or she*] believes himself [*or herself*] to be interested in the proposed inclosure of the in the [*here describe the place, whether parish, hamlet, or place*] in the county of by virtue of [*here set forth the interest of the deponent*]; [*or*] that he [*or she*] believes that *C. D.* of for whom he [*or she*] is guardian [*et cetera, as the case may be*] is interested, *et cetera*; and that he [*or she*] hath seen a copy of an act [*here set forth the title of this act*] and also a copy of the bill intended to be presented to parliament, and hath subscribed his [*or her*] name or hath set his [*or her*] mark to the same respectively, and doth consent to the said bill being passed into a law.

Signed or marked *A. B.*

Sworn [*or, solemnly affirmed*] before us, two of his Majesty's justices of the peace, acting in and for the and subscribed in our presence, by the above mentioned *A. B.* this day of in the year as witness our hands and seals.

The same form may be applied, *mutatis mutandis*, to the case of several persons whose interests are joint, or whose interests, though distinct, are of a similar nature.

(C.)

FORM of AFFIDAVIT of ALLEGATIONS of the BILL,

A. B. of maketh oath and faith, [*or, being one of the people called Quakers, upon his or her solemn affirmation, faith*] That [*here set forth such of the several facts alledged in the preamble of the bill as are within the knowledge of the witnesses*] or, that he [*or she*] is informed and verily believes that [*here set forth such of the said facts as are within the belief of the witnesses.*]

Signed *A. B.*

Sworn, [*or, solemnly affirmed*] before us, two of his Majesty's justices of the peace, acting in and for the and subscribed in our presence, by the above named *A. B.* this day of in the year as witness our hands and seals.

FORM

(D.)

FORM of AFFIDAVIT of ADMEASUREMENT.

A. B. of maketh oath and faith, [*or, being one of
the people called Quakers,* upon his solemn affirmation, faith]
That he has surveyed and admeasured the several lands in
the parish or hamlet of in the county of
[*or, counties of*] described in the bill intended to be
presented to parliament, and signed by the deponent, by the name
[*or names*] of and that the quantity of such lands amounts
to and no more, according to such admeasurement, and
the best of this deponent's judgement. *A. B.*

Sworn [*or, solemnly affirmed*] before us, two of his
Majesty's justices of the peace acting in and for
the and subscribed in our presence
by the above named *A. B.* this day of
in the year as witness our hands and seals.