

ANNO QUINQUAGESIMO QUARTO

GEORGII III. REGIS.

Cap. 69.

An Act for incloſing certain Lands in the Pariſh of *Chiſwick*, in the County of *Middleſex*, over which Right of Common hath been extinguiſhed.

[18th *May* 1814.]

WHEREAS by an Act paſſed in the Forty-ſixth Year of the Reign of His preſent Majeſty, intituled *An Act for extinguiſhing all Right of Common over certain Parcels of Land in the Pariſh of* Chiſwick, *in the County of* Middleſex, divers Lands in the ſaid Pariſh of *Chiſwick*, containing together One hundred Acres and Two Roods or thereabouts, which had been theretofore ſubject to Right of Common at certain Seaſons of the Year, were diſcharged from ſuch Right of Common; and a perpetual Annuity or Rent Charge was thereby made payable, out of Parcel of the ſaid Lands, for the Relief and Maintenance of the Poor of the ſaid Pariſh, as a Compenſation for ſuch Right of Common: And whereas the moſt Noble *William Spencer* Duke of *Devonſhire*, is the ſole Proprietor of the greater Part of the ſaid Lands; and the ſaid Duke, and the Reverend *Thomas Frere Bowerbank*, the Vicar of the ſaid Pariſh of *Chiſwick*, and other Perſons, are Proprietors of other Part of the ſaid Lands, and alſo of other Lands in the Field, called *Chiſwick Field*, not comprized in the ſaid recited Act, containing Forty Acres or thereabouts, and their reſpective Properties are intermixed: And whereas the Dean and Chapter of the Cathedral Church of *Saint Paul* in *London*, are the Patrons and Ordinaries of the ſaid Vicarage: And whereas it would be highly beneficial to all Parties concerned in the ſame intermixed Lands, if the ſame were to be ſet out, divided, and allotted unto and amongſt the ſeveral Proprietors thereof, and Perſons intereſted therein, in ſpecific Shares, in lieu of their reſpective Rights in, over, and upon the ſame; 46 G. 3. c. 111.

but such beneficial Purpose cannot be effected without the Authority of Parliament: 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 Inclosure, and for facilitating the Mode of proving the several Facts usually required 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,

Lands to be allotted.

That the said intermixed Lands, in the Parish of *Chiswick* aforesaid, shall, as soon as conveniently may be after the passing of this Act, be qualitied,

Commissioners.

valued, divided, set out, and allotted, by *John Willock* of *Golden Square*, in the County of *Middlesex*, and *John Burcham* of *Conisby*, in the County of *Lincoln*, Gentlemen, who, and their Successors to be elected in Manner herein-after mentioned, shall be and are hereby appointed Commissioners for the Execution of this Act, with such Powers, and subject to such Directions and Regulations, as are contained in this Act; and with and subject to such of the Powers, Directions, and Regulations contained in the said last recited Act, as are not controuled or varied by or repugnant to any of the Clauses, Provisoes, or Regulations of this Act; and that it shall be lawful for them the said Commissioners, or their Successors to be appointed as herein-after mentioned, to do and perform every Act and Thing requisite to be done under and by virtue of this Act, and to put in force and execute all and every the Powers and Authorities contained in this and the said last recited Act; provided that if they the said Commissioners or their Successors shall differ in Opinion upon any of the Matters and Things directed to be executed by them by virtue of this Act, in that Case such Person as shall be appointed by the said *John Willock* and *John Burcham*, or their Successors, by Writing under their Hands, shall be a Third Commissioner for carrying this and the said last recited Act into Execution, with respect to such Matters and Things only on which the said Two first named Commissioners or their Successors shall differ in Opinion as aforesaid; and in such Case it shall be lawful for any One of the said first named Commissioners or their Successors, together with the said Third Commissioner or his Successor, to execute all Powers, Authorities, Acts, Matters, and Things requisite to be done in the Execution of this or the said last recited Act, and which shall be as valid and effectual to all Intents and Purposes as if done and executed by the said Two first named Commissioners; and that the Notices by the said Act required to be given in some public Newspaper, of setting out public Carriage Roads, and of reading and executing the Award of the Commissioners, shall be given in *The Times* Newspaper, or if that Newspaper shall not then be published, in some other Newspaper generally circulated in the said County of *Middlesex*.

Appointment of new Commissioners on Vacancies.

II. Provided always, and be it further enacted, That if before the Powers and Trusts reposed in the said Commissioners shall have been fully executed and performed, the said *John Willock* shall die, or refuse to act or to qualify himself, or shall become incapable of acting as a Commissioner in the Execution of such Powers and Trusts, it

ſhall be lawful for the ſaid *William Spencer* Duke of *Devonſhire*, his Heirs or Aſſigns, by Writing under his or their Hand or Hands, to appoint ſome other fit Perſon, (not intereſted in the ſaid intended Diviſion and Incloſure,) to be a Commiſſioner in the Place of the ſaid *John Willock*, and ſo from Time to Time as often as any Commiſſioner ſo to be appointed ſhall die, or refuſe to act, or to qualify himſelf, or become incapable of acting as aforeſaid; and that in caſe the ſaid *John Burcham* ſhall die, or refuſe to act or to qualify himſelf, or ſhall become incapable of acting as a Commiſſioner in the Execution of ſuch Powers and Truſts, it ſhall be lawful for the Vicar for the Time being of the ſaid Pariſh, by Writing under his Hand, to appoint ſome other fit Perſon, not intereſted in the ſaid intended Diviſion and Incloſure, to be a Commiſſioner in the Place of the ſaid *John Burcham*, and ſo from Time to Time as often as any Commiſſioner to be appointed by the ſaid Vicar ſhall die, or refuſe to act or to qualify himſelf, or ſhall become incapable of acting as aforeſaid; and that in caſe the ſaid Third Commiſſioner ſhall die, or refuſe to act or to qualify himſelf, or ſhall become incapable of acting as a Third Commiſſioner as aforeſaid, in the Execution of ſuch Powers and Truſts, it ſhall be lawful for the ſaid *John Willock* and *John Burcham*, and their Succeſſors, by Writing under their Hands, to appoint ſome other fit Perſon, (not intereſted in ſuch Diviſion and Incloſure,) to be a Third Commiſſioner as aforeſaid, in the Place of the Perſon firſt appointed, and ſo from Time to Time as often as any Third Commiſſioner to be appointed by them ſhall die, or refuſe to act or to qualify himſelf, or ſhall become incapable of acting as aforeſaid; and if any of ſuch Vacancies in the Place of either of the ſaid Two firſt named Commiſſioners ſhall not be filled up in Manner herein-before directed, within Thirty Days after Notice thereof given by the ſurviving or remaining Commiſſioner, ſuch Notice to be given to the ſaid *William Spencer* Duke of *Devonſhire*, his Heirs or Aſſigns, or to the ſaid Vicar, as the Caſe may be, then and in every ſuch Caſe the ſurviving or remaining Commiſſioners or Commiſſioner ſhall from Time to Time, by Writing under their or his Hands or Hand, appoint a fit and proper Perſon, not intereſted in the ſaid intended Diviſion and Incloſure, to be a Commiſſioner in the Place of ſuch Commiſſioner ſo dying, or refuſing to act or to qualify himſelf, or becoming incapable of acting as aforeſaid, whoſe Place ſhall not be filled up by the Perſon or Perſons hereby firſt enabled to appoint ſuch new Commiſſioners or Commiſſioner as aforeſaid; and every Commiſſioner to be appointed by the Perſon or Perſons reſpectively, and in the Manner hereby directed, ſhall (after taking the Oath preſcribed by the ſaid laſt recited Act) have the like Powers and Authorities for putting this and the ſaid recited Act into Execution, as as if he had been expreſsly named and appointed a Commiſſioner by this Act.

Notices of Meetings to be given.

III. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to give public Notice, in Writing to be affixed upon one of the Outer Doors of the Pariſh Church of *Chiſwick* aforeſaid, on ſome *Sunday* immediately before or during Divine Service, of the Time and Place of their Firſt and every ſubſequent Meeting, for putting this and the ſaid laſt recited Act in Execution, at leaſt Eight Days before the Time appointed for holding ſuch Meetings reſpectively (Meetings by

by Adjournment only excepted); and it ſhall be lawful for the Commiſſioners, at any of their Meetings to be holden in purſuance of this Act, from Time to Time as they ſhall find it convenient, to continue ſuch Meetings by Adjournment, for the due Execution of this Act, leaving Notice at the Place where the ſaid Commiſſioners ſhall be ſitting at the Time of any ſuch Adjournment, of the Time and Place to which ſuch Meeting ſhall be adjourned: Provided always, that if only one of the ſaid Commiſſioners ſhall attend, at the Time and Place appointed for any ſuch Meeting to be holden purſuant to this Act, it ſhall be lawful for ſuch one Commiſſioner, and if no Commiſſioner ſhall attend at the Time and Place ſo appointed, then it ſhall be lawful for the Clerk of ſuch Commiſſioners (and which Clerk the ſaid Commiſſioners are hereby authorized to appoint) to adjourn ſuch Meeting to any future Day they ſhall reſpectively ſee moſt convenient, to be holden at the ſame or any other Place; the Clerk giving due Notice to the abſent Commiſſioner or Commiſſioners of the Time and Place to which every Adjournment ſhall be made; and ſo from Time to Time as often as there ſhall be Occaſion, until Two or more of the ſaid Commiſſioners ſhall be preſent: Provided alſo, that all Meetings of the ſaid Commiſſioners in the Execution of this or the ſaid laſt recited Act, ſhall be held within the ſaid Pariſh of *Chiſwick*, or within Eight Miles of the Boundary thereof.

Commiſſioners empowered to determine Differences, but not Titles.

IV. And be it further enacted, That if any Diſpute or Difference ſhall ariſe, between any of the Parties who now are, or who ſhall, before the making of the Award of the Commiſſioners, be intereſted in the ſaid intended Diviſion and Incloſure, touching or concerning the reſpective Shares and Proportions, Rights and Intereſts which any of them ſhall claim of and in the Lands and Grounds hereby directed to be divided and incloſed, or other incloſed Lands or Grounds within the ſaid Pariſh, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby empowered, to enquire into, hear and determine the ſame reſpectively: Provided always, that nothing in this Act contained ſhall authorize the ſaid Commiſſioners to determine the Title to any Meſſuages, Cottages, Lands, Tenements, or Hereditaments whatſoever.

Power to aſſeſs Coſts.

V. 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 laſt 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 have been diſallowed or overruled; and in caſe the Perſon or Perſons who ſhall be liable to pay ſuch Coſts and Charges, ſhall neglect or refuſe to pay the ſame on demand, then and in 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 whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay the ſame, rendering

ing the Overplus (if any) upon Demand, to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Parties may try Rights by an Iſſue at Law.

VI. Provided always, and be it further enacted, That if any Perſon or Perſons, or Body or Bodies Politic or Corporate, who ſhall make any Claim or Claims to or upon any of the Commons or Waſte Grounds, or any other Lands and Hereditaments intended to be divided or affected by this Act, or any Right or Intereſt therein, or who ſhall object to any Claim or Claims to be made by any other Perſon or Perſons, Body or Bodies Politic or Corporate, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners, touching or concerning any ſuch Claim or Objection, and ſhall give Notice thereof in Writing to the ſaid Commiſſioners, within One Calendar Month after ſuch Determination ſhall have been ſo made by the ſaid Commiſſioners, of which Notice the ſaid Commiſſioners are hereby required, immediately upon or as ſoon as may be after the Receipt thereof, to cauſe a true Copy to be delivered to or left at the uſual Place of Abode of the adverſe Party or Parties, or of his, her, or their reſpective Agents or Attornies, then, but not otherwiſe, it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic or Corporate, giving ſuch Notice, or their reſpective Heirs, Succeſſors, or Aſſigns, to proceed to a Trial at Law of the Matter or Matters ſo determined by the ſaid Commiſſioners, at the then next Sittings to be holden for the County of *Middleſex*, unleſs ſuch next Sittings ſhall happen within Two Calendar Months after making the Determination in Queſtion, and in that Caſe at the following Sittings; and for that Purpoſe the Perſon or Perſons, Body or Bodies Politic or Corporate, who ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners, ſhall cauſe an Action to be brought in One of His Majeſty's Courts at *Weſtminſter*, upon a feigned Iſſue, againſt the Perſon or Perſons, Body or Bodies Politic or Corporate, in whoſe Favour ſuch Determination ſhall have been made; and the Defendant or Defendants in ſuch Action or Actions ſhall name an Attorney or Attornies, who ſhall appear and file Common Bail, and accept One or more Iſſue or Iſſues, whereby the Claim or Claims and the Right or Rights or Intereſt thereby inſiſted on, may be tried and determined, ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be commenced, in caſe the Parties ſhall differ about the ſame; and if at the Trial of any ſuch Iſſue or Iſſues, it ſhall appear that the Party claiming is entitled to any qualified or leſs Right or Rights, Intereſt or Intereſts, than was or were claimed by ſuch Party or Parties, then it ſhall be lawful for the Jury by whom ſuch Iſſue or Iſſues ſhall be tried to find and declare the ſame by their Verdict, which ſhall be indorſed on the Poſtea, in addition to the Iſſue or Iſſues joined; but nevertheleſs the Coſts of ſuch Action ſhall abide and be determined by the Iſſue or Iſſues joined, as if no ſuch Special Verdict had been made; and the Verdict or Verdicts, or ſuch Special Finding and Indorſement (if any) which ſhall be given in ſuch Action or Actions, ſhall be final and concluſive upon all and every ſuch Perſon and Perſons, Body or Bodies Politic and Corporate, unleſs the Court wherein ſuch Action or Actions ſhall be brought, ſhall ſet aſide ſuch Verdict or Verdicts or Special

Finding, and order a new Trial or new Trials to be had therein, which it ſhall be lawful for the Court to do; and alſo, upon ſufficient Cauſe ſhewn, to put off the Trial of ſuch Iſſue, as is uſual in other Caſes; and after ſuch Verdict or Verdicts or Special Finding 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.

If Parties die, Proceedings not to abate.

Suits not to delay Proceedings.

VII. 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 Action ſuch Action ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Death had happened: Provided always, that no Differences or Suits, touching the Title to any Lands, Rights of Common, or other Rights, ſhall impede or delay the ſaid Commiſſioners in the Execution of the Powers veſted in them, by this or the ſaid laſt recited Act; but the Diviſion and Incloſure hereby directed to be made ſhall be proceeded in, notwithſtanding ſuch Differences or Suits.

Proviſion in caſe of Parties dying before Actions brought.

VIII. Provided always, and be it further enacted, That in caſe any Perſon or Perſons in whoſe Favour any 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 hereinbefore limited for bringing ſuch Action or Actions, it ſhall be lawful for the Party or Parties who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame, within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioners 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 of the Perſon or Perſons ſo dead, 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, 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.

Right of Poſſeſſion not to be determined by Commiſſioners.

IX. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioners to determine any Right between any Parties, contrary to the Poſſeſſion of any ſuch Parties; but if 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, or recovered from ſuch Perſon or Perſons by Ejectment, or other due Courſe of Law.

Power to ſtop Roads between old Incloſures.

X. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioners, and they are hereby authorized and empowered, to divert and ſtop up any old Carriage Road, Bridleway or Footpath, leading through and over the Lands and Grounds intended to be divided and

and inclosed by virtue of this Act, or passing or leading through any of the old Inclosures, in the said Parish; and the Soil of the Roads or Ways so to be diverted or stopped up, shall be deemed and taken as Part of the Lands and Grounds to be divided and inclosed; provided that no such Carriage Road, Bridleway or Footpath, passing or leading through old Inclosures, shall be stopped up without the Concurrence and Order of Two Justices of the Peace for the said County of *Middlesex*, not interested in the Repair of such Roads; and which Order shall be subject to an Appeal to the Quarter Sessions for the County of *Middlesex*, in like Manner and under such Forms and Restrictions, as if the same had been originally made by such Justices.

Justices empowered to declare any of the Roads completed.

XI. And be it further enacted, That when and as soon as Two or more of His Majesty's Justices of the Peace for the said County of *Middlesex*, at any Special Sessions to be holden by them, shall find, and shall under their Hands and Seals certify and declare, any of the public Carriage Roads to be set out in pursuance of the said last recited Act and of this Act, or any Part of any such Road, to be fully and sufficiently formed, repaired, and completed, such Road or Roads, or so much thereof as shall in any such Certificate be described and certified, shall thenceforth be supported and kept in Repair by such Persons, and in like Manner, as the public Roads within the said Parish are or ought by Law to be amended and kept in Repair; and every such Certificate shall at the General Quarter Sessions of the Peace to be holden for the County of *Middlesex* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County.

Allotment to the Vicar in Chiswick Field, to be taken from the Share of the Duke of Devonshire.

XII. And be it further enacted, That it shall and may be lawful for the said Commissioners, and they are hereby required, in the first Place, to deduct from and out of the Share and Interest of the said *William Spencer* Duke of *Devonshire*, in the Field called *Chiswick Field*, being Parcel of the Lands hereby directed to be divided and inclosed, so much and such Parcel thereof as shall exceed, by One-fourth Part in Value, a certain Piece or Parcel of Meadow Ground, being the North Part of the Avenue Meadow fronting *Chiswick* House, containing Four Acres Two Roods Five Perches, or thereabouts, be the same more or less, and being Part of the Glebe Land belonging to the said Vicarage; and shall allot and award such Part and Parcel of the said Land in *Chiswick* Field, of the Value aforesaid, unto the said *Thomas Frere Bowerbank*, Vicar of *Chiswick* aforesaid, and his Successors, for and in lieu of the said Piece or Parcel of Meadow Ground; and the said Commissioners shall in like Manner assign and award the said Piece or Parcel of Meadow Ground unto the said *William Spencer* Duke of *Devonshire*, his Heirs and Assigns, for and in lieu of the said Land in *Chiswick* Field, so to be taken as aforesaid from his Share and Interest therein.

Allotment of Part of the Vicar's Glebe, to the Duke of Devonshire.

Allotment of Residue.

XIII. And be it further enacted, That the said Commissioners shall immediately (subject to such Allotments as aforesaid) divide, set out, and allot the Residue of the Lands and Grounds hereby directed to be divided and inclosed, unto and amongst the several Proprietors thereof and Persons interested therein, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be a fair and just Com-

penſation for their reſpective Lands, Grounds, Rights and Intereſts therein; and the ſeveral Allotments to be made by the ſaid Commiſſioners by virtue of this Act, ſhall be binding, final and concluſive, ſo far as regards the Quantities and Situations of ſuch Allotments reſpectively.

Fencing the Vicar's Allotments.

XIV. And be it further enacted, That all the ſaid Lands to be by virtue of this Act ſet out and allotted to the ſaid Vicar of *Chiſwick*, or to be given to him in Exchange, ſhall be incloſed and fenced round the Boundaries thereof with Ditches and Quick Hedges, and with other proper Fences of Oak Poſts, and Three Rails on each Side, of Aſh, Oak, or other durable Wood, with ſubſtantial Stiles and Carriage Gates where neceſſary, at the Expence of the ſaid *William Spencer* Duke of *Devonſhire*; except on ſuch Sides thereof, and except as to Allotments received in Exchange from other Perſons, which the ſaid Commiſſioners may appoint to be fenced by other Proprietors; and the ſaid Commiſſioners are hereby required to aſſeſs ſuch Expences upon the Perſons ſo chargeable with the Payment thereof; and the ſame Expences ſhall be recovered in the Manner herein-after directed; and that ſuch Fences ſhall thereafter be maintained, ſupported and preſerved, during the Term of Seven Years from and after the planting of the ſaid Quickſets, by or at the Expence of the ſaid *William Spencer* Duke of *Devonſhire*, and ſuch other Proprietors as aforeſaid, in ſuch Shares and Proportions as the ſaid Commiſſioners ſhall by their Award direct or appoint; and the ſaid Commiſſioners ſhall by their Award alſo direct in what Parts and Proportions the ſaid Fences (after the ſaid Term of Seven Years) ſhall be kept in Repair by the ſaid Vicar and his Succeſſors, or any other Perſon or Perſons.

Allotments may be ſold before the Execution of the Award.

XV. And be it further enacted, That it ſhall be lawful for any of the Owners or Proprietors of any of the Lands and Grounds hereby directed to be divided and incloſed, to ſell, convey and diſpoſe of all his, her, or their Eſtate, Right and Intereſt, in and to the Allotment or Allotments to be made and ſet out in reſpect thereof by virtue of this Act, in ſuch Manner as he or ſhe might have done, at any Time after the Execution of the ſaid Award; and it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and empowered, to award all and every ſuch Allotment and Allotments, which ſhall be ſo ſold and diſpoſed of, to the Purchaſer or Purchaſers thereof, or other Perſon or Perſons who ſhall be entitled to the ſame by any ſuch Sale or Diſpoſition.

Land held by different Tenures or Titles, to be diſtinguiſhed.

XVI. And be it further enacted, That where any Perſon or Perſons ſhall be ſeiſed or poſſeſſed of Lands or other Hereditaments in the ſaid Pariſh, held by different Tenures, or for, by, or under different Eſtates or Titles, and prove the ſame to the Satisfaction of the ſaid Commiſſioners, the ſaid Commiſſioners ſhall, upon the Requeſt of the Perſon ſo ſeiſed or poſſeſſed reſpectively, inquire into, aſcertain, and determine, the reſpective Lands or other Hereditaments, held by ſuch ſeveral Tenures, or for, by, or under ſuch different Eſtates or Titles reſpectively, and ſhall ſet out diſtinct Allotments, in reſpect of ſuch Parts thereof, as ſhall be or ariſe within the Lands and Grounds hereby directed to be divided and incloſed.

XVII. And

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

XVII. And be it further enacted, That where the Proprietor or Proprietors of any Allotment of Land or other Hereditaments in the said Parish, shall hold his, her, or their respective Lands and Hereditaments by different Tenures, or for, by, or under different Estates or Titles, and where, for want of the necessary Information before the said Commissioners, or from any other Cause, the Award of the said Commissioners shall have omitted to distinguish the Lands or other Hereditaments holden by such several Tenures, or for, by, or under such different Estates or Titles, or to set out and award the several and distinct Allotments for any such respective Lands or Hereditaments, as herein-before is required, it shall be lawful for the said Commissioners, and they are hereby authorized, at any Time, and from Time to Time within One Year after the Date and Execution of their Award, upon Request in Writing to them made by the respective Proprietors of any such Lands or other Hereditaments, to do all such Acts as shall be necessary for supplying any such Omission, and for that Purpose to examine Witnesses, and to proceed as if their Award had not been made; and by any Deed or Instrument under their Hands and Seals, to distinguish, ascertain, and set out the Lands and Hereditaments held by different Tenures, or for, by, or under different Estates or Titles respectively, in the same Manner as they are hereby authorized and required to do in Cases where such Lands and Hereditaments are directed to be ascertained, distinguished and set out by the General Award; and every such separate Instrument shall be enrolled in the same Place as the General Award shall be enrolled; and Evidence thereof shall be given in the same Manner as by the said recited Act of the Forty-first Year of His present Majesty, and this Act, or either of them respectively, is directed, concerning the said General Award of the said Commissioners; and all the Expences which shall be reasonably incurred in or about every such subsequent Inquiry and separate Instrument as aforesaid, shall be paid by the Person or Persons who shall have requested the said Commissioners to make and execute the same, or by his or their Heirs, Executors, or Administrators.

Exchanges may be made.

XVIII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners and their Successors, to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Parish of *Chiswick*, in lieu of and in exchange for any other Lands, Tenements, and Hereditaments within the said Parish, or within any adjoining Parish, Hamlet, Township, 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 for the Time being, seised of or entitled in Possession to the Lands, Tenements, or Hereditaments which shall be so exchanged, or to the actual Receipt of the Rents, Issues, and Profits thereof, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic or Corporate, or a Body or Bodies Collegiate, Corporation Aggregate or Sole, 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 any Life or Lives, or with the Consent of the Guardian, Trustees, Feoffees for charitable or other Uses,

or the major Part of such Trustees respectively, Husbands, Committees or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Incapacity, 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 Parties consenting respectively; and all and every such Exchange and Exchanges so to be made, shall be good, valid, and effectual in the Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made, of any Lands, 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, or of the Ordinaries of the peculiar Jurisdiction, within which such Lands, Tenements, and Hereditaments so to be exchanged shall lie or be situate.

The Lands of the Vicar given in Exchange, to be valued as Tythe Free.

XIX. And be it further enacted, That the said Commissioners and their Successors are hereby directed and required, in estimating the Value of the said Piece or Parcel of Meadow Ground herein-before directed to be allotted in Exchange to the said *William Spencer* Duke of *Devonshire*, and of all other Lands belonging to the said Vicarage of *Chiswick*, for the Purpose of Exchange, to take into Consideration that the same are Tythe Free, and to set out the Equivalent in Proportion to the increased Value of such Tythe Free Lands.

Expences of Exchanges how to be paid.

XX. Provided always, That the Costs, Charges, and Expences attending the making and completing any Exchanges or Partitions, shall be paid and borne by the several Persons, Bodies Politic, Corporate or Collegiate, making such Exchanges or Partitions (other than the said Vicar and his Successors respectively) in such Manner and in such Proportions as the said Commissioners shall order and direct.

Leases and Tenancies at Rack Rent to cease.

XXI. Provided always, and be it further enacted, That all Leases, Agreements and Tenancies at Rack Rent now subsisting, of any Part or Parts of the Lands and Grounds hereby directed to be divided and inclosed, and of all Lands and Hereditaments within the Parish of *Chiswick* aforesaid, which shall be exchanged by virtue of this Act, and of Messuages held therewith, shall cease and be void, either as to the whole of the Premises therein comprized, or as to any Part thereof, and at such Time or Times as the said Commissioners shall by Writing under their Hands direct or appoint; so as the respective Lessors or Landlords of such Lands or Tenements do, before or at the respective Times at which such Leases or Tenancies shall be directed to cease, make and pay such Satisfaction to the respective Lessees or Tenants, for the Loss which shall be sustained by the Determination of such Leases and Tenancies respectively, as shall be mutually settled and agreed between them, or as the said Commissioners, being thereto required by either of the Parties, shall ascertain and direct; and the said Commissioners being so required, are empowered and directed to appoint a reasonable and proportionate Part, according to the Season of the Year, of the Rent reserved or made payable

payable by any ſuch Leaſe or Agreement, for and in reſpect of the Time which ſhall have elaſped between the laſt Day on which any Payment of the Rent ſhall have become due, and the Determination of any ſuch Leaſe or Tenancy; and ſuch Part of the Rent ſhall be recoverable by ſuch Ways and Means as may by Law be uſed for the Recovery of Rent in arrear; and the ſaid Commiſſioners are empowered and directed, in every Caſe where any ſuch Lands or other Hereditaments in the ſaid Pariſh ſhall be held by virtue of any ſuch Leaſe or Agreement, together with Meſſuages or other Lands or Hereditaments in reſpect whereof ſuch Leaſe ſhall not be vacated, by one entire Rent, to apportion and determine what Part of ſuch Rent ſhall be deducted in reſpect of the Land or other Hereditaments in the ſaid Pariſh, whereof ſuch Leaſe or Agreement ſhall be made void, and from what Time ſuch Deduction ſhall take place; and the Reſt of the Rent reſerved on any ſuch Leaſe or Agreement ſhall, during the Remainder of the Term thereof, be the Rent of and for the other Hereditaments in ſuch Leaſe or Agreement comprized, and ſhall be payable and recoverable in like Manner as the entire Rent reſerved by ſuch Leaſe or Agreement ſhall immediately before ſuch Apportionment be payable and recoverable: Provided always, that if there ſhall be any Leaſe of Lands Part of which ſhall be ſituate in the ſaid Pariſh of *Chiſwick* and Part in any adjoining Pariſh, all and every ſuch Leaſe and Leaſes upon Rack Rent now ſubſiſting may be vacated; but where any Lands ſhall have been taken in Exchange, which Land ſhall be under Leaſe and wholly ſituate in any adjoining Pariſh, the Leaſe of ſuch laſt-mentioned Land ſhall not be vacated.

Settlements, &c. not to be affected, nor Wills revoked.

XXII. Provided always, and be it further enacted and declared, That nothing in this Act contained ſhall extend to revoke, make void, annul, or alter any Settlement, Deed or Will, or to prejudice any Perſon having any Right or Claim of Dower, Jointure, Annuity, Rent Charge, Debt or Incumbrance whatſoever, in, out of, upon or affecting any of the Lands, Tenements or Hereditaments hereby directed to be divided and allotted, or which ſhall be exchanged or aſſigned in Compenſation for any other Eſtate or Right in purſuance of this Act reſpectively; but as well the Lands allotted as the Tenements and other Hereditaments which ſhall be aſſigned in Exchange or in Compenſation for any other Eſtate or Right, ſhall, immediately after ſuch Allotment, Exchange or Aſſignment ſhall be made, be veſted, remain, and enure, and the ſeveral Perſons to whom the ſame ſhall be allotted, aſſigned or given in Exchange as aforeſaid, ſhall thenceforth ſtand and be ſeized and poſſeſſed thereof reſpectively, to, for, and upon ſuch and the ſame Uſes, Eſtates, Intents, Truſts, and Purpoſes reſpectively, and ſubject and liable to ſuch and the ſame Wills, Settlements, Limitations and Remainders, Conditions, Charges and Incumbrances, as the ſeveral Lands, Tenements and Hereditaments in reſpect whereof ſuch Allotments, Aſſignments and Exchanges ſhall have been made, ſhould or would have ſtood ſeverally limited, ſettled, veſted or ſubject or liable to, or been held by, in caſe the ſame had not been allotted, aſſigned, or exchanged, and this Act had not been made; ſave and except ſuch Rents and Services as ſhall have been compenſated for and extinguiſhed, and ſuch Leaſes and Tenancies at Rack Rent as ſhall become void by virtue of this Act.

XXIII. And

Expences to be paid by the Duke of Devonſhire, except a Contribution by other Proprietors for Improvements.

XXIII. And be it further enacted, That the Charges and Expences of obtaining and paſſing this Act, of ſurveying, mapping, valuing, dividing, and allotting the Lands hereby directed to be divided and incloſed, preparing and enrolling the Award to be made by the ſaid Commiſſioners, and all other the Charges and Expences whatſoever, of or preparatory to the ſaid intended Diviſion and Incloſure, and carrying this and the ſaid laſt recited Act into Execution, ſhall be borne and paid by the ſaid *William Spencer* Duke of *Devonſhire*, his Heirs or Aſſigns, ſave and except ſo far only as the ſaid Commiſſioners may deem the Lands of any other Proprietor or Proprietors (except the ſaid Vicar and his Succeſſors) to be improved thereby, who ſhall in ſuch Caſe contribute to ſuch Charges and Expences in ſuch Proportion as the ſaid Commiſſioners ſhall think juſt, not exceeding the Value of ſuch Improvements, which ſhall be paid in ſuch Shares and Proportions, and within ſuch Time or Times, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct, nominate, and appoint; and in caſe any Expences ſhall be incurred in the Execution of any of the Powers and Proviſions of this Act, which ought to be borne and defrayed by any particular Perſon or Perſons, and not out of any Money to be raiſed for the general Purpoſes of this Act, then the ſame ſhall be paid in ſuch Shares and Proportions, and by ſuch Perſon or Perſons, and within ſuch Time, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct, nominate, or appoint.

Power for Commiſſioners to levy all Sums ordered to be paid to them or others.

XXIV. And be it further enacted, That in caſe any Perſon or Perſons ſhall refuſe or neglect to pay any Sum or Sums of Money by virtue of this Act ordered and directed to be paid by him, her, or them, to the ſaid Commiſſioners, or any other Perſon or Perſons, at ſuch Time or Times as he, ſhe, or they ſhall be directed to pay the ſame, then and in every ſuch Caſe the ſaid Commiſſioners ſhall and may, by Warrant or Warrants under their Hands and Seals, directed to any Perſon or Perſons whomſoever, cauſe all and every ſuch Sum or Sums of Money to be levied by Diſtreſs and Sale of the Goods and Chattels, wherefoever the ſame ſhall be found, of the Perſon or Perſons ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) to the Owner or Owners of ſuch Goods and Chattels, after deducting the Coſts and Charges of taking and making ſuch Diſtreſs and Diſtreſſes, Sale and Sales; or otherwiſe it ſhall be lawful for the ſaid Commiſſioners to enter into and upon the Lands to be allotted to ſuch Perſon or Perſons ſo neglecting or refuſing to pay as aforeſaid, and to receive the Rents and Profits thereof, until thereby or therewith ſuch Sum or Sums of Money, and all Coſts, Charges and Expences occaſioned by and attending ſuch Entry upon and Reception of the Rents and Profits of the ſame Premiſes, ſhall be fully paid and ſatisfied; or may let and demiſe ſuch Allotment or Allotments to any Perſon or Perſons whomſoever, who ſhall pay to the ſaid Commiſſioners ſuch Sum and Sums of Money, Charges and Expences, for ſuch Term or Number of Years as the ſaid Commiſſioners ſhall think ſufficient to reimburſe to ſuch Perſon or Perſons the Money by him or them advanced reſpectively.

Allowance to the Commiſſioners.

XXV. And be it further enacted, That each of the Commiſſioners in Execution of the Truſts and Powers hereby veſted in them, ſhall be allowed

allowed and paid, in Satisfaction for their Trouble and Expences, the Sum of Three Pounds and Three Shillings and no more, for every Day on which they ſhall be employed in travelling to, attending on, or returning from all Meetings to be held in purſuance of this Act; and the Commiſſioners are hereby authorized to allow to their Clerk ſuch Compenſation as they may think proper, not exceeding for every ſuch Day as aforeſaid, the like Sum of Three Pounds and Three Shillings; and the ſaid Commiſſioners and Clerk ſhall pay their own Expences.

Commiſſioners to account.

XXVI. And be it further enacted, That once at leaſt in every Year during the Execution of this Act (ſuch Year to be computed from the paſſing of this Act) the ſaid Commiſſioners ſhall and they are hereby required to make a true and juſt Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this and the ſaid laſt recited Act; and ſuch Statement or Account, when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before One or more of His Majeſty's Juſtices of the Peace for the County of *Middleſex*, not intereſted in the Incloſure, to be by him or them examined and balanced; and ſuch Balance ſhall by ſuch Juſtice or Juſtices be ſtated in the Book of Accounts to be kept in the Office of the Clerk to 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 Juſtice or Juſtices.

Appeal to Quarter Seſſions.

XXVII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf or themſelves aggrieved, by any Thing done by or under the Authority of the ſaid Commiſſioners, in purſuance of this or the ſaid laſt recited Act (other than except ſuch Claims, Matters and Things as are herein-before directed or authorized to be aſcertained, ſettled, tried or determined by the Verdict of a Jury, or where, by any of the Proviſions of the ſaid recited Act or of this Act, the Determinations, Acts or Proceeding of the ſaid Commiſſioners are directed to be final or concluſive) then and in every ſuch Caſe, he, ſhe, or they may appeal to any General Quarter Seſſions of the Peace which ſhall be held for the ſaid County of *Middleſex*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, giving Fourteen Days Notice of ſuch Appeal, and of the Matter thereof, to the ſaid Commiſſioners, and to the Parties intereſted therein; and the Juſtices in their ſaid General Quarter Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and to award ſuch Coſts, as to them in their Diſcretion ſhall ſeem reaſonable, and by their Warrant or Order 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 to all Parties concerned, and ſhall not be removed or removable by *Certiorari*, or by any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter*, or elſewhere.

General Saving.

XXVIII. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and all and every other Perſon or Perſons, Bodies Politic and

and Corporate, his, her, or their Heirs, Succeſſors, Executors, Adminiſtrators and Aſſigns (other than and except the reſpective Perſons to whom any Allotment or Allotments of Land, or other Compenſation, ſhall be made and provided by virtue of this Act, in reſpect of the Intereſt or Property for which ſuch Allotment or Compenſation ſhall be made; and except ſuch other Rights and Intereſts as the Intents and Purpoſes of the Incloſure hereby authorized ſhall abſolutely require to be barred, extinguiſhed or deſtroyed by this Act) all ſuch Eſtates, Rights and Intereſts, as they, every or any of them, had or enjoyed, of, in, and to, or in reſpect of the Lands and Grounds hereby directed to be divided and incloſed, before the paſſing of this Act, or could or might have had or enjoyed, if this Act had not been paſſed.

Act to be printed by the King's Printers.

XXIX. 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.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's moſt Excellent Majeſty. 1814.