ANNO QUINQUAGESIMO QUARTO

GEORGII III. REGIS.

Cap. 166.

An Act for incloſing Lands in the Manor and Townſhip of *Church Coppenhall*, in the Pariſh of *Coppenhall*, in the County of *Cheſter*.

[17th *June* 1814.]

WHEREAS there are within the Manor and Townſhip of *Church Coppenhall*, within the Pariſh of *Coppenhall*, in the County of *Cheſter*, certain Commons and Waſte Lands, commonly called *Coppenhall Moſs* and *Mapeleys Moſs*, and alſo other Commons and Waſte Lands, lying and being within the ſaid Manor and Townſhip, containing in the Whole, by Admeaſurement in Statute Meaſure, One hundred and fifty-ſeven Acres, or thereabouts: And whereas Sir *John Delves Broughton* Baronet is Lord of the ſaid Manor of *Church Coppenhall*, and as ſuch is entitled to the Royalties therein, and is alſo entitled to or intereſted in the Soil of the ſaid Commons and Waſte Lands: And whereas the ſaid Sir *John Delves Broughton* Baronet, and alſo Sir *John Chetwode* Baronet, *William Church Norcop* Eſquire, *Benjamin Kent* Eſquire, *Edward Kent* Eſquire, *Thomas Hilditch* Gentleman, and divers other Perſons reſpectively, are Owners or immediate Proprietors of certain ancient Meſſuages, Cottages, Tofts, Lands, and Tenements, ſituate, lying, and being within the ſaid Manor and Townſhip of *Church Coppenhall* aforeſaid; and in reſpect thereof are or claim to be entitled to Right of Common in or upon, or to be otherwiſe intereſted in the ſaid Commons or Waſte Lands: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for conſolidating in one Act certain Pro-*

visions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts: And whereas the said Commons and Waste Lands, in their present State, are of little Use or Value, and yield but little Profit to the several Persons interested therein and entitled thereto; and it would be of great Benefit and advantageous to them, if the same Commons and Waste Lands were divided and inclosed, and specific Shares thereof allotted to the several Owners thereof and Persons interested therein, in Proportion and according to their respective Estates, Rights, and Interests; but such Division, Allotment, and Inclosure, cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Joseph Hill* of *Cholmondeley*, in the said County of *Chester*, Gentleman, shall be and he is hereby appointed Commissioner for dividing, allotting, and inclosing the said Commons and Waste Lands, and for carrying this Act and the said recited Act into Execution, and all and every the Powers and Authorities herein and therein contained, (except such Parts of the said recited Act as are hereby altered or varied), and under and subject to such of the Rules, Orders, Restrictions, Directions, and Provisions contained in the said recited Act, as are not repugnant to the Powers and Provisions of this Act.

Commissioner.

Election of new Commissioner.

II. And be it further enacted, That if the said *Joseph Hill* shall die, or shall refuse, or become incapable to act, or in case of the Death, Refusal, or Incapacity to act, of any other Person or Persons to be appointed in his Place to act in the Execution of the Powers hereby vested in him, before the Execution of the Award to be made by the Commissioner in pursuance of this Act or the said recited Act, it shall be lawful for the major Part in Value (to be ascertained by the Land Tax Assessment) of the Persons interested for the Time being of and in the said Commons and Waste Lands, their Agents or Attornies, at a Meeting to be convened for that Purpose by the Lord or Lady, Lords or Ladies of the said Manor for the Time being, of which Twenty-one Days Notice shall be given, and affixed upon the principal Door of the Parish Church of *Coppenhall* aforesaid, by Writing under his, her, or their Hand or Hands, from Time to Time, as often as the same shall happen, within Twenty-one Days next after such Death, Refusal, or Incapacity to act of any such Commissioner, shall be made known to the said Lord or Lady, Lords or Ladies, to elect, and by Writing under their Hands to appoint, some other fit and competent Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the room and stead of every such Commissioner so dying, refusing, or becoming incapable to act; provided, that if no such Meeting shall be convened as aforesaid by such Lord or Lady, Lords or Ladies, then it shall and may be lawful for Three or more of the Persons interested for the Time being, of and in the said Commons and Waste Lands, to convene the same; and every Commissioner so to be elected and appointed as aforesaid shall, after taking the Oath prescribed in that Behalf, have and be invested with the like Powers and Authorities in all Respects for carrying this Act and the said recited Act into Execution, as if he had been named and appointed a Commissioner in and by this Act.

III. And

Commiſſioner to give Notice of his Meetings.

III. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to cauſe Notice to be given upon ſome *Sunday* before or during Divine Service, by Writing to be affixed upon one of the principal Outer Doors of the Pariſh Church of *Coppenhall* aforeſaid, of the Time and Place of his Firſt and every other Meeting for the Execution of this and the ſaid recited Act; and alſo Notice to be inſerted in the Newſpaper called *The Cheſter Chronicle*, or in ſome other Newſpaper printed or circulated within the ſaid County of *Cheſter*, Fourteen Days at leaſt before every ſuch Meeting, Meetings by Adjournment only excepted, and which Adjournments the ſaid Commiſſioner, or his Clerk, in caſe the ſaid Commiſſioner ſhall not attend ſuch Meeting or any adjourned Meeting, is hereby authorized to make; and that all Meetings for the Purpoſes of this Act or the ſaid recited Act ſhall be held at or within Six Miles of the ſaid Pariſh.

Other Notices how to be given.

IV. Provided always, and be it enacted, That all other Notices neceſſary or requiſite to be made and given by the ſaid Commiſſioner ſhall be ſo made and given by Advertiſement in the ſaid Newſpaper called *The Cheſter Chronicle*, or in caſe the ſame ſhall not at that Time be publiſhed, then in ſome other Newſpaper circulated in the ſaid County of *Cheſter*.

Commiſſioner to ſettle Diſputes.

V. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted or claiming to be intereſted in the ſaid Diviſion and Incloſure, touching or concerning the reſpective Rights and Intereſts which they or any of them ſhall have or claim to have in, over, and upon the ſaid Commons and Waſte Lands, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion and Incloſure, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and empowered and required, to examine into, hear, and determine the ſame, upon proper and ſufficient Inquiry and Evidence; and his Determination therein ſhall be binding and concluſive upon all Parties, ſave and except as herein-after is mentioned.

Commiſſioner not to determine Titles, nor moleſt Poſſeſſion.

VI. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioner to determine the Title to any Meſſuages, Lands, Tenements, or Hereditaments whatſoever; nor to determine any Right between any Parties, contrary to the Poſſeſſion of any of ſuch Parties, (except in Caſes of Encroachments made within the Period of Twenty Years as herein-after mentioned); but in caſe the ſaid Commiſſioner ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, he ſhall forbear to make any Determination thereupon, until the Poſſeſſion ſhall have been given up by ſuch Perſon or Perſons, or recovered from ſuch Perſon or Perſons by Ejectment, or other due Courſe of Law.

Power to aſſeſs Coſts.

VII. And be it further enacted, That in caſe the ſaid Commiſſioner ſhall, upon the Hearing and Determination of any ſuch Diſputes, Differences, Claim or Claims, Objection or Objections, to be delivered to him in purſuance of this Act or the ſaid recited Act, ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby empowered, upon Application made to him for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as he ſhall think reaſonable, to be paid to the Perſon or Perſons, or Party or Parties, in whoſe Favour

any Determination of the ſaid Commiſſioner ſhall be made, by the Perſon or Perſons, or Party or Parties, whoſe Claim or Claims, or Objection or Objections, ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons who ſhall be liable to pay ſuch Coſts and Charges ſhall neglect or refuſe to pay the ſame on Demand, then and in ſuch Caſe it ſhall be lawful to and for the ſaid Commiſſioner, and he is hereby authorized and required, by Warrant under his Hand and Seal, directed to any Perſon or Perſons whomſoever, to cauſe ſuch Coſts and Charges, and all Expences occaſioned by the Non-payment thereof to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons, or Party or Parties, ſo neglecting or refuſing to pay ſuch Coſts and Charges, rendering the Overplus (if any) upon Demand, to the Perſon or Perſons, or Party or Parties, whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts, Charges, and Expences attending ſuch Diſtreſs and Sale; and in caſe there ſhall be no Goods and Chattels whereon to levy the ſame, then and in ſuch Caſe it ſhall be lawful for the Perſon or Perſons, or Party or Parties, in whoſe Favour ſuch Coſts ſhall be awarded, to recover the ſame, by Action or Actions of Debt, or on the Caſe, in which it ſhall be ſufficient to declare that the Defendant or Defendants is or are indebted to him or them in the Sum ſpecified in the Order made by the ſaid Commiſſioner, and in virtue of ſuch Order, without ſetting forth any other of the Proceedings had therein.

Power to try diſputed Claims at Law.

VIII. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, Party or Parties, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Incloſure, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioner, touching or concerning any Claim or Claims to Right of Common, or other Rights or Intereſts in, over, or upon the ſaid Commons and Waſte Lands hereby directed to be divided, allotted, and incloſed, or any Part or Parts thereof, and ſhall be deſirous of having ſuch Claim or Claims, Rights and Intereſts reſpectively tried at Law, and ſhall, by themſelves reſpectively, or by their reſpective Agents or Attornies, give or cauſe to be given Notice in Writing of ſuch Diſſatisfaction and Intention to the ſaid Commiſſioner, and to the Perſon or Perſons, Party or Parties, or his, her, or their Agent or Attorney, in whoſe Favour ſuch Determination ſhall have been made, within Two Calendar Months next after ſuch Determination of the ſaid Commiſſioner, then and in every ſuch Caſe it ſhall and may be lawful to and for the Perſon or Perſons, Party or Parties giving ſuch Notice as aforeſaid, to proceed to a Trial at Law of the Matter and Queſtion, Matters and Queſtions, ſo determined by the ſaid Commiſſioner, at the Firſt Aſſizes to be holden for the ſaid County of *Cheſter* next after the Expiration of Four Calendar Months from the Time of ſuch Determination being made by the ſaid Commiſſioner; and for that Purpoſe the Perſon or Perſons, Party or Parties, ſo diſſatisfied with the Determination of the ſaid Commiſſioner, and giving ſuch Notice as aforeſaid, ſhall, within One Calendar Month next after ſuch Notice ſhall be given, cauſe an Action to be brought in One of His Majeſty's Courts of Record at *Weſtminſter*, or in the Court of Seſſion of *Cheſter*, upon a feigned Iſſue, againſt the Perſon or Perſons, Party or Parties, in whoſe Favour ſuch Determination ſhall have been made; and the Defendant or Defendants in ſuch Action or Actions ſhall, and he, ſhe, or they is and are hereby required to name an Attorney or Attornies, who ſhall appear thereto, or file Common Bail, and accept One or more Iſſue

or

or Iſſues, whereby ſuch Claim and Claims, Objection and Objections, and the Right or Rights, Intereſt or Intereſts, thereby inſiſted upon, may be tried and determined (ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be brought, in caſe the Parties or their Attornies cannot agree upon the ſame); and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions, ſhall be final, binding, and concluſive upon all and every Perſon and Perſons, Party and Parties whomſoever; unleſs the Court wherein ſuch Action or Actions ſhall be brought or be depending, ſhall ſet aſide ſuch Verdict or Verdicts, and order a new Trial or Trials to be had therein, which it ſhall be lawful for the Court to do; and alſo for the ſame Court, or the Court of *Niſi Prius*, upon ſufficient Cauſe ſhewn, to put off the Trial of ſuch Action or Actions, as is uſual in other Caſes, although the Time herein-before limited for the Trial of ſuch Action or Actions may be thereby exceeded; and after ſuch Verdict or Verdicts ſhall be obtained, and not ſet aſide by the Court, the ſaid Commiſſioner ſhall, and he is hereby required to act in Conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials: Provided always, that the Determination of the ſaid Commiſſioner touching all ſuch Claims, Matters, and Things herein-before referred to him, which ſhall not be objected to in Manner before mentioned, or being objected to, the Party or Parties objecting not cauſing ſuch Action or Actions at Law to be brought and proceeded in as aforeſaid, ſhall be final and concluſive upon all Perſons and Parties whomſoever.

Deaths of Parties not to affect Suits or Proceedings.

Allowing Actions to be brought after Deaths of Parties, in certain Caſes.

IX. And be it further enacted, That if any of the Parties in any Action, Suit, or Proceeding to be brought or commenced in purſuance of this Act, ſhall die pending the ſame, ſuch Action, Suit, or Proceeding, ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened: Provided alſo, that if any Perſon or Perſons in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politic or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame, within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioner with Notice of ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions, in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein, in the ſame Manner as if ſuch Perſon or Perſons had been actually living; and the Right of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

Suits not to impede the Execution of the Act.

X. And be it further enacted, That no Action, Suit, or Proceeding to be brought or commenced in purſuance of this Act, ſhall delay, impede, or hinder the ſaid Commiſſioner from proceeding in the Execution of the Powers veſted in him, in and by this Act or the ſaid recited Act; (provided that the General Award of the ſaid Commiſſioner ſhall not be executed

executed before such Actions, Suits, and Proceedings are finally determined).

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

XI. And be it further enacted, That if any of the Parties interested in the said intended Division or Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioner shall not be thereby determined or suspended, but that the said Commissioner shall and may proceed in and execute the Powers given by this Act or the said recited Act, in such Manner as he might have done in case such Parties had not died; and that the Share or Shares of the Person or Persons so dying shall be allotted to such Person or Persons, who by Descent, Will, or otherwise, shall become entitled to the same, and shall be accepted and fenced by him, her, or them, according to the Directions of this Act or the said recited Act; and he, she, or they shall be liable to the Charges and Expences and other Conditions of this Act and the said recited Act.

For extinguishing and suspending Rights of Common before the Execution of the Award.

XII. And be it further enacted, That it shall be lawful for the said Commissioner and he is hereby authorized, at any Time or Times before the Execution of the General Award, by Notice in Writing under his Hand, to be affixed upon the principal Outer Door of the Parish Church of *Coppenhall* aforesaid; and in case the said Parish Church shall be pulled down, then the said Notice shall be inserted in *The Chester Chronicle*, if then circulated, or if not, in some other *Chester* Newspaper, to order and direct all or any Part of the Rights of Common in, over, or upon the said Commons and Waste Lands, or any Part or Parts thereof, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Notice; and that all such Rights of Common as the said Commissioner shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall, from the Time of affixing such Notice on the said Church Door, cease, determine, and be extinguished, or the Exercise thereof be suspended accordingly; any Law, Usage, or Custom to the contrary thereof notwithstanding.

Penalty for cutting Turfs, Flags, &c.

XIII. And be it further enacted, That in case any Person or Persons shall at any Time or Times after the passing of this Act, and before the Execution of the Award of the said Commissioner, cut, dig, take up, or carry away any Turf or Sods, Flags or Soil, from any Part of the said Commons and Waste Lands hereby directed to be divided, allotted, and inclosed, (except upon his, her, or their own specific Allotment or Allotments), every such Person or Persons shall, on Conviction thereof before any One Justice of the Peace for the said County of *Chester*, by Confession of the Party offending, or by the Oath or Oaths of One or more credible Witness or Witnesses, for every such Offence forfeit and pay any Sum not exceeding Five Pounds; and which Penalty or Sum such Justice shall order or appoint to be levied by Distress and Sale of the Offenders Goods and Chattels, by Warrant under the Hand and Seal of such Justice; and for Want of such Distress, the Offender or Offenders shall by Warrant under the Hand and Seal of such Justice be committed to any House of Correction within the said County of *Chester*, there to be kept to hard Labour for any Time not exceeding One Calendar Month, unless the said Penalty shall be sooner paid.

XIV. And

Encroachments.

XIV. And be it further enacted, That all Encroachments which at any Time within Twenty Years now laſt paſt have been made upon the ſaid Commons and Waſte Lands, ſhall be deemed Part thereof, and ſhall be divided and allotted accordingly as Part thereof; and in caſe any Diſpute or Difference ſhall ariſe, touching any ſuch Encroachments, or the Extent thereof, ſuch Diſpute ſhall be determined by the ſaid Commiſſioner.

Open Places may be incloſed.

XV. And be it further enacted, That all open Places, Patches, and ſmall Parcels of Land, lying againſt or next to any public Road or Lane, within any Part of the ſaid Manor and Townſhip, and which in the Judgment of the ſaid Commiſſioner may be conveniently incloſed, without Detriment to the Public, or rendering the ſame Road of leſs Width than Thirty Feet, ſhall be deemed Part of the Waſte Lands to be divided, allotted, and incloſed by virtue of this Act.

Allotment for Repairs of Roads, &c.

XVI. And be it further enacted, That the ſaid Commiſſioner, after ſetting out, appointing, and allotting, in purſuance of the ſaid recited Act, all ſuch public Carriage Roads and Highways, in, through, and over the ſaid Commons and Waſte Lands, hereby intended to be divided, allotted, and incloſed, as he ſhall judge neceſſary, ſhall ſet out, appoint, and allot, unto the Surveyor or Surveyors of the Highways for the ſaid Townſhip of *Church Coppenhall* for the Time being, ſuch Part and Parts of the ſaid Commons and Waſte Lands, for common Watering Places, and for getting Stone, Gravel, and Materials for making and repairing Roads, as he ſhall think fit, not exceeding in the Whole One Acre; and the Allotment and Allotments ſo to be ſet out, appointed, and allotted as aforeſaid, ſhall for ever thereafter be uſed by the ſaid Surveyors for the Time being, and by the Lord and Lords, Lady and Ladies of the ſaid Manor, and the Proprietors of ſuch Meſſuages, Lands, and Tenements as are entitled to Right of Common, or otherwiſe intereſted in the ſaid Commons and Waſte Lands hereby intended to be divided, allotted, and incloſed, and their Tenants for the Time being, in ſuch Manner, and under ſuch Rules and Regulations as the ſaid Commiſſioner ſhall in and by his Award direct and appoint.

Allotment for Right of Soil.

XVII. And be it further enacted, That the ſaid Commiſſioner ſhall aſſign, ſet out, and allot, unto and for the Lord of the ſaid Manor herein-before mentioned, ſuch Part of the ſaid Commons and Waſte Lands, as in the Judgment of the ſaid Commiſſioner ſhall amount or be equal to One Fifteenth Part in Value of the ſaid Commons and Waſte Lands, for and in lieu of the Rights and Intereſts claimed by the Lord of the Manor aforeſaid, of, in, and to the Soil of the Commons and Waſte Lands hereby directed to be incloſed.

Allotment to the Rector, for the Rights of Common belonging to the Parſonage Houſe and Glebe.

XVIII. And be it further enacted, That the ſaid Commiſſioner ſhall aſſign, ſet out, and allot, unto and for the Rector of the Rectory and Pariſh Church of *Coppenhall* aforeſaid, for the Time being, ſuch Part or Parts of the ſaid Commons and Waſte Lands, as in the Judgment of the ſaid Commiſſioner ſhall be a full Equivalent and Compenſation for the Rights of Common belonging or appertaining to the Parſonage Houſe and Glebe of the ſaid Rectory, in, over, or upon the ſaid Commons and Waſte Lands.

XIX. And

And to be fenced by the other Proprietors (except the Lord of the Manor).

XIX. And be it further enacted, That all and every Parcel and Parcels of Land, which in purſuance of this Act ſhall be allotted unto and for the Rector of the ſaid Rectory and Pariſh Church for the Time being, ſhall be incloſed or fenced, in ſuch Manner as the ſaid Commiſſioner ſhall in and by his ſaid Award direct or appoint; which Fences ſhall be made at the Expence of the ſeveral Owners of and Perſons intereſted in the ſaid Lands and Grounds in and by this Act directed to be divided, allotted, and incloſed (except the Rector of the ſaid Rectory and Pariſh Church) in ſuch Shares and Proportions as the ſaid Commiſſioner ſhall in and by his Award order and direct; and from and after the making the ſaid Fences, the ſame ſhall be for ever thereafter preſerved, maintained, and kept up, by and at the Expence of the Rector for the Time being of the ſaid Rectory and Pariſh Church.

Allotment of the Reſidue.

XX. And be it further enacted, That after the ſeveral Allotments hereinbefore mentioned ſhall have been made, the ſaid Commiſſioner ſhall and he is hereby authorized and required to aſſign, divide, ſet out, allot, and award, the Reſidue and Remainder of the ſaid Commons and Waſte Lands intended to be divided, allotted, and incloſed by virtue of this Act, unto and amongſt the ſeveral Owners or immediate Proprietors of Meſſuages, Tofts, Lands, and Tenements within the ſaid Manor and Townſhip of *Church Coppenhall*, in ſuch Quantities, Shares, and Proportions as the ſaid Commiſſioner ſhall award, adjudge, and determine to be a juſt and reaſonable Compenſation, Share, and Allotment to him, her, or them reſpectively, for his, her, or their ſeveral and reſpective Rights and Intereſts in, over, and upon the ſaid Commons and Waſte Lands hereby intended to be divided, allotted, and incloſed, in reſpect of and in Proportion to the yearly Value of the ſaid Meſſuages, Tofts, Lands, and Tenements reſpectively, belonging to the ſaid Proprietors, or any of them; having a due Regard as well to the Quality and Quantity as to the Situation of the ſame.

Moſs Rooms and Turbaries not to be divided and allotted.

XXI. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioner to divide and allot any of the Moſs Rooms or Turbaries on *Coppenhall Moſs* aforeſaid; but he is hereby required to leave ſuch Moſs Rooms or Turbaries open and unincloſed, to be held and enjoyed by ſuch Perſon or Perſons as before the paſſing of this Act, have of Right held, uſed, or enjoyed the ſame.

Particulars of Allotments to be given to each of the Proprietors.

XXII. Provided always, and be it further enacted, That the ſaid Commiſſioner ſhall, with all convenient Speed after ſuch ſetting out and allotting the ſaid Commons and Waſte Lands is completed, deliver or cauſe to be delivered to the Lord of the ſaid Manor and the Rector of the ſaid Pariſh of *Coppenhall*, and to each of the ſeveral Owners or Proprietors of the Meſſuages, Lands, Tenements, and Hereditaments intereſted in the ſaid Diviſion or Incloſure, or to their reſpective Agent, a Ticket or Note in Writing, ſigned by the ſaid Commiſſioner, ſpecifying the Quantity in Statute Meaſure and the Situation of the Allotment or Allotments ſet out and allotted to or for the Perſon or Perſons, Party or Parties, whoſe Allotment or Allotments ſhall be ſpecified in ſuch Ticket or Note, and which Part of the Hedges and Fences they ſhall be reſpectively required to make and repair; in order that each of the ſaid Parties intereſted in the ſaid Diviſion and Incloſure, may have an Opportunity of conſidering the Juſtice, Equity,

and local Convenience of such Division, before the said Commissioner shall make and publish his General Award.

Allotments to be fenced as directed by the Commissioner.

XXIII. And be it further enacted, That the several Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched, and fenced, at the Expence of the respective Proprietors and Persons to whom such Fences shall be allotted or directed to belong, in such Manner and Proportion as the said Commissioner shall, by his Award, or any other Writing under his Hand, direct or appoint.

Satisfaction for unequal Share of Fencing.

XXIV. Provided always, and be it further enacted, That in case, through the Necessity of Situation, or any other Accident or Circumstance, it shall happen that One or more of the said Proprietors shall not have an equal or proportionable Share of Boundary Mounds or Fences allotted to him, her, or them, on the said intended Inclosure, then and in such Case it shall and may be lawful to and for the said Commissioner, where he shall judge it necessary and reasonable, to award, order, ascertain, and appoint, what Sum or Sums of Money such Proprietor or Proprietors shall respectively pay and contribute towards making the Mounds and Fences of the Allotment or Allotments of such other Proprietor or Proprietors, who shall or may have a greater Proportion of Mounding or Fencing allotted to him, her, or them, by virtue of this Act; and in case the Money so ordered, directed, or appointed, shall not be paid on Demand, then and in such Case such Money shall be raised, levied, and recovered, in such and the same Manner as the Costs, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raised, levied, and recovered.

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

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

Allotments to be of the same Tenure as the Estates in Right of which they were made.

XXVI. And be it further enacted and declared, That all and every the Allotment and Allotments of Lands and Grounds which shall be set out and allotted by virtue or in pursuance of this Act or of the said recited Act, shall, from and after the Execution of the General Award by the said Commissioner, become and be of the same Tenure, and be held under the same Rents and Services, and in the same Manner, as the several and

reſpective Lands, Tenements, and Hereditaments, in reſpect whereof ſuch Allotment or Allotments ſhall be reſpectively allotted and ſet out, are and have heretofore been holden and are ſubject to reſpectively.

Separate Allotments to be made for Lands held by different Titles, &c.

XXVII. And be it further enacted, That where the Proprietor or Proprietors of any Meſſuages, Lands, Tenements, or Hereditaments, in right of which any Allotment ſhall be made by virtue of this Act, ſhall hold their reſpective Meſſuages, Lands, Tenements, or Hereditaments, by different Tenures, or for, by, or under different Eſtates or different Titles, the ſaid Commiſſioner ſhall aſcertain and diſtinguiſh the Meſſuages, Lands, Tenements, or Hereditaments, ſo held by different Tenures, or for, by, or under different Eſtates or different Titles, and ſhall accordingly in his Award ſet out and appoint diſtinct and ſeparate Allotments for ſuch reſpective Meſſuages, Lands, Tenements, and Hereditaments.

Lands held by different Titles, &c. omitted to be diſtinguiſhed by the Award, may be afterwards declared by a ſeparate Inſtrument.

XXVIII. Provided always, and be it further enacted, That where, from Want of the neceſſary Information before the ſaid Commiſſioner, or from any other Cauſe, the General Award of the ſaid Commiſſioner ſhall have omitted to diſtinguiſh the Meſſuages, Lands, Tenements, or Hereditaments, ſo holden by the ſaid Proprietor or Proprietors by different Tenures, or for, by, or under different Eſtates or Titles as aforeſaid, or ſhall have omitted to ſet out and award ſeveral and diſtinct Allotments for any ſuch Meſſuages, Lands, Tenements, or Hereditaments, as hereinbefore directed and required, it ſhall and may be lawful for the ſaid Commiſſioner, and he is hereby authorized, at any Time after the Execution of his Award, upon Requeſt in Writing to him made, within Twelve Calendar Months after the Execution of the ſaid Award, by the reſpective Proprietors of any ſuch Meſſuages, Lands, Tenements, or 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 his Award had not been made; and, by any Deed or Inſtrument under his Hand and Seal, to diſtinguiſh, aſcertain, and ſet out the Meſſuages, Lands, Tenements, and Hereditaments ſo held by different Tenures, or for, by, or under different Eſtates or Titles reſpectively, and the ſeveral and diſtinct Allotments in reſpect thereof reſpectively, in the ſame Manner as he is by this Act or the ſaid recited Act authorized and required to do, in Caſes where ſuch Meſſuages, Lands, Tenements, and Hereditaments are directed to be aſcertained, diſtinguiſhed, and ſet out by the General Award; and every ſuch ſeparate Inſtrument ſhall be inrolled in the ſame Place as the General Award ſhall be inrolled, and Evidence given thereof in the ſame Manner as by the ſaid recited Act or this Act is directed concerning the ſaid General Award; and all the Expences and reaſonable Coſts incurred in or about any ſuch ſubſequent Inquiry and ſeparate Inſtruments as aforeſaid, ſhall be paid by the Perſon or Perſons, Party or Parties, who ſhall have requeſted the ſaid Commiſſioner to make and execute the ſame, or by his, her, or their Heirs, Executors, or Adminiſtrators.

Allowing Exchanges to be made.

XXIX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to ſet out, allot, and award any Meſſuages, Buildings, Lands, Tenements, or Hereditaments within the ſaid Manor and Townſhip, in lieu of and in Exchange for any other Meſſuages, Buildings, Lands, Tenements, and Hereditaments, within the ſame Manor and Townſhip, or within any adjoining Pariſh, Manor, Townſhip, Hamlet, or Place; provided,

provided, that all ſuch Exchanges ſhall be aſcertained, ſpecified, and declared in the Award of the ſaid Commiſſioner, and be made with the Conſent of the Proprietor or Proprietors of the Premiſes which ſhall be ſo exchanged, whether ſuch Proprietor or Proprietors ſhall be a Body or Bodies Politic, Corporate, or 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, by and with the Conſent of the Leſſor or Leſſors, and not otherwiſe, or with the Conſent of the Guardian or Guardians, Truſtees or Feoffees for Charitable, Parochial, or other Uſes, Huſbands, Committees or Attornies of or acting for any ſuch Proprietor or Proprietors, who at the Time of making ſuch Exchange or Exchanges ſhall be reſpectively Infants, Femes Covert, Idiots, Lunatics, or under any other legal Diſability, or who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf, (ſuch Conſent to be teſtified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other conſenting Parties reſpectively); and all and every ſuch Exchange or Exchanges ſo to be made, ſhall be good, valid, and effectual in Law, to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made of any Meſſuages, Buildings, Lands, Tenements, or Hereditaments, held in right of any Eccleſiaſtical Benefice, without the Conſent teſtified as aforeſaid of the Biſhop of the Dioceſe in which ſuch Meſſuages, Buildings, Lands, Tenements, or Hereditaments ſhall be ſituate, and of the Patron of ſuch Eccleſiaſtical Benefice.

Expences of Exchanges and Partitions, by whom to be paid.

XXX. Provided always, and be it further enacted, That all the Coſts, Charges, and Expences attending the making and completing of any Exchanges and Partitions, ſhall be paid, borne, and defrayed by the ſeveral Perſons making ſuch Exchanges and Partitions, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioner ſhall by his Award, or other ſeparate Deed or Inſtrument, order and direct.

Allotments under Leaſes to be made to Landlords.

XXXI. And be it further enacted, That the Allotments to be made and ſet out by virtue of this Act, in Right of any Meſſuages, Lands, Tenements, or Hereditaments, held under Leaſe from Year to Year, or for any Term of Years not exceeding Twenty-one Years, at Rack Rent, ſhall be allotted and ſet out to the reſpective Landlords or Leſſors, and ſhall be held and enjoyed by them, free from all Right and Intereſt of their reſpective Leſſees or Tenants; and ſuch Landlords or Leſſors reſpectively ſhall make ſuch Abatements out of the Rents reſerved by ſuch Leaſes reſpectively, or ſuch other Compenſation or Satisfaction on account of the Determination of the Common Rights comprized therein, as the ſaid Commiſſioner ſhall judge reaſonable, and ſhall in and by his Award, or by any other Writing under his Hand, aſcertain, direct, or appoint.

Wills, Settlements, &c. not to be affected.

XXXII. Provided always, and be it further enacted and declared, That nothing in this Act contained ſhall extend or be conſtrued to extend to revoke, releaſe, make void, alter, or annul, any Will, Settlement, or Deed whatſoever, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Annuity, Portion, Rent, Debt, Charge, or Incumbrance, in, out of, upon, or affecting any of the Lands, Tenements, or Hereditaments, hereby directed to be divided, allotted,

allotted, incloſed, or exchanged reſpectively, in purſuance of this Act or of the ſaid recited Act, or any Part or Parts thereof reſpectively; but that the ſeveral Meſſuages, Cottages, Lands, Tenements, and Hereditaments, which ſhall be ſo allotted or exchanged reſpectively, ſhall immediately after the Execution of the Award of the ſaid Commiſſioner be veſted in, and remain, continue, and enure, and be held and enjoyed by the ſeveral Perſons and Parties to whom the ſame ſhall be allotted or given in Exchange reſpectively, and they ſhall reſpectively thenceforth ſtand and be ſeiſed and poſſeſſed thereof reſpectively, to, for, and upon ſuch and the ſame Uſes, Eſtates, Intereſts, Truſts, Intents, and Purpoſes, and ſubject and liable to the ſame Wills, Limitations, Eſtates, Conditions, Settlements, Proviſoes, Remainders, Reverſions, Debts, Charges, and Incumbrances of every Kind, as the Lands, Tenements, and Hereditaments, for or in reſpect of which ſuch Allotments and Exchanges reſpectively ſhall be made, would have been ſubject to, charged with, or affected by, at or immediately before the Execution of the ſaid Award, in caſe this Act had not been paſſed; and ſubject always to ſuch Mortgages, Charges, and Incumbrances, as ſhall be made in purſuance of this Act or of the ſaid recited Act.

Regulation as to the Sheep, &c. being kept in the Incloſures, for Seven Years.

XXXIII. And be it further enacted, That no Perſon ſhall, for and during the Space of Seven Years from the Execution of the Award of the ſaid Commiſſioner, turn looſe, keep, or depaſture, or permit to be turned, kept, or depaſtured, any Sheep, Lambs, Horſes, Mules, Aſſes, Cows, Calves, or other Cattle, Geeſe or Pigs, in the Roads or Lanes to be ſet out by virtue of this Act or of the ſaid recited Act, or in any of the Allotments to be made in purſuance of this Act, (unleſs he, ſhe, or they ſhall firſt effectually fence and guard the adjoining Allotment or Allotments belonging to any other Perſon or Perſons, from any Injury or Damage to their Quickſets or new planted Hedges or Fences); and in caſe any Sheep, Lambs, Horſes, Mules, Aſſes, Cows, Calves or other Cattle, Geeſe or Pigs, ſhall be ſo turned, kept, or depaſtured, without ſuch previous effectual Fence or Guard, it ſhall be lawful for any Owner or Occupier of any of the Allotments to be ſet out by virtue of this Act, and his, her, or their Servants and Aſſiſtants, to enter upon the Allotment or Allotments of any ſuch other Owner or Proprietor, and to take, drive away, and impound any ſuch Sheep, Lambs, Horſes, Mules, Aſſes, Cows, Calves, or other Cattle, Geeſe or Pigs, without being deemed a Treſpaſſer or Treſpaſſers; and the Owner or Owners of ſuch Sheep or other Cattle or Beaſts, ſhall be liable to make good all Damages thereby occaſioned, or a full Satisfaction or Compenſation for the ſame.

For defraying the Charges and Expences of obtaining and executing this Act.

XXXIV. And be it further enacted, That the Coſts, Charges, and Expences of incloſing the Allotments, which ſhall by virtue of this Act be made to the Rector of the ſaid Rectory of *Coppenhall*, in right of his ſaid Rectory; and all the Coſts, Charges, and Expences incident to and attending the obtaining of this Act, and of ſurveying, admeaſuring, planning, valuing, dividing, and allotting the Lands, Grounds, and Premiſes to be divided and allotted by virtue of this Act, and of preparing and enrolling the Award of the ſaid Commiſſioner, and of the Copies thereof; and all the Charges and Expences of the ſaid Commiſſioner, his Aſſiſtants, and Servants, and all other neceſſary Expences of the ſeveral Perſons to be employed by the ſaid Commiſſioner in and about the Premiſes, and all

the Expences of forming and completing the public Carriage Roads and Highways to be ſet out and appointed by the ſaid Commiſſioner, and all other Expences of carrying this Act into Execution, ſhall be borne and defrayed in Proportion by the ſeveral Perſons to whom any Allotment or Allotments ſhall be made by virtue of this Act, (ſave and except the ſaid Rector of the ſaid Pariſh of *Coppenhall*, for and in reſpect of any Allotment or Allotments which ſhall be made to him in right of his ſaid Rectory); which ſaid Coſts, Charges, and Expences, together with the Proportions thereof to be paid by the ſeveral Perſons hereby made liable to the Payment thereof, ſhall be ſettled and adjuſted by the ſaid Commiſſioner, and ſhall be paid at ſuch Time and Place, and to ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall appoint; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay his, her, or their Proportion of ſuch Coſts, Charges, and Expences as aforeſaid, within the Time and to ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall appoint, then and in ſuch Caſe the ſaid Commiſſioner ſhall cauſe the ſame to be levied and recovered in the Manner directed by the ſaid recited Act: Provided always, that the ſeveral Proprietors and Perſons intereſted in the ſaid Incloſure, their Attornies and Agents, ſhall bear and pay their own Expences, when they or any of them ſhall attend the ſaid Commiſſioner at any Meeting to be holden in purſuance of this Act or the ſaid recited Act.

Money advanced for obtaining or carrying Act into Execution to be repaid with Intereſt.

XXXV. And be it further enacted, That if any Perſon or Perſons ſhall advance or lend any Sum or Sums of Money for or towards defraying the Expences of obtaining and paſſing this Act, or for or towards carrying the ſame into Execution, every ſuch Perſon and Perſons ſhall be repaid the Monies ſo lent or advanced, with Intereſt from the Time or reſpective Times of Advancement, until repaid, at and after the Rate of Five Pounds *per Centum per Annum*, out of the firſt Monies which ſhall be raiſed and received for the Purpoſes of this Act; and the Sum and Sums of Money ſo lent or advanced ſhall be and be deemed to be a Charge on the Monies to be raiſed and received by the Commiſſioner, in purſuance of this Act.

Commiſſioner's Allowance.

XXXVI. And be it further enacted, That out of the Money that ſhall be raiſed for defraying the Expences of obtaining and executing this Act, there ſhall be paid to the ſaid Commiſſioner, as a Recompence for his Pains and Trouble, the Sum of Three Pounds and Three Shillings, and no more, for each Day he ſhall be employed in travelling to, returning from, and attending at Meetings for the Execution of this Act or the ſaid recited Act; and that the ſaid Commiſſioner ſhall, out of ſuch Allowance, pay and defray all his Travelling Charges, and alſo his own Expences, at all Meetings to be held in purſuance of this Act or the ſaid recited Act.

Commiſſioner to lay his Accounts before a Juſtice of the Peace once in every Year.

XXXVII. And be it further enacted, That once at leaſt in each and every Year, during the Execution of this Act, (ſuch Year to be computed from the Day of the paſſing thereof), the ſaid Commiſſioner ſhall, and he is hereby required to make a true and juſt Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble or Expences in the Execution of this Act; and ſuch Statement or Account, when ſo made, together with the Vouchers relating thereto, ſhall be by him laid before any One of His Majeſty's Juſtices of the Peace for the Time being for the ſaid County of *Cheſter*, not intereſted in the ſaid intended Diviſion and Incloſure, to be by him examined and balanced;

and ſuch Balance ſhall be by ſuch Juſtice ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioner; and 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.

Award to be depoſited.

XXXVIII. And be it further enacted, That the Award to be made by the ſaid Commiſſioner, when inrolled in Manner directed by the ſaid recited Act, ſhall be depoſited in the Pariſh Church of *Coppenhall* aforeſaid.

Perſons aggrieved may appeal to the Quarter Seſſions.

XXXIX. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved, by any Thing done or omitted to be done under or in purſuance of this Act or the ſaid recited Act, (other than and except ſuch Orders and Determinations of the ſaid Commiſſioner as are by this Act or the ſaid recited Act directed to be final or concluſive, and except in ſuch Caſes wherein an Iſſue at Law ſhall be tried as herein-before mentioned), then and in every ſuch Caſe he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace which ſhall be holden for the ſaid County of *Cheſter* within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioner, and to the Party or Parties concerned, Thirty Days Notice in Writing of ſuch Appeal, and of the Matter thereof; and the Juſtices (not intereſted in the Premiſes) at their ſaid General Quarter Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order, and award ſuch Coſts and Damages, as to them in their Diſcretion ſhall ſeem reaſonable; and by their Order or Warrant to levy the Coſts and Charges 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) upon Demand to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Warrant, Diſtreſs, and Sale; and the Determination of the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed or removable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter*, or elſewhere; but in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants, as to them in their Diſcretion ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

General Saving.

XL. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, his, her, and their Heirs, Succeſſors, Executors, and Adminiſtrators, (except the ſeveral Perſons to whom any Allotment or Allotments ſhall be made in purſuance of this Act, for and in reſpect of ſuch Rights and Intereſts as are hereby meant and intended to be barred, deſtroyed, and extinguiſhed, and all Perſons reſpectively claiming under them or in Remainder after them), all ſuch Right, Title, and Intereſt, as they, every, or any of them, could or ought to have had and enjoyed, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and incloſed, in caſe this Act had not been paſſed.

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

Act to be printed by the King's Printer, and a Copy to be Evidence.

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