ANNO QUINQUAGESIMO QUARTO

GEORGII III. REGIS.

Cap. 148.

An Act for incloſing Lands in the Tithings of *Eaſt Overton* and *Lockeridge*, and in the Hamlet or Tithing of *Fyfield*, in the Pariſh of *Overton*, in the County of *Wilts*. [17th *June* 1814.]

WHEREAS there are within the Tithings of *Eaſt Overton* and *Lockeridge*, in the Pariſh of *Overton*, in the County of *Wilts*, and within the Hamlet of *Fyfield*, in the ſaid County of *Wilts*, certain Open and Common Arable Fields, Common Meadows, Common Downs, Common Paſtures, and other Commonable and Waſte Lands; and there are alſo ſeveral incloſed Lands and Grounds in the ſaid Tithings and Hamlet, and alſo in the Tithings of *Weſt Overton* and *Shaw*, in the ſame Pariſh: And whereas the Moſt Noble *George* Duke of *Marlborough* is Lord of the Manors of *Eaſt Overton* and *Lockeridge*, and *John Goodman* Eſquire is Lord of the Manor of *Fyfield*, in the ſaid County: And whereas the ſaid *George* Duke of *Marlborough* is ſeiſed of the Impropriate Rectory of *Overton* aforeſaid, and as ſuch is entitled to the Tithes of Corn and Grain ariſing within the ſaid Pariſh and Hamlet; except as to certain Lands in the ſaid Pariſh and Hamlet exonerated or otherwiſe diſcharged from the Payment of Tithes to the ſaid *George* Duke of *Marlborough*: And whereas the ſaid *George* Duke of *Marlborough* is alſo Patron of the Vicarage of the Pariſh Church of *Overton* aforeſaid; and *Charles Hoyle* Clerk, is the Vicar of the ſaid Vicarages and as ſuch is entitled to certain Glebe Lands lying within the Tithing,

of *East Overton* and *Lockeridge*, and Hamlet of *Fyfield* aforesaid, and also to Tithe Hay, Wood, Wool, Lamb, and to all Vicarial Tithes arising and renewing within the said Parish of *Overton* and Hamlet of *Fyfield* (except of certain Parts of the Lands in the said Parish and Hamlet which are exonerated from Tithes to the said Vicar): And whereas the said *George* Duke of *Marlborough*, the Right Honourable *George* Earl of *Pembroke* and *Montgomery*, the said *John Goodman*, *Stephen King* Gentleman, and other Persons, are Owners and Proprietors of the Lands and
41 G. 3. c. 109. Grounds within the said Parish of *Overton* and Hamlet of *Fyfield*: 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*: And whereas the Lands and Grounds of the several Proprietors in the said Open and Common Fields and Common Meadows, in the said Tithings of *East Overton* and *Lockeridge*, and Hamlet of *Fyfield*, lie intermixed and dispersed, and are otherwise inconveniently situated; and the Proprietors of the said Open and Common Fields, Common Meadows, Common Downs, Common Pastures, and other Commonable and Waste Lands, are desirous that the same should be divided and allotted unto and amongst them, proportionably and according to the Value of their respective Estates, Rights, and Interests therein, and that such Allotments should be inclosed, and the whole thereof held in Severalty; and the said Proprietors as well of the said Commonable Lands as the inclosed and other Lands and Tenements in the said Parish of *Overton* and Hamlet of *Fyfield* are desirous, in Consideration of an adequate Compensation, that all the Lands and Tenements in the said Parish and Hamlet subject to Tithes, as well open as inclosed, should be discharged from such Tithes; but the several beneficial Purposes aforesaid 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 *Stephen Godson* of *Hooknorton*, in the County of *Oxford*, and *John Gale* of *Stirt*, in the County of *Wilts*, Gentlemen, shall be and they are hereby appointed Commissioners for setting out, dividing, allotting and inclosing all the said Open and Common Fields, Common Meadows, Common Downs, Common Pastures, and other Commonable and Waste Lands, and for putting this Act into Execution, in such Manner, and subject to such Regulations as is and are herein-after contained, and with such of the Powers, and subject to such of the Rules, Orders, Directions, Authorities, Regulations, Restrictions, and Provisions, contained in the said recited Act, as are not controuled by or repugnant to any of the Clauses, Provisions or Regulations contained in this Act.

Commissioners appointed.

Power to appoint new Commissioners.

II. And be it further enacted, That if the said *Stephen Godson* shall die, or refuse to act, or become incapable of acting as a Commissioner in the Execution of this Act, before all the Powers, Authorities, and Trusts hereby reposed in the said Commissioners shall be fully executed and performed, it shall be lawful for the said *George* Duke of *Marlborough* and *Charles Hoyle*, or the Impropriate Rector and Vicar for the Time being of the said Parish, by Writing under their respective Hands, to nominate and appoint one other fit and proper Person, not interested in the Lands to be allotted or exonerated from Tithes by virtue of this Act, to be a Com-

Commiſſioner in the Place of the ſaid *Stephen Godſon*; and if any Perſon or Perſons who ſhall be appointed Commiſſioner or Commiſſioners in the Place of the ſaid *Stephen Godſon* ſhall die, or refuſe to act, or become incapable of acting as aforeſaid, ſuch future Vacancies ſhall be filled up in like Manner by the ſaid *George* Duke of *Marlborough* and *Charles Hoyle*, or the Impropriate Rector and Vicar for the Time being of the ſaid Pariſh; and if the ſaid *John Gale* ſhall die, or refuſe to act, or become incapable of acting as a Commiſſioner in the Execution of this Act, before all the Powers, Authorities, and Truſts hereby repoſed in the ſaid Commiſſioners ſhall be fully executed and performed, it ſhall be lawful for the Proprietors of the Lands and Grounds hereby directed to be divided or allotted and exonerated from Tithes (except the ſaid *George* Duke of *Marlborough* and the ſaid *Charles Hoyle* Vicar as aforeſaid) or the Majority of them in Value (ſuch Value to be aſcertained by and according to the Land Tax Aſſeſſments of the ſaid Pariſh and Hamlet for the then current Year) or their reſpective Agents or Attornies duly authorized by the ſaid Proprietors in Writing under their Hands, who ſhall be preſent at a Meeting to be holden for that Purpoſe, by Writing under the reſpective Hands of ſuch Proprietors or Agents, to nominate and appoint one other fit and proper Perſon, not intereſted in the Premiſes, to be a Commiſſioner in the Place of the ſaid *John Gale*; provided that Twenty Days Notice of the Time, Place, and Purpoſe of ſuch Meeting ſhall be given by Two or more of the ſaid Proprietors, in like Manner as herein-after is directed with reſpect to the Meetings of the ſaid Commiſſioners; and that ſuch Meeting ſhall be held in the Pariſh of *Overton* aforeſaid, or within the Diſtance of Eight Miles from the Boundary of the ſaid Pariſh; and if any Perſon or Perſons who ſhall be appointed Commiſſioner or Commiſſioners in the place of the ſaid *John Gale* ſhall die, refuſe to act, or become incapable of acting as aforeſaid, ſuch future Vacancies ſhall in like Manner be filled up by the Majority in Value (ſuch Value to be aſcertained in Manner aforeſaid) of the ſaid Proprietors; and if any Perſon who ſhall be appointed Commiſſioner ſhall neglect to attend Two ſucceſſive Meetings of the ſaid Commiſſioners, unleſs prevented by Sickneſs, ſuch Neglect ſhall be deemed and taken to be a Refuſal to act in the Execution of this Act; and if any of ſuch Vacancy in the Commiſſion aforeſaid ſhall not be filled up in the Manner herein-before directed, within the Space of Three Calendar Months next after the ſame ſhall reſpectively happen, One Calendar Month's Notice of ſuch Vacancy or Vacancies having firſt been given in like Manner as Notices of Meetings of Commiſſioners are herein-after directed to be given, it ſhall be lawful for the ſurviving or remaining Commiſſioner for the Time being, by Writing under his Hand, to nominate and appoint one other fit and proper Perſon, not intereſted as aforeſaid, to be a Commiſſioner for ſupplying every ſuch Vacancy, and ſo from Time to Time as often as there ſhall be Occaſion; and every Perſon who ſhall be nominated and appointed a Commiſſioner in Manner aforeſaid, ſhall have the like Powers and Authorities in the Execution of this Act, as if he had been appointed a Commiſſioner in and by this Act.

Umpire to be appointed.

III. And, for the Purpoſe of ſettling and determining any Difference or Diſpute that may ariſe between the ſaid Commiſſioners touching or concerning any of the Matters and Things to be by them done and performed in purſuance of the ſaid recited Act or of this Act, be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized

and empowered (immediately after their taking and ſubſcribing the Oath or Affirmation by the ſaid Act directed to be by them taken and ſubſcribed) by Writing under their Hands, to chooſe, nominate, and appoint, ſome other proper and ſkilful Perſon (not intereſted in the Lands hereby directed to be divided, allotted, and incloſed) to act as an Umpire; but in caſe the ſaid Commiſſioners cannot agree in the Choice of a Perſon to be ſuch Umpire as aforeſaid, it ſhall be lawful for the major Part in Value of the Proprietors or Perſons intereſted in the Lands and Grounds directed by this Act to be divided, allotted, and incloſed, (ſuch Value to be aſcertained by and according to the Land Tax Aſſeſſments for the then current Year; but no ſuch Proprietor or Perſon intereſted ſhall have a Right to vote nor ſhall vote for or in reſpect of more than One-fourth Part in Value of all the Lands and Hereditaments ſo aſſeſſed, although the Lands of ſuch Proprietor or Perſon intereſted ſhall or may exceed One-fourth Part of the Lands in the ſaid Pariſh and Hamlet), or for the known Agents or Attornies of any of them, who ſhall be preſent at a Meeting to be held for that Purpoſe in the Pariſh of *Overton* aforeſaid, or at ſome convenient Place within Eight Miles of the Boundary thereof, in purſuance of ſome public Notice to be given by the ſaid Commiſſioners in *The Saliſbury and Wincheſter Journal*, or by Writing to be affixed on the principal outer Door of the Pariſh Church of *Overton* aforeſaid, at leaſt Ten Days before ſuch Meeting (and which Notice the ſaid Commiſſioners are hereby required to give immediately after they ſhall ſo diſagree, and before they proceed in the Execution of the Powers of the ſaid recited Act or this Act) by Writing under the reſpective Hands of ſuch Proprietors or Agents, to chooſe, nominate, and appoint ſome proper Perſon (not intereſted in the ſaid Incloſure) to act as ſuch Umpire; and ſuch Umpire is hereby authorized and required to hear and determine any ſuch Difference or Diſpute as may ariſe between the ſaid Commiſſioners, touching any Matter and Thing relating to the ſaid Diviſion and Incloſure; and the Judgment and Determination of the ſaid Umpire (ſo far only as immediately relates to the Matter in Diſpute) ſhall be deemed and conſidered to be the Judgment and Determination of the ſaid Commiſſioners, and ſhall be final and concluſive upon the ſaid Commiſſioners, and upon all other Perſons concerned in the ſaid Diviſion and Incloſure, ſo far as the Acts of the ſaid Commiſſioners are by the ſaid recited Act or this Act made final and concluſive: Provided always, that in caſe the Perſon ſo nominated and appointed by the ſaid Commiſſioners or the major Part in Value of the ſaid Proprietors or Perſons intereſted as aforeſaid, as Umpire, ſhall die, or refuſe to act, or become incapable of acting in the Execution of the ſaid recited Act or this Act, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioners, or, in caſe of their not agreeing, for the major Part in Value (ſuch Value to be aſcertained and limited in Manner aforeſaid) of the ſaid Proprietors or Perſons intereſted as aforeſaid, to nominate and appoint One other fit and proper Perſon as Umpire, in the room and ſtead of the Perſon ſo dying, refuſing to act, or becoming incapable of acting in the Execution of the ſaid recited Act or this Act, and ſo from Time to Time as often as any Perſon ſo nominated and appointed as Umpire ſhall die, or refuſe to act, or become incapable of acting in the Execution of the ſaid recited Act and this Act; and in caſe any ſuch Umpire ſhall neglect to ſettle and determine any ſuch Difference or Diſpute within Twenty-one Days next after the ſame ſhall have been referred to him by the ſaid Commiſſioners, ſuch Neglect ſhall be deemed and taken to be a Refuſal to act within the Intent and Meaning of this Act.

For appointing a new Umpire on Death or Refuſal to act.

IV. Provided

Umpire to be sworn before he acts.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as Umpire in the Execution of this Act, until he shall have taken and subscribed an Oath, or being One of the People called *Quakers*, an Affirmation, in the Words or to the Effect following; (that is to say),

Umpire's Oath.

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

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

Surveyor to be appointed.

V. And be it further enacted, That it shall be lawful for the said Commissioners by Writing under their Hands, to appoint One or more fit and proper Person or Persons, not interested in the said Division and Inclosure, to be Surveyor or Surveyors for the Purposes of the said recited Act and this Act; but in case the said Commissioners cannot agree in the Choice of such Person or Persons to be Surveyor or Surveyors as aforesaid, it shall be lawful for the major Part in Value of the Proprietors or Persons interested in the Lands and Grounds directed by this Act to be divided, allotted, and enclosed (such Value to be ascertained by and according to the Land Tax Assessments for the then current Year, but limited as aforesaid) or by the known Agents or Attornies of any of them, who shall be present at a Meeting to be held for that Purpose (in Manner herein-before directed, with respect to the Election of an Umpire in case of such Disagreement) to appoint One or more fit and proper Person or Persons, not interested as aforesaid, to be such Surveyor or Surveyors for the Purposes aforesaid; and on his or their Death or Removal, in like Manner to appoint some other Surveyor or Surveyors, and so from Time to Time as often as there shall be Occasion; and every such Surveyor shall, at the first Meeting of the said Commissioners after his Appointment, or before he shall proceed to act as Surveyor, take and subscribe an Oath, or being One of the People called *Quakers*, an Affirmation, in the Form following; (that is to say),

Surveyor's Oath.

'I do sincerely promise and swear, [*or, being one of the People called Quakers*, do solemnly affirm], That I will act in the Execution of the Powers, Authorities, and Trusts reposed in me as Surveyor by virtue of an Act passed in the Fifty-fourth Year of the Reign of King *George* the Third, intituled *An Act* [*here insert the Title of this Act*] truly, impartially, and honestly, according to the best of my Skill, Judgment, and Ability, without Favour or Affection, Prejudice or Malice, to any Person or Persons whomsoever.

'So help me GOD.'

And any One of the ſaid Commiſſioners is hereby authorized to adminiſter the ſaid Oath to the ſaid Surveyor; and the Oath ſo taken and ſubſcribed by ſuch Surveyor, ſhall in like Manner be enrolled with the Award of the ſaid Commiſſioners.

Power to appoint a Clerk.

VI. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to appoint ſome fit and proper Perſon to be their Clerk, to aſſiſt them in the Execution of the Powers of this and the ſaid recited Act, and to remove the ſaid Clerk, and to appoint another as often as they ſhall ſee Occaſion.

Commiſſioners and Surveyor to enter Lands and make Surveys, &c.

VII. And be it further enacted, That for ſurveying, admeaſuring, and valuing all the ſaid Lands and Grounds, and for the other Purpoſes of this Act, it ſhall be lawful for the ſaid Commiſſioners and each of them, and the Perſon or Perſons to be appointed in Manner as aforeſaid, to act as Surveyor, and to make ſuch Survey, Admeaſurement, Plan, and Valuation, together with their and every of their Aſſiſtants and Servants, at any Time or Times whatſoever, until ſuch Diviſion ſhall be completed, to enter into, view, examine, ſurvey, and admeaſure all and every Part of the Lands and Grounds intended to be divided, allotted, and incloſed by virtue of this Act, and alſo all the incloſed Lands and other Tenements directed to be exonerated from Tithes: Provided always, that any Map or Maps, or Survey or Surveys, which ſhall have been made previouſly to the Time of paſſing this Act, and which ſhall be tendered to the ſaid Commiſſioners, and which ſhall be, in their Judgment and to their Satisfaction, a juſt and true Map or Maps, and proper for the Purpoſe of carrying this Act into Execution, may be uſed for that Purpoſe, if the ſaid Commiſſioners ſhall think fit, without any new Map or Maps, or Survey or Surveys being made of ſuch Part of the Lands as ſhall be compriſed in any ſuch approved Map or Maps, or Survey or Surveys as aforeſaid.

Maps or Surveys already made, may be uſed.

Commiſſioners Meetings.

VIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby required to cauſe a Notice in Writing under their Hands, ſpecifying the Time and Place of their firſt Meeting for executing the ſaid recited Act and this Act, to be given in the ſaid Newſpaper called *The Saliſbury and Wincheſter Journal*, or in ſome other Newſpaper publiſhed or circulated in the ſaid County of *Wilts*; and alſo to be affixed on the principal Outer Door of the Pariſh Church of *Overton* aforeſaid, on ſome *Sunday* before Divine Service, Ten Days at leaſt before ſuch Meeting; and alſo to cauſe the like Notice to be given of every ſuch ſubſequent Meeting (Meetings by Adjournment only excepted); and it ſhall be lawful for the ſaid Commiſſioners to adjourn their Meetings from Time to Time as they ſhall ſee Occaſion for the Execution of this Act; and if only One Commiſſioner ſhall be preſent at any Meeting, it ſhall be lawful for him to adjourn ſuch Meeting from Time to Time until the other Commiſſioner ſhall be preſent; and the Commiſſioner making ſuch Adjournments is hereby required forthwith to give Notice thereof to the abſent Commiſſioner; and all the Meetings of the ſaid Commiſſioners ſhall be held at ſome Place within the Pariſh of *Overton* aforeſaid, or within the Diſtance of Eight Miles from the Boundary thereof: Provided always, that if at any Meeting appointed to be holden as aforeſaid no Commiſſioner ſhall attend, it ſhall be lawful for the Clerk to the ſaid Commiſſioners to adjourn ſuch Meeting, for any Time not exceeding Twenty-one Days, and to the Place laſt appointed.

IX. Provided

How other Notices are to be given.

IX. Provided always, and be it enacted, That all Notices neceſſary and requiſite to be given by the ſaid Commiſſioners in purſuance of the ſaid recited Act or this Act, (except ſuch as are otherwiſe particularly directed by this Act) ſhall be given by Advertiſement in the ſaid *Saliſbury and Winchester Journal*, if then publiſhed, if not, then in ſome other Newſpaper or Newſpapers publiſhed or generally circulated in the ſaid County of *Wilts*; or by affixing the ſame on the principal Outer Door of the ſaid Pariſh Church.

Commiſſioners to determine Differences;

but not Titles nor Rights contrary to Poſſeſſion.

X. And be it further enacted, That in caſe any Diſpute or Difference ſhall happen to ariſe between the Parties that now are, or ſhall, before the making of the Award herein-after mentioned, be intereſted in the ſaid intended Diviſion, Allotment, and Incloſure, or any of them, touching or concerning the reſpective Shares or Proportions which they or any of them ſhall claim in the ſaid Lands and Grounds hereby intended to be divided and allotted as aforeſaid, or touching or concerning the reſpective Shares and Proportions which they or any of them ought to have, of or in the ſaid intended Diviſion and Allotment, it ſhall be lawful for the ſaid Commiſſioners or Umpire, and they and he are and is hereby authorized and required to hear and determine the ſame: Provided always, that nothing herein contained ſhall authorize the ſaid Commiſſioners or Umpire to determine the Title to any Meſſuages, Cottages, Lands, or Hereditaments whatſoever, nor any Right between any Parties contrary to the Poſſeſſion of any ſuch Parties (except in regard to ſuch Encroachments as are hereinafter directed to be deemed Parts of the Lands to be allotted by virtue of this Act); but in caſe the ſaid Commiſſioners or Umpire 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 taken from ſuch Perſon or Perſons by Ejectment or other due Courſe of Law.

May award Coſts.

XI. And be it further enacted, That in caſe the ſaid Commiſſioners ſhall, upon hearing and determining any Claim or Claims, Objection or Objections, to be delivered to them in purſuance of the ſaid recited Act or of this Act, ſee cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioners and they are hereby empowered, upon Application made to them for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as they ſhall think reaſonable to be paid to the Party or Parties in whoſe Favour any Determination of the ſaid Commiſſioners ſhall be made, by the Perſon or Perſons whoſe Claim or Claims, Objection or Objections ſhall be thereby diſallowed or 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, in like Manner as for Rent reſerved on any Leaſe of Lands.

Power to try diſputed Claims at Law.

XII. Provided always, and be it further enacted, That if any Perſon or Perſons making any Claim or Claims to any Lands, Common Rights or Hereditaments, intended to be divided or affected by this Act, or any

Rights

Rights or Intereſts therein, or objecting to any ſuch Claim or Claims, ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners or Umpire, and ſhall be deſirous of having ſuch Claim or Claims, Rights and Intereſts reſpectively tried at Law, and the Perſon or Perſons ſo deſirous of having the ſame tried at Law ſhall, by themſelves or their reſpective Stewards, Receivers, Attornies, or Agents, give or cauſe to be given Notice thereof in Writing to the ſaid Commiſſioners or either of them, within Two Calendar Months next after ſuch Determination ſhall have been ſo made by the ſaid Commiſſioners or Umpire, (a Copy of which Notice the ſaid Commiſſioners are hereby required immediately on Receipt thereof, or as ſoon after as conveniently may be, to deliver to or leave at the uſual Place of Abode of the adverſe Party or Parties, or his, her, or their reſpective Stewards, Receivers, Attornies, or Agents), then, but not afterwards, it ſhall be lawful for the Perſon or Perſons giving ſuch Notice as aforeſaid, their reſpective Heirs, Succeſſors, and Aſſigns, and he, ſhe, or they is and are hereby required, to proceed to a Trial or Trials at Law of the ſame, in a feigned Action or Actions for that Purpoſe, to be commenced in His Majeſty's Court of King's Bench or Common Pleas at *Weſtminſter*, by the Perſon or Perſons giving ſuch Notice as aforeſaid, againſt any Perſon or Perſons intereſted in the ſaid Diviſion, who ſhall make ſuch Objection or Objections, within Three Calendar Months next after ſuch Notice ſhall be given to the ſaid Commiſſioners or either of them as aforeſaid; and the Defendant or Defendants in ſuch Action or Actions ſhall forthwith name an Attorney or Attornies, who ſhall file Common Bail, or appear and accept One or more Iſſue or Iſſues, whereby all ſuch Claim or Claims and Rights and Intereſts may be properly tried and determined; ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court wherein ſuch Action ſhall be brought, if the Parties 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 or Intereſts than was or were claimed by ſuch Party, 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 Verdict given on the Iſſue or Iſſues joined; but nevertheleſs the Coſts of ſuch Action or Actions ſhall abide and be determined by the Verdict given upon the Iſſue or Iſſues joined, as if no Special Finding had been made; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions upon the Iſſue or Iſſues therein joined, in caſe there ſhall be no ſuch Special Finding and Indorſement, or ſuch Special Finding and Indorſement, if any ſuch ſhall be made, ſhall be binding and concluſive upon and to all and every Perſon and Perſons whomſoever, unleſs the Court wherein ſuch Action or Actions ſhall be brought ſhall ſet aſide ſuch Verdict or Verdicts, or Finding and Indorſement, and order a new Trial or Trials to be had thereupon, which it ſhall be lawful for the Court to do as is uſual in other Caſes; and after any Verdict or Verdicts or Special Finding or Indorſement ſhall have been obtained, and not ſet aſide by the Court, the ſaid Commiſſioners ſhall and they are hereby authorized and required to conform thereto; but if no ſuch Action or Actions at Law ſhall be brought or commenced by the Perſon or Perſons giving ſuch Notice within the Time aforeſaid, or if ſuch Action or Actions ſhall not be proceeded in to a Trial or Trials within Six Calendar Months from the Day of giving ſuch Notice, by or on account of the Neglect or Default of the Plaintiff

or

or Plaintiffs therein, then and in such Case the Determination of the Commissioners or Umpire shall be final, binding, and conclusive, unto and upon all Parties whomsoever; provided that it shall be lawful for the Court in which any such Action, commenced in pursuance of this Act, shall be depending, upon sufficient Cause shewn, to put off the Trial of such Action, or to award a new Trial therein, although the Time herein-before limited for the Trial of such Action may be thereby exceeded: Provided also, that if any of the Parties, in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and if any Person or Persons, in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate or Collegiate respectively, 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 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 Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Action not to abate by the Death of the Parties.

XIII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered at any Time or Times before the Execution of the said Award, by Notice in Writing under their Hands, to be affixed upon the principal Outer Door of the Parish Church of *Overton* as aforesaid, to order and direct all or any Part of the Rights of Common, in, over, and upon the Commonable Lands and Grounds or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Writing; and that all such Right of Common as the said Commissioners 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 Door of the said Church, cease, determine, and be extinguished, or the Exercise thereof suspended accordingly; any Law, Usage, or Custom to the contrary notwithstanding.

Rights of Common to be suspended or extinguished.

XIV. And be it further enacted, That in order to straighten and shorten the Boundary Fences between the Lands and Grounds by this Act directed to be divided and inclosed, and other Lands in the said Parish of *Overton* and Hamlet of *Fyfield*, or in any adjoining Parish or Parishes, Place or Places, Hamlet or Hamlets, Manor or Manors, it shall be lawful for the said Commissioners, with such Consent as herein-after mentioned, to straighten or shorten such Boundary Fences as aforesaid, or any of them, or any Part or Parts thereof, and to set out and ascertain such Boundary Fences for the Purpose aforesaid, as the said Commissioners

Shortening Boundary Fences.

ſioners ſhall judge proper; and after ſuch new Boundary Fences ſhall be ſet out and aſcertained as aforeſaid, the ſame ſhall be made by ſuch Perſon or Perſons, in ſuch Manner, and at ſuch Time or Times, as the ſaid Commiſſioners ſhall order and direct; and ſuch Fences ſhall accordingly for ever thereafter be deemed and taken to be the Boundaries between ſuch Pariſhes, Hamlets, Places and Manors reſpectively; provided that no new Boundary Fence ſhall be ſet out or made in purſuance of this Act, without the previous Conſent in Writing under the Hand or Hands of the Lord or Lords of the Manor or Manors, or Owner or Owners of the Soil liable to be affected thereby, or the major Part in Value (ſuch Value to be aſcertained according to the Land Tax Aſſeſſments for the then current Year) but limited as aforeſaid, of ſuch Owners, and alſo of the Owner or Owners of the Lands upon which any new Fence is intended to be made, for that Purpoſe firſt had and obtained.

Encroachments.

XV. And be it further enacted, That all Encroachments which at any Time within Twenty Years now laſt paſt have been made upon or taken from the ſaid Open and Common Fields and Common Meadows, Paſtures, Waſtes, and other Commonable Lands hereby intended to be divided and allotted, ſhall be deemed Part thereof, and ſhall be divided and allotted accordingly; 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 Commiſſioners.

Commiſſioners may ſcour out Brooks, make Ditches, &c.

XVI. And be it further enacted, That the ſaid Commiſſioners ſhall and may ſcour out and widen all ſuch Brooks, Streams, Ditches, Watercourſes, Tunnels and Bridges within the ſaid Pariſh of *Overton* and Hamlet of *Fyfield*; and alſo ſhall and may ſet out, order, and direct ſuch new Bridges, Drains, Watercourſes, Tunnels, Watergates, Banks and Bridges, to be made of ſuch Depth and Breadth, and in ſuch Situation and Direction as the ſaid Commiſſioners ſhall think proper, as well in, through, over, and upon the Lands and Grounds hereby intended to be divided and allotted as aforeſaid, as alſo in, through, and over any ancient Incloſures or other Lands or Grounds within the ſaid Pariſh of *Overton* and Hamlet of *Fyfield*, or any Part or Parts thereof (making ſuch Satisfaction to the Owners and Proprietors of ſuch ancient Incloſures, or other Lands or Grounds not hereby intended to be divided and allotted, for the Damage done thereby, as the ſaid Commiſſioners ſhall judge reaſonable; and the ſaid Commiſſioners ſhall and may, and they are hereby directed in and by their Award, to order and direct by whom, and at whoſe Expence, and at what Time, and in what Manner the ſaid Brooks, Ditches, Drains, Watercourſes, Tunnels, Watergates, Banks, and Bridges ſhall be thereafter repaired, cleanſed, ſcoured, and maintained: Provided always, that the Channel or Courſe of ſuch Brook or Stream ſhall not be diverted or turned, without the Conſent in Writing of the Proprietor or Proprietors of the incloſed Lands and Grounds from which the Channel or Courſe of any ſuch Brook or Stream ſhall be diverted, or into which the ſame ſhall be turned, nor without the Conſent in Writing of the Proprietor of any Mill or Mills worked by any ſuch Brook or Stream.

Lands liable to be allotted.

XVII. And be it further enacted and declared, That all Open and Commonable Lands within the ſaid Tithings and Hamlet of *Eaſt Overton*, *Lockeridge* and *Fyfield*, and alſo all Incloſures containing the Property of Two

Two or more Perſons within One Fence, and alſo all Incloſures containing the Property of One Perſon only, if the ſame be held by or under different Tenures or Intereſts, ſhall be deemed Part of the Land to be divided, allotted, and incloſed under this Act; and that all Homeſteads, Gardens, Orchards, old Incloſures, and other Lands and Grounds within the ſaid Tythings and Hamlet, with the Conſent in Writing of the reſpective Perſons ſeiſed or in Poſſeſſion thereof, in their own Rights, either in Fee Simple, Fee Tail, or for Life or Lives, or for any Term or Terms of Years, of which there ſhall be Seven Years at leaſt unexpired, or who ſhall be a Truſtee or Truſtees for charitable or other Purpoſes, or of the major Part of ſuch Truſtees, or with the Conſent in Writing of the Huſbands, Guardians, Feoffees, Committees, Attornies, or known Agents of any Perſon ſeiſed or poſſeſſed in their own Rights as aforeſaid, who ſhall be under Coverture, Minors, Lunatics, beyond the Seas, or under any other Diſability of acting for themſelves, ſhall in like Manner be deemed and conſidered to be Land to be divided, allotted, and incloſed under this Act, for all the Purpoſes of this Act.

Allotment for Stone and Gravel Pits.

XVIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required, before any Allotment or Allotments ſhall be made in purſuance of this Act, to ſet out and allot unto the reſpective Surveyors of the Highways of the reſpective Tythings and Hamlet of *Eaſt Overton*, *Lockeridge*, and *Fyfield* aforeſaid, and their reſpective Succeſſors for the Time being, out of, from, and upon any of the Lands and Grounds by this Act intended to be divided, allotted, and incloſed, One or more Plot or Plots, Allotment or Allotments of Ground in the ſaid reſpective Tythings and Hamlet, for the Purpoſe of getting Stone, Sand, Gravel, and other Materials for the Repairs of the ſeveral public and private Roads and Ways within the ſaid reſpective Tythings and Hamlet, as they the ſaid Commiſſioners ſhall think neceſſary and proper for that Purpoſe; which ſaid Allotment or Allotments ſhall be fenced in and incloſed, and the Fences thereof for ever maintained and ſupported in ſuch Manner and by ſuch Perſon or Perſons in the ſaid reſpective Tythings and Hamlet as the ſaid Commiſſioners ſhall order or direct; which ſaid Allotments reſpectively ſhall and may be annually ſet out and let at Rack Rent by the ſaid reſpective Surveyors, ſubject to ſuch digging of Materials for the Reparation of the ſaid Roads reſpectively, for the beſt Rents that can be gotten for the ſame; which ſaid Rents ſhall be applied to the Repairs of the ſeveral Roads in the ſaid Tythings and Hamlet reſpectively for ever.

Allotments to the Lords of the Manors.

XIX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required, in the next Place, to ſet out and allot unto and amongſt the Lords of the reſpective Manors within the ſaid Tythings of *Eaſt Overton* and *Lockeridge*, and the ſaid Hamlet of *Fyfield*, as a Compenſation for and according to their reſpective Rights and Intereſts in the Soil of the Waſte Lands within the ſaid Tythings and Hamlet reſpectively, ſuch Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and encloſed, as in the Judgment of the ſaid Commiſſioners ſhall be equal in Value to One Twentieth Part of the ſame Waſte Lands.

Allotment to the Vicar for Glebe.

XX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required to ſet out and allot unto and for the

the ſaid *Charles Hoyle*, as Vicar as aforeſaid, and his Succeſſors, Vicars of the Pariſh of *Overton* aforeſaid, ſuch Part and Proportion of the ſaid Lands and Grounds hereby directed to be divided, allotted, and incloſed, as (Quantity, Quality, and Situation conſidered) ſhall, in the Judgment of the ſaid Commiſſioners, be equal in Value to and a full Compenſation for the preſent unincloſed Glebe Lands and Rights of Common belonging to the ſaid *Charles Hoyle*, as Vicar as aforeſaid, lying within the ſaid Lands and Grounds by this Act intended to be divided, allotted, and encloſed.

Allotments to the Impropriate Rector and Vicar in lieu of their reſpective Great and Small Tithes.

XXI. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required, in the next Place, to ſet out and allot unto and for the ſaid *George* Duke of *Marlborough*, as Impropriate Rector and Owner of the Rectorial Tithes, and unto and for the ſaid *Charles Hoyle* and his Succeſſors, Vicars of the ſaid Pariſh of *Overton*, for and in lieu of all and ſingular the Great Tithes, and alſo for and in lieu of all and ſingular the Small Tithes, and other Vicarial and Eccleſiaſtical Rights, Dues, and Payments whatſoever, ariſing, happening, growing due or payable from or out of ſuch of the ſaid Open and Common Arable Fields, Common Meadows, Common Downs, Common Paſtures, and other Commonable and Waſte Lands by this Act intended to be divided, allotted, and incloſed, as are ſubject to ſuch Tithes, and for and in lieu of all and ſingular the Great and Small Tithes, and other Vicarial and Eccleſiaſtical Rights, Dues, and Payments whatſoever, ariſing, happening, growing due or payable, from or out of all ſuch Meſſuages, Tenements, Homeſteads, and incloſed Arable, Meadow, Paſture, and Wood Lands, ancient Incloſures, and other Lands and Grounds held in Severalty as are ſubject to ſuch Tithes, within the ſaid Pariſh of *Overton* and Hamlet of *Fyfield*, (the Owners whereof ſhall not make Compenſation for ſuch Tithes in Manner herein-after mentioned, by and out of Part of ſuch old Incloſures), ſuch Plot or Plots, Parcel or Parcels of the ſaid Lands and Grounds by this Act intended to be divided, allotted, and encloſed, as in the Judgment of the ſaid Commiſſioners making ſuch Allotment or Allotments (Quantity, Quality, and Situation conſidered) ſhall contain or be equal in Value to One Fifth Part of all ſuch as are ſubject to Tithes of the Arable or Tillage Lands; to One Seventh Part of all ſuch as are ſubject to Tithes of the Commons and Common Greenſward Down Lands; to One Tenth Part of all ſuch as are ſubject to Tithes of the Wood Lands; and to One Ninth Part of all ſuch as are ſubject to Tithes of the Meadow, Paſture, and other Lands and Grounds in the ſaid Pariſh and Hamlet, after deducting the Land or Ground ſet out for Roads, and the other Allotments herein-before directed to be ſet out within the ſaid Tithings and Hamlet of *Eaſt Overton*, *Lockeridge*, and *Fyfield*.

Subdiviſion to be made between the Impropriate Rector and the Vicar in lieu of Tythes.

XXII. Provided always, and it is hereby enacted, That when and as ſoon as conveniently may be, after the ſaid Plot or Plots, Allotment or Allotments ſhall have been ſo made to the ſaid *George* Duke of *Marlborough* as Impropriate Rector, and the ſaid *Charles Hoyle* Vicar as aforeſaid, for and in lieu of their ſeveral Great and Small Tythes reſpectively, from and out of the ſaid Open and Common Arable Fields, Common Meadows, Common Downs, Common Paſtures, and other Commonable and Waſte Lands within the ſaid Tythings of *Eaſt Overton* and *Lockeridge*, and the ſaid Hamlet of *Fyfield*, and from and out of the ſaid Meſſuages, Tenements, Homeſteads, ancient Incloſures, and other Lands and Grounds, held in Severalty, within the ſaid Pariſh of *Overton* and Hamlet

of *Fyfield*, they the ſaid Commiſſioners ſhall and they are hereby required to ſubdivide, aſſign, and allot the ſaid Plot or Plots, Allotment or Allotments laſt-mentioned, unto and between the ſaid Impropriate Rector and the ſaid Vicar, in Proportion to their reſpective Rights and Intereſts in the ſeveral Tithes, in lieu whereof the ſaid Plot or Plots, Allotment or Allotments, is or are herein-before directed to be awarded and made, and in Proportion to the Value of ſuch Great and Small Tithes reſpectively: Provided always, that nothing in this Act contained ſhall prejudice, leſſen, or defeat the Right or Title of the ſaid *Charles Hoyle*, and his Succeſſors, Vicars as aforeſaid, to any Mortuaries, *Eaſter* Offerings, or other uſual Surplice Fees; but the ſame ſhall continue to be paid and payable as if this Act had not been paſſed.

Mortuaries and Surplice Fees not to be affected by the Act.

XXIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required in the next Place to ſet out and allot unto and for the ſaid *Charles Hoyle* and his Succeſſors, Vicars of the ſaid Pariſh of *Overton*, for and in lieu of all and ſingular the Small Tithes and other Vicarial and Eccleſiaſtical Rights, Dues, and Payments whatſoever, ariſing, happening, growing due, or payable from or out of ſuch of the ſaid Open and Common Arable Fields, Common Meadows, Common Downs, Common Paſtures and other Commonable and Waſte Lands, by this Act intended to be divided, allotted, and incloſed, as are ſubject to ſuch Small Tithes only; and for or in lieu of all and ſingular the Small Tithes and other Vicarial and Eccleſiaſtical Rights, Dues, and Payments whatſoever, ariſing, happening, growing due or payable from or out of all ſuch Meſſuages, Tenements, Homeſteads, and incloſed Arable, Meadow, Paſture, and Wood Lands, ancient Incloſures, and other Lands and Grounds held in Severalty, as are ſubject to ſuch Small Tithes only, within the ſaid Pariſh of *Overton* and Hamlet of *Fyfield* (the Owners whereof ſhall not make Compenſation for ſuch Tithes in Manner herein-after mentioned, by and out of Part of ſuch old Incloſures) ſuch Plot or Plots, Parcel or Parcels of the ſaid Lands and Grounds by this Act intended to be divided, allotted, and incloſed, as in the Judgment of the ſaid Commiſſioners making ſuch Allotment or Allotments, (Quantity, Quality, and Situation conſidered) ſhall be a fair and juſt Equivalent and Compenſation for ſuch Small Tithes.

Allotments to the Vicar in lieu of Small Tithes, where only Small Tithes due.

XXIV. And be it further enacted, That in caſe the Proprietor or Proprietors of any Homeſteads, Gardens, Orchards, Woods, Homecloſes, incloſed Lands or Tenements, or other Lands or Grounds held in Severalty, in the ſaid Pariſh and Hamlet, ſhall not be entitled to Lands or other Property in the ſaid Open and Common Fields or other Commonable Lands hereby directed to be divided, allotted, and incloſed, or ſhall not be entitled to Lands or other Property therein equivalent to the Tithes of ſuch Homeſteads, Gardens, Orchards, Homecloſes, incloſed Lands or Tenements, or other Lands or Grounds held in Severalty, it ſhall be lawful for the ſaid Commiſſioners, with the Conſent of the reſpective Proprietors of ſuch laſt-mentioned Homeſteads and other Lands and Tenements, and of the ſaid Impropriator and Vicar reſpectively (ſuch Conſents to be teſtified by Writing under the reſpective Hands of the conſenting Parties) to ſet out to the ſaid Impropriator and Vicar reſpectively, for and in lieu of the Tithes of ſuch Homeſteads, and other Lands and Tenements as laſt aforeſaid, ſuch Part or Parts of the ſame

Satisfaction for Tithes of incloſed Lands, where Proprietors have none or not ſufficient Open Field Land, by Allotment of Part of the incloſed Land.

Homesteads and other Lands and Tenements, as according to the Proportions aforesaid the said Commissioners shall adjudge an adequate Compensation for such Tithes; which Lands so to be set out as last aforesaid shall be considered as Part of the Lands to be subdivided between the said Impropriator and Vicar as aforesaid, and shall be allotted and awarded accordingly.

Directing Proprietors of old Inclosed Lands to make Compensation for Tithes, &c.

XXV. And be it further enacted, That in all Cases where the said Impropriate Rector and Vicar shall not receive a full Compensation in Land for the Tithes of any Homesteads, Gardens, Orchards, Homecloses, inclosed Lands and Grounds, or other Lands and Grounds held in Severalty within the said Parish and Hamlet, which are Titheable as aforesaid, the Proprietors of such last-mentioned Homesteads, Gardens, Orchards, Homecloses, inclosed Lands and Grounds, and other Lands and Grounds held in Severalty, shall respectively pay or cause to be paid to such Person or Persons, and at such Time or Times as the said Commissioners shall direct or appoint, such Sum and Sums of Money as the said Commissioners shall adjudge and determine to be a full Compensation and Satisfaction for the Tithes of such Homesteads, Gardens, Orchards, Homecloses, inclosed Lands and Grounds, or other Lands or Grounds respectively, or for such Parts thereof, for which a Compensation in Land shall not be made by the Proprietors thereof as aforesaid; which Sum or Sums of Money shall and may be raised, levied, and recovered in like Manner as the Charges and Expences of obtaining and passing this Act, and carrying the same and the said recited Act into Execution, are directed to be raised, levied, and recovered, and shall and may be applied in Payment of such Parts and Proportions of the Expences of obtaining and executing this Act, as ought to be paid by the respective Persons whose Lands may be set out for discharging from Tithes such Homesteads, Gardens, Orchards, and Homecloses, inclosed Lands and Grounds, or other Lands or Grounds; and that in case such last-mentioned Sum or Sums of Money shall be more than sufficient to pay and discharge the said respective Proportions of the Costs, Charges, and Expences of obtaining this Act, and of carrying the same and the said recited Act into Execution, the Residue and Remainder of such Sum and Sums of Money shall be divided amongst and be paid to the several Proprietors of the said Open and Common Fields, Meadows, Pastures, Commonable Lands or other Lands and Grounds, whose Lands have been taken and appropriated for the Purpose of discharging such last mentioned old inclosed Lands and other Lands or Grounds from Tithes, in such Proportions as they shall be respectively entitled thereto; and if any of such last-mentioned Proprietors of the said Open and Common Fields, Meadows, Pastures, Commonable Lands or other Lands and Grounds, shall not be Tenants in Fee Simple, then such Shares or Proportions of such Surplus Money shall be applied and disposed of in the same Manner as any Sum of Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, is by the said recited Act authorized or directed to be applied and disposed of.

Allotments to be in Bar of Tithes.

XXVI. And be it further enacted, That the several Allotments and other Compensations herein-before directed to be made to the said Impropriate

priate Rector and Vicar, their Heirs, Succeſſors, or Aſſigns, ſhall be in full Satisfaction and Diſcharge of all Tithes, both Great and Small, and all Moduſes and other Eccleſiaſtical Dues and Payments whatſoever (Mortuaries, *Eaſter* Offerings, and Surplice Fees excepted) iſſuing, ariſing, renewing, or payable to the ſaid Rector and Vicar, their Heirs, Succeſſors, and Aſſigns, from and out of the ſaid Lands by this Act directed to be divided, allotted, and incloſed, and the ſeveral Meſſuages, Tenements, Gardens, Orchards, old Incloſures and other Lands and Grounds within the ſaid Pariſh of *Overton* and Hamlet of *Fyfield*, for which ſuch Satisfaction or Compenſation ſhall have been made in Manner aforeſaid; and that from and after ſuch Allotments and other Compenſations ſhall be made as aforeſaid, or at ſuch other Time as the ſaid Commiſſioners ſhall appoint, all Tithes, both Great and Small, Moduſes and other Payments in lieu of Tithes, iſſuing, ariſing or payable to the ſaid Impropriator and Vicar reſpectively, out of any Lands in the ſaid Pariſh of *Overton* and Hamlet of *Fyfield*, ſhall ceaſe, determine, and be for ever extinguiſhed; but in the mean Time the ſaid Rector and Vicar, their Heirs, Succeſſors, and Aſſigns, ſhall reſpectively be entitled to, and ſhall have, receive, and enjoy all their reſpective Tithes and Payments in lieu thereof, in ſuch Manner as they reſpectively could or might have had, received, and enjoyed the ſame, in caſe this Act had not been paſſed.

Tithes of Shaw Farm not to be extinguiſhed.

XXVII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to exonerate or diſcharge, or in anywiſe affect the Tithes iſſuing or payable out of or from a certain old incloſed Farm and Lands, ſituate in the Tything of *Shaw* in the ſaid Pariſh of *Overton*, called or known by the Name of *Shaw Farm*, now in the Occupation of *John Stratton*, containing by Meaſure Four hundred and twenty-five Acres, be the ſame more or leſs; but that the ſame ſhall remain due and payable in like Manner as if this Act had not been paſſed.

Declaring what ſhall be Arable Land.

XXVIII. And be it further enacted and declared, That all ſuch of the ſaid Lands and Grounds as ſhall have been tilled or ploughed at any Time within Twenty Years laſt paſt, ſhall for the Purpoſes of this Act be deemed and taken to be Arable Land.

Glebe and Tithe Allotments to be ring-fenced.

XXIX. And be it further enacted, That the ſeveral Allotments except Allotments of Down Land, if any ſuch ſhall be made, herein-before directed to be ſet out for the ſaid Rector and Vicar of *Overton*, or either of them, for their Tithes of or belonging to the ſaid Rectory and Vicarage, and alſo to the ſaid Vicar for his Glebe Lands, ſhall be incloſed and fenced in reſpectively, in ſuch Manner as the ſaid Commiſſioners ſhall direct; and ſuch Parts of the Boundary Fences for incloſing the ſame, as ſhall be directed to be made on the ſame Allotments reſpectively, ſhall be planted with good Whitethorn Quickſets, and when ſo planted ſhall be guarded on each Side thereof, and continue to be ſo guarded, till ſuch Quickſets ſhall become a ſufficient Fence by ſuch Fences, and in ſuch Manner as the ſaid Commiſſioners ſhall direct; and in ſuch Fences reſpectively there ſhall be a ſufficient Number of Gates and Stiles, all which ſaid Fences ſhall be planted, guarded, and protected; and the ſaid Gates and Stiles made and erected in the Manner to be directed by the ſaid Commiſſioners, by and at the Expence of all or ſuch of the Proprietors to whom

whom the other Allotments of the ſaid Open and Common Arable Fields, Common Meadows, Common Paſtures, Common Downs, and other Commonable and Waſte Lands, ſhall be ſet out or allotted, in ſuch Manner and in ſuch Shares and Proportions as the ſaid Commiſſioners ſhall, by Writing under their Hands or by their ſaid Award, order and direct; and that, from and after the making and completing ſuch Hedges, Ditches, and Fences, in Manner aforeſaid, the ſame ſhall for ever after be maintained, preſerved, and kept, in Repair, by and at the Expence, Coſts, and Charges of the reſpective Owners and Proprietors of the ſaid Allotments for the Time being.

Allotments of the Reſidue of the Open Fields.

XXX. And be it further enacted, That after the ſeveral Diviſions and Allotments herein-before directed to be made ſhall have been allotted and ſet out in the Manner and for the Purpoſes herein-before directed, the ſaid Commiſſioners ſhall ſet out and allot the Reſidue and Remainder of the ſaid Open and Common Arable Fields, Common Meadows, Common Downs, Common Paſtures, and other Commonable and Waſte Lands, hereby directed to be divided, allotted, and incloſed, unto and amongſt the ſeveral Proprietors thereof, and Perſons intereſted therein, in ſuch Quantities, Shares, and Proportions, and in ſuch Manner as by the ſaid Commiſſioners ſhall be adjudged and determined to be a juſt and full Compenſation and Satisfaction for and equal to their ſeveral and reſpective Rights and Intereſts therein; and that ſuch and ſuch only of the ſaid Allotments ſhall be fenced in, as the ſaid Commiſſioners ſhall in and by their Award order and direct; and the ſeveral Mounds and Fences for dividing and incloſing the ſame ſhall be made, and for ever thereafter maintained and ſupported, in ſuch Manner as the ſaid Commiſſioners ſhall in and by their Award order and direct.

Gaps to be left for a certain Time.

XXXI. Provided always, and be it further enacted, That convenient Gaps and Openings ſhall be left in the ſaid Fences and Incloſures, for ſuch Space of Time next enſuing the Execution of the Award of the ſaid Commiſſioners, for the Paſſage of Carts, Carriages, and Cattle, as the ſaid Commiſſioners ſhall in and by their Award direct and appoint.

Separate Allotments to be made for Lands held by different Tenures.

XXXII. And be it further enacted, That when the Proprietor or Proprietors of any Lands or other Hereditaments, which ſhall be allotted or exchanged by virtue of this Act, ſhall hold their ſaid reſpective Lands or Hereditaments by different Tenures or for different Eſtates, or under different Titles, the ſaid Commiſſioners ſhall, upon the Requeſt of ſuch reſpective Proprietors, in Writing under their Hands, aſcertain and diſtinguiſh the Lands or other Hereditaments held by each of ſuch Tenures, for each of ſuch Eſtates and under each of ſuch Titles reſpectively; and ſhall accordingly in their Award ſet out and diſtinguiſh diſtinct and ſeveral Allotments for ſuch reſpective Lands or other Hereditaments; and where, from the Want of the neceſſary Information before the ſaid Commiſſioners, or from any other Cauſe, their Award ſhall omit diſcriminating as herein-before is required, ſuch different Titles, different Eſtates, and different Tenures; and within Twelve Calendar Months after making the ſaid Award, Requeſt ſhall be made to the ſaid Commiſſioners, by any Perſon or Perſons intereſted, by Writing under his, her or their Hands, to have ſuch Omiſſion ſupplied by a ſeparate Inſtrument; then and in every ſuch Caſe the Commiſſioners are hereby authorized to do every Thing neceſſary for ſupplying ſuch Omiſſion, and ſo far as that Purpoſe ſhall require to examine

Witneſſes, and in every other reſpect to proceed and act as if their Award had not been made; and when they ſhall have obtained what they ſhall think ſufficient Information, they are hereby alſo authorized, by any Deed under their Hands and Seals, to aſcertain and diſtinguiſh the Difference of Tenures, Eſtates, and Titles reſpectively, and accordingly to make diſtinct and ſeveral Allotments, in the ſame Manner as is hereby required where ſuch Diſcrimination ſhould be made in the ſaid Award; and every ſuch ſeparate Inſtrument ſhall have the ſame Effect as if it were contained in the ſaid Award; and the ſame ſupplemental Inſtrument ſhall be delivered to the Perſon or Perſons upon whoſe Requeſt the ſaid Omiſſion ſhall have been ſupplied, or to the Perſon or Perſons to whom the Cuſtody of the Deeds or Writings, concerning the Title to the Premiſes in Queſtion, ſhall in the Opinion of the ſaid Commiſſioners moſt properly belong for the Time being; and all Expences, which ſhall be reaſonably incurred in and about any ſuch ſupplemental Inſtrument as aforeſaid, ſhall be payable by the Perſon or Perſons who ſhall have ſo requeſted the ſaid Commiſſioners as aforeſaid, his, her, or their reſpective Executors or Adminiſtrators.

Power to make Exchanges.

XXXIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to ſet out, allot, and award any Lands, Tenements, or Hereditaments within the ſaid Pariſh, Tything, or Hamlet, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments within the ſaid Pariſh, Tythings, or Hamlet, or within any adjoining Pariſh, Townſhip, Hamlet, Tything, or Place; provided that every Exchange made by virtue of this Act be aſcertained, ſpecified, and declared, in and by the Award of the ſaid Commiſſioners, and be made with the previous Conſent of the Perſon or Perſons claiming before the ſaid Commiſſioners to be Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which ſhall be ſo exchanged, or ſhall be propoſed to be exchanged, whether the Perſon or Perſons ſo claiming to be ſuch Owner or Owners, Proprietor or Proprietors, ſhall be ſeiſed or poſſeſſed in his, her, or their natural Capacity or Capacities as Tenant or Tenants in Fee Simple or in Fee Tail, General or Special, or for Life, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, or with the Conſent of the Leſſor or Leſſors, but not otherwiſe, or be a Body or Bodies Politic, Corporate, or Collegiate, or a Corporation Aggregate or Sole, or with the previous Conſent of the Guardians, Truſtees, Feoffees for charitable or other Uſes, Huſbands, Committees, or Attornies of or acting for the Perſon or Perſons ſo claiming to be ſuch Owner or Owners, or Proprietor or Proprietors as aforeſaid, who at the Time of making or propoſing ſuch Exchange or Exchanges reſpectively ſhall be either Infants, Femes Covert, or Lunatics, or under any other legal Diſability, or who ſhall be beyond the Seas or otherwiſe diſabled to act for himſelf, herſelf, or themſelves reſpectively (ſuch Conſent to be teſtified by Writing under the Hands of the reſpective Parties whoſe Conſent is hereby required, or in caſe of a Body or Bodies Politic, Corporate, or Collegiate, or of a Corporation Aggregate, by Writing under the Common Seal of ſuch Body or Bodies, or of ſuch Corporation reſpectively); and that every ſuch Conſent or Agreement for Exchange, when aſcertained, ſpecified, and declared in and by the Award of the ſaid Commiſſioners, ſhall be deemed and taken to be a good, valid, and effectual Exchange in the Law to all Intents and Purpoſes whatſoever: Provided always, that no Exchange ſhall be made under this or the ſaid recited Act of any Lands,

Tenements, or Hereditaments, held in right of any Church, Chapel, or other Eccleſiaſtical Benefice, without the Conſent in Writing of the Biſhop of the Dioceſe in which the Lands, Tenements, or Hereditaments propoſed to be exchanged ſhall lie and be ſituate, and of the Patron for the Time being of ſuch Church, Chapel, or other Eccleſiaſtical Benefice reſpectively.

Expences of Sale and Exchanges to be paid by the Perſons making the ſame.

XXXIV. And be it further enacted, That all Coſts, Charges, and Expences, attending the making of any Sales, Exchanges, or Partitions, to be made by virtue of this or the ſaid recited Act, ſhall be paid, borne, or defrayed by the ſeveral Perſons making ſuch Sales, Exchanges, and Partitions, in ſuch Manner and in ſuch Shares and Proportions as the ſaid Commiſſioners ſhall by their Award, or any other Writing or Writings under their Hands, order and direct; and in caſe of Nonpayment thereof ſhall be recovered in the ſame Manner as any Money may be recovered by virtue of the ſaid recited Act or of this Act.

For determining Leaſes at Rack Rent.

XXXV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners at any Time previous to the Execution of the ſaid Award, in all Caſes where they in their Diſcretion ſhall deem it neceſſary or expedient for the due Execution of this Act, by any Writing or Writings under their Hands, to determine and make void all or any of the Leaſes, Agreement or Agreements for Leaſes at Rack Rent, or from Year to Year, then ſubſiſting, of all or any Part or Parts of the Lands or Hereditaments hereby directed to be divided, allotted, incloſed, exonerated from Tithes, and exchanged reſpectively by virtue of this Act, and of all other Lands and Hereditaments demiſed or agreed to be demiſed by or compriſed in ſuch Leaſes and Agreements reſpectively, either as to the Whole or as to ſome Part or Parts only of the Hereditaments comprized in ſuch Leaſes and Agreements reſpectively, and at ſuch Time or Times in the Year as the ſaid Commiſſioners ſhall in their Diſcretion think moſt convenient and expedient, according to the Circumſtances of the Caſe; and in all Caſes where any ſuch Leaſes or Agreements ſhall be ſo determined as aforeſaid, the ſaid Commiſſioners ſhall aſcertain and declare whether any and what Sum and Sums of Money in groſs ought to be paid, or any and what Deduction or Abatement in the reſerved Rent or Rents ought to be made by the Leſſors or Landlords to the Leſſees or Tenants, as a Compenſation or Satisfaction for ſuch total or partial Determination of their reſpective Leaſes or Agreements; and ſuch Sums in groſs and reduced Rents ſo aſcertained and declared as aforeſaid, ſhall reſpectively become payable or commence at ſuch Time or Times and in ſuch Manner as the ſaid Commiſſioners ſhall direct and appoint; and all ſuch Sums in groſs ſhall be charged upon the Lands in reſpect of which the ſame ſhall be payable, and ſhall and may be levied and recovered in like Manner as is hereinafter provided or mentioned with reſpect to the levying and recovering the Expences of paſſing and executing this Act; and all ſuch reduced Rents ſhall, after the Commencement thereof, be payable and recoverable in like Manner as the Rents originally reſerved would have been payable and recoverable if this Act had not paſſed; and in all Caſes where ſuch ſubſiſting Leaſes or Agreements ſhall continue, as to the Whole or any Part or Parts of the Hereditaments therein comprized, it ſhall be lawful for the ſaid Commiſſioners in like Manner to aſcertain and declare whether any and what additional Rent or Rents ought to be paid by the Leſſees

or Tenants to the Leſſors or Landlords, for or in reſpect of any Improvement in the annual Value of the Hereditaments comprized in ſuch Leaſes or Agreements reſpectively, by reaſon of the ſame being divided, allotted, exonerated from Tithes, and exchanged reſpectively by virtue of this Act; and ſuch additional Rents ſo aſcertained and declared as laſt aforeſaid, ſhall commence at ſuch Time or Times as the ſaid Commiſſioners ſhall direct and appoint, and ſhall afterwards be payable and recoverable in like Manner as the Rents originally reſerved would have been payable and recoverable, if this Act had not paſſed; and it ſhall be lawful for the ſaid Commiſſioners in like Manner to ſettle, aſcertain, and declare the Courſe of Huſbandry to be uſed by ſuch Leſſees or Tenants during the Remainder of their ſubſiſting Leaſes or Agreements, in all Caſes where they ſhall deem it neceſſary and proper ſo to do: Provided always, that if there ſhall be any ſuch Leaſe or Agreement at Rack Rent of Lands, Part of which lie in the ſaid Pariſh of *Overton*, and Part in an adjoining Pariſh, all ſuch Leaſes and Agreements may be determined; but where any Lands ſhall have been taken in Exchange, which Lands ſhall be under ſuch Leaſe or Agreement, and wholly ſituate in any adjoining Pariſh, ſuch laſt mentioned Leaſe or Agreement ſhall not be vacated.

Allotments to be of the Tenures, and go to the ſame Uſes as Eſtates in lieu of which they were made.

XXXVI. And be it further enacted and declared, That the ſeveral Lands, Tenements, and Hereditaments, which ſhall be reſpectively allotted by virtue of this Act, ſhall, upon the Allotment thereof, become and be of the ſame Tenure, and be held under the ſame Rents and Services as the Lands, Tenements, and Hereditaments in reſpect of which the Allotments ſo made were previouſly held by or ſubject unto.

Allotments to be of the ſame Uſes as thoſe exchanged, &c.

XXXVII. And be it further enacted, That the ſeveral Lands, Tenements, and Hereditaments which ſhall be reſpectively allotted and exchanged by virtue of this Act, ſhall, upon the Allotment and Exchange thereof reſpectively, go and remain to the ſame Perſons, for the ſame Eſtates and Intereſts, and to the ſame Uſes, upon the ſame Truſts, and to and for the ſame Intents and Purpoſes, and be under and ſubject to the ſame Powers, Proviſoes, Limitations, Conditions, Covenants, Agreements, Debts, Charges, Incumbrances, and Proviſions of every Kind, and in the ſame Manner as the Hereditaments in reſpect whereof the ſame Lands, Tenements, and Hereditaments ſhall be reſpectively allotted and exchanged, would belong or ſtand, or be limited to or upon, or ſubject unto, if ſuch Allotment and Exchange thereof had not been made, or this Act had not been paſſed (except as to ſuch Leaſes or Agreements at Rack Rent as ſhall be determined under this Act, or where any other Proviſions of this Act ſhall be to the contrary); and nothing in this Act contained ſhall extend or be conſtrued to extend to revoke or alter any Will or Codicil further or otherwiſe than as the Lands and Hereditaments hereby allotted or received in Exchange for or in lieu of any Lands or Hereditaments comprized in any Will or Codicil, ſhall be a Subſtitution for the Lands or Hereditaments for or in lieu of which the ſame ſhall be allotted or received in Exchange, and ſhall paſs by ſuch Will or Codicil inſtead of the Lands or Hereditaments for or in lieu of which the ſame ſhall be ſo allotted or received in Exchange; but ſuch Allotments ſhall nevertheleſs be ſubject to ſuch Charges and Incumbrances thereon as ſhall be made in purſuance of this Act.

XXXVIII. And

Proprietors may sell or mortgage their Allotment before the Execution of the Award, and their Rights of Common separate from their other Property.

XXXVIII. And be it further enacted, That it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act, to give, grant, bargain, sell, demise, mortgage, limit, convey, and assure the same, for all or any Part of his, her or their Estate or Interest therein, or Right thereto, at any Time before the Execution of the Award of the said Commissioners; and every such Gift, Grant, Bargain, Sale, Demise, Mortgage, Limitation, Conveyance and Assurance, shall be of the same Force and Validity as if made after the Execution of the said Award; and also, that it shall be lawful for any of the Owners or Proprietors of any Common Rights upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, to sell and dispose of the same, or of the Allotment or Allotments to be made and set out in respect thereof, by virtue of this Act, separate and distinct from the Estate in Right of which they, he, or she are or is entitled to the same, in the same Manner as they, 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.

Commissioners may direct the Course of Husbandry.

XXXIX. And be it further enacted, That until such Division and Allotment as is hereby directed, shall have been made of the Lands and Grounds to be divided, allotted, and inclosed, all such Lands and Grounds shall be stocked with such Cattle, at such Times and in such Manner only, and the Tillage Lands shall be sown by the respective Occupiers thereof with such Sorts of Corn and Grain, and with such Kinds, Quantities, and Qualities of Grass, Turnips, or other Seeds, and shall be kept, ordered, and continued in such Course of Husbandry and Tillage as the said Commissioners shall, by Writing under their Hands direct; any Usage or Custom to the contrary notwithstanding; and that no Meadow, Pasture, or fresh Ground, Part of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and not in Tillage at the passing of this Act, shall, without the Consent in Writing of the said Commissioners be before the Allotment thereof, ploughed, broken up or converted into Tillage; and every Occupier of such Land or Ground who shall refuse or neglect to comply with any such Direction of the said Commissioners, or who shall plough, break up, or convert into Tillage any such Meadow, Pasture, or fresh Ground, without the Consent in Writing of the said Commissioners, shall forfeit and pay a Sum not exceeding Ten Pounds for every Acre of such Tillage Land, with respect to which such Refusal or Neglect shall happen; and for every Acre of such Meadow, Pasture, or fresh Ground which shall be ploughed, broken up, or converted into Tillage, and so in Proportion in each Case, for any greater or less Quantity than an Acre; to be levied and recovered in the Manner hereby directed for the Recovery of the Charges and Expences of passing this Act, and carrying the same into Execution; and to be applied in such Manner as the said Commissioners shall direct.

Compensation to be made for Growing Crops.

XL. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby required by any Writing or Writings under their Hands, to ascertain, order, and appoint what Recompence and Satisfaction

Satisfaction in Money, ſhall be made to the Owner or Owners of any Crop or Crops growing at the Time of the ſaid intended Diviſion, Allotment, and Incloſure, ſhall be made for ſuch Crop or Crops, by the Perſon or Perſons to whom the Lands on which the ſaid Crop or Crops is or are growing ſhall be allotted; and alſo, what Recompence and Satisfaction in Money ſhall be paid, and by whom, to any Tenant or Tenants, Occupier or Occupiers of any Lands or Grounds, to be divided, allotted, and incloſed by virtue of this Act, as well for ploughing, tilling, and manuring of ſuch Lands or Grounds allotted, for the Profit and Advantage which ſuch Perſon or Perſons to whom ſuch Lands and Grounds ſhall be allotted will thereby obtain, as for any Loſs or Diſadvantage which any Tenant or Tenants, Occupier or Occupiers, ſhall or may ſuſtain by the Loſs of any Crop or Crops in or on any of the Lands or Grounds to be divided, allotted, and incloſed by virtue of this Act; and if ſuch Recompence and Satisfaction ſhall not be made at the Time and in Manner to be appointed by the ſaid Commiſſioners, then and in every ſuch Caſe the ſaid Commiſſioners ſhall and may by Warrant or Warrants under their Hands, directed to any Perſon or Perſons whomſoever, which Warrant or Warrants they are hereby authorized and empowered to grant accordingly, to cauſe the ſame to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons required to make ſuch Recompence and Satisfaction as aforeſaid, together with the Coſts and Charges of ſuch Diſtreſs and Sale, rendering the Overplus (if any) upon Demand to the Owner or Owners of ſuch Goods and Chattels.

For preſerving young Fences.

XLI. And be it further enacted, That no Horſes, Cows, Sheep, Lambs, Mules, Aſſes, Pigs, or any Sort of Cattle ſhall be permitted to graze in any of the Highways, Roads, Lanes or Paſſages which the ſaid Commiſſioners ſhall ſet out as aforeſaid, for the Space of Ten Years next after the Execution of the Award of the ſaid Commiſſioners, nor in any of the Allotments to be made in purſuance of this Act, for the Space of Ten Years next after the Execution of the Award of the ſaid Commiſſioners, unleſs the Occupier of the Allotment into which ſuch Horſes, Cows, Sheep, Lambs, Mules, Aſſes, Pigs, or other Cattle ſhall be turned, ſhall have erected againſt the Boundary Fence of the ſaid Allotment, whether the ſaid Fence ſhall belong to the ſaid Allotment or not, a good and ſufficient Fence to prevent any Injury being done to the Quickſets planted in the ſaid Boundary Fence.

Money advanced for paſſing the Act, to be repaid with Intereſt.

XLII. And be it further enacted, That the Money which ſhall be advanced or lent for the Purpoſe of obtaining and paſſing this Act, ſhall be repaid with lawful Intereſt to the Perſon or Perſons who ſhall advance or lend the ſame, his, her, or their Executors, Adminiſtrators, or Aſſigns, out of the firſt Monies which ſhall be raiſed for defraying the Expences of paſſing and executing this Act.

Commiſſioners Allowances, &c.

XLIII. And be it further enacted, That each of the Commiſſioners who ſhall act in the Execution of this Act, ſhall be allowed and paid the Sum of Three Pounds and Three Shillings for each Day, and no more, he ſhall actually attend and be employed as a Commiſſioner in the Execution of this Act, or ſhall neceſſarily travel from Home to attend the Meetings of the Commiſſioners, or when returning Home after having attended ſuch Meetings, in full Satisfaction for his Trouble and Expences in the Exe-

cution of this Act; and that at all Meetings to be held in purſuance of this Act, the ſaid Commiſſioners and their Clerk and all Perſons attending ſuch Meetings, ſhall pay their own Expences.

Expences of the Act.

XLIV. And be it further enacted, That all Coſts, Charges, and Expences of ſoliciting and paſſing this Act, and of ſurveying, admeaſuring, and valuing, as well the ſaid Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds hereby directed to be divided, allotted, and incloſed, as the ſaid incloſed Lands and Tenements hereby directed to be exonerated from Tithes; and of dividing, allotting, and incloſing the ſame Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds, and of forming and making the public Roads, public or common Drains, Sewers, Watercourſes, Watering Places for Cattle, Wells, Bridges, and other Conveniences, which ſhall be ſet out by virtue of this Act; and of preparing and enrolling the ſaid Award, and all other the Coſts, Charges, and Expences of the ſaid Commiſſioners, and of the ſeveral Perſons employed by them, either before or after the Execution of the ſaid Award, in, about, or concerning the Execution of this Act, and not herein otherwiſe directed to be paid, ſhall be paid, borne and defrayed by all the Owners of or Perſons intereſted in, as well the ſame Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds, as the Lands, Tenements, and Hereditaments which ſhall be reſpectively exonerated from Tithes by virtue of this Act (except the Rector and Vicar of *Overton*, in reſpect of the Glebe Lands and Tithes of or belonging to the ſaid Rectory and Vicarage) in Proportion, as near as may be, to their reſpective Eſtates and Intereſts (due regard being had to the Expences occaſioned by each Perſon's Eſtates, and alſo to the Value and Improvement thereof); and the Shares and Proportions of the ſaid Coſts, Charges, and Expences to be borne by the ſaid reſpective Owners and Perſons intereſted, ſhall be ſettled and aſcertained by the ſaid Commiſſioners, and ſhall be paid to ſuch Perſon or Perſons, at ſuch Time or Times, either before or after the Execution of the ſaid Award, as the ſaid Commiſſioners ſhall direct or appoint, by Writing under their Hands, affixed on the principal Outer Door of the Pariſh Church of *Overton* aforeſaid; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay his, her, or their Share or Proportion of the ſaid Coſts, Charges, and Expences, according to ſuch Direction or Appointment as aforeſaid, the ſaid Commiſſioners ſhall and may raiſe and levy the ſame, by ſuch Remedies, Ways, and Means, as are provided or mentioned in and by the ſaid Act of the Forty-firſt Year of the Reign of His preſent Majeſty

Proportion of the Expences to be paid by the Duke of Marlborough and George Earl of Pembroke and Montgomery reſpectively.

XLV. Provided always, and be it further enacted, That the ſeveral Shares of the Charges and Expences aforeſaid, in reſpect of the ſeveral Lands and Tenements within the ſaid Tithings of *Eaſt Overton*, *Lockeridge* and *Weſt Overton*, and Hamlet of *Fyfield*, held by Copy of Court Roll or Leaſe for One or more Life or Lives, or for Years determinable on the Death of One or more Life or Lives, under the ſaid *George* Duke of *Marlborough* and *George* Earl of *Pembroke* and *Montgomery* reſpectively, ſhall be paid, borne, and defrayed by the ſaid Duke and Earl, or the Perſon or Perſons for the Time being entitled to their reſpective Eſtates; and the ſaid Commiſſioners are hereby authorized and required to award and direct that

that the respective Lessees and Copyholders or Customary Tenants of the said Lands and Tenements so held under the said *George* Duke of *Marlborough* and *George* Earl of *Pembroke* and *Montgomery* respectively, as aforesaid, shall respectively pay to them the said Duke and Earl, and the Person and Persons for the Time being entitled to their respective Estates, after the Rate of Five Pounds *per Centum per Annum*, for all the Monies so paid by them respectively, by virtue of this Act; and which Payment after the Rate aforesaid, shall commence at such Time as the said Commissioners shall, in and by their said Award, direct and appoint, and shall from thenceforth be added to, and accounted Part of the several and respective reserved Rents to be paid from Time to Time for such Lands, Grounds, and Premises respectively, and shall be recoverable by Distress or otherwise, in like Manner as other Rents in Arrear are recoverable by the Law of this Realm.

Tenants for Life may charge Lands with Money paid for Expences of the Act, inclosing, &c.

XLVI. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Owners or Proprietors of the Lands and Grounds which shall by virtue of this Act be divided, allotted, or exonerated from Tithes, who shall be under Coverture, Minors, Lunatics, beyond the Seas, or be under any other Disability or Incapacity, and for any of the said Owners or Proprietors, being Tenants in Tail, or for Life or Lives, or for Years determinable on a Life or Lives, or on any other Contingency, or Trustees for Charitable Uses, or the major Part of such Trustees respectively, to charge such Lands and Grounds with such Sum or Sums of Money as the said Commissioners shall direct to be paid by the Proprietors thereof, for their Shares of the Costs and Charges of passing this Act, and carrying the same into Execution; and such Expences as the said Proprietors shall in the Judgment of the said Commissioners necessarily incur in inclosing, subdividing, and fencing their respective Allotments; such Costs, Charges, and Expences not to exceed in the Whole the Rate of Five Pounds an Acre of the Lands to be allotted by virtue of this Act; and also with such Sum or Sums of Money in gross, as shall be paid by any such Proprietors for exonerating their Lands from Tithes, and to grant, mortgage, surrender, lease or demise such Lands and Grounds so to be charged, to the Person or Persons who shall lend, advance, or pay the same, or to such other Person or Persons as he or they shall direct or appoint, his, her, or their respective Executors, Administrators, and Assigns, for any Term of Years or greater Estate, so that every such Grant, Mortgage, Surrender, Lease or Demise be made with a Covenant to keep down the Interest accruing thereon; and so that no Person afterwards becoming entitled to any such Lands shall be liable to pay any larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced.

Or may raise the same by Sale.

XLVII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby empowered and required, upon the Request of any of the Owners or Proprietors of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or which shall be exonerated from Tithes by virtue of this Act, or of any Right or Interest therein, being Tenants in Tail, or for Life or Lives, or for any Number of Years determinable on a Life or Lives, or for any other determinable Estate or Interest, or at the Request of the respective Hus-

bands, Guardians, Truſtees, Committees, Agents or Attornies of or for any ſuch Owners or Proprietors, being under Coverture, Minors, Lunatics, or beyond the Seas, or under any other Diſability or Incapacity, or of the Truſtees for any charitable or public Uſes, or the major Part of them reſpectively, to raiſe the reſpective Coſts, Charges, and Expences hereinbefore authorized to be charged, by way of Mortgage as aforeſaid, by Sale of any of the Lands to be ſet out or allotted by virtue of this Act, to any of ſuch Proprietors making ſuch Requeſt as laſt aforeſaid, in the Manner and ſubject to the Rules preſcribed by the ſaid Act of the Forty-firſt Year of the preſent Reign, for the Sale of Lands directed to be ſold for the Payment of the Expences attending the Execution of Acts of Incloſure.

Reſtriction from deducting and borrowing alſo, unleſs the Land deducted be leſs than 5l. an Acre.

XLVIII. Provided always, and be it further enacted, That it ſhall not be lawful to raiſe by ſuch Sale or Sales as aforeſaid, any further or greater Sum of Money than the Perſon or Perſons (Part of whoſe Allotment ſhall be ſold as aforeſaid) would have been empowered or authorized to borrow or charge upon his, her, or their Allotment or Allotments under or by virtue of the ſaid recited Act or this Act, nor ſhall it be lawful for the Perſon or Perſons, from whoſe Allotment Land ſhall be deducted as aforeſaid, to charge his, her, or their Allotment or Allotments, by virtue of the ſaid recited Act or this Act, with any Money towards the Payment of ſuch Expences, unleſs the Money to ariſe by ſuch Sale ſhall not amount to the Sum of Five Pounds *per* Acre of ſuch Allotment or Allotments; and then and in ſuch Caſe it ſhall be lawful for ſuch Perſon or Perſons to charge his, her, or their Allotment or Allotments, or to raiſe by Mortgage thereof, or by ſuch other Ways and Means as mentioned in the ſaid recited Act or this Act, the Remainder of ſuch Money for the Payment of the Expences of obtaining and executing this Act, ſo as that the whole Sum to be raiſed by virtue of this Act ſhall not exceed the Sum of Five Pounds *per* Acre, according to the Number of Acres contained in ſuch Allotment or Allotments.

Commiſſioners Accounts to be laid before a Juſtice.

XLIX. 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 Commencement 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 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 them laid before any One or more of His Majeſty's Juſtices of the Peace of the ſaid County of *Wilts*, to be by him or them examined and balanced; and ſuch Balance ſhall be by ſuch Juſtice or Juſtices ſtated in a 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.

Award to be enrolled and depoſited.

L. And be it further enacted, That the Award to be made by the ſaid Commiſſioners, purſuant to the Directions of the ſaid recited Act and this Act, ſhall be enrolled with the Clerk of the Peace for the County of *Wilts*, or in One of His Majeſty's Courts of Record at *Weſtminſter*, within Twelve Calendar Months after the Execution thereof by the ſaid Commiſſioners, or ſo ſoon after as conveniently may be; and the ſaid Original

Award,

Award, and ſuch Plans or Surveys as may be annexed thereto, ſhall be lodged and depoſited in the Pariſh Church of *Overton* aforeſaid, to the end that Recourſe may be had thereto by any Perſon or Perſons intereſted in the ſaid Diviſion, which ſaid Award and Plans, and every other Award and Inſtrument to be lodged with the ſaid Award, ſhall and may be inſpected at all ſeaſonable Times, upon reaſonable Notice given by the Party requiring ſuch Inſpection.

Power to Appeal.

LI. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance of the ſaid recited Act or of this Act (other than and except ſuch Claims, Matters, and Things as are by the ſaid recited Act or this Act 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 this Act, the Determinations, Acts, or Proceedings of the ſaid Commiſſioners or Umpire are directed to be final and concluſive) he, ſhe, or they may appeal to any General Quarter Seſſions of the Peace which ſhall be holden for the County of *Wilts*, within Six Calendar Months next after the Cauſe of Complaint ſhall have ariſen, giving Notice in Writing of every ſuch Appeal, by affixing ſuch Notice, expreſſing the Cauſe of Complaint, upon the principal Door of the Pariſh Church of *Overton* aforeſaid, Fourteen Days at leaſt before ſuch General or Quarter Seſſions; and the Juſtices of the Peace aſſembled at ſuch General or Quarter Seſſions, or at any ſubſequent General or Quarter Seſſions to which the ſaid Juſtices ſhall adjourn any ſuch Appeal, either for the Want of ſuch Notice having been given as aforeſaid, or for any other Cauſe which to the ſaid Juſtices ſhall ſeem a ſufficient Cauſe to adjourn ſuch Appeals, are hereby authorized to hear and determine the ſame, and to make ſuch Order therein, and award ſuch Damages and Coſts as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order or Warrant to levy the Damages and Coſts which ſhall be ſo awarded by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties awarded 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 every ſuch Diſtreſs and Sale; and the Order and Determination of the ſaid Juſtices upon ſuch Appeal ſhall be final and concluſive to all Parties concerned, and ſhall not be removed or removeable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter* or elſewhere.

Saving Manorial Rights.

LII. Provided always, and be it further enacted and declared, That nothing herein contained ſhall any otherwiſe prejudice, leſſen, or defeat the Right, Title, or Intereſt of the Lords of any of the aforeſaid Manors for the Time being, of, to, or in any Royalties, Franchiſes, Privileges, Courts, Eſcheats, Forfeitures, Services, Rights, or Appurtenances whatſoever, incident or belonging to the ſaid Manors reſpectively, than as to the Intent and Purpoſes of the Incloſure and Allotments hereby authorized ſhall abſolutely require; and all Lands and Grounds which ſhall be allotted by the Commiſſioners under the Authority of this Act, to any Perſon or Perſons, other than the Lord or Lords of the ſaid Manors reſpectively for the Time being, and now ſituated within the ſame reſpectively, ſhall continue to be deemed within the ſaid Manors reſpectively, and notwithſtanding having been Part of the Waſte thereof, ſhall be eſcheatable to

the ſaid Lord or Lords for the Time being, according to the Nature of the Tenure of the Land in reſpect whereof the particular Allotment ſhall, under this Act, be made as aforeſaid eſcheatable to the Lord or Lords of the ſaid Manor.

General Saving.

LIII. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politic or Coporate, 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 or provided by virtue of this Act, in reſpect to 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 Incloſures hereby authorized ſhall abſolutely require to be barred, deſtroyed or extinguiſhed by this Act) all ſuch Eſtates, Rights, and Intereſts as they or any of them had or enjoyed of, in, and to, or in reſpect of the Open and Common Fields and other Commonable Lands and Grounds hereby directed to be divided, allotted, and incloſed before the paſſing of this Act, or could or might have had or enjoyed if this Act had not been paſſed.

Evidence Clauſe.

LIV. 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.