ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

Cap. 133.

An Act for incloſing Lands in the Pariſh of *Itchen Abbas*, in the County of *Southampton*.

[20th *May* 1812.]

WHEREAS, there are, within the Pariſh of *Itchen Abbas*, in the County of *Southampton*, certain commonable Lands, called *Itchen* Common, otherwiſe *Itchen Abbas* Common, and other Commonable and Waſte Lands, containing altogether One hundred and eighty Acres, or thereabouts: And whereas the Right Honourable *Jean Mary* Dowager Baroneſs *Bolton* is Lady of the Manor of *Itchen Abbas*, and Owner of divers Meſſuages, Lands, Woods, and Hereditaments within the ſame: And whereas *John Wright* Eſquire is Patron of the Rectory of *Itchen Abbas*, and the Reverend *Robert Wright* is the preſent Rector thereof, and, in the Right of his ſaid Rectory is entitled to certain Glebe Lands, and all the great and ſmall Tithes ariſing and renewing within the ſaid Pariſh: And whereas the Right Honourable *Richard Nugent Chandos Temple*, commonly called Earl *Temple*, *Anne Pawlett*, Widow, the ſaid *Robert Wright*, *Robert Bird* Gentleman, and divers other Perſons are Owners and Proprietors of Meſſuages, Lands, and Hereditaments within the ſaid Pariſh of *Itchen Abbas*, and claim to be entitled to Right of Common, in, over, and upon, the ſaid Commons and Waſte Lands: And whereas the ſaid Common and Waſte Lands,

in their preſent uncultivated State, afford but little Profit, and it would be of great Benefit and Advantage to the ſeveral Perſons intereſted therein, and the Improvement thereof would be conſiderably promoted if the ſame were divided, allotted, and incloſed; but ſuch Diviſion and Incloſure cannot be eſtabliſhed and rendered effectual without the Aid and Authority of Parliament: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of his preſent Majeſty, intituled, *An Act for conſolidating in One Act, certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing ſuch Acts*: May it therefore pleaſe your Majeſty, that it may be enacted, and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That all the ſaid Common and Waſte Lands ſhall be divided and allotted by *George Barnes*, of *Andover*, in the County of *Southampton*, Land Surveyor; who is hereby appointed Commiſſioner for ſetting out, dividing, and allotting the ſame, and for putting this Act into Execution, with ſuch of the Powers, and ſubject to ſuch of the Rules, Directions, Regulations, and Proviſions, contained in the ſaid recited Act, as are not varied, altered, or otherwiſe provided for by this Act.

General Incloſure Act.

Appointment of Commiſſioner.

Appointment of new Commiſſioner in caſe of Death.

II. And be it further enacted, That in caſe the ſaid *George Barnes*, or his Succeſſor or Succeſſors, to be appointed in Manner hereinafter-mentioned, ſhall die or become incapable of acting, or ſhall refuſe to act as Commiſſioner as aforeſaid, or ſhall, for the Space of Thirty Days, wilfully neglect to act as a Commiſſioner before all the Powers veſted in him by this and the ſaid recited Act are executed and completed; then, and from Time to Time, as often as Occaſion may require, it ſhall be lawful for the Majority in Value (ſuch Value to be aſcertained by the Land Tax Aſſeſſment, for the then Current Year) of the ſeveral Proprietors or Perſons intereſted in the ſaid Common or Waſte Lands, or their reſpective Agents or Attornies, who ſhall be preſent at a Meeting to be held for that Purpoſe, in purſuance of Notice in Writing, ſigned by Two or more of the ſaid Proprietors, and inſerted in the *Hampſhire Chronicle* Newſpaper, or ſome other Newſpaper, circulated within the County of *Southampton*, Eight Days, at leaſt, before ſuch Meeting, by Writing, under the reſpective Hands of ſuch Proprietors, or Agents, to appoint a new Commiſſioner (not intereſted in the ſaid Incloſure), in the Room of the ſaid *George Barnes*, or any of his Succeſſors; and every ſuch new Commiſſioner ſo to be appointed ſhall have and be veſted with the ſame Powers and Authorities for the Execution of this Act, and the ſaid recited Act, as the Commiſſioner hereby appointed is, by this Act, inveſted with.

Commiſſioner to appoint a Clerk.

III. And be it further enacted, That the ſaid Commiſſioner ſhall have Power, and is hereby authorized to appoint a Clerk to aſſiſt him in the Execution of this Act; and, in caſe of the Death of ſuch Clerk, from Time to Time, to appoint another Clerk, and him to remove, and another to appoint, as to him the ſaid Commiſſioner ſhall ſeem meet.

Commiſſioner to give Notice of Sittings.

IV. And be it further enacted, That the ſaid Commiſſioner ſhall, and he is hereby required to cauſe Notice to be inſerted in the *Hampſhire Chronicle*

Chronicle Newſpaper, or ſome other Newſpaper circulated within the ſaid County of *Southampton*, of the Time and Place of holding his Firſt Sitting or Meeting to put this Act in Execution, at leaſt Ten Days before every ſuch Sitting; and ſhall alſo cauſe Eight Days Notice at leaſt to be given in Writing, and affixed on the principal Outer Door of the Pariſh Church of *Itchen Abbas* aforeſaid, of every ſubſequent Sitting or Meeting for the like Purpoſes (Sittings by Adjournment only excepted); and that all Sittings of the ſaid Commiſſioner ſhall be held within the ſaid Pariſh of *Itchen Abbas*, or at ſome convenient Place or Places within Eight Miles thereof.

Other Notices how to be given.

V. And be it further enacted, That all other Notices neceſſary or requiſite to be given by the ſaid Commiſſioner ſhall be given by Advertiſement in the *Hampſhire Chronicle* Newſpaper, or ſome other Newſpaper circulated within the ſaid County of *Southampton*, and ſigned by the Commiſſioner or by his Clerk, by his Order.

VI. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted, or claiming to be intereſted in the ſaid intended Diviſion, Allotment, and Incloſure, touching or concerning their reſpective Rights and Intereſts therein, or touching or concerning any Matter or Thing relating to the ſaid intended Diviſion, Allotment, and Incloſure, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required to hear and determine the ſame: Provided always, that nothing in this Act contained ſhall authorize the ſaid Commiſſioner to determine the Title to any Meſſuages, Lands, Tenements, or Hereditaments whatſoever, nor any Right between any Parties contrary to the Poſſeſſion of any ſuch Parties (except in Caſes of Encroachments made within the Period of Twenty Years, as hereinafter mentioned), but in caſe the ſaid Commiſſioner ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, he ſhall forbear to make any Determination thereupon until the Poſſeſſion ſhall have been given by ſuch Perſon or Perſons, or recovered from ſuch Perſon or Perſons, by Ejectment or other due Courſe of Law.

Power to aſſeſs Coſts.

VII. And be it further enacted, That in caſe the ſaid Commiſſioner ſhall, upon the Hearing and Determination of any Difference or Diſpute, or of any Claim or Claims, Objection or Objections, to be delivered to him in purſuance of this or the ſaid recited Act, ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby empowered, upon Application made to him for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts as he ſhall think reaſonable, to be paid to the Party or Parties in whoſe Favour any ſuch Determination ſhall be made by the Perſon or Perſons againſt whom any ſuch Determination ſhall have been made; and in caſe any Perſon or Perſons, who ſhall be liable and ordered 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 Commiſſioner, and he is hereby authorized and required, by Warrant or Warrants under his Hand, directed to any Perſon or Perſons whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay the ſame (rendering the Overplus (if any) of the Monies ariſing from ſuch Sale, after deducting the Coſts and Charges attending

attending such Distress and Sale) to the Person or Persons whose Goods and Chattels shall have been so distrained and sold.

Allowing Parties to try their Rights at Law.

VIII. Provided always, and be it further enacted, That in case any Person or Persons interested, or claiming to be interested in the said Commons or Waste Lands, shall be dissatisfied with any Determination of the said Commissioner touching or concerning any Claim or Claims of any Right of Common, or other Rights or Interests in, over, upon, or out of the Commons or Waste Lands intended to be divided, allotted, and inclosed in pursuance of this Act or any Part thereof, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the Assizes to be holden for the County of *Southampton*, within Twelve Months next after the Determination of the said Commissioner; and for that Purpose the Person or Persons who shall be dissatisfied with such Determination shall cause an Action to be brought upon a feigned Issue in one of His Majesty's Courts of Record at *Westminster*, against the Person or Persons in whose Favour such Determination shall have been made, within Six Calendar Months next after the Determination of the said Commissioner shall have been made; and the said Defendant or Defendants in such Action or Actions shall, and he, she, and they, is and are hereby required to name an Attorney or Attornies, who shall appear thereto, and file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the said Court, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, unless the said Court shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and that after such Verdict or Verdicts shall be obtained and not set aside by the said Court, the said Commissioner shall, and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioner touching such Claim or Claims to such Rights of Common, or other Rights and Interests, over, upon, or out of the said Commons or Waste Lands hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in within the Time and in Manner aforesaid, shall be final, binding, and conclusive upon all Parties interested.

Death of Parties not to abate Action.

IX. And be it further enacted, That if any of the Parties in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

Provision in case of Death of Parties before Action brought.

X. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any Determination as aforesaid shall have been made, and against whom any Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been

been brought, and before the Expiration of the Time hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioner with Process for commencing such Action or Actions in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, 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 such Parties shall be equally bound and concluded by the Event of such Action or Actions.

Suits respecting Titles not to impede the Execution of this Act.

XI. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching or concerning the Title of any Person or Persons in or to any Lands, Tenements, or Hereditaments, for or in respect of which any Right or Interest in, over, or upon, the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, or hinder, the said Commissioner from proceeding in the Execution of the Powers vested in him by this Act; but the said Division, Allotment, and Inclosure, shall be proceeded in notwithstanding such Suit or Suits, and the Allotment may be had and taken by the Person or Persons who, upon the Determination of such Suit or Suits, shall become entitled to the same.

Commissioner may extinguish Rights of Common.

XII. And be it further enacted, That the said Commissioner shall, and he is hereby empowered, by Writing under his Hand, to be published as aforesaid, to appoint the Day or Time when all Rights of Common and Intercommoning, and of all other Rights in and over the several Common and Waste Lands intended by this Act to be divided and inclosed, shall cease and be extinguished; and such Rights shall, from and after such Publication, cease, and be for ever extinguished; and also that the said Commissioner may, by any such or other Writing to be published as aforesaid, make such Orders and Regulations for preventing all Persons from committing Waste or Destruction upon any Part of the said Lands and Grounds in the Meantime, and until the Division and Allotment thereof shall be effected, as to the said Commissioner shall seem expedient; all which Directions, Orders, and Regulations, of the said Commissioner shall be binding and conclusive upon all Parties claiming to be interested; and the said Commissioner shall set and impose such Penalties or Forfeitures on Persons not conforming thereto, not exceeding Five Pounds on any One Person for One Offence, as he shall think necessary; which Penalties or Forfeitures shall be paid to such Person or Persons, and for such Uses and Purposes as the said Commissioner by any Writing or Writings under his Hand, or by his Award, shall order or appoint; and if Default shall be made in Payment thereof, then the said Commissioner shall, by Warrant or Warrants under his Hand and Seal, directed to any Person or Persons whomsoever, cause the same to be levied by Distress and Sale of the Goods

and Chattels of the Party or Parties liable to pay the ſame, together with reaſonable Coſts, rendering the Overplus (if any) on Demand, to the Owner or Owners of ſuch Goods and Chattels.

Commiſſioner may erect Boundary Fences.

XIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized, in caſe he ſhall think proper, to make and ſet up, or cauſe to be made and ſet up, good and ſufficient Fences next or againſt any adjoining Pariſh, Townſhip, or Place.

Encroachments made within Years deemed Common.

XIV. And be it further enacted, That all Encroachments which, by the Incloſure or Fencing of any Part of the ſaid Common or Waſte Lands ſhall have been made at any Time within Twenty Years before the paſſing of this Act, ſhall be deemed Part thereof, and ſhall be divided and allotted accordingly, but that all ſuch Incloſure which may have been made for the Space of Twenty Years and upwards, although originally Encroachments, ſhall be deemed and conſidered as Old Incloſures, and not ſubject to the Powers and Operations of this Act; and in caſe any Diſpute ſhall ariſe touching any ſuch Encroachment or Encroachments, or the Extent thereof, ſuch Diſpute ſhall be determined by the ſaid Commiſſioner, whoſe Determination thereupon ſhall be final and concluſive.

Allotment to the Lady of the Manor.

XV. And be it further enacted, That the ſaid Commiſſioner ſhall, and he is hereby authoriſed and required, after ſetting out of the public and private Roads, to aſſign, ſet out, and allot unto and to the Uſe of the ſaid Dowager Baroneſs *Bolton*, as Lady of the Manor of *Itchen Abbas* aforeſaid, or the Lord or Lady of the ſaid Manor, for the Time being, in Lieu of the Soil of the ſaid Common and Waſte Lands, ſuch Quantity not being leſs than One Sixteenth, nor more than One Eighth Part of the ſaid Common and Waſte Lands, as in the Judgment of the ſaid Commiſſioner ſhall be equivalent thereto as a Satisfaction for his, her, or their Right and Intereſt, in and to the Soil of ſuch Common and Waſte Lands: And be it further enacted, that the ſaid Allotment to the ſaid Dowager Baroneſs *Bolton*, in reſpect of her Right in the Soil of the ſaid Common and Waſte Lands, as Lady of the Manor of *Itchen Abbas* aforeſaid, ſhall be laid on the North and North Weſt Sides of the ſaid Common, contiguous to certain Woods of the ſaid Dowager Baroneſs *Bolton*, now in her Occupation, ſurrounded by Parts of the ſaid Common called *Itchen* Common, otherwiſe *Itchen Abbas* Common.

Situation of Lady Bolton's Allotment, as Lady of the Manor.

Allotments to the reſt of the Perſons intereſted.

XVI. And be it further enacted, That after ſuch Allotment ſhall be made as aforeſaid, the ſaid Commiſſioner ſhall, and he is hereby authoriſed and required to aſſign, ſet out, and allot all the Reſt, Reſidue, and Remainder of the ſaid Common and Waſte Lands, unto and amongſt the ſeveral Perſons who at the Time of making ſuch Diviſion and Allotment ſhall be intereſted therein, in ſuch Quantities, Shares, and Proportions, and in ſuch Manner as the ſaid Commiſſioner ſhall adjudge and determine to be a full and juſt Compenſation and Satisfaction for and equal to their ſeveral and reſpective Rights and Intereſts of, in, and over the ſaid Common and Waſte Lands (Quantity, Quality, and Situation conſidered.)

XVII. And

Proprietors to fence their Allotments.

XVII. And be it further enacted, That all and every Perſon and Perſons to or for whom any Allotment or Allotments of any Part or Parts of the ſaid Common or Waſte Lands ſhall be ſet out, allotted, or awarded, ſhall reſpectively, at his, her, and their own Expenſe, fence in and incloſe the ſame, in ſuch Manner, and within ſuch Time as the ſaid Commiſſioner ſhall, in and by his Award, or any other Writing under his Hand, direct or appoint; and ſuch Fences ſhall for ever afterwards be preſerved and kept up by the Owner or Owners of the ſaid Allotment or Allotments reſpectively.

Power for Proprietors to ſell their Allotments.

XVIII. And be it further enacted, That it ſhall be lawful for any Perſon or Perſons who ſhall be entitled to any Allotment or Allotments by virtue of this Act to give, grant, bargain, ſell, limit, convey, and aſſure the ſame, or all or any Part of his, her, or their Eſtates, or Intereſts therein, or Right thereto, at any Time before the Execution of the Award of the ſaid Commiſſioner, and every ſuch Gift, Grant, Bargain, Sale, Limitation, Conveyance, and Aſſurance, ſhall be of the ſame Force and Validity as if made after the Execution of the ſaid Award; and it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authoriſed to Award the Allotments ſo ſold, to the Purchaſer or Purchaſers thereof reſpectively.

Allotments to be of the ſame Tenure.

XIX. And be it further enacted, That all the ſeveral Allotments which ſhall be allotted, under and by virtue of this Act, ſhall immediately after ſuch Allotments are made be held by and under and ſubject to ſuch and the ſame Tenures, Cuſtoms, Heriots, Rents, and Services, as the ſeveral and reſpective Meſſuages, Buildings, Lands, Tenements, and Hereditaments, in reſpect whereof ſuch Allotment or Allotments ſhall be made, are now ſubject to.

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

XX. And be it further enacted, That where any Perſon or Perſons ſhall be ſeiſed or poſſeſſed of Lands or other Hereditaments in the ſaid Pariſh of *Itchen Abbas*, held by different Tenures, or for, by, or under different Eſtates or Titles, the ſaid Commiſſioner ſhall and he is hereby authoriſed and required, upon the Requeſt of the Perſons ſo ſeiſed or poſſeſſed reſpectively, to enquire into, and aſcertain and determine by the Examination of Witneſſes, on Oath, or other ſufficient Evidence, the reſpective Lands or other Hereditaments held by ſuch different Tenures; or for, by, or under ſuch different Eſtates or Titles reſpectively, and to ſet out diſtinct Allotments of the Lands and Grounds hereby directed to be divided and allotted in reſpect of the Lands or other Hereditaments held by ſuch different Tenures, or for, by, or under ſuch different Eſtates or Titles reſpectively: And the ſaid Commiſſioner is hereby authoriſed and required, upon ſuch Requeſt as aforeſaid, to diſtinguiſh, aſcertain, and ſet out, by Metes and Bounds, the Buildings and Old Incloſures in the ſaid Pariſh, held by ſuch ſeveral Tenures, and for, by, or under ſuch different Eſtates or Titles, and all the Lands and other Hereditaments to be ſo aſcertained, diſtinguiſhed, and ſet out, ſhall be declared, ſet forth, and deſcribed in the Award of the ſaid Commiſſioner.

Exchanges may be made with Conſent of Parties.

XXI. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to ſet our, allot, and award any Lands, Tenements, Tithes,

or other Hereditaments within the ſaid Pariſh, in Lieu and in Exchange of any other Lands, Tenements, or Hereditaments within the ſaid Pariſh, or within any adjoining Pariſh, Hamlet, Townſhip, or Place, provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the Award of the ſaid Commiſſioner, or by ſome Deed to be executed by the Commiſſioner before the Date of his Award, and be ſet forth or referred to in ſuch Award, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors, ſhall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courteſy of *England*, or for Years determinable on a Life or Lives, or with the Conſent of the Guardians, Truſtees, or Feoffees for Charitable or other Uſes, Huſbands, Committees, or Attornies of or acting for any ſuch Owners or Proprietors as aforeſaid, who at the Time of making ſuch Exchange or Exchanges ſhall be reſpectively Infants, Femes Covert, Lunatics, or under any legal Diſability, or who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf, ſuch Conſent to be teſtified in Writing under the Common Seal of the Body Politic, Corporate, and Collegiate, and under the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange and Exchanges ſo to be made, ſhall be good, valid, and effectual in the Law, to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made of any Lands, Tenements, or Hereditaments, held in Right of any Church or Chapel, or other Eccleſiaſtical Benefice, without the Conſent, teſtified as aforeſaid, of the Patron thereof, and of the Lord Biſhop of the Dioceſe in which ſuch Lands, Tenements, or Hereditaments ſo to be exchanged, ſhall lie and be ſituate.

Expences of Sale and Exchanges by whom to be paid.

XXII. 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 Act or the ſaid recited Act, ſhall be paid, borne, and defrayed by the ſeveral Perſons making any ſuch Sales, Exchanges, or Partitions in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioner ſhall by his ſaid Award, or any other Writing under his Hand, order and direct; and ſuch Coſts, Charges, and Expences may be recovered in the ſame Manner as the Coſts and Charges of obtaining and executing this Act can or may be recovered.

Leſſor to make Compenſation to Leſſees for the Determination of their Intereſt.

XXIII. Provided always, and be it further enacted, That the Allotments to be made and ſet out by virtue of this Act, in Right of any Property under Leaſe at Rack Rent, ſhall be allotted and ſet out to the reſpective Leſſors or Landlords, and ſhall be held and enjoyed by them free from all Right and Intereſt of their reſpective Leſſees or Tenants; and ſuch reſpective Leſſors or Landlords, their Heirs and Aſſigns, or the Perſons ſeiſed of their Eſtates for the Time being, ſhall make ſuch Abatement out of the Rents reſerved by ſuch Leaſes reſpectively, or ſuch other Compenſation or Satisfaction, on account of the Determination of the Common Right compriſed therein, as the ſaid Commiſſioner ſhall judge reaſonable, and ſhall in and by his Award, or other Writing under his Hand, aſcertain, direct, or appoint.

XXIV. And

Wills and Settlements not to be affected.

XXIV. And be it further enacted, That nothing in this or the ſaid recited Act contained ſhall extend, or be conſtrued to extend to revoke, make void, alter, or annul any Will, Deed, or Settlement, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances out of, upon, or affecting any of the Lands, Grounds, and Hereditaments to be divided and allotted, or which ſhall be exchanged or aſſigned in Compenſation for any other Eſtate or Right by virtue of this or the ſaid recited Act, or any Part or Parts thereof reſpectively; but as well the Lands allotted as the Tenements and other Hereditaments which ſhall be aſſigned in Exchange, or in Compenſation for any other Eſtate or Right ſhall, immediately after ſuch Allotment, Exchange, or Aſſignment ſhall be made, be veſted, remain, and enure, and the ſeveral Perſons to whom the ſame ſhall be allotted aforeſaid, or given in Exchange as aforeſaid, ſhall thenceforth ſtand and be ſeiſed and poſſeſſed thereof reſpectively to ſuch and the ſame Uſes, and for ſuch and the ſame Eſtates, and ſubject and liable to ſuch and the ſame Wills, Deeds, Settlements, Jointures, Dowers, Portions, Debts, Rents, and Incumbrances as the Meſſuages, Tenements, Lands, Grounds, and Hereditaments in reſpect whereof ſuch Allotments, Aſſignments, and Exchanges ſhall be made, would have been ſubject to be charged with, or affected by, in caſe this Act had not been paſſed, except as to any Leaſes, ſo far as the ſame compriſe any Right of Common, or where any of the Proviſions of the ſaid recited Act, or of this Act, ſhall be to the contrary, and alſo except ſuch Charges and Incumbrances as ſhall be made therein by virtue of this Act or the ſaid recited Act.

First Crops to be exempt from Tythes.

XXV. And be it further enacted, That the firſt Three Crops of Corn or other Produce obtained by Tillage in all and every of the ſaid Allotments, ſhall be exempt from Payment of all Tythes, provided ſuch Crops be raiſed within Three Years next after the Execution of the aforeſaid Award.

For defraying Expences.

XXVI. And be it further enacted, That all the Coſts, Charges, and Expences, incident to, and attending the obtaining and paſſing of this Act, and carrying this and the ſaid recited Act into Execution, and for the ſurveying, planning, valuing, dividing, and allotting the Common and Waſte Lands ſo intended to be incloſed, and of preparing, ingroſſing, inrolling, and depoſiting the Award of the ſaid Commiſſioner, and of forming and making the ſeveral Public or Private Roads, or Ways, Ditches, Fences, Drains, Banks, Bridges, Gates, Stiles, and other Requiſites as aforeſaid, and all other Charges and Expences of the ſaid Commiſſioner and Clerk, and other neceſſary Expences, in and about the Premiſes, together with Intereſt for any Monies advanced for obtaining or effecting the Purpoſes of this Act, ſhall be borne and defrayed by the ſeveral Perſons to whom any Allotment or Allotments ſhall be made by virtue of this Act (ſave and except the ſaid Dowager Baroneſs *Bolton*, for, or in reſpect of the ſaid Allotment to be made to her, for her Right in the Soil of the ſaid Common and Waſte Lands, as Lady of the Manor of *Itchen Abbas* aforeſaid), in ſuch Proportions, and ſhall be paid by ſuch Perſon or Perſons, and at ſuch Time or Times as ſhall be ſettled, adjuſted, determined, and directed by the ſaid Commiſſioner, by any Rate or Rates, or by any Writing or Writings, under his

Hand, to be affixed on the outer Door of the Parish Church of *Itchen Abbas* aforesaid, at least Thirty Days before the Time of Payment, and the same shall, in case of Non-payment thereof, or of any Part thereof, be levied and recovered in such Manner as the same or other Payments or Expences are hereinbefore, or by the said recited Act directed to be levied or recovered.

Power for Lessors for Lives or Years (not vacated by this Act), or Copyholders for Lives to borrow Money.

XXVII. And whereas the several Owners and Proprietors of the Allotment or Allotments to be made by virtue of this Act, holding under Leases for Lives or for Years, determinable on One, Two, or Three Life or Lives, or by Copy of Court Roll for One, Two, or Three Life or Lives, under the Lord or Lady of the said Manor of *Itchen Abbas*, either for their own Lives, or for the Life or Lives of any other Person or Persons, but entitled to, and in the Receipt and Enjoyment of the Rents and Profits of their respective Estates, may have Occasion to borrow Money to defray their Proportion of the Charges and Expences incident to, and of obtaining and executing this Act, and of fencing their respective Allotments, or such Owners or Proprietors so entitled as aforesaid, will advance the necessary Sums for defraying their respective Proportions of the said Expences, without being able from the Nature of the Tenure of such Estates or the Continuation of his, her, or their limited or determinable Estate or Interest therein, to renew or take the fair and reasonable Advantage of the said Allotment and Inclosure, to be made under or by virtue of this Act, for Remedy whereof, be it further enacted, That it shall and may be lawful to and for the said Commissioner, at the Request of any such Owners or Proprietors of any Estate, to whom any Allotment or Allotments shall be made, or who shall become interested in the said Inclosure, by virtue of this Act, and holding of or under the Lord or Lady of the said Manor of *Itchen Abbas*, whether by Lease or Copy, at the Request of any Lessee or Copyholder, or any Guardian, Husband, Committee, Trustee, or Attorney, of or for any Infant, Idiot, Lunatic, Feme Covert, Person beyond the Seas, or otherwise incapacitated to act for himself, herself, or themselves, and holding as aforesaid, as Trustee or Trustees in any Settlement, or any Mortgagee, or other Creditor, in Possession or Receipt of the Rents and Profits of any of the new Allotments held as aforesaid, and affected by this Act, to charge the same new Allotments, which shall be so allotted and awarded to such Owners or Proprietors, or other Person or Persons as aforesaid, or any Part or Parts thereof, with such Sum or Sums of Money, in favour of any such Owner or Proprietor, by Lease or Copy, or other Person or Persons advancing the same by way of Loan, as the said Commissioner, by Writing under his Hand, shall consent to, direct, or appoint, together with the Expence of any such Charge or Mortgage, not exceeding in the whole Five Pounds for each and every Acre of such Allotments, and the same Money so to be paid or advanced (after deducting the Expence attending such Charge or Mortgage), shall be applied and disposed of for the Purpose of paying and defraying his, her, or their Proportion of the Costs, Charges, and Expences aforesaid, and the same shall carry Interest at the Rate of Five Pounds *per Cent. per Annum*, to be paid and payable by the Person or Persons borrowing the same, or by the Owners or Proprietors, or Persons for the Time being in Possession and Receipt of the Rents and Profits of the said respective Estates so to be charged therewith, to the Person or Persons advancing

or lending the ſame, by yearly Payments; and the Principal Money ſo to be charged or borrowed, ſhall be paid off to the Perſon or Perſons advancing the ſame, his, her, or their Executors, Adminiſtrators, or Aſſigns, by ſuch Owners or Proprietors of the reſpective Eſtates charged therewith, or by the Perſon or Perſons in Poſſeſſion and Receipt of the Rents and Profits thereof in Sixteen Years, commencing from the Time of paying or advancing the ſame, by Sixteen equal Inſtalments, of One Inſtalment in each Year; and the firſt of ſuch Inſtalments ſhall accrue and become due, and be paid and payable on that Day Twelvemonth on which ſuch Principal Money ſhall have been advanced, and ſo yearly, with the Intereſt thereof; and the Intereſt of all ſuch Inſtalments as ſhall be then remaining due and unpaid to the Time of Payment of each reſpective Inſtalment, until the whole Principal Sum to be ſo charged as aforeſaid, and all Intereſt in reſpect thereof ſhall be paid off and diſcharged.

For repaying Money advanced, with Intereſt.

XXVIII. Provided always, and be it further enacted, That the Money which ſhall be advanced by any Perſon or Perſons for the Purpoſe of defraying the Charges and Expences incident to the obtaining and paſſing this Act, or which ſhall be advanced and lent to the ſaid Commiſſioner, for carrying the ſame into Execution, ſhall be repaid, with lawful Intereſt, from the Time ſuch Money ſhall have been actually advanced, to the Perſon or Perſons who ſhall have advanced the ſame, his, her, or their Executors or Adminiſtrators, out of the firſt Monies to be raiſed under and by virtue of this Act, for defraying the Expences of obtaining and executing the ſame.

Commiſſioner's Allowance.

XXIX. And be it further enacted, That the ſaid Commiſſioner ſhall be allowed the Sum of Three Pounds Three Shillings for every Day he ſhall be actually employed in any Buſineſs required of him as Commiſſioner, by the ſaid recited Act or this Act, and alſo for every Day of neceſſary Travelling, for the Execution of this Act, in full Satisfaction for his Time, Trouble, and Expences.

Commiſſioner to lay his Accounts before Juſtices.

XXX. And be it further enacted, That once at leaſt in each and every Year during the Execution of this Act, (ſuch Year to be computed from the Day of the paſſing thereof) the ſaid Commiſſioner ſhall and he is hereby required to make a true and juſt Statement or Account of all and every Sum and Sums of Money by him received and expended, or due to him, for his Time, Trouble, and Expences in the Execution of this and the ſaid recited Act; and ſuch Statement or Account, when ſo made, together with the Vouchers relating thereto, ſhall be by him laid before any Two or more of His Majeſty's Juſtices of the Peace for the ſaid County of *Southampton*, (not intereſted in the ſaid intended Diviſion and Incloſure) to be by them examined and balanced, and ſuch Balance ſhall be by ſuch Juſtices ſtated in the Book of Accounts, to be kept in the Office of the Clerk to the ſaid Commiſſioner, and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed in Writing by ſuch Juſtices.

Award to be depoſited.

XXXI. And be it further enacted, That the Award to be made by the ſaid Commiſſioner, when inrolled in Manner directed by the ſaid recited Act, and ſuch Plans or Surveys as may be annexed thereto,

ſhall

shall be deposited in the Parish Church of *Itchen Abbas* aforesaid, for the Perusal of all Persons interested therein.

Persons aggrieved may appeal to the Quarter Sessions.

XXXII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done or omitted to be done, in pursuance of this or the said recited Act, (other than and except such Determinations of the said Commissioner, as are hereby or by the said recited Act declared to be final, binding, or conclusive, and except in such Cases where an Issue at Law may be tried, as hereinbefore is mentioned) then, and in every such Case he, she, or they may appeal to the General Quarter Sessions of the Peace, which shall be holden in and for the said County of *Southampton*, within Six Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner, and to the Party or Parties concerned, Ten Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices not interested in the Premises, at such Session assembled, are hereby required to hear and determine the Matter of every such Appeal, 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 such Damages and Costs by Distress and Sale of the Goods and Chattels of the Party or Parties made liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and every Order and Determination of the said Justices, upon every such Appeal, shall be final and conclusive, 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; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then and in such Case the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them, in their Discretion, shall seem reasonable, and such Costs shall be levied in Manner aforesaid.

General Saving of Rights.

XXXIII. Saving always to the King's most Excellent Majesty, his Heirs and Successors, and to all and every Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, his, her, or their Heirs, Executors, or Administrators, (except such whose Rights are hereby intended to be barred) all such Right, Title, and Interest as they, any, or every of them, had and enjoyed, of, in, to, or out of the said Common or Waste Lands, at the Time of passing this Act, or could or might have had or enjoyed in case this Act had not been made.

Act to be printed by the King's Printer.

XXXIV. 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 that 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. 1812.