ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 31.

An Act for incloſing Lands in the Pariſh of *Melkſham*, in the County of *Wilts*. [1ſt *April* 1813.]

WHEREAS there are within the Pariſh of *Melkſham*, in the County of *Wilts*, a certain Open Common called *Blackmore* or *Melkſham Common*; and within the ſaid Pariſh of *Melkſham*, and the Chapelry of *Seend*, within the ſaid Pariſh, certain other Open Commons, Strips, and Parcels of Commonable and Waſte Lands; containing in the whole Four hundred and eighty Acres or thereabouts: And whereas the Right Honourable *George* Lord *Audley* is Lord of the Manor of *Blackmore*, and as ſuch is entitled to the Soil of the ſaid Common called *Blackmore* or *Melkſham Common*, and of ſuch other of the ſaid Open Commons, Strips, and Parcels of Commonable and Waſte Lands as lie within the ſaid Manor: And whereas *Catherine Long* Spinſter is or claims to be Lady of the Manor of *Melkſham*, and as ſuch is or claims to be entitled to the Soil of ſuch of the ſaid other Open Commons, Strips, and Parcels of Commonable and Waſte Lands as lie within the ſaid Manor of *Melkſham*: And whereas *Paul Cobb Methuen* Eſquire is or claims to be Lord of the Manor of *Benacre* and *Melkſham Lowells*, and as ſuch is or claims to be entitled to the Soil of ſuch of the ſaid other Open Commons, Strips, and Parcels of Commonable and Waſte Lands as lie

within the ſaid Manor of *Benacre* and *Melkſham Lowells*: And whereas *Ambroſe Awdry* Eſquire is or claims to be Lord of the Manor of *Seend Rew*, and as ſuch, is or claims to be entitled to the Soil of ſuch of the ſaid other Open Commons, Strips, and Parcels of Commonable Waſte Lands as lie within the ſaid laſt-mentioned Manor: And whereas the Worſhipful the Dean and Chapter of *Saliſbury* are ſeiſed of the Impropriate Rectory of the ſaid Pariſh of *Melkſham*, and as ſuch are entitled to all the Great Tythes growing, renewing, or ariſing within the Tytheable Places of the ſaid Pariſh of *Melkſham*; and *John Awdry* Eſquire is Leſſee thereof, under the ſaid Dean and Chapter: And whereas the ſaid Dean and Chapter are alſo the Patrons of the Vicarage and Pariſh Church of *Melkſham* aforeſaid, and the Chapelry of *Seend* aforeſaid; and the Reverend *Joſeph Smith* Clerk is the preſent Vicar thereof, and as ſuch entitled to all the Vicarial Tythes ariſing, renewing, or happening within the ſaid Pariſh and Chapelry, and alſo to certain Leazes in the ſaid Common called *Blackmore* or *Melkſham Common*: And whereas divers Perſons are entitled to Leazes over the ſaid Common called *Blackmore* or *Melkſham Common*; and divers Perſons are entitled to Rights of Common in, over, and upon the ſaid other Open Commons, Strips, and Parcels of Commonable and Waſte Lands, in right of their reſpective Eſtates; which ſaid Commons, Strips, and Parcels of Commonable Land, as they now lie open and uncultivated, and ſubject to Treſpaſſes, are but of little Advantage to the Proprietors thereof: 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 it would be of great Benefit and Advantage to the ſeveral Proprietors of and Perſons intereſted in the ſaid Commons and Waſte Lands, if the ſame were divided and incloſed, and ſpecific Parts and Shares thereof allotted to and amongſt the ſeveral Perſons and Proprietors intereſted therein; but as the ſame cannot be effected without the 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 the preſent Parliament aſſembled, and by the Authority of the ſame,

Commiſſioner appointed.

That *Richard Richardſon* of *Lincoln's-Inn-Fields*, in the County of *Middleſex*, Gentleman, ſhall be, and he is hereby appointed, the Commiſſioner for dividing, allotting, and incloſing the ſaid Commons and Commonable and Waſte Lands, and for carrying this Act and the ſaid recited Act into Execution; ſave and except ſuch Parts of the ſaid recited Act as are hereby altered or varied; and under and ſubject to ſuch of the Regulations and Reſtrictions contained in the ſaid recited Act as are not repugnant to the Proviſions of this Act.

Appointment of future Commiſſioner;

II. And be it further enacted, That when and as often as the ſaid Commiſſioner, or any other Commiſſioner, to be hereafter appointed by virtue of this Act, ſhall die or refuſe or neglect to act, or become incapable of acting as ſuch Commiſſioner in the Execution of this Act, then and in ſuch Caſe the major Part in Value (to be aſcertained by the Land Tax Aſſeſſment) for the Time being of the ſeveral Owners and Proprietors of the ſaid Leazes and of the ſaid other Open Commons, Strips, and Parcels of Commonable

able and Waſte Lands, preſent at ſome public Meeting to be holden within the Pariſh of *Melkſham* aforeſaid (of which Meeting and the Purpoſe thereof Notice ſhall be given by the Perſon acting as Clerk to the Commiſſioner under this Act, at leaſt Fourteen Days previous to ſuch Meeting, by affixing ſuch Notice on the principal outer Doors of the Pariſh Church of *Melkſham* and Chapelry of *Seend* aforeſaid, and by inſerting the ſame in ſome Newſpaper uſually circulated in the ſaid County of *Wilts*), ſhall and they are hereby required and empowered from Time to Time, by Writing under their Hands, to appoint ſome other Perſon (not intereſted in the ſaid intended Diviſion and Incloſure) to be a Commiſſioner in the room and ſtead of any ſuch Commiſſioner ſo dying or refuſing or neglecting to act, or becoming incapable of acting as aforeſaid; and any Commiſſioner ſo to be appointed by ſuch Owners and Proprietors as aforeſaid, ſhall, after taking the Oath preſcribed by the ſaid recited Act in that Behalf, have the like Power and Authority for carrying the ſaid recited Act and this Act into Execution, and ſhall be ſubject and liable to the like Rules, Regulations, and Reſtrictions, as if he had been originally nominated a Commiſſioner in and by this Act.

and Clerk.

III. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required to appoint a Clerk to aſſiſt him in the Execution of the Powers of this Act, and may if neceſſary from Time to Time remove ſuch Clerk, and appoint another in his Place and Stead, when it ſhall ſeem meet to the ſaid Commiſſioner ſo to do, and ſuch Clerk ſhall be allowed a fair Compenſation for his Trouble.

Meetings and Notices.

IV. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to give publick Notice in the Pariſh Church of *Melkſham*, and in the Church or Chapel of *Seend* aforeſaid, upon ſome *Sunday* during or immediately after Divine Service, and the like Notice in the *Saliſbury and Winchеſter Journal*, of the Time and Place of his Firſt, Second, Third, and Fourth Sittings for executing the Powers hereby veſted in him, at leaſt Fourteen Days previous to ſuch reſpective Sittings, and ſhall alſo give at leaſt Eleven Days previous Notice in the ſaid Churches and Chapel aforeſaid, upon ſome *Sunday* during or immediately after Divine Service, of every ſubſequent Sitting of the ſaid Commiſſioner (Sittings by Adjournment only excepted), which ſaid Sittings ſhall be held within the Pariſh of *Melkſham* aforeſaid; and that all other Notices neceſſary or requiſite to be given by the ſaid Commiſſioner, in purſuance of this or the ſaid recited Act, ſhall be given in ſuch Newſpaper as aforeſaid.

For ſettling Differenees.

V. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between the Claimants of Rights, Proprietors, or any other Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Incloſure, or any of them, touching or concerning his, her, or their reſpective Intereſts, Shares, or Proportions of and in the ſaid Lands and Grounds hereby intended to be divided, allotted, and incloſed, or other Rights and Intereſts relating thereto, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and empowered to hear and determine the ſame;

but

but no such Determination shall prevent or hinder any of the Parties from trying their Right at Law.

Commissioner not to determine Titles, nor molest Possession.

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

Assessing Costs.

VII. And be it further enacted, That in case the said Commissioner shall, upon the hearing and determining of any Claim or Claims, Objection or Objections, Matters or Things, to be delivered to or before 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 and Charges as he the said Commissioner shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant 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) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Allowing Parties to try Rights by an Issue at Law.

VIII. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate or Collegiate, interested in the said intended Division and Inclosure, shall be dissatisfied with the Determination of the said Commissioner touching or concerning any Rights or Interests in, over, or upon the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, or of any Common Rights or Interests which they may have or claim to have in, upon, or over the same, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, and shall by Writing under his, her, or their Hand or Hands, or under the Hand or Hands of his, her, or their known Agent or Agents, signify the same to the said Commissioner within Fourteen Days next after such Determination shall have been made, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, so dissatisfied with such Determination, to have the Subject of such Claims, Rights, and Interests, in respect of which such Determination shall be made, tried by an Action at Law,

Law, to be brought by him, her, or them, againſt the Party or Parties in whoſe Favour ſuch Determination ſhall have been made, upon a feigned Iſſue, to be ſettled by the proper Officer of the Court in which ſuch Action ſhall be brought, in caſe the Parties ſhall differ about the ſame, ſuch Action to be brought within Thirty Days next after ſuch Determination ſhall have been made and Notice thereof given; and the Defendant or Defendants in ſuch Action ſhall and is and are hereby required to appear to ſuch Action, accept a Declaration, and plead to Iſſue, and the Plaintiff or Plaintiffs ſhall thereupon proceed in ſuch Action, ſo as to have the ſame tried and determined at the Firſt Aſſizes to be holden in and for the County of *Wilts* next after the commencing of ſuch Action, provided ſuch Aſſizes ſhall not happen to be held within Sixty Days next after ſuch Determination ſhall have been made, and if ſuch Aſſizes ſhall be held within ſuch Sixty Days, then at the Second Aſſizes to be holden in and for the ſaid County of *Wilts*, unleſs the Court ſhall direct further Time to be given; and the Verdict of the Jury at ſuch Trial, and the Judgment thereon, or Judgment in ſuch Action or Actions for the Want of a Plea or Pleas, ſhall be final and concluſive between the Parties, unleſs the Court ſhall ſee Cauſe to direct a new Trial, which it ſhall be lawful for the Court to do, as is uſual in other Caſes; and after a Verdict which ſhall be ſatisfactory to the ſaid Court, or Judgment given for the Want of a Plea, the ſaid Commiſſioner ſhall act in conformity thereto.

If any of the Parties die. Proceedings not to abate.

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 or taken place.

In caſe of Deaths of Parties before Actions brought, the ſame to be carried on and defended in their Names.

X. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe Favour any ſuch Determination ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politic or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame, within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioner with 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, 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.

Allotments to be ſet out.

XI. And for the better aſcertaining what Lands may be divided and allotted purſuant to this Act, be it further enacted, That all the Open Commons and Waſte Lands within the ſaid Pariſh of *Melkſham* and Chapelry of *Seend*, and ſuch Parts thereof as ſhall have been taken in

within Twenty Years last past, shall, for the Purposes of this Act, be considered as Commonable Lands, and shall be divided and allotted accordingly.

For Sale to pay Expences.

XII. And be it further enacted, That the said Commissioner shall set out and allot such Parts and Parcels of the said Commons and Waste Lands, from Time to Time, as he shall judge sufficient in Value, when sold, to defray the necessary Charges and Expences attending the applying for and obtaining and passing this Act, and carrying the same and the said recited Act into Effect, and of surveying, measuring, planning, valuing, dividing, and allotting the said Commons and Waste Lands, and of making, scouring, widening, and repairing all such Bridges, Ditches, and Watercourses as shall be deemed necessary, and also the Costs, Charges, and Expences of first forming and making such public and private Roads as are directed to be made by the said recited Act, and of fencing and inclosing the Allotment or Allotments to be set out and allotted to the Vicar of *Melksham* as aforesaid, and of preparing and depositing his Award, and all other the necessary Charges and Expences arising and accruing in the Course of carrying the Powers herein and in the said recited Act contained, into full and complete Execution and Effect, and shall expose the said Allotment or Allotments to public Sale by Auction in the Manner and subject to the Directions and Regulations mentioned and contained in the said recited Act; and the said Commissioner shall, on Payment of the Purchase Money for such Allotment or Allotments so to be sold for the Purposes aforesaid, by Indentures under his Hand and Seal duly executed and attested (such Conveyance or Conveyances to be prepared at the Expence of the Purchaser or Purchasers), convey, assure, and confirm, by way of Lease and Release, the same Allotment or Allotments unto or to the Use of the Purchaser or Purchasers thereof, his, her, or their Heirs and Assigns for ever, or unto such Person or Persons as such Purchaser or Purchasers shall direct or appoint, such Direction or Appointment to be in Writing under his, her, or their Hand and Seal or Hands and Seals: Provided nevertheless, that in such Sales of the said Commons and Waste Lands for the Purposes aforesaid, the said Commissioner shall have due regard to the Proportions of the Costs, Charges, and Expences of obtaining and passing this Act, and of carrying the same and the said recited Act into Effect, which shall be laid on such Parts of the said Commons and Waste Lands respectively, and shall sell such Portion or Portions of the said several and respective Commons and Waste Lands in fair Proportions accordingly.

Having regard to the Proportion each Common should pay.

For Soil.

XIII. And be it further enacted, That after the said several Roads are set out, pursuant to the Directions of the said recited Act, and the said Lands are set out for Sale as aforesaid, the said Commissioner shall and he is hereby authorized and required to allot, set out, and award to the said *George* Lord *Audley*, as Lord of the said Manor of *Blackmore*, and to and for such Person and Persons who shall appear to be the Lord or Lady, or Lords or Ladies of any other Manor or Manors within the said Parish of *Melksham*, or the said Chapelry of *Seend*, and who shall be entitled to the Soil of the said Commons and Waste Lands respectively, or any or either of them, or any Part or Parts thereof, such Part and Parcel of the

Reſidue of the ſame reſpectively, for and in lieu of his, her, or their Right or Intereſt in the Soil of the Commons and Waſte Lands reſpectively, as he the ſaid Commiſſioner ſhall conſider to be equal to One-twentieth Part in Value of the ſaid Commons and Waſte Lands.

The Reſidue.

XIV. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required, after he ſhall have ſet out the ſeveral Allotments for the Purpoſes aforeſaid, to ſet out, allot, and award the Reſidue and Remainder of the ſaid Common called *Blackmore* or *Melkſham Common*, unto, for, and amongſt the ſeveral Proprietors and Perſons entitled to Leazes thereon, according to the Number of their Leazes reſpectively, and to ſet out, allot, and award the Reſidue and Remainder of the ſaid other Commons, Strips, and Parcels of Waſte Lands unro, for, and amongſt the ſeveral Proprietors and Perſons claiming and being allowed Rights of Common thereon in reſpect of their ſeveral Tenements and Eſtates, and according to the annual Value of ſuch Tenements and Eſtates reſpectively, as rated in the preſent Poor Rate of the Pariſh of *Melkſham*, and Chapelry of *Seend* aforeſaid, (Quantity, Quality, Fencing, Situation and Convenience conſidered); and that it ſhall be lawful for the ſaid Commiſſioner to ſet out to any ſuch Perſon or Perſons as aforeſaid, the whole of his, her, or their Allotment in One Piece in any of the ſaid Commons and Waſte Lands in which ſuch Perſon or Perſons ſhall be intereſted, if the ſame can be conveniently done, and (in caſe he ſhall think it neceſſary for the more convenient Diſpoſition of the ſeveral Allotments to be made and ſet out in purſuance of this and the ſaid recited Act) to remove the Gate and Entrance or Way to any ancient Incloſure to ſome other convenient Place in the ſaid Incloſure, provided no Damage, Injury, or Inconvenience be occaſioned to the Occupiers or Owners of the Lands by any ſuch Removal of any Gate, Entrance, or Way.

Remove Gates.

XV. And be it further enacted, That all and every Perſon and Perſons to whom any ſuch Allotment or Allotments ſhall be ſo made and ſet out, ſhall, at his, her, and their own Coſts and Charges, fence in the ſame, within ſuch Time and in ſuch Manner as the ſaid Commiſſioner ſhall direct.

To be fenced.

XVI. And be it further enacted, That the ſaid Commiſſioner ſhall and may from Time to Time as he ſhall find convenient, deliver to the ſeveral Perſons intereſted in the ſeveral Diviſions and Allotments to be ſet out or ſold under this Act, Poſſeſſion of their reſpective Allotments hereby directed to be made and ſet out or ſold, and ſuch Poſſeſſion ſo delivered ſhall be kept and retained by the ſeveral Perſons entitled thereto, againſt all Perſons whomſoever, although the Award herein-after directed to be made, ſhall not at the Time of giving or delivering ſuch Poſſeſſion have been made and executed; and the ſaid Commiſſioner ſhall give Ten Days public Notice in the Pariſh Church of *Melkſham*, and in the ſaid Chapel of *Seend*, and in the *Saliſbury and Wincheſter Journal*, of the Day or Days on which ſuch Poſſeſſion will be ready to be delivered as aforeſaid.

Poſſeſſion to be delivered.

XVII. And

Penalty on Persons stocking Lands after Extinguishment of Right of Common.

XVII. And be it further enacted, That if any Person or Persons, after any Right of Common or Feeding shall be suspended or extinguished under or by virtue of the said recited Act or of this Act, shall, during such Suspension or Extinguishment thereof, stock or depasture with Sheep or other Stock, any Part of the said Grounds on which such Right of Common or Feeding shall be so directed to be suspended or extinguished as aforesaid, it shall be lawful for any Proprietor or Proprietors of any of the said Lands and Grounds, or any Person or Persons by the said Commissioner to be appointed, from Time to Time to distrain all such Horses, Cattle, Sheep, and other Stock then being or depasturing upon any Part of the said Lands and Grounds after the said Right of Common or Feeding shall be suspended or extinguished, and the same to impound until the Person or Persons offending shall have paid to the Person or Persons distraining, any Sum not exceeding the Sum of Ten Shillings *per* Head for all Cattle and other Stock so distrained, (except Sheep or Pigs,) and Sixpence *per* Head for every Sheep or Pig so distrained; and in case the said Penalty be not paid within Five Days after such Distress, then the said Commissioner, or any Justice of the Peace for the County of *Wilts*, is hereby authorized and required, on Proof upon Oath by One credible Witness (which Oath the said Commissioner or such Justice is hereby empowered to administer) of such Offence, and the Non-payment of the Penalty hereby imposed, and so often as the same shall happen, by Warrant under the Hand and Seal of any such Justice, and directed to the Constable or Constables of the said Parish of *Melksham* or the said Chapelry of *Seend*, or One of them, who is and are hereby required to execute every such Warrant, and to cause such and so many of such Cattle, Sheep, and Pigs, and other Stock to be sold, as shall be sufficient for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress and Sale, rendering the Overplus (if any) to the Owner or Owners of such Cattle or Sheep on Demand; which Warrant, and the Proceedings to be had thereon, shall be binding and conclusive on the Parties.

Cattle not to be turned into Lanes.

XVIII. Provided always, and be it further enacted, That no Person shall, at any Time after the Execution of the said Award, turn or put, or cause to be turned or put, any Horses, Cattle, Sheep, Swine or Lambs, into any of the Roads or Ways to be set out by virtue of this Act or the said recited Act.

Exchanges.

XIX. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments, within the said Parish, in Lieu and in Exchange for 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, 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

Years determinable on a Life or Lives, or with the Consent of the Guardians, Truſtees, 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, or 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 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 Biſhop of the Dioceſe in which ſuch Lands, Tenements, or Hereditaments ſo to be exchanged, ſhall lie and be ſituate.

Expences thereof how to be paid.

XX. 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 propoſing or conſenting to the 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.

For apportioning Coſts of Exchanges.

XXI. Provided always, and be it further enacted, That in aſcertaining ſuch Coſts and Expences, the ſame ſhall be charged on the ſeveral Proprietors, in Proportion to the Benefit which will ariſe to their reſpective Lands by the Execution of this Act; and the whole of the Charge on the ſeveral Proprietors, and the Grounds on which the Apportionment thereof ſhall be made, ſhall be entered in the Proceedings of the ſaid Commiſſioner, and ſhall be open to the Inſpection of every Perſon who ſhall be ſo charged; and it ſhall be lawful for any of the Perſons charged with ſuch Coſts and Expences, to appeal to the Juſtices of the Peace aſſembled at any General Quarter Seſſions for the County of *Wilts*, againſt any Rate which ſhall be made by the ſaid Commiſſioner, within ſuch Time and on giving ſuch Notice to the ſaid Commiſſioner as is herein-after limited and directed with reſpect to Appeals againſt Proceedings, Orders, or Determinations of the ſaid Commiſſioner: Provided alſo, that in all Caſes where any Appeal ſhall be made againſt any ſuch Rate, none of the Powers and Authorities given by this Act or the ſaid recited Act ſhall be put in force and exerciſed for the Recovery of ſuch Part of ſuch Charge againſt which ſuch Appeal ſhall be made, until ſuch Appeal ſhall have been determined by the ſaid Juſtices; and in caſe the Determination of ſuch Juſtices ſhall be againſt the ſaid Charge, the ſaid Commiſſioner ſhall make a new Charge and Apportionment, againſt which there ſhall be the like Power of Appeal, and ſo from Time to Time until a Charge and Apportionment ſhall be made,

againſt which there ſhall be no Appeal, or which ſhall be confirmed upon Appeal.

Leaſes.

XXII. And be it further enacted, That every Tenant and Occupier under any Leaſe or Agreement for any Term of Years, at Rack Rent, now ſubſiſting of any Lands or Hereditaments, which ſhall be allotted or exchanged by virtue of this Act, within the ſaid Pariſh and Chapelry, or either of them, ſhall immediately after ſigning the Award of the Commiſſioner, or within ſuch further Time as the ſaid Commiſſioner ſhall appoint, and whereof Notice in Writing ſhall be given for that Purpoſe, deliver up the full and peaceable Poſſeſſion of ſuch allotted or exchanged Lands and Hereditaments to the Perſon or Perſons to or with whom the ſame ſhall be allotted or exchanged; but the Tenants or Occupiers of ſuch allotted or exchanged Lands and Hereditaments ſhall receive from the reſpective Owners and Proprietors thereof, ſuch Satisfaction as the ſaid Commiſſioner ſhall aſcertain, order, and direct to be paid to ſuch Tenants reſpectively, as an Equivalent for the Loſs or Loſſes they may reſpectively ſuſtain thereby; and if the Money to be aſcertained as aforeſaid ſhall not be paid to the Perſon or Perſons entitled to receive the ſame within Ten Days after Demand made thereof, it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby required to raiſe and levy the ſame for the Uſe and Benefit of the Perſon or Perſons entitled thereto: Provided always, that nothing herein contained ſhall be conſidered to extend to vacate any Leaſe or Leaſes otherwiſe than ſo far as the ſame relates to or concerns any Leazes or Right or Rights of Common in or over the Commons and Waſte Lands hereby intended to be divided and incloſed; and where there ſhall be any Leaſe of Land, Part of which ſhall lie in the ſaid Pariſh of *Melkſham*, and Part in an adjoining Pariſh, ſuch Leaſe may be vacated; but where any Lands taken in Exchange ſhall be under Leaſe, and lying wholly in an adjoining Pariſh, ſuch Leaſe or Leaſes ſhall not be vacated.

Wills and Settlements.

XXIII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be deemed or taken to extend to revoke, make void, alter, or annul any Will, Deed or Settlement, or to prejudice any Perſon having or claiming any Eſtate, Right, Title or Intereſt, Jointure, Dower, Portion, Debt, or Incumbrance, out of, upon, or affecting any of the Tythes, Lands and Grounds ſo intended to be divided and allotted or incloſed, or which ſhall be exchanged in purſuance of this or the ſaid recited Act, or any Part thereof reſpectively; but that the ſeveral Lands and Grounds ſo to be aſſigned and allotted upon the ſaid Diviſion to the ſeveral Parties concerned or their Truſtees reſpectively, or which ſhall be taken in Exchange in purſuance of this or the ſaid recited Act, ſhall immediately after the making of ſuch Allotments or Exchanges be, remain and enure, and the ſeveral Perſons to whom the ſame ſhall be aſſigned and allotted, or given in Exchange as aforeſaid, ſhall from thenceforth ſtand and be ſeiſed thereof in ſuch and the ſame Eſtates, and to and for ſuch and the ſame Uſes and Truſts, and ſubject to ſuch Deeds, Wills and Settlements, Limitations, Remainders, Charges, Rents, and Incumbrances, as the ſeveral Lands and Grounds, Tenements and Hereditaments, in reſpect or in lieu whereof ſuch Allotments or Ex-

changes ſhall be aſſigned and made as aforeſaid, now are or ſhould or would have been ſubject or liable to be charged with, or affected by, in caſe the ſame had remained undivided or unexchanged, or this Act had not been made.

Exempting Allotments from Tythe of Hay and Corn for Three Years.

XXIV. And be it further enacted, That no Tythe of Hay or Corn ſhall be demanded or payable for or in reſpect of the Allotments to be made by virtue of this Act, during the Space of Three Years next after the Day of giving Poſſeſſion of the Allotments to be ſet out by virtue of this Act is fixed by the ſaid Commiſſioner, as directed by this Act.

Expences, &c. how to be paid.

XXV. And be it further enacted, That the Expences of and attending the obtaining this Act, and alſo of carrying the ſame fully into Execution, and of ſurveying, admeaſuring, planning, valuing, draining, dividing, and allotting the ſaid Commons and Waſte Lands hereby intended to be divided, allotted, and incloſed, and of forming and making public Roads and Ways into, over, and upon the ſame under this or the ſaid recited Act, and of fencing the Allotment or Allotments to be ſet out and allotted to the Vicar of *Melkſham*, in reſpect of the ſeveral Leazes in the ſaid Common called *Blackmore* or *Melkſham Common*, belonging to the Vicar of *Melkſham*, and of preparing and depoſiting the Award or Inſtrument to be made in purſuance of this or the ſaid recited Act, and all other the neceſſary Charges and Expences of the ſaid Commiſſioner in and about and concerning the carrying of this Act into Execution, ſhall be borne, paid and defrayed by and out of the Money which ſhall be raiſed by Sale of Lands as herein-before mentioned.

Application of Surplus Money.

XXVI. And be it further enacted, That in caſe any Part or Parts of the ſaid Commons and Waſte Lands ſhall be ſold for more Money than will be required to defray ſuch Charges and Expences as aforeſaid, then and in ſuch Caſe ſuch Surplus Money ſhall be divided and apportioned between and among the ſeveral Proprietors of the Lands hereby directed to be divided, allotted and incloſed, according to their ſeveral and reſpective Intereſts therein, and paid to them in caſe they ſhall be ſeiſed in Fee Simple of their ſeveral Allotments, or otherwiſe ſuch Surplus Money ſhall be paid into the Bank of *England*, in Manner directed by the ſaid recited Act in thoſe Caſes wherein any Money is to be paid for the Purchaſe or Exchange of any Lands, Tenements or Hereditaments, or any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments to be ſettled to the ſame Uſes.

Power to borrow Money.

XXVII. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioner to borrow and take up at Intereſt, of any Perſon or Perſons willing to advance the ſame, ſuch Sum and Sums of Money as ſhall from Time to Time be neceſſary for defraying the Charges and Expences of paſſing this Act and executing the ſame, and the ſaid recited Act, and otherwiſe relating thereto, until the ſame ſhall be repaid by ſuch Sale or Sales as herein-before mentioned.

XXVIII. And

Money advanced to be repaid with Interest.

XXVIII. And be it further enacted, That if any Person or Persons shall advance any Sum or Sums of Money for defraying the Expences of obtaining and passing this Act, or for carrying the same into Execution, every such Person shall be repaid the same with Interest after the Rate of Five Pounds *per Centum per Annum*, out of the first Monies which shall be raised or received by the said Commissioner, by virtue of this Act.

Allowance to Commissioner.

XXIX. And be it further enacted, That the said Commissioner appointed and to be appointed by virtue of this Act, shall be entitled to and receive the Sum of Three Guineas *per Diem*, and no more, for each and every Day he shall be actually employed in the Execution of the Powers and Authorities vested in him by this Act, including Three Days in going to and returning from the Meetings or Sittings.

Commissioner to lay his Accounts before Two Justices once in every Year.

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 Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by him laid before any Two Justices of the Peace for the said County of *Wilts*, 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 or Clerks to the said Commissioner, and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in the Law, unless the same shall have been duly allowed by such Justices.

Award.

XXXI. And be it further enacted, That as soon as conveniently may be after the Division and Allotment of the said Commons and Waste Lands shall have been made and completed, pursuant to the Directions of this Act, the said Commissioner shall form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, with one or more proper Plan or Plans thereto annexed, in the Manner prescribed by the said recited Act, which said Award or Instrument shall be fairly engrossed or written on Parchment, and be signed by the said Commissioner, and shall within Six Calendar Months next after the same shall have been signed as aforesaid, be deposited with the Clerk of the Peace of the said County of *Wilts*, who is hereby required to receive, keep, and deposit the same amongst the Records of the said County, (for the depositing of which the Sum of Three Pounds Three Shillings and no more shall be demanded or paid) to the end that free Recourse may be had thereto by all Persons interested in the said Division and Inclosure, for the Inspection of which said Award One Shilling shall be paid and no more; and a true Copy thereof or any Part thereof, when and as often as the same shall be required, shall be delivered to any Person or Persons, signed by the Clerk of the Peace or his Deputy for the Time being, purporting the same to be a true Copy, for which no more than Three-pence *per* Sheet, reckoning Seventy-two Words

Words to each Sheet, ſhall be paid; which ſaid Copy, as alſo the original Award or Inſtrument, and the Copy herein-after directed to be written on Parchment and ſigned by the ſaid Commiſſioner, ſhall at all Times hereafter be admitted as legal Evidence in all Courts whatſoever; and the ſaid Commiſſioner is hereby directed and required to deliver a Copy of the Award or Inſtrument, fairly written on Parchment, with a proper Plan or Plans thereto annexed, ſigned by the ſaid Commiſſioner as aforeſaid, unto the Churchwardens of the Pariſh of *Melkſham* aforeſaid, for the Time being, to be by them depoſited in the Pariſh Cheſt of the Pariſh Church of *Melkſham* aforeſaid, to the end that Recourſe may be had thereto by the ſeveral and reſpective Proprietors or Parties 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, then and in every ſuch Caſe (except in ſuch Caſes where the Orders and Determinations of the ſaid Commiſſioner are by this or the ſaid recited Act directed to be final, binding and concluſive upon all Parties, and except in ſuch Caſes where an Iſſue at Law ſhall be tried as herein-before mentioned) he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace which ſhall be held for the ſaid County of *Wilts*, within Six Calendar Months next after the Cauſe of Complaint ſhall have ariſen; and the Juſtices in the General Quarter Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and to award ſuch Coſts as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order or Warrant to levy the Coſts which ſhall be ſo awarded by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any), on Demand, to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale; which Determination of the ſaid Juſtices ſhall be final and concluſive on 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.

General Saving.

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

Act made Evidence.

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 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. 1813.