ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

Cap. 45.

An Act for incloſing Lands within the Manor and Pariſh of *Southweald*, in the County of *Eſſex*.

[25th *March* 1812.]

WHEREAS there are within the Manor and Pariſh of *Southweald*, in the County of *Eſſex*, ſeveral Commons and Waſte Lands containing by Eſtimation Four Hundred Acres or thereabouts: And whereas *Chriſtopher Thomas Tower* Eſquire, is Lord of the ſaid Manor of *Southweald*, and as ſuch is the Owner of the Soil of the ſaid Commons and Waſte Lands: And whereas *Anthony George Wright* Eſquire, *William Willan* Eſquire, *Eſſex Henry Bond* Eſquire, *John Manby* Eſquire, and divers other Perſons, are or claim to be, intereſted in the Herbage of the ſaid Commons and Waſte Lands: And whereas the ſaid Commons and Waſte Lands are capable of great Improvement, if the ſame were divided and incloſed, and ſpecific Allotments made thereof to the ſeveral Perſons intereſted therein, according to their reſpective Rights and Intereſts; but ſuch Diviſion, Allotment and Incloſure, cannot be effected without the Aid 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 *Thomas Brown* of *Luton*, in the County of *Bedford*, Gentleman, and *John Trumper* of *Hareſield*, in the County of *Middleſex*, Gentleman, ſhall be, and they are hereby appointed Commiſſioners for ſetting out, dividing, and allotting the ſaid Commons and Waſte Lands within the ſaid Manor and Pariſh of *Southweald*, and for putting this Act in Execution, in ſuch Manner, Commiſſioners.

Manner, with such Powers, and subject to such Regulations and Directions as are herein-after contained, and with such of the Powers, and subject to such of the Rules, Directions, Regulations, Restrictions and Provisions, contained in an Act made 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*, as are not repugnant to, or altered, or otherwise provided for by some of the Clauses, Regulations, and Provisions in this Act.

Appointment of new Commissioners on Vacancies.

II. And be it further enacted, That in case the said *Thomas Brown*, or any Commissioner to be appointed in his Place, as herein-after is mentioned, shall refuse to act, or if he shall, before the Powers and Trusts reposed in the said Commissioners shall have been fully executed, die, or become incapable of acting as a Commissioner, it shall be lawful for the said *Christopher Thomas Tower*, or the Person or Persons for the Time being seized of the said Manor of *Southweald*, for any Estate of Freehold or Inheritance, by Writing under his or their respective Hand or Hands, to appoint some other fit Person (not interested in the said Division and Inclosure) to be a Commissioner in the Place of the said *Thomas Brown*, or any Commissioner to be appointed in his Place as aforesaid; and if the said *John Trumper*, or any Commissioner to be appointed in his Place, as herein-after is mentioned, shall refuse to act, or shall, before the Powers and Trusts reposed in the said Commissioners shall have been fully executed, die or become incapable of acting as a Commissioner, it shall be lawful for the major Part in Value, (such Value to be ascertained by the surviving or continuing Commissioner for the Time being,) of the several Persons interested in the Commons and Waste Lands, to be divided and allotted by virtue of this Act, (except the Lord of the said Manor of *Southweald* for the Time being); who shall by themselves, or their respective Agents, attend the Meeting or Meetings to be appointed for that Purpose, (of which Meeting, and the Intent thereof, Notice shall be given by the Clerk to the Commissioners, at least Ten Days previous to such Meeting, by affixing such Notice on the South Door of the Parish Church of *Southweald* aforesaid, and by inserting the same in the Newspaper called *The Chelmsford Chronicle*, if then published, and if not, then in some other Newspaper usually circulated in the said County of *Essex*,) by Writing under their respective Hands, from Time to Time, to appoint some other fit Person, (not interested in the said Division and Inclosure,) to be a Commissioner in the Place of the said *John Trumper*, or any Commissioner to be appointed in his Place as last aforesaid; and every Commissioner so nominated and appointed as aforesaid, shall, after taking the Oath in that Behalf prescribed by the said recited Act, have such and the like Powers and Authorities in all Respects for carrying this Act and the said recited Act into Execution, and shall be subject and liable to the like Rules, Regulations and Restrictions, as if he had been originally nominated and appointed a Commissioner in and by this Act.

Commissioners neglecting to attend Meetings considered as a Refusal to act

III Provided always, and be it enacted, That if either of the said Commissioners hereby nominated shall refuse or neglect to attend at the First Meeting appointed to be holden for carrying this Act into Execution, and duly qualify himself by taking and subscribing the Oath prescribed in that Behalf; or if either of the said Commissioners shall at any Time after the

ſaid Firſt Meeting wilfully abſent himſelf from any Three following ſucceſſive Meetings appointed to be holden by virtue of this Act, or having been abſent from Two ſucceſſive Meetings, ſhall not attend during the Whole of the Third or next ſucceeding Meeting, ſuch Meetings being known to him either by his being preſent at the Appointment thereof, or Notice thereof in Writing having been given to him or left at his laſt or uſual Place of Abode by the Clerk to the ſaid Commiſſioners, or by any Three or more of the Perſons intereſted in the ſaid Commons and Waſte Lands, and ſuch Commiſſioner not having been prevented by Sickneſs or other reaſonable Cauſe to be allowed by the other Commiſſioner, from attending or continuing at ſuch Meetings; or if any Commiſſioner to be nominated and appointed as by this Act directed, ſhall not attend and qualify himſelf to act as a Commiſſioner in the Execution of this Act at the Firſt Meeting of the ſaid Commiſſioners after his Nomination or Appointment, or ſhall thereafter wilfully abſent himſelf from Three following ſucceſſive Meetings to be holden by virtue of this Act, or having been abſent from Two ſucceſſive Meetings, ſhall not attend during the whole of the Third or next ſucceeding Meetings, ſuch Meetings being known to him either by his being preſent at the Appointment thereof, or Notice thereof in Writing having been given to him, or left at his laſt or uſual Place of Abode by the Clerk to the ſaid Commiſſioners, or by any Three or more of the Perſons intereſted in the ſaid Commons and Waſte Lands; and ſuch Commiſſioner not being prevented by Sickneſs or other reaſonable Cauſe to be allowed by the other Commiſſioner, from attending or continuing at ſuch Meetings; then, and in every of ſuch Caſes, ſuch Abſence or Non-attendance ſhall be deemed and taken to be a Refuſal to act within the Intent and Meaning of this Act.

Umpire.

IV. And for the Purpoſe of ſettling and determining any Difference or Diſpute which may ariſe between the ſaid Commiſſioners touching or concerning any of the Matters and Things to be by them determined and performed, or executed 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 required, at the Firſt Meeting to be held by them for the putting this Act into Execution, by Writing under their Hands, to chooſe, nominate and appoint ſome proper and ſkilful Perſon, (not intereſted in the ſaid Diviſion and Incloſure,) who ſhall be willing and conſent to act as an Umpire; and if the ſaid Commiſſioners cannot agree in the Choice of a Perſon to act as Umpire, then the Vicar for the Time being of the Pariſh of *Southweald* aforeſaid ſhall, and he is hereby authorized by Writing under his Hand, to chooſe, nominate and appoint ſome ſuch fit and ſkilful Perſon, (not intereſted as aforeſaid,) who ſhall be willing and conſent to act as Umpire, which Umpire ſo to be choſen, nominated, and appointed, is hereby authorized and required to hear and determine every ſuch Difference or Diſpute as may ariſe between the ſaid Commiſſioners touching any Act, Matter, or Thing relating to the ſaid Diviſion, Allotment, and Incloſure, or any of the Purpoſes of this Act; and the Judgment and Determination of the ſaid Umpire therein 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 Judgment and Acts of the ſaid Commiſſioners are by the ſaid recited Act and this Act made final and concluſive.

V. And

Appointment of Umpire on Vacancies.

V. And be it further enacted, That if the Umpire ſo to be appointed as aforeſaid, or any future Umpire to be appointed as herein-after is mentioned, ſhall refuſe to act under this Act, or ſhall die, or become incapable of acting, before the Powers and Truſts repoſed in the ſaid Commiſſioners ſhall have been fully executed, then the ſaid Commiſſioners ſhall, before they ſhall proceed farther in the Execution of this Act, and they are hereby authorized to appoint, by Writing under their Hands, ſome other fit Perſon (not intereſted in the ſaid Diviſion and Incloſure) to be an Umpire in the Place of the Umpire ſo refuſing to act, or dying, or becoming incapable of acting; and if the Commiſſioners cannot agree in the Choice of a Perſon to ſupply the Place of an Umpire on any ſuch Vacancy, then the Vicar for the Time being of the Pariſh of *Southweald* aforeſaid ſhall, and he is hereby authorized by Writing under his Hand, to appoint ſome ſuch fit Perſon to be an Umpire in the Place of the Umpire ſo refuſing to act, or dying, or becoming incapable of acting; and every Umpire to be appointed in the Manner herein-before directed in the Place of the Umpire ſo refuſing to act, or dying, or becoming incapable of acting, ſhall have the like Powers and Authorities as are by this Act veſted in the Umpire hereby directed to be firſt appointed.

Appointment of Commiſſioners and Umpire to be inrolled, and Copy to be Evidence.

VI. Provided alſo, and be it enacted, That the Inſtrument appointing every Commiſſioner and Umpire to be elected and appointed by virtue of this Act, ſhall be inrolled with the Award of the Commiſſioners, and a Copy of ſuch Inſtrument, atteſted by the proper Officer of the Court where the ſame ſhall be inrolled, ſhall be full and ſufficient Evidence thereof.

VII. Provided alſo, and be it enacted, That no Perſon ſhall be capable of acting in the Execution of the ſaid recited Act or this Act, as Umpire, until he ſhall have taken and ſubſcribed the Oath following; (that is to ſay),

Oath of Umpire.

'I *A. B.* do ſwear, That I will faithfully, impartially, and honeſtly, according to the beſt of my Skill and Ability, execute and perform the Truſts, Powers, and Authorities veſted and repoſed in me as Umpire, by virtue of an Act paſſed in the Fifty-ſecond Year of the Reign of His Majeſty King *George* the Third, intituled [*here ſet forth the Title of this Act*] according to Equity and good Conſcience, and without Favour or Affection, Prejudice or Partiality to any Perſon or Perſons whomſoever. So help me GOD.'

Which Oath it ſhall be lawful to and for the ſaid Commiſſioners, or either of them, to adminiſter, and they are hereby required to adminiſter the ſame; and ſuch Oath, ſo taken and ſubſcribed by ſuch Umpire, ſhall be annexed to and inrolled with the Award of the ſaid Commiſſioners.

Commiſſioners to give Notice of Meetings.

VIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby directed to cauſe public Notice to be given of the Time and Place of their Firſt and every other Meeting for the Execution of this Act, at leaſt Eight Days before any ſuch Meeting ſhall be holden, (Meetings by Adjournment excepted,) and that the ſaid Commiſſioners may, and they are hereby authorized to adjourn any ſuch Meeting from Time to Time, and Place to Place, as they ſhall

ſhall ſee Occaſion; and in caſe both the ſaid Commiſſioners ſhall not meet at the Time and Place appointed for any ſuch Meeting, or to which any ſuch Meeting ſhall be adjourned, it ſhall be lawful for the Commiſſioner preſent at ſuch Time and Place, or if no Commiſſioner ſhall then attend, for the Clerk to the ſaid Commiſſioners (which Clerk they are hereby authorized to appoint) to adjourn ſuch Meeting to any future Day, not exceeding Twenty-eight Days from the Day of Adjournment, to be holden at the ſame or any other convenient Place, and ſo from Time to Time, until both the ſaid Commiſſioners ſhall meet; and the Commiſſioner or Clerk making ſuch Adjournment, is hereby required to give Notice thereof to the abſent Commiſſioner or Commiſſioners, provided that all Meetings of the ſaid Commiſſioners for putting this Act in Execution ſhall be holden in the Pariſh of *Southweald* aforeſaid, or within Eight Miles from the Boundary thereof.

In what Manner Notices to be given.

IX. And be it further enacted, That all Notices required by the ſaid recited Act to be given by the ſaid Commiſſioners, and the Notices hereby required to be by them given of their Meetings for the Execution of this Act, ſhall be given by Writing to be affixed on the South Door of the Pariſh Church of *Southweald* aforeſaid, or by Advertiſement in the ſaid Paper, called *The Chelmsford Chronicle*, or if ſuch Newſpaper ſhall not be then publiſhed, in ſome other Newſpaper uſually circulated in the ſaid County of *Eſſex*.

Commiſſioners, and Umpire empowered to determine Differences.

X. 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 Lands and Grounds hereby directed to be divided and allotted, touching or concerning the reſpective Shares and Proportions which they, or any of them, ſhall have, or claim to have therein, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion and Incloſure, it ſhall and may be lawful to and for the ſaid Commiſſioners, and Umpire, and they are hereby reſpectively authorized and required, upon proper and ſufficient Inquiry and Evidence, to examine into, hear, and determine the ſame.

But not Titles.

XI. Provided, That nothing herein contained ſhall authorize the ſaid Commiſſioners or Umpire to determine the Title to any Lands, Tenements or Hereditaments whatſoever, nor to determine any Right between any of the Parties intereſted in the ſaid Lands and Grounds, contrary to the Poſſeſſion of any of ſuch Parties; but in caſe the ſaid Commiſſioners or Umpire ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, they reſpectively ſhall forbear to make any Determination thereupon, until the Poſſeſſion ſhall have been duly taken from ſuch Perſon or Perſons by Ejectment, or other due Courſe of Law.

Power to award Coſts.

XII. And be it further enacted, That in caſe the ſaid Commiſſioners or Umpire ſhall, upon the Hearing and Determination of 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 and may be lawful to and for the ſaid Commiſſioners or Umpire, 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

able to be paid to the Party or Parties in whoſe Favour any Determination of the ſaid Commiſſioners or Umpire ſhall be made by the Perſon or Perſons, Body or Bodies Politic or Corporate, whoſe Claim or Claims, Objection or Objections, ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons, Body or Bodies Politic or Corporate, 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 and may be lawful to and for the ſaid Commiſſioners or Umpire, and they are hereby reſpectively authorized and required by Warrant under their reſpective 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, Body or Bodies Politic or Corporate, ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand to the Perſon or Perſons, Body or Bodies Politic or Corporate, whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Perſons diſſatisfied with the Commiſſioners or Umpire's Determination, may try their Rights by an Action at Law.

XIII. Provided always, and be it further enacted, That if any Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Right or Intereſt 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, Body or Bodies Politic, Corporate or Collegiate, ſo deſirous to have the ſame tried at Law, ſhall and do 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 Umpire, or any of them, within One Calendar Month next after ſuch Determination ſhall have been ſo made by the ſaid Commiſſioners or Umpire, of which Notice the ſaid Commiſſioners or Umpire are hereby required, immediately on Receipt thereof, or as ſoon afterwards as may conveniently be done, to give Information to the adverſe Party or Parties, or his, her, or their reſpective Stewards, Receivers, Attornies, or Agents, by Writing under their reſpective Hands, (to be delivered to or left at the uſual Place of Abode of ſuch Party or Parties, Stewards, Receivers, Attornies, or Agents, as aforeſaid), then it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, giving ſuch Notice as aforeſaid, their reſpective Heirs, Succeſſors or Aſſigns, and he, ſhe or they is and are hereby required to proceed to a Trial or Trials at Law of the ſame, at the Aſſizes to be holden for the County of *Eſſex* next after the Expiration of One Calendar Month from the Time when ſuch Notice as aforeſaid ſhall have been given, in a feigned Action or Actions for that Purpoſe to be commenced in His Majeſty's Court of King's Bench, Common Pleas, or Exchequer, at *Weſtminſter*, by the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, giving ſuch Notice as aforeſaid againſt any Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, intereſted in the ſaid Diviſion, in whoſe Favour ſuch Determination of the Commiſſioners ſhall have been made; 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 the Claim or Claims, Rights and Intereſts in queſtion may be properly tried

and

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 shall differ about the same;) and if at the Trial of any such Issue or Issues it shall appear that the Party claiming is entitled to any qualified or less Right or Rights, or Interests, than was or were claimed by such Party, then it shall and may 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 such 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 or Indorsement, if any such shall be made, shall be binding upon and to all and every Body and Bodies Politic, Corporate, and Collegiate, and 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 such Verdict or Verdicts, or special Finding or Indorsement shall be obtained, the same not being set aside by the Court, the said Commissioners shall, and they are hereby authorized and required to act in conformity thereto, and to allow or disallow the Claim or Claims, Right or Rights, or Interest or Interests thereby determined according to such Verdict or Verdicts, or Finding and Indorsement as aforesaid: Provided always, that it shall be lawful for the Court in which any Action commenced in pursuance of this Act shall be depending, upon sufficient Cause shewn to put off the Trial of such Action, although the Time herein-before limited for the Trial of such Action may be thereby exceeded; but if no such Notice as aforesaid shall be given, or being given, if no such Action or Actions shall be brought or commenced by the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, giving such Notice within the Time aforesaid, or if such Action or Actions shall not be proceeded in to a Trial or Trials at the First Assizes which shall be holden for the said County of *Essex*, after the Expiration of One Calendar Month from the Day of giving such Notice, by or on account of the Neglect or Default of the Plaintiff or Plaintiffs therein, then and in such Case, the Determination of the said Commissioners or Umpire shall be final, binding, and conclusive unto and upon all Parties whomsoever.

Actions not to abate by, or may be brought after, the Death of a Party.

XIV. Provided always, and be it enacted, That if any of the Parties, in any Action or Actions to be brought and prosecuted in pursuance of this Act, shall die pending the same, such Action or Actions 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 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 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 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.

Trials not to ſuſpend the Execution of the Act.

XV. Provided always, and be it enacted, That no ſuch Difference, Diſpute, or Proceeding, touching the Title to any Lands, Tenements, or Hereditaments, ſhall impede or delay the ſaid Commiſſioners or Umpire in the Execution of this Act, but the Diviſion or Incloſure hereby directed to be made ſhall be proceeded in notwithſtanding any ſuch Difference, Diſpute, or Proceeding.

Commiſſioners may extinguiſh or ſuſpend Rights of Common.

XVI. And be it further enacted, That it ſhall be lawful to and for the ſaid Commiſſioners, at any Time when they in their Judgement ſhall think it convenient and proper, by Notice for that Purpoſe under their Hands, to be affixed on the South Door of the Pariſh Church of *Southweald* aforeſaid, on ſome *Sunday* before, and there to remain until after Divine Service, to order the Right of Common in, upon, and over the Lands and Grounds hereby directed to be divided and allotted, or any of them to be extinguiſhed, either in Whole or in Part, or to be ſuſpended, and from and after the Time to be mentioned in and fixed by any ſuch Notice, all ſuch Right of Common as ſhall thereby be directed to be extinguiſhed or ſuſpended, ſhall ceaſe and be extinguiſhed, or ſhall be ſuſpended according to and as ſhall be expreſſed in and directed by ſuch Notice.

Power to ſtop Roads between or over old Incloſures.

XVII. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioners, and they are hereby authorized and empowered to divert or ſtop up any old public Carriage Road, Driftway, Bridleway, or Footpath, leading between, through, and over any of the old Incloſures in the ſaid Manor of *Southweald*, and the Soil of the Roads and Ways ſo to be ſtopped up ſhall be deemed and taken to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act, provided that no ſuch Carriage Road, Driftway, Bridleway, or Footpath paſſing or leading between, through, or over any of the old Incloſures in the ſaid Manor, ſhall be ſtopped up without the Concurrence and Order of Two Juſtices of the Peace for the ſaid County of *Eſſex*, not intereſted in the Lands and Grounds to be divided and allotted, and that every ſuch Order ſhall be ſubject to an Appeal to the Quarter Seſſions for the ſaid County of *Eſſex*, in like Manner, and under the ſame Forms and Reſtrictions, as Orders originally made by Juſtices for diverting and turning Roads and Ways.

Roads dividing Pariſhes.

XVIII. And be it further enacted, That in caſe any public Roads or Highways ſhall, by virtue of the ſaid Act of the Forty-firſt Year of His preſent Majeſty's Reign, and of this Act, be ſet out or continued in any Situation or Direction where the ſaid Pariſh of *Southweald* is divided from any adjoining Pariſh or Place, and where there now is or uſually hath been a public

a public Road or Way, and such adjoining Parish or Place hath heretofore been charged, or liable or ought to be charged, or liable to One Half Part of the Repairs and Support of the said Road or Way, then and in such Case the said Commissioners may and shall set out so much only from and out of the Lands and Grounds hereby intended to be divided and allotted as will enlarge the Breadth of such Road or Way to Thirty Feet at the least, or the said Commissioners may apportion such Road or Roads between the Parish of *Southweald* and the adjoining Parish or Parishes.

Justices empowered to declare any of the Roads completed.

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

Allotments for Sand, Gravel, and Stone Pits.

XX. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby required to set out, allot, and award One or more Plot or Plots of the said Lands and Grounds so intended to be divided and allotted as aforesaid, not exceeding in the Whole Five Acres, as and for public Sand, Gravel, and Stone Pits, with convenient Roads to and from the same, to be used for the Repairs of the Turnpike and other public Highways and Roads in the said Parish, and to award and direct to whom the Herbage of such Allotment or Allotments shall belong.

Allotment to the Lord of the Manor in lieu of Right of Soil.

XXI. And be it further enacted, That the said Commissioners shall in the next Place set out, allot, and award unto and for the said *Christopher Thomas Tower*, as Lord of the said Manor of *Southweald*, or the Lord of the said Manor for the Time being, such Part and Parts of the Lands and Grounds hereby directed to be divided and inclosed as shall, in the Judgement of the said Commissioners, be equal in Value to One Sixteenth Part of all the Commons and Waste Lands hereby directed to be divided and allotted, in lieu and Satisfaction of the Soil of such Commons and Waste Lands.

Allotment to the Lord of the Manor for Enfranchisement of Copyhold Allotments.

XXII. And be it further enacted, That the said Commissioners shall, in the next Place, set out, allot, and award unto and for the said *Christopher Thomas Tower*, as Lord of the said Manor of *Southweald*, or the Lord of the said Manor for the Time being, such Part or Parts of the Lands and Grounds hereby directed to be divided and inclosed as shall, in the Judgement of the said Commissioners, be a just and fair Equivalent and Compensation for enfranchising and making Freehold all such Allotment or Allotments of the Commons and Waste Grounds hereby directed

to be divided and allotted as ſhall, under and by virtue of this Act, be made to the Copyhold or Cuſtomary Tenants of the ſaid Manor reſpectively, in lieu of their reſpective Rights and Intereſts therein.

Copyhold Tenants to have the Option of enfranchiſing their Allotments by a Money Payment.

XXIII. Provided always, and it is hereby further enacted, That if any ſuch Copyhold or Cuſtomary Tenant or Tenants ſhall be deſirous that the Equivalent and Compenſation for the enfranchiſing and making Freehold his, her, or their Allotment or Allotments as aforeſaid, ſhall be made and given in Money, and not in Land as aforeſaid, and of ſuch Deſire ſhall give Notice in Writing to the ſaid Commiſſioners, at a Meeting to be held by them for that Purpoſe, then and in ſuch Caſe the ſaid Commiſſioners ſhall, and they are hereby authorized to direct the Compenſation in Money which ſhall be paid and given by ſuch Copyhold or Cuſtomary Tenant or Tenants for the enfranchiſing and making Freehold his, her, or their ſaid Allotment or Allotments reſpectively, which Compenſation in Money ſhall be paid and applied in the Manner directed by the ſaid Act of the Forty-firſt Year of the Reign of His preſent Majeſty, with reſpect to 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 Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes.

Allotments to Copyhold Tenants made Freehold.

XXIV. And be it further enacted, That from and after ſuch Allotment or Allotments ſhall be ſo ſet out and allotted, or ſuch Compenſation in Money ſhall be ſo paid as an Equivalent for the enfranchiſing and making Freehold ſuch Allotment or Allotments as aforeſaid, all ſuch Allotment or Allotments ſhall be enfranchiſed, and become and be and for ever continue of Freehold Tenure, diſcharged of and from all Fines, Quit Rents, and other Services, and ſhall veſt in ſuch and the ſame Perſon and Perſons, for ſuch and the ſame Eſtate and Eſtates, and to, for, upon, with, under, and ſubject to ſuch and the ſame Uſes, Truſts, Intents, Purpoſes, Charges, Powers, Proviſoes, Conditions, Limitations, Remainders, and Reverſions, as the Copyhold or Cuſtomary Meſſuages, Lands, and Hereditaments reſpectively, in reſpect whereof ſuch Allotment or Allotments ſhall be made, would have been veſted in, or deviſed or limited to, for, upon, with, under, or ſubject to, if the ſame had been Freehold Meſſuages, Lands, and Hereditaments.

Allotment of Reſidue to the other Proprietors.

XXV. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required to ſet out and allot the Reſidue of the Lands and Grounds hereby directed to be divided and incloſed unto, for, and amongſt the ſeveral Perſons who at the Time of making ſuch Allotments ſhall be reſpectively entitled to Right of Common, or any other Right or Intereſt in and upon the ſame Commons and Waſte Lands, according and in Proportion to their ſeveral and reſpective Rights and Intereſts.

Allotments to be laid out as near to Houſes, &c. as Circumſtances will admit of.

XXVI. And be it further enacted, That the Allotment or Allotments to be made to any Perſon or Perſons having Houſes, or Homeſteads, or Lands, which adjoin to the ſaid Commons and Waſte Lands hereby directed to be divided and incloſed, ſhall be laid by the ſaid Commiſſioners either in the Front of or as near to ſuch Houſes, or Homeſteads, or Lands;

as

as Circumſtances will admit of, and ſo far as may be conſiſtent with the general Convenience of the ſeveral Proprietors.

Allotments to be fenced.

XXVII. And be it further enacted, That the ſeveral Allotments to be made by virtue of this Act, ſhall be incloſed, hedged, ditched, or otherwiſe fenced, and ſuch Fences for ever thereafter repaired by and at the Expenſe of the reſpective Perſons to whom the ſame ſhall be allotted, within ſuch Time and in ſuch Proportions and Manner as the ſaid Commiſſioners ſhall direct.

Proprietors may ſell their Allotments and their Rights of Common ſeparately from their other Property.

XXVIII. 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 and allotted, 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, ſeparately and diſtinctly 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.

Lands held by different Tenures by the ſame Proprietor, to be diſtinguiſhed.

XXIX. And be it further enacted, That where any Perſon or Perſons ſhall be ſeized or poſſeſſed of Lands or other Hereditaments in the ſaid Manor of *Southweald*, held by different Tenures, or for, by, or under different Eſtates or Titles, the ſaid Commiſſioners ſhall, and they are hereby authorized and required, upon the Requeſt of the Perſons ſo ſeized or poſſeſſed reſpectively, to inquire 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 Commiſſioners are hereby authorized 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 Manor 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 Commiſſioners.

Lands omitted to be diſtinguiſhed by the Award, may be afterwards diſtinguiſhed by a ſeparate Inſtrument.

XXX. And be it further enacted, That where the Proprietor or Proprietors of any Allotment, Land, or other Hereditaments in the ſaid Manor of *Southweald* ſhall hold his, her, or their reſpective Lands and Hereditaments by different Tenures, or for, by, or under different Eſtates or Titles, and where, from want of the neceſſary Information before the ſaid Commiſſioners, or from any other Cauſe, the Award of the ſaid Commiſſioners

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

Power of Exchange.

XXXI. And be it further enacted, That it shall be lawful for the said Commissioners to assign and set out, allot and award any of the Allotments to be made by virtue of this Act, or any Part or Parts of such Allotments, or any Messuages, Cottages, Old Inclosures, Lands, Tenements, or other Hereditaments, situate or arising within the said Parish of *Southweald*, in lieu of and Exchange for any other Messuages, Cottages, Old Inclosures, Lands, Tenements, or other Hereditaments, situate or arising in the same Parish, or any other Parish or Place adjoining thereto, so as every such Exchange be ascertained, declared, and set forth in the Award of the said Commissioners, or in some Instrument to be executed by them before the Execution of the Award, and to be set forth or referred to in such Award, and be made with the Consent and Approbation of the respective Proprietors, or other Person or Persons, Bodies Politic, Corporate, or Collegiate, seized or possessed or in Receipt of the Rents or other Profits of the Hereditaments which shall be so exchanged, whether such Proprietor or Proprietors be Tenant or Tenants in Fee Simple, in Tail, or for Life, or for Years determinable on a Life or Lives, or by and with the Consent of the Husbands, Trustees or Guardians, Committees or Attornies of or for any such Proprietors, who at the Time of making any such Exchange shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability or Incapacity of acting for themselves, or of the major Part of the Trustees for any charitable or public Use respectively, and so as every such Exchange of Lands, Tenements, or Hereditaments, holden in Right of any Church, Chapel, or other Ecclesiastical Benefice, be made with the Consent of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments shall lie or be situate, or arise, and the Patron or

Patrons thereof, for the Time being, and so as every such Exchange of any Copyhold Lands or Tenements be made with the Consent of the Lord or Lords of the Manor or Manors whereof the same shall be holden, such Consents to be respectively testified by Writing under the Hands of the consenting Parties, or under the Common Seal of any of them being a Corporation aggregate; and that every such Exchange so to be made and declared shall, as well in respect of the Hereditaments within the said Parish of *Southweald* as in respect of the Hereditaments within any adjoining Parish or Place as aforesaid, be for ever good, valid, and effectual in the Law, to all Intents and Purposes whatsoever: Provided always, that every Person and Persons to whom any Copyhold Lands or Tenements shall be allotted in Exchange shall, within Six Calendar Months next after the Execution of the said Award, be admitted Copyhold Tenants of the Lands or Tenements so allotted.

Leases at Rack Rent may be determined.

XXXII. And be it further enacted, That it shall be lawful for the said Commissioners, if they in their Discretion shall so think fit, to determine all and every or any Lease or Leases, Agreement or Agreements at Rack Rent now subsisting for any Term of Years, or from Year to Year, or at Will, of any Part or Parts of the Lands and Grounds hereby directed to be divided and allotted, or of the Rights of Common belonging thereto, and of all or any Part of the Lands and Hereditaments within the Parish of *Southweald* aforesaid, which shall be enfranchised or exchanged by virtue of this Act, as to the Whole or any Part of the Premises comprized in any such Lease or Leases, Agreement or Agreements, at such Time or Times as the said Commissioners shall direct, and it shall be lawful for the said Commissioners to adjudge and determine what Satisfaction shall be made by the respective Lessors or Landlords to the Lessees or Tenants respectively, for the Determination of their Interests in such Lands or Hereditaments, either by the Payment of a gross Sum, or, (where other Lands or Hereditaments are or shall be comprized in the same,) by a Reduction and Apportionment of the Rent to be paid during the Remainder of the Term for the Residue of the Premises in such Lease or Demise comprised; and every such Lease and Demise shall, upon the Compliance of the Lessor with the Direction and Order of the said Commissioners for the Determination thereof, and not otherwise, cease and determine accordingly: Provided always, that if there shall be any such Lease or Leases of Lands, Part of which shall lie in the said Parish and Part in any adjoining Parish or Place, all and every such Lease or Leases may and shall be vacated; but where any Lands shall have been taken in Exchange, which Lands shall be under Lease and wholly situate in any adjoining Parish or Place, the Lease of such last-mentioned Lands shall not be vacated.

Power to enfranchise Copyholds.

XXXIII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby empowered, with the Consent in Writing of the respective Lords of the Manor or Manors, of whom any Messuages, Cottages, Lands, or Tenements in the said Parish of *Southweald* are or shall be holden by Copy of Court Roll, and of the Customary Tenant or Tenants by whom any such Messuages, Cottages, Lands, or Tenements shall be respectively holden, or of the Husbands, Trustees, or Guardians, Committees or Attornies of and for any such Lord or Lords, Tenant or Tenants, being Femes Covert, Minors, Lunatics, beyond the Seas, or under any other Disability or Incapacity, in and by the Award of

of the ſaid Commiſſioners, or by any other Writing to be ſigned and ſealed by them either before the Execution of the ſaid Award, or within Twelve Calendar Months after the Execution thereof, to declare any ſuch Copyhold or Cuſtomary Meſſuages, Cottages, Lands, or Tenements to be enfranchiſed, and the Tenures by which the ſame are holden, and the Fines, Heriots, and other Services incident thereto to be diſcharged and extinguiſhed, and that the ſame Meſſuages, Cottages, Lands, or Tenements, or any Part or Parts thereof reſpectively, ſhall thenceforth be holden of the Lord or Lords of the ſame reſpective Manors, either by the Rents which ſhall have been theretofore paid or payable in reſpect thereof, or by any other Rent or Rents to be in ſuch Writing or Writings aſcertained and declared, or without Rent, and in lieu of and Compenſation for every ſuch Enfranchiſement to award to the reſpective Lord or Lords of the ſame Manor or Manors, ſuch Sum and Sums of Money to be applied in the Manner herein-after directed, or to aſſign and ſet out to and for ſuch Lord or Lords reſpectively, ſuch Compenſation by Part of the Copyhold Lands and Tenements to be enfranchiſed, or by and out of any of the Lands and Tenements hereby directed to be divided and allotted, or any other Lands, Tenements, or Hereditaments of any ſuch Cuſtomary or Copyhold Tenant or Tenants reſpectively in the ſaid Pariſh of *Southweald*, as ſhall, in the Judgement of the ſaid Commiſſioners, be an Equivalent and Satisfaction for the Cuſtomary Payments, Burthens, and Services, to which ſuch Copyhold Meſſuages, Cottages, Lands, or Tenements reſpectively ſhall have been ſubject or liable; and the Lord or Lords for the Time being of the Manor or Manors to whom any ſuch ancient Rents ſhall be reſerved and continued, or any other Rent aſſigned, ſhall have the like Powers and Remedies for the Recovery of ſuch Rents reſpectively, as by the Laws of this Realm are given for the Recovery of Rents-Seck, Rents of Aſſize, and Chief Rents, and from and after any ſuch Declaration ſhall be made and executed, and ſuch Sum of Money or other Compenſation ſhall be paid or aſſigned in Exchange for ſuch Copyhold Tenure, the Lands and Tenements in every ſuch Declaration comprized, and thereby expreſſed to be enfranchiſed, ſhall be held, poſſeſſed, and enjoyed by the Owner or Owners thereof, paying or making ſuch Compenſation, their reſpective Heirs or Aſſigns, or other Perſons claiming in Reverſion or Remainder of the Lord or Lords of ſuch Manors reſpectively, in free and common Socage, diſcharged of the Tenure by Copy of Court Roll, and of all Services and Duties incident to ſuch Tenure, and of all other Services and Payments, except the Rent or Rents which may be continued or reſerved to ſuch Lord or Lords in reſpect thereof, and the Lands or other Hereditaments ſo to be aſſigned to ſuch Lord or Lords, ſhall be by him or them, and by his or their Heirs, Succeſſors, or Aſſigns, or by the Perſon or Perſons who ſhall be entitled in Reverſion or Remainder to ſuch Manor or Manors reſpectively, held and enjoyed in Compenſation for the Tenure ſo to be extinguiſhed, for ſuch and the like Eſtates, and upon and for ſuch and the like Uſes, Truſts, Intents, and Purpoſes, as the Manor or Manors of which the Copyhold Hereditaments ſo enfranchiſed ſhall be holden, ſhall, at the Time of every ſuch Enfranchiſement, ſtand ſettled and limited.

Application of Money to be received for Enfranchiſement.

XXXIV. Provided, and be it further enacted, That the Money to be received for the Enfranchiſement of any Copyhold Lands or Tenements in purſuance of this Act, ſhall be paid to the Lord or Lords of the Manor or Manors reſpectively of whom the Copyhold Hereditaments ſo to be enfranchiſed

franchiſed ſhall at the Time of the Enfranchiſement thereof be holden, where ſuch Lord or Lords ſhall be ſeized of ſuch Manor or Manors in Fee Simple, and in all other Caſes, the Money to be received for any ſuch Enfranchiſement ſhall be paid and applied in the Manner directed by the ſaid Act of the Forty-firſt Year of the preſent Reign, with reſpect to 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 Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments to be ſettled to the ſame Uſes.

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

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

Allotments and exchanged Lands to remain to the ſame Uſes.

Commiſſioners may direct the Courſe of Huſbandry.

XXXVI. 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 and allotted, all ſuch Lands and Grounds ſhall be ſtocked with ſuch Cattle, and at ſuch Times, and in ſuch Manner only, as the ſaid Commiſſioners ſhall, by Writing under their Hands, in that Behalf direct, any Uſage or Cuſtom to the contrary notwithſtanding; and that no Part of the Lands and Grounds hereby directed to be divided and allotted 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 any ſuch Lands or Grounds, who ſhall refuſe or neglect to comply with any ſuch Direction of the ſaid Commiſſioners, or who ſhall plough, break up, or convert the ſame, or any Part or Parts thereof, into Tillage, without the Conſent in Writing of the ſaid Commiſſioners, ſhall forfeit and pay a Sum not exceeding Ten Pounds for every

every Acre of the Land or Ground which ſhall be ſo ploughed, broken up, or converted into Tillage, and ſo in Proportion in each Caſe for a 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.

No Sheep to be kept in the new Incloſures for Ten Years.

XXXVII. Provided always, and be it enacted, That no Sheep or Lambs ſhall be kept in any of the Allotments to be made by virtue of this Act, (wherein any new Fence ſhall be raiſed), during the Space of Ten Years next after the Execution of the ſaid Award, unleſs the Perſon keeping the ſame ſhall firſt, at his or her own Expence, make and maintain a ſufficient Fence to guard and protect the young Fences belonging to ſuch Allotments reſpectively from being hurt or damaged by ſuch Sheep or Lambs, (whether ſuch Fences be made or ſet by the Owner or Occupier of ſuch Allotment or Allotments, or by the Owner or Occupier of the Allotment or Allotments adjoining thereto); and in caſe any Perſon ſhall turn or keep any Sheep or Lambs in any ſuch Allotment or Allotments, without raiſing or keeping up ſuch Fences as aforeſaid, he ſhall forfeit and pay to the Perſon damnified double the Amount of the Damages occaſioned thereby; and it ſhall be lawful for the Owner or Occupier of any adjoining Allotment or Allotments to enter thereon, and to take, drive away, and impound the ſame Sheep or Lambs until ſuch Damages ſhall be fully paid.

Money advanced to be repaid with Intereſt.

XXXVIII. And be it further enacted, That the Money which ſhall be advanced by any Perſon or Perſons, for the Purpoſe of defraying the Expence of applying for and obtaining this Act, or which after the paſſing of this Act ſhall be advanced or lent to the ſaid Commiſſioners for carrying the ſame into Execution, ſhall be paid with lawful Intereſt to the Perſon or Perſons who ſhall have advanced the ſame, his, her, or their Executors or Adminiſtrators, out of the firſt Money to be raiſed for defraying the Expences of obtaining and executing this Act.

Allowance to Commiſſioners, Umpire, and Clerk.

XXXIX. And be it further enacted, That each of the ſaid Commiſſioners, and the Umpire acting in the Execution of the Truſts and Powers hereby veſted in them, ſhall each be allowed and paid in Satisfaction for his Trouble and Expences the Sum of Three Guineas for every Day on which he ſhall be employed in travelling to, attending in, or returning from ſo acting; and that the Clerk to be employed by the ſaid Commiſſioners ſhall be allowed and paid in Satisfaction for his Trouble and Expences ſuch Sum, not exceeding Three Guineas, as they ſhall direct, for every Day on which he ſhall be employed in travelling to, attending in, or returning from acting, and that at all Meetings to be held in purſuance of this Act, the ſaid Commiſſioners, Umpire, and Clerk, and every Proprietor and other Perſons attending ſuch Meetings, ſhall pay their own Expences.

Expences of the Act.

XL. And be it further enacted, That the Coſts and Charges of, incident to, and attending the obtaining and paſſing this Act, of ſurveying, admeaſuring, planning, dividing, and allotting the Commons and Waſte Lands hereby directed to be divided and allotted, and of ſurveying, admeaſuring, and valuing the Lands and other Hereditaments in the ſaid Manor of *Southweald*, and making the public Roads to be ſet out, and of preparing and inrolling the Award of the ſaid Commiſſioners, and all the Charges and Expences of the ſaid Commiſſioners and of the Umpire ſo to be appointed,

and of the ſeveral Perſons to be employed by them, either before or after the Execution of the ſaid Award, ſhall be borne and defrayed by the Proprietors and Owners of, or Perſons having Rights or Intereſts in the Lands and Grounds hereby directed or authorized to be divided and allotted, in Proportion, as near as may be, to their reſpective Rights and Intereſts, which Proportions ſhall be ſettled and aſcertained by the ſaid Commiſſioners, and ſhall be paid to ſuch Perſon and Perſons, and at ſuch Time or Times, either before or after the Execution of the ſaid Award, as the ſaid Commiſſioners by any Writing under their Hands ſhall direct or appoint, and the ſame ſhall and may be levied and recovered by the Means and in the Manner provided by the ſaid Act of the Forty-firſt Year of the preſent Reign.

Payment of Expences of Sales and Exchanges.

XLI. And be it further enacted, That all Coſts, Charges, and Expences attending any Sales, Exchanges, or Partitions to be made by virtue of this Act, or the ſaid Act of the Forty-firſt Year of the preſent Reign, ſhall be paid, borne, and defrayed by the ſeveral Perſons whoſe Eſtates ſhall be ſold, exchanged, and parted, in ſuch Manner and Proportions as the ſaid Commiſſioners ſhall, by any Writing under their Hands, order and direct, and ſhall be recovered in the ſame Manner as is herein-before directed or referred to, reſpecting the Recovery of the Charges and Expences of executing this Act.

Commiſſioners may raiſe Arrears of Rates after the Execution of their Award.

XLII. Provided, and be it further enacted and declared, That if, at the Time of the Execution of the Award of the ſaid Commiſſioners there ſhall remain due from any Perſon or Perſons, Body or Bodies Politic or Corporate, any Sum or Sums of Money which ſhall have been adjudged or ordered to be paid by virtue of this Act, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required to levy and raiſe the ſame, in like Manner as they might and could have done before the Execution of their Award.

Land may be deducted from Allotments for Expences;

XLIII. And be it further enacted, That it ſhall be lawful to and for the ſaid Commiſſioners, upon the Requeſt in Writing (to be delivered to the ſaid Commiſſioners within ſuch Time as they ſhall for that Purpoſe appoint) of any of the Owners or Proprietors of the Lands and Grounds hereby directed to be divided and allotted, or of any Right or Intereſt therein, whether ſeized in Fee, or 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 Huſbands, 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 for the Perſons acting as ſuch Guardians, Truſtees, Committees, Agents, or Attorniés, or of the Truſtees for any charitable or public Uſes, or the major Part of them reſpectively, to deduct from the Value and Amount of the Allotment or reſpective Allotments of ſuch Owner or Owners by whom or on whoſe Behalf ſuch Requeſt ſhall be made as aforeſaid, ſo much as ſhall in the Judgment of the ſaid Commiſſioners, be equal to his, her, or their Share and Proportion, or reſpective Shares and Proportions of the Charges and Expences of paſſing this Act, and of carrying the ſame into Execution, and to allot, award, and divide the Land and Value ſo deducted to and amongſt ſuch of the Owners and Proprietors as ſhall by the ſaid Commiſſioners be charged with and ſhall pay ſuch Charges and Expences, in Proportion

and may be allotted to Perſons paying ſuch Expences.

portion to the Sums they ſhall reſpectively pay or contribute thereto; provided that it ſhall be lawful to and for the ſaid Commiſſioners, and they are hereby required, upon any ſuch Requeſt as aforeſaid, and upon Payment by the Perſon or Perſons making ſuch Requeſt of his, her, or their full Proportion of ſuch Coſts and Expences, to allot to the Perſon or Perſons reſpectively by whom or on whoſe Behalf ſuch Requeſt and Payment ſhall be made, his, her, or their Heirs and Aſſigns, the Land which ſhall have been ſo deducted; and the Perſon or Perſons reſpectively to whom any ſuch Allotment ſhall be made and awarded, ſhall be and become ſeized thereof for an abſolute Eſtate in Fee Simple, freed and diſcharged from all former Titles, Charges, and Incumbrances; provided the Value of the Lands ſo to be deducted from any Allotment or Allotments ſhall not in any Caſe exceed, according to the Opinion and Judgment of the ſaid Commiſſioners, the Rate of Five Pounds for every Acre of the Land which ſhall be allotted to the Perſon or Perſons making ſuch Requeſt; and that both the Powers herein contained of deducting Land and raiſing Money by Mortgage, ſhall not be exerciſed in reſpect of the ſame Property, but that only one of ſuch Powers ſhall be applied to the ſame Eſtate.

Power to borrow Money to defray the Expences of the Incloſure.

XLIV. And be it further enacted, That it ſhall be lawful for the reſpective Proprietors and Perſons ſeized or entitled for any Life or Lives, or Years determinable on any Life or Lives, or for any Eſtate of Inheritance of or to any Lands, Tenements, or Hereditaments hereby directed or authorized to be divided or allotted, or any Lands, Tenements, or Hereditaments which ſhall be allotted in purſuance of this Act, and for the Huſbands, Guardians, Truſtees, Committees, or Attornies of any ſuch Proprietors, being Femes Covert, Lunatics, beyond the Seas, or under any other legal Diſability or Incapacity of acting for themſelves, at any Time either before or after the Execution of the ſaid Award, with the Conſent of the Commiſſioners, in Writing under their Hands, to charge ſuch reſpective Lands, Tenements, Hereditaments, and Allotments as aforeſaid, or any of them, or any Part or Parts thereof reſpectively, with any Sum or Sums of Money not exceeding Five Pounds an Acre, which ſhall appear to the Satisfaction of the Commiſſioners to have been paid, laid out, and expended by them the ſaid Proprietors reſpectively, or by their reſpective Direction, for incloſing, ditching, draining, hedging, and fencing their reſpective Allotments as aforeſaid, and making neceſſary Sub-diviſion Fences, and for their reſpective Proportions of the Expences of paſſing this Act and carrying the ſame into Execution, or which ſhall be lent and advanced by any other Perſon or Perſons at the Requeſt of ſuch Proprietors, or of ſuch other Perſons for them as aforeſaid, and paid to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall appoint, in order to be applied and diſpoſed of for the Purpoſes aforeſaid, with lawful Intereſt for ſuch Sum or Sums of Money; and for the better ſecuring the Payment of ſuch Sum or Sums of Money with Intereſt, to convey or ſurrender, in the Way of Mortgage, without Impeachment of Waſte, ſuch reſpective Lands, Tenements, Hereditaments, and Allotments as aforeſaid, or any of them, or any Part or Parts thereof, to the Perſon or Perſons who ſhall reſpectively lay out and expend ſuch Sum or Sums of Money, or ſo cauſe the ſame to be laid out and expended, or to ſuch Perſon or Perſons as he, ſhe, or they, or his, her, or their Executors or Adminiſtrators ſhall reſpectively appoint, ſo as every ſuch Conveyance or Surrender, by Way of Mortgage as aforeſaid, be made with a Proviſo, that no Perſon in Remainder or Reverſion, who ſhall become entitled in Poſſeſſion to the Hereditaments and Premiſes therein comprized, ſhall be

liable to pay any further or larger Arrear of Intereſt on the Money ſo ſecured, than for Six Calendar Months preceding the Time at which the Title to ſuch Poſſeſſion ſhall have commenced; and every ſuch Conveyance or Surrender, by Way of Mortgage, as ſhall be made in purſuance of this Act, either before or after the Execution of the ſaid Award, ſhall be good, valid, and effectual in the Law, for the Purpoſes thereby intended.

Commiſſioners to lay Accounts before Two Juſtices.

XLV. And be it further enacted, That once at leaſt in every Year, during the Execution of this Act, (ſuch Year to be computed from the Day of the paſſing thereof), the ſaid Commiſſioners ſhall and they are hereby required to make a true and juſt Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act, and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before Two of His Majeſty's Juſtices of the Peace for the ſaid County of *Eſſex*, acting within the Hundreds of *Barnſtaple* and *Chafford* in the ſame County, (not intereſted in the ſaid 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 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 Juſtices: Provided always, that Ten Days previous Notice in Writing, to be affixed on the South Door of the Pariſh Church of *Southweald* aforeſaid, ſhall be given by the ſaid Commiſſioners of the Time of laying ſuch Statement or Account and Vouchers before ſuch Juſtices, and of the Names of ſuch Juſtices.

Award where to be depoſited.

XLVI. And be it further enacted, That the Award to be made by the ſaid Commiſſioners, when inrolled in the Manner directed by the ſaid recited Act, ſhall, together with ſuch Plans and Surveys as may be annexed thereto, be depoſited in the Pariſh Church of *Southweald* aforeſaid, and ſhall and may be inſpected by any Perſon or Perſons intereſted in the ſaid Diviſion and Incloſure at all ſeaſonable Times, upon reaſonable Notice given by the Party requiring ſuch Inſpection, and upon Payment for every ſuch Inſpection of the Sum of One Shilling to the Perſon having the Cuſtody thereof.

Power of Appeal to the Quarter-Seſſions.

XLVII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done by the ſaid Commiſſioners or Umpire in purſuance of the ſaid recited Act or of this Act, (other than and except ſuch Determinations of the Commiſſioners or Umpire as are by the ſaid recited Act or this Act declared to be final, binding, or concluſive, and except in Caſes where an Iſſue at Law may be tried, as herein is mentioned), then and in every ſuch Caſe, he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace to be holden for the ſaid County of *Eſſex* next after Thirty Days from the Time when the Cauſe of Complaint ſhall have ariſen, giving to the ſaid Commiſſioners, or any One of them, and to the Party or Parties concerned, Notice in Writing of ſuch Appeal, and of the Matter thereof, within Twenty-eight Days after the Cauſe of Complaint ſhall have ariſen, and Fourteen Days at the leaſt before ſuch General Quarter Seſſions; and the Juſtices (not intereſted in the Premiſes) in ſuch Seſſions aſſembled are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and to award ſuch Coſts and Damages as to them in their Diſcretion ſhall ſeem reaſonable,

reaſonable, and by their Order or Warrant to levy the Coſts and Damages which ſhall be ſo awarded, 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 to all Parties concerned, and ſhall not be removed or removable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter*, or elſewhere; but in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then 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 laſt aforeſaid.

Saving Lord's Rights.

XLVIII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to prejudice, leſſen, defeat, or affect the Right, Title, or Intereſt of the ſaid *Chriſtopher Thomas Tower*, Lord of the ſaid Manor of *Southweald*, or any future Lord or Lords, Lady or Ladies of the ſaid Manor, in and to the Seigniories, Rights of Free Warren and Free Chaſe, if any ſuch now exiſt, and all other Royalties, Privileges, Rights, and Services incident or belonging thereto, or of Right exerciſeable or enjoyable by him, her, or them therein or thereupon (other than and except ſuch as are hereby meant and intended to be compenſated for, barred, and extinguiſhed), but that the ſaid *Chriſtopher Thomas Tower*, and all future Lord or Lords, Lady or Ladies of the ſaid Manor, ſhall and may from Time to Time, and at all Times for ever hereafter, hold, receive, take, exerciſe, and enjoy all Rents, Fines, Services, and Profits, and all Seigniories, Rights of Free Warren and Free Chaſe, if any ſuch now exiſt, and all other Rights, Royalties, and Privileges whatſoever to the ſaid Manor incident, appendant, belonging, or appertaining, or of Right exerciſable or enjoyable by him, her, or them therein or thereupon (other than and except as aforeſaid), in as full, ample, and beneficial a Manner as he, ſhe, or they could or might have held, exerciſed, and enjoyed the ſame, in caſe this Act had not been made.

General Saving.

XLIX. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politic and Corporate, and his, her, and their Heirs, Succeſſors, Executors, and Adminiſtrators, and all Perſons claiming under, or in Remainder after them, all ſuch Right, Title, or Intereſt, (other than and except ſuch as is and are hereby meant and intended to be compenſated for, barred, and extinguiſhed), as they, every, or any of them, could or ought to have had and enjoyed of, into, or out of the Lands and Grounds hereby directed to be divided and allotted in caſe this Act had not been made.

Printed Copy of the Act to be Evidence.

L. 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.