ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 54.

An Act for incloſing Lands in the Pariſh of *Stonleigh*, in the County of *Warwick*. [15th *April* 1813.]

WHEREAS there are within the Pariſh of *Stonleigh*, in the County of *Warwick*, certain Commons and Waſte Lands, called *Weſtwood Heath*, and other Commons and Waſte Lands, containing together, by Eſtimation, Five hundred Acres, or thereabouts: And whereas the Reverend *Thomas Leigh* Clerk is Lord of the Manor of *Stonleigh* aforeſaid, and as ſuch is entitled to the Soil of and in all the Commons and Waſte Lands within the ſaid Manor: And whereas the ſaid *Thomas Leigh*, *Thomas Ruſſell* Eſquire, *William Drakeford*, and ſeveral other Perſons, are Owners and Proprietors of divers Eſtates, incloſed Lands, Tenements and Hereditaments, within the ſaid Pariſh of *Stonleigh*, in reſpect whereof they are entitled to Rights of Common of Paſture, and other Rights, in, over and upon the ſaid Commons and Waſte Lands: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for conſolidating in one Act certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*: And whereas the ſaid Commons and Waſte Lands are in their preſent State incapable of any conſiderable Improvement, but the ſame, if divided and incloſed, might be greatly improved: 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

41 G. 3. c. 109.

Commiſſioners. and by the Authority of the ſame, That *Robert Harvey Wyatt* of *Barton-under-Needwood*, in the County of *Stafford*, Gentleman, and *John Davis* of *Bloxham*, in the County of *Oxford*, Gentleman, and their Succeſſors, to be elected in Manner herein-after mentioned, ſhall be, and they are hereby appointed Commiſſioners for dividing, allotting, and incloſing the ſaid Commons and Waſte Lands, and for putting this Act in Execution, in the Manner and ſubject to the Rules, Orders, and Directions herein-after mentioned, and with ſuch of the Powers and Directions contained in the Act herein-before referred to as are not altered, varied, or otherwiſe provided for in and by this Act.

Appointment of future Commiſſioners on Vacancies. II. And be it further enacted, That in caſe the ſaid *Robert Harvey Wyatt*, 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 *Thomas Leigh*, or the Perſon or Perſons for the Time being ſeiſed of the ſaid Manor of *Stonleigh*, 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 *Robert Harvey Wyatt*, or any Commiſſioner to be appointed in his Place as aforeſaid; and if the ſaid *John Davis*, 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 Land Tax Aſſeſſment 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 *Stonleigh* 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 Fourteen Days previous to ſuch Meeting, by affixing ſuch Notice on the Door of the Pariſh Church of *Stonleigh* aforeſaid, and by inſerting the ſame in the Newſpaper called *The Coventry Mercury*, if then publiſhed, and if not, then in ſome other Newſpaper uſually circulated in the ſaid County of *Warwick*), 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 Davis*, or any Commiſſioner to be appointed in his Place as laſt aforeſaid; and every Commiſſioner ſo to be nominated and appointed as aforeſaid ſhall, after taking the Oath in that Behalf preſcribed by the ſaid Act herein-before referred to, have ſuch and the like Powers and Authorities in all Reſpects, for carrying this Act and the ſaid Act herein-before referred to 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 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

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. as a Refuſal to act.

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 this Act, or the ſaid Act hereinbefore referred to, 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 putting this Act in 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, a Meeting of the ſeveral Perſons intereſted in the ſaid Incloſure ſhall be appointed by the ſaid Commiſſioners, for the Purpoſe of having an Umpire nominated and appointed by the Majority of the Proprietors, (ſuch Majority to be aſcertained by the Land Tax Aſſeſſment of the ſeveral Perſons intereſted in the Commons and Waſte Lands to be divided and allotted by virtue of this Act) who may attend by themſelves or their Agents, at any Meeting to be appointed for the Purpoſe aforeſaid; and any Umpire to be choſen, nominated, and appointed, according to the Directions of this Act, 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 Umpire.

concerned in the ſaid Diviſion and Incloſure, ſo far as the Judgment and Acts of the ſaid Commiſſioners are by this Act or the ſaid Act herein-before referred to made final and concluſive.

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 it ſhall be lawful for the ſaid *Robert Harvey Wyatt* and *John Davis*, and their Succeſſors to be appointed as aforeſaid, who ſhall then be the Commiſſioners acting under the Authority of this Act, and they are hereby required, before they ſhall proceed further in the Execution of this Act, 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, and as often as the Caſe ſhall happen, an Umpire ſhall from Time to Time be appointed in like Manner as is herein-before directed, in caſe the Commiſſioners herein named ſhall not agree in the Choice of an Umpire; 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 Umpire to be enrolled, and Copy to be Evidence.

VI. Provided alſo, and be it enacted, That the Inſtrument appointing every 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 Inrolment, atteſted by the proper Officer of the Court where the ſame ſhall be inrolled, ſhall be admitted as legal Evidence.

Umpire to take an Oath.

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

Oath.

'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-third 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 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.

Appointment of Surveyor.

VIII. And be it further enacted, That *Thomas Phillips* of *Andover*, in the County of *Southampton*, Land Surveyor, ſhall be, and he is hereby appointed Surveyor for executing the ſeveral Powers and Authorities hereby veſted in him as Surveyor, by virtue of this Act and of the ſaid Act herein-before

before referred to; and in case of his Death, or Refusal, or Neglect to act, then *Edward Phillips* of the City of *Coventry*, Land Surveyor, shall be and he is hereby appointed Surveyor for executing the several Powers and Authorities hereby vested in him as Surveyor, by virtue of this Act and of the said Act herein-before referred to; and in case of the Death of the said *Thomas Phillips*, or his Refusal or Neglect to act, and the Death of the said *Edward Phillips*, or his Refusal or Neglect to act, then it shall be lawful for the said Commissioners to appoint some fit and proper Person to be Surveyor in the stead of the said *Thomas Phillips* and *Edward Phillips*, as the Case may be, for the Purposes of this Act and the said Act herein-before referred to.

Appointment of Clerk.

IX. And be it further enacted, That the said Commissioners shall have Power, and they are hereby authorized to appoint some fit and proper Person to be the Clerk for assisting them in carrying this Act into Execution, and such Clerk, from Time to Time, to remove and to nominate and appoint some other fit and proper Person to succeed him in such Office as to the said Commissioners shall seem proper.

Surveys of old inclosed Lands not to be made unless specially directed by the Commissioners.

X. And be it further enacted, That nothing in this Act or the said Act herein-before referred to contained, shall extend to require the said Commissioners, or the said Surveyor or any Surveyor to be appointed, to make or cause to be made, any Survey, Admeasurement, or Plan of any of the ancient inclosed Lands or Grounds within the said Parish, unless the said Commissioners deem such Survey, Admeasurement, or Plan, necessary or expedient for the Purposes of this Act or the said Act herein-before referred to.

Surveys of old Inclosures to be made at the Expence of the Parties who fail to produce satisfactory Plans to the Commissioners.

XI. Provided always, and be it further enacted, That in all Cases where any Map or Survey shall be produced to the said Commissioners which shall appear to be incorrect, or shall not be satisfactory to the said Commissioners, or in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, claiming any Allotment or Allotments in and upon the said Commons and Waste Lands, shall neglect or refuse to produce to the said Commissioners, within Twenty-eight Days next after Notice to him, her, or them, for that Purpose given, sufficient and satisfactory Maps, Surveys, or Admeasurements of his, her or their respective ancient inclosed Lands, in respect whereof he, she, or they shall claim to be entitled to any Allotment or Allotments under this Act, and the said Act herein-before referred to, then, and in either of such Cases, it shall be lawful for the said Commissioners, and they are hereby required to make and take or cause to be made and taken by their said Surveyor, Maps, Surveys, or Admeasurements of all such ancient inclosed Lands whereof no satisfactory Maps, Surveys, or Admeasurements shall be produced to them as aforesaid; and the Costs and Expences of such Surveys, Maps, or Admeasurements shall be borne and defrayed by the respective Owners of such ancient inclosed Lands, and be paid by them within Twenty-eight Days next after Demand thereof made; and in Default of such Payment within the Time aforesaid, the said Commissioners shall and they are hereby required to rate, charge, and assess the Owners of such ancient inclosed Lands with the Amount thereof, and the same shall be thereby effectually charged on such ancient inclosed Lands, and shall be recoverable in such and the like Manner as the Rate hereby directed or authorized to be made is directed to be recovered.

Notice of Meetings.

XII. And be it further enacted, That the ſaid Commiſſioners ſhall cauſe Notice to be given in the Pariſh Church of *Stonleigh* aforeſaid, on ſome *Sunday* immediately after Divine Service, or in Writing, to be affixed upon the outer Door of the ſaid Church, and alſo to be inſerted in the ſaid Newſpaper called *The Coventry Mercury*, if then publiſhed, and if not, then in ſome other Newſpaper uſually circulated in the ſaid County of *Warwick* of the Time and Place of their firſt and every other Meeting, for the Execution of this Act, or of the Powers contained in the ſaid Act herein-before referred to, at leaſt Ten Days before any ſuch Meeting (Meetings by Adjournment only excepted); and the ſaid Commiſſioners ſhall and may adjourn their Meetings from Time to Time, as they ſhall ſee Occaſion, for the further Execution of this Act.

Adjournment of Meetings.

How other Notices are to be given.

XIII. Provided always, and be it further enacted, That all other Notices neceſſary or requiſite to be given by the ſaid Commiſſioners in purſuance of this Act, ſhall be given by Advertiſement, to be inſerted in the ſaid Newſpaper called *The Coventry Mercury*, if then publiſhed, and if not, in ſome other Newſpaper circulated in the ſaid County of *Warwick*.

Meetings to be within Eight Miles of the Pariſh.

XIV. Provided alſo, That all Meetings of the ſaid Commiſſioners for executing this Act ſhall be held at ſome convenient Place in the Pariſh of *Stonleigh* aforeſaid, or within the Diſtance of Eight Miles from the Boundaries thereof.

Commiſſioners to determine Differences,

but not Titles;

nor Rights contrary to Poſſeſſion.

XV. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted, or claiming to be intereſted in the ſaid Commons and Waſte Lands, touching or concerning the reſpective Rights and Intereſts which they or any of them ſhall have or claim to have in the ſame, or touching or concerning any Allotment or Compenſation to be made in lieu thereof, or touching or concerning any other Matter or Thing relating to the Diviſion or Incloſure hereby directed to be made, it ſhall be lawful for the ſaid Commiſſioners and Umpire, and they are hereby authorized and required to examine into, hear, and determine the ſame: Provided always, that nothing in this Act 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 Commons and Waſte Lands, contrary to the Poſſeſſion of any 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 reſpectively, they 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 aſſeſs Coſts.

XVI. And be it further enacted, That in caſe the ſaid Commiſſioners or Umpire ſhall, upon the Hearing or Determination of any Claim or Claims, or Objection or Objections, to be delivered to them in purſuance of this Act, or the ſaid Act herein-before referred to, ſee Cauſe to award any Coſts, it ſhall be lawful 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 to be paid to the Party or Parties in whoſe Favour any Determination ſhall be made by the Perſon or Perſons, Body or Bodies Politic, Corporate,

Corporate, or Collegiate, whoſe Claim or Claims, or Objection or Objections ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, who ſhall be liable to pay ſuch Coſts and Charges, ſhall neglect or refuſe to pay the ſame on Demand, then, and in ſuch Caſe, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required by Warrant under their Hands and Seals directed to any Perſon whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand, to the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Power to try diſputed Claims at Law.

XVII. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, intereſted, or claiming to be intereſted in the ſaid intended Diviſion and Incloſure ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners or Umpire, touching or concerning any Claim or Claims to any Rights of Common, or other Rights or Intereſts in, over, or upon the Commons and Waſte Lands hereby directed to be divided and incloſed, and ſhall, by Writing under his or their Hand or Hands, or the Hand or Hands of his, her or their Agent, or under their Common Seal reſpectively, ſignify the ſame to the ſaid Commiſſioners or Umpire, within Two Calendar Months next after any ſuch Determination ſhall have been made, and ſignified by Writing under the Hands of the ſaid Commiſſioners or Umpire, to the Perſon or Perſons, Body or Bodies Politic or Corporate, againſt whom the ſame ſhall have been ſo made, or to his, her, or their Agent or Attorney, 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 Claim or Objection, in reſpect of which ſuch Determination ſhall be made, tried at Law, by an Action to be brought by him, her, or them, againſt any Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, in whoſe Favour any Determination ſhall have been ſo made, or againſt the ſaid Commiſſioners or Umpire, upon a feigned Iſſue, to be ſettled by the proper Officer of the Court where ſuch Action ſhall be brought, in caſe the Parties differ about the ſame; ſuch Action to be brought within Three Calendar Months next after any ſuch Determination ſhall have been made, and Notice thereof given as before directed, and the Defendant and Defendants in ſuch Action ſhall and is and are hereby required to name an Attorney or Attornies, who ſhall appear thereto, or file Common Bail, and accept One or more Iſſue or Iſſues, by which the Matter of ſuch Determination of the ſaid Commiſſioners may be tried, and the Plaintiff or Plaintiffs ſhall thereupon proceed in ſuch Action ſo as to have the ſame tried and determined at the Firſt or Second Aſſizes to be holden for the ſaid County of *Warwick*, next after the Commencement of ſuch Action, and the Verdict of the Jury on ſuch Trial ſhall be binding, final, and concluſive, upon all the Parties intereſted therein, unleſs the Court wherein ſuch Action ſhall be brought ſhall ſet aſide ſuch Verdict, and order a new Trial to be had thereupon, which it ſhall be lawful for the Court to do, as is uſual in other Caſes, and alſo, upon ſufficient Cauſe ſhewn, to put off the Trial of ſuch Iſſue; and that after ſuch

Verdict

Verdict ſhall have been given, and final Judgement obtained thereon, the ſaid Commiſſioners ſhall, and they are hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined according to the Event of ſuch Trial or Trials: Provided always, that it ſhall be lawful for the ſaid Commiſſioners or Umpire to retain or pay all ſuch Coſts, Charges, and Expences, as they ſhall incur or be put unto, or which ſhall be recovered againſt them, in or by reaſon, or in conſequence of any ſuch Action or Actions out of any Monies which ſhall come to their Hands for the Purpoſes of this Act: Provided that all ſuch Determinations of the ſaid Commiſſioners or Umpire, as ſhall not be objected to by ſuch Notice to be given to the ſaid Commiſſioners or Umpire as aforeſaid, or being ſo objected to, and the diſſatisfied Party reſpectively not cauſing ſuch Action at Law to be brought and proceeded in as aforeſaid, ſhall be abſolutely final and concluſive upon all Parties: Provided alſo, that before any Trial ſhall be had, the Party or Parties deſiring the ſame ſhall give Fourteen Days Notice of Trial, in Writing, to the ſaid Commiſſioners or Umpire, of his, her, or their Deſire to proceed to ſuch Trial; and in caſe ſuch Notice as aforeſaid ſhall be given, no Part of the ſaid Commons and Waſte Lands ſhall be divided and allotted until after ſuch Trial be had, and final Judgment obtained thereon.

Determination of the Commiſſioners not objected to, to be final.

Notice to be given of Trial and Allotments ſuſpended.

Suits not to abate on the Death of Parties.

XVIII. And be it further enacted, That if any or either 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.

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

XIX. Provided always, and be it further enacted, That if any Perſon or Perſons, in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought, if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politic, Corporate, or Collegiate, 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 to the ſaid Commiſſioners with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons, who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein as if ſuch Perſon or Perſons had been actually living, and the Right of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

To prevent cutting of Turf.

XX. And be it further enacted, That if any Perſon or Perſons after the paſſing of this Act, and before the Allotments to be made in purſuance of this Act ſhall be ſet out, ſhall cut, dig, take, pare, grave, or carry away any Land, Soil, Earth, Turf, Sand, or Sods, in, upon or from the ſaid Commons or Waſte Lands, or any Part thereof, without the Licence of the ſaid Commiſſioners firſt had and obtained in Writing for that Purpoſe, which Licence the ſaid Commiſſioners are hereby empowered to grant;

every ſuch Perſon ſo offending ſhall, for every ſuch Offence, forfeit and pay any Sum not exceeding Five Pounds, to be levied and recovered in the ſame Manner as any Penalty may be levied and recovered by the ſaid Act herein-before referred to, and no Perſon ſhall be precluded from giving Evidence of ſuch Offence, by reaſon of his or her being a Proprietor or Occupier of Lands within, or an Inhabitant of the Pariſh of *Stonleigh* aforeſaid; One Moiety of which Penalty or Penalties ſhall go and be paid to the Informer or Informers, and the other Moiety thereof ſhall be paid to the Overſeers of the Poor of the ſaid Pariſh, for the Benefit of ſuch Poor.

For aſcertaining Boundaries.

XXI. And be it further enacted, That the ſaid Commiſſioners ſhall, with all convenient Speed after the paſſing of this Act, cauſe Notice of their Intention to perambulate the Boundaries of the ſaid Pariſh of *Stonleigh*, to be inſerted in the ſaid *Coventry Mercury*, if then publiſhed, and if not, in ſome Newſpaper circulated in the County of *Warwick*, Eight Days at leaſt before the Time of ſuch Perambulation, and after the Expiration of the Time to be ſpecified in ſuch Notice, the ſaid Commiſſioners are hereby authorized and required to perambulate, inquire into, ſet out, aſcertain, fix, and determine the Boundaries of the ſaid Pariſh of *Stonleigh*: Provided always, that if any Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, intereſted in the Determination of the ſaid Commiſſioners reſpecting the ſaid Boundaries, ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners, ſuch Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, or any of them, may appeal to the Juſtices of the Peace acting for the County of *Warwick*, at any General Quarter Seſſions of the Peace to be held within Four Calendar Months next after the aforeſaid Publication of the ſaid Boundaries, on giving to the ſaid Commiſſioners Fourteen Days Notice, in Writing, of ſuch Appeal, and of the Matter thereof; and the Deciſion of the ſaid Juſtices therein ſhall be final and concluſive.

Appeal to Seſſions againſt Boundaries.

For ſhortening Boundary Fences.

XXII. And be it further enacted, That if the ſaid Commiſſioners ſhall deem it expedient or proper to ſhorten the Boundary Fences between the Lands and Grounds by this Act directed to be divided and incloſed in the Pariſh of *Stonleigh* aforeſaid, and the Lands and Grounds in any Manor or Pariſh adjoining thereto, or to make the ſame regular, it ſhall be lawful for the ſaid Commiſſioners, with the Conſent, in Writing, under the Hand or Hands of the Lord or Lords of the Manor or Manors in which the Land is ſituate, or of the Owner or Owners of the Land upon which any Fence or Fences ſhall or may be intended to be made, to ſet out the Boundary between the Lands and Grounds by this Act directed to be divided and incloſed, and the Lands and Grounds in any adjoining Manor or Pariſh, in ſuch Manner as they ſhall judge proper for the Purpoſe aforeſaid; and after ſuch Boundaries ſhall be ſo ſet out as aforeſaid, the ſame ſhall be fenced by ſuch Perſon or Perſons, in ſuch Manner and at ſuch Time or Times as the ſaid Commiſſioners ſhall direct, and ſhall, for ever thereafter, be deemed and taken to be the Boundaries between the Pariſh of *Stonleigh* aforeſaid, and ſuch adjoining Manor or Pariſh, any Law, Uſage, or Cuſtom, to the contrary notwithſtanding.

Encroachments within 20 Years Part of the Waſte.

XXIII. And be it further enacted, That all Incloſures and Encroachments which at any Time within Twenty Years immediately preceding the paſſing of this Act have been made upon the ſaid Commons and Waſte Lands,

Lands, ſhall be deemed Part thereof, and ſhall be divided and allotted accordingly.

Encroachments of Twenty Years not to be allotted.

XXIV. Provided always, and be it further enacted, That no Incloſure or Encroachment which has been made from or upon the ſaid Commons or Waſte Lands, or any Part or Parts thereof for Twenty Years, or upwards, antecedent to the paſſing of this Act, ſhall be thrown open, divided, alloted, or incloſed, under the Proviſions of this preſent Act, or the Proviſions of the Act herein-before referred to; nor ſhall any ſuch Incloſure or Encroachment as laſt aforeſaid, nor the Houſes, Cottages, Buildings, and other Erections thereupon, be conſidered as Part of the ſaid Commons or Waſte Lands; nor ſhall the Title or Titles, derived under ſuch Incloſure or Encroachment, be diſturbed by this Act, or any Thing herein contained.

Date of Encroachments to be determined by Commiſſioners.

XXV. And be it further enacted and declared, That if any Diſpute ſhall ariſe as to the Space of Time during which any ſuch Incloſures or Enchroachments have been made, or have ſubſiſted, the ſame ſhall be determined by the ſaid Commiſſioners or Umpire, who ſhall proceed therein in the Manner in which, by the ſaid Act herein-before referred to, the Commiſſioners are directed to proceed in Matters or Things left to their Determination.

Commiſſioners may alter Roads through ancient Incloſures.

XXVI. And be it further enacted, That in caſe upon the ſetting out of the Roads and Ways, by the ſaid Act herein-before referred to, directed to be made and ſet out, it ſhall appear to the ſaid Commiſſioners that any Highways or Highway, Bridle-roads or Bridle-road, Footways or Footway, in, through, over, or on the Sides of any of the old incloſed Lands, or other Lands, within the ſaid Pariſh, may in their Judgment be diverted and turned, without Inconvenience to the Public, into any other Highways or Highway, Bridle-roads or Bridle-road, Footways or Footway, or be diverted or turned, ſo as to make the ſame more convenient to the Public, or be ſtopped up and deſtroyed as ſuperfluous and unneceſſary, it ſhall be lawful for them, with the Concurrence and Order of Two Juſtices of the Peace acting in and for the Diviſion of the ſaid County of *Warwick*, in which the ſaid Pariſh of *Stonleigh* is ſituated, not being intereſted in the Incloſure, and ſubject to Appeal, as in this or the ſaid Act herein-before referred to, is mentioned, in and by their ſaid Award to order and direct ſuch Highways or Highway, Bridle-roads or Bridle-road, Footways or Footway, to be altered, turned, ſtopped up, or diſcontinued in ſuch Manner as ſuch Juſtices ſhall think proper.

Roads dividing Pariſhes or Places to be made up in the Whole Forty Feet broad.

XXVII. And be it further enacted, That in caſe any public Carriage Roads or Highways to be ſet out under the Powers and Proviſions of this Act, or the ſaid Act herein-before referred to, ſhall be ſet out and continued in any Situation or Direction where the ſaid Pariſh of *Stonleigh* is divided from any adjoining Pariſh or Place, and where there now is, or uſually hath been a Public Road, and ſuch adjoining Pariſh or Place hath hitherto been charged, or liable to be charged, with One-half Part of the Repairs and Support of the ſaid Road, then and in ſuch Caſe the ſaid Commiſſioners ſhall and they are hereby authorized and required to ſet out ſo many Feet only, or ſo much Land from and out of the ſaid Commons and Waſte

Waſte Lands hereby directed to be divided and incloſed, as will enlarge the Breadth of ſuch Road or Way to Forty Feet at the leaſt.

Roads not to be depaſtured for Nine Years.

XXVIII. And be it further enacted, That no Perſon or Perſons whomſoever, ſhall within the Period of Nine Years from the paſſing of this Act, permit any Sort of Cattle, Sheep, Lambs, Goats, or Swine to graze in any Highway, Lane, or Paſſage, which the ſaid Commiſſioners ſhall order or direct to be laned off or fenced on both Sides, nor lay or depoſit any Dung, Manure, Soil or Compoſt in or upon the ſame; and any Occupier or Proprietor of Lands within the ſaid Pariſh of *Stonleigh*, and his, her, their, and any of their Servants and Labourers are hereby empowered to to take and impound all ſuch Cattle, Sheep, Lambs, Goats, or Swine ſo found grazing as aforeſaid.

Commiſſioners to make Drains.

XXIX. And be it further enacted, That the ſaid Commiſſioners ſhall and may ſcour out, deepen, widen, amend and repair all ſuch ancient Ditches, Drains, Brooks, Watercourſes, Banks, Sluices, Staunches, Tunnels, and Bridges in the ſaid Pariſh of *Stonleigh*, and alſo ſhall and may make or cauſe to be made ſuch new Ditches, Drains, Watercourſes, Banks, Sluices, Staunches, Tunnels, and Bridges, as well in, through, over, and acroſs the ſaid Commons and Waſte Lands hereby directed to be divided and incloſed, as alſo in, over and through any ancient Incloſures or other Lands or Grounds within the ſaid Pariſh of *Stonleigh*, and through, upon, or over any Roads interſecting the ſame Commons and Waſte Lands, as ſhall in the Judgement of the ſaid Commiſſioners be neceſſary and proper for the Purpoſes of this Act, (making reaſonable Satisfaction to all and every Perſon and Perſons who may ſuſtain any Damage thereby) of ſuch Dimenſions, and in ſuch Directions reſpectively as the ſaid Commiſſioners ſhall think proper; and the ſaid Commiſſioners ſhall and may, and they are hereby directed and required in and by any Writing or Writings under their Hands, or in and by their ſaid Award, to order and determine by whom and at whoſe Expence, at what Time or Times, and in what Manner the ſaid Ditches, Drains, Watercourſes, Banks, Sluices, Staunches, Tunnels, and Bridges ſhall be made, ſcoured out, deepened, widened, amended and repaired, and by whom the ſame ſhall afterwards be reſpectively cleanſed, ſcoured out, repaired and maintained: Provided always, that no ſuch Brook or Watercourſe ſhall be diverted, turned or conveyed from, into, or through any incloſed Lands, without the Conſent in Writing of the Owner or Owners of ſuch incloſed Lands, from, into, or through which any Brook or Watercourſe may be propoſed to be carried or conveyed.

Allotment for Stone and Gravel Pits.

XXX. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required to ſet out, allot and award unto and for the Surveyors of the Highways of the Pariſh of *Stonleigh* aforeſaid, for the Time being, one or more Plot or Plots of the ſaid Commons or Waſte Lands as they ſhall think proper, not exceeding in the whole Two Acres as and for public Stone and Gravel Pits with convenient Roads to and from the ſame, and which Plot or Plots of Land ſo to be ſet out as aforeſaid, ſhall be uſed in common by the Surveyors of the Highways of the ſaid Pariſh of *Stonleigh*, for the Time being, and by the Proprietors of Lands and Eſtates within the ſaid Pariſh, and by their Tenants for their own private Uſes, and for the Repairs of the Public and Private Roads only

within the ſame, including the Roads to be ſet out in purſuance of this Act, and the ſaid Act herein-before referred to; and ſuch Surveyor or Surveyors for the Time being are hereby authorized and required to let and ſet the Graſs and Herbage from Time to Time growing and renewing upon ſuch Plot or Plots of Land or Ground, for the beſt Rent that can reaſonably be gotten for the ſame, and to apply the Rents and Profits thereof in repairing the Public Roads to be ſet out in purſuance of this Act or the ſaid Act herein-before referred to, and to acccount touching the Application of ſuch Rents and Profits at ſuch Time and in ſuch Manner as they are and ſhall be accountable by Law for any other Monies which come to their Hands as Surveyors of the Highways as aforeſaid.

Allotment to the Lord of the Manor.

XXXI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized to ſet out, allot, and award unto and for the ſaid *Thomas Leigh*, or the Lord of the Manor of *Stonleigh* for the Time being, for and in lieu of his Right, Title, and Intereſt in and to the Soil of the ſaid Commons and Waſte Lands, ſuch Part or Parts thereof as by the ſaid Commiſſioners ſhall be deemed, declared, and adjudged to be equal in Value, including the Encroachments made therefrom within Twenty Years laſt paſt, to One-Eighteenth Part of ſo much of the ſaid Commons and Waſte Lands as ſhall remain after the Public Roads or Ways for the Pariſh of *Stonleigh* aforeſaid ſhall have been ſet out and deducted.

Allotment of the Reſidue.

XXXII. And be it further enacted, That the ſaid Commiſſioners ſhall then ſet out and allot the Reſidue and Remainder of all the ſaid Commons and Waſte Lands, hereby directed to be divided and incloſed, unto and amongſt all and every Perſon and Perſons, Body and Bodies Politic, Corporate, or Collegiate, having any Right or Rights of Common or other Rights or Intereſts in, over, or upon the ſame or any Part thereof, in ſuch Parts and Shares, and in ſuch Manner as the ſaid Commiſſioners ſhall think fit, and ſhall adjudge and determine to be proportionate to the Value of his, her, or their reſpective Shares, Rights of Common or other Rights or Intereſts in, over or upon the ſaid Commons and Waſte Lands hereby directed to be divided and incloſed, or any Part thereof.

If Common Rights be ſold, Allotment to be made to the Purchaſer.

XXXIII. Provided always, and be it further enacted, That if any Perſon or Perſons hath or have ſold, or ſhall at any Time before the Execution of the Award to be made by the ſaid Commiſſioners, ſell his, her, or their Right, Intereſt and Property in the ſaid Commons and Waſte Lands, hereby directed to be divided and incloſed, or any Part or Parts thereof to any other Perſon or Perſons, then and in every ſuch Caſe it ſhall and may be lawful to and for the ſaid Commiſſioners, and they are hereby authorized and required, to make an Allotment of Land unto the Vendee or Purchaſer mentioned in every ſuch Sale, or to his, her, or their Heirs and Aſſigns, for and in reſpect of ſuch Right, Intereſt and Property ſo ſold as aforeſaid; and every ſuch Vendee or Purchaſer, or his, her, or their Heirs and Aſſigns may and ſhall, from and after the Execution of the ſaid Award, hold and enjoy the Lands ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner, to all Intents and Purpoſes, as the Vendor named in every ſuch Sale might, could, or ought to have held and enjoyed the ſame in caſe ſuch Sale had not been made, or ſuch Right, Intereſt, or Property had been veſted in ſuch Vendor at the Time of making ſuch Allotment as aforeſaid.

XXXIV. And

Allotment for Public Purpoſes, and to the Vicar, to be fenced at the general Expence.

XXXIV. And be it further enacted, That the Allotments herein directed to be made to the Surveyors of the Highways for the ſaid Pariſh of *Stonleigh*, and alſo all Allotments to be made to the Vicar of the Vicarage of the ſaid Pariſh of *Stonleigh*, in reſpect of the ſaid Vicarage, ſhall be reſpectively incloſed and fenced round with ſuch Hedges, Ditches, Mounds or other Fences as the ſaid Commiſſioners ſhall think proper, and the Expences thereof ſhall be raiſed and paid in like Manner as the Expences of obtaining this Act, and carrying the ſame into Execution, are herein directed to be raiſed and paid; and that ſuch Hedges, Ditches, Mounds, and Fences ſhall for ever thereafter be maintained and ſupported by and at the Expence of ſuch Perſon or Perſons, and in ſuch Manner as the ſaid Commiſſioners ſhall, in and by their Award, direct and appoint.

After ſuch Allotments Rights to be extinguiſhed;

or Commiſſioners may previouſly thereto ſuſpend the Rights of Common.

XXXV. And be it further enacted, That from and immediately after ſuch Allotments and Compenſation ſhall be made for ſuch Rights of Common, and other Rights in or upon the ſaid Commons and Waſte Lands, all and ſingular ſuch Rights of Common and other Rights ſhall ceaſe, and be for ever utterly extinguiſhed and aboliſhed, and it ſhall and may be lawful for the ſaid Commiſſioners, from Time to Time, and at any Time or Times before the Execution of the ſaid Award by Notice in Writing under their Hands, to be affixed upon the principal Outer Door of the Pariſh Church of *Stonleigh* aforeſaid, to order and direct all or any Part of the Rights of Common in, over, or upon the ſaid Commons and Waſte Lands to ceaſe and become extinguiſhed, or be ſuſpended from or for, and during ſuch Time as ſhall be expreſſed in ſuch Writing, and that all ſuch Rights of Common as the ſaid Commiſſioners ſhall, by ſuch Writing, order and direct to ceaſe or be ſuſpended as aforeſaid, ſhall, from the Time of affixing ſuch Notice in Writing on the ſaid Church Door, ceaſe and be extinguiſhed or be ſuſpended accordingly, any Law, Uſage, or Cuſtom to the contrary notwithſtanding.

Allotments to follow the Tenure of Eſtates in reſpect of which they ſhall be made.

XXXVI. And be it further enacted, That all ſuch Lands, Grounds, or other Hereditaments as ſhall be allotted to any of the ſaid Proprietors, under or by virtue of this Act, or the ſaid Act herein-before referred to, ſhall be held by ſuch Proprietors or other Perſon or Perſons reſpectively, under the ſame Tenure as the Lands, Grounds, or Hereditaments in reſpect of which ſuch Allotments ſhall be made, were reſpectively held and enjoyed at or immediately before the making of ſuch Allotments.

For allowing Exchanges to be made.

XXXVII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners to ſet out, allot, and award any Lands, Tenements, or Hereditaments within the ſaid Pariſh of *Stonleigh*, in lieu of, and in Exchange for any other Lands, Tenements and Hereditaments within the ſaid Pariſh, or within any adjoining Pariſh, Hamlet, or Townſhip; provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the ſaid Award of the ſaid Commiſſioners, or by ſome Deed or Writing to which the ſaid Commiſſioners ſhall be Parties, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments, which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors ſhall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail General or Special, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, or with the Conſent of the Guardians, Truſtees, Feoffees for charitable or other Uſes, Huſbands, Committees,

mittees, or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Feme Coverts, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing, under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so to be made, shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent testified as aforesaid of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, or Hereditaments, so to be exchanged, shall lie and be situate.

Tenants to give up exchanged Lands having Satisfaction for them.

XXXVIII. And be it further enacted, That all and every Tenant and Occupier under any Lease or Agreement for any Term of Years, or any Tenant at Will of any old Inclosure within the said Parish, which shall be exchanged by virtue of this or the said Act herein-before referred to, shall immediately after the Execution of the Award of the said Commissioners, or within such further Time as the said Commissioners shall appoint (and whereof Notice in Writing shall be given for that Purpose) give up and resign the actual, full, and peaceable Possession of such exchanged Lands to the Person or Persons to or with whom the same shall be exchanged, such respective Tenants and Occupiers of such exchanged Lands receiving, from the said respective Owners or Proprietors thereof, such Satisfaction as the said Commissioners shall ascertain, order, direct, or appoint to be paid to such Tenant or Tenants respectively, on account thereof, or as an Equivalent for the Loss or Losses he, she, or they shall 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 Twenty-one Days after Demand made thereof, it shall be lawful for the said Commissioners, and they are hereby required to raise and levy the same for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges and Expences of obtaining and executing this Act, can or may be raised or recovered: Provided always, that if there shall be any Lease or Leases subsisting of any Lands, Part of which lie in the Parish of *Stonleigh* aforesaid, and Part in any adjoining Parish, all and every such Lease or Leases shall be vacated; but where any Land shall be taken in Exchange, which shall be under Lease as aforesaid, and wholly situate in an adjoining Parish, the Lease of such last mentioned Lands shall not be vacated.

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

XXXIX. 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 Act herein-before referred to, shall be paid, borne, and defrayed by the several Persons making such Sales, Exchanges, and Partitions in such Manner, and in such Shares and Proportions as the said Commissioners shall by their said Award, or any other Writing or Writings under their Hands, order and direct, and shall be recovered in the same Manner, as the Costs, Charges and Expences of obtaining and executing this Act, can or may be raised or recovered.

Act not to affect Wills and Settlements.

XL. And be it further enacted, That nothing in this Act contained shall extend to revoke, make void, impeach, annul, alter, or prejudice any Settlement, Will, Mortgage or Deed, or other Instrument whatsoever, or to prejudice any Person or Persons having any Right to or Claim of Dower, Jointure, Rent, Service, Debt, Charge, or Incumbrance whatsoever, in, out of, upon, or affecting any Messuages, Lands, Tenements or Hereditaments, which shall be allotted or exchanged in pursuance of this Act or the said Act herein-before referred to, but that the several Messuages, Lands, Hereditaments, and other Estates so to be allotted or given in Exchange shall, from and after the making of such Allotments and Exchanges, be, remain, and enure, and be held and enjoyed, and the several Persons to whom the same shall be allotted or given in Exchange as aforesaid, shall from thenceforth stand, and be seised and possessed thereof respectively to such and the same Uses, and for such and the same Estates, and with such and the same Powers and Authorities for making Leases or otherwise, and subject to the same Wills, Limitations, Conditions, Settlements, Uses, Trusts, Powers, Provisoes, Rents, Debts, Charges, and Incumbrances as the several Messuages, Lands, Tenements, or other Hereditaments, in respect or in lieu whereof such Allotments or Exchanges shall be respectively made, were and stood severally limited, or subject and liable unto at the Time of making such Allotments or Exchanges respectively.

Compensation to be made to Tenants deprived of Common Rights.

XLI. And be it further enacted, That where any Lease or Leases, or Agreement for a Lease or Leases for the letting or holding of any of the Messuages, Lands or Hereditaments in respect of which any Allotment or Allotments shall be made by virtue of this Act at Rack Rent for any Term or Number of Years, not exceeding Twenty-one Years, shall either in express Terms or virtually include or comprize any Rights of Common, or other Rights or Interests for or in lieu of which the same Allotment or Allotments shall be made, then and in every such Case the respective Owners and Proprietors of the same Messuages, Lands, or Hereditaments shall abate and allow to such Lessee or Lessees, Tenant or Tenants, such Portion of his or their Rent or Rents as the said Commissioners shall award to be a reasonable Compensation or Satisfaction to him or them for the Deprivation of such Rights of Common, or other Rights or Interests as aforesaid; and that where any such Lease or Agreement shall be for any longer Term than Twenty-one Years, or shall have been granted in consideration of Buildings or other Improvements being made on the Lands thereby demised, or where any Fine, Premium, or other valuable Consideration shall have been given for the granting of the same, then and in every such Case as last aforesaid, the Lessee or Lessees shall hold and enjoy, during the Remainder of the Term in such Lease or Agreement any Allotment or Allotments to be made in respect of the Premises therein comprized, paying to his or their Lessor or Lessors respectively such additional Rent or Rents as the said Commissioners shall, under all Circumstances, deem reasonable.

Separate Allotments to be made for different Estates held under different Titles.

XLII. And be it further enacted, That in case any Proprietor or Proprietors of any Messuages, Lands, or Tenements, within the Parish of *Stonleigh* aforesaid, shall hold the same by different Tenures, or for different Estates, or in different Rights, or under different Titles, the said Commissioners shall, upon the Request of any such Proprietor or Proprietors,

tors, aſcertain and diſtinguiſh the Meſſuages, Lands, and Tenements held by each of ſuch Tenures for each of ſuch Eſtates, and under each of ſuch Rights or Titles reſpectively, and ſhall accordingly, in their Award aſſign, ſet out and allot diſtinct and ſeveral Allotments, by diſtinct and ſeveral Deſcriptions, for ſuch reſpective Meſſuages, Lands, or Tenements, and ſhall declare in Right of what Eſtate or Eſtates ſuch Allotments reſpectively ſhall have been made; and in caſe the ſaid Commiſſioners, from want of neceſſary Information, or from any other Cauſe, ſhall not diſcriminate and diſtinguiſh ſuch different Rights or Titles, different Eſtates, and different Tenures in their Award, it ſhall be lawful for them, at any Time, within Twelve Calendar Months after the Execution of their Award, upon the Requeſt, in Writing, of any Perſon or Perſons intereſted, to do or cauſe to be done all proper and neceſſary Acts for the Purpoſes of enabling them to make ſuch Diſcrimination and Diſtinction as aforeſaid, in the ſame Manner as they might or could have done by their ſaid Award; and when and ſo ſoon as the ſaid Commiſſioners ſhall have obtained ſufficient Information for the Purpoſe, by any Deed or Inſtrument in Writing, under their Hands and Seals, to aſcertain and diſtinguiſh the Difference of ſuch Tenures, Eſtates, Rights and Titles reſpectively, and ſhall make diſtinct and ſeveral Allotments in the ſame Manner as they are hereby authorized to do by their ſaid Award; and every ſuch Deed or Inſtrument ſhall have the ſame Force and Effect as if the ſame was contained in their ſaid Award, and ſhall be delivered to the Perſon or Perſons upon whoſe Requeſt the ſame ſhall have been executed, or to the Perſon or Perſons to whom the Cuſtody of the Deeds and Writings concerning the Title to the Premiſes in Queſtion ſhall in the Opinion of the ſaid Commiſſioners properly belong for the Time being; and all the Coſts, Charges, and Expences which ſhall be occaſioned by the Proceedings of the ſaid Commiſſioners in making ſuch Diſcrimination, and Allotment or Allotments, and of preparing and executing any ſuch Deed or Inſtrument, or in anywiſe relating thereto, ſhall be aſcertained and ſettled by the ſaid Commiſſioners, and ſhall be paid by the Perſon or Perſons who ſhall make ſuch Requeſt as aforeſaid, or by his, her, or their Heirs, Executors, or Adminiſtrators, to ſuch Perſon and at ſuch Time and Place as the ſaid Commiſſioners ſhall, by Writing under their Hands, appoint; and in caſe ſuch Coſts, Charges, and Expences ſhall not be ſo paid, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby required to raiſe and levy the ſame by ſuch Ways and Means as any of the Coſts, Charges, and Expences of obtaining and executing this Act, can or may be raiſed and levied.

For defraying the Expences of the Act.

XLIII. And be it further enacted, That the Coſts, Charges, and Expences of obtaining and paſſing this Act, and of preparing and executing the Award of the ſaid Commiſſioners, and all other Charges and Expences whatſoever incurred for or by reaſon of or preparatory to the ſaid intended Diviſion and Incloſure, and of carrying this and the ſaid Act herein-before referred to into Execution, ſhall be borne and defrayed by the ſeveral Perſons to whom any Allotment or Allotments ſhall be made by virtue of this Act, (ſave and except the Vicar of the ſaid Vicarage for the Time being, for or in reſpect of any Allotment or Allotments to be made to him in Right of his Glebe Lands, and ſave and except the Surveyors of the Highways of the ſaid Pariſh, in reſpect of the Allotment by this Act directed to be ſet out to them), which ſaid Coſts, Charges, and Expences, together with the Proportions

tions thereof, to be paid by the ſeveral Perſons hereby made liable to the Payment thereof, ſhall be ſettled and adjuſted by the ſaid Commiſſioners, and ſhall be paid at ſuch Time and Place, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall appoint; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay his, her, or their Proportion of ſuch Coſts, Charges, and Expences as aforeſaid within the Time, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall appoint, then and in ſuch Caſe, the ſaid Commiſſioners ſhall cauſe the ſame to be levied and recovered in manner directed by the ſaid Act herein-before referred to, with lawful Intereſt for the ſame, from the Time ſuch Proportion or Proportions of the ſaid Coſts, Charges and Expences ſhall, by the ſaid Commiſſioners, be appointed to be paid.

Allowance to Commiſſioners, Umpire, and Clerk.

XLIV. And be it further enacted, That there ſhall be paid to each of the ſaid Commiſſioners and the Umpire, acting in the Execution of the Truſts and Powers hereby reſpectively veſted in them, and the Clerk to be by them employed, the Sum of Four Pounds Four Shillings, and no more, for each and every Day on which he ſhall be employed in travelling to, attending in, or returning from, ſo acting; and that at all Meetings to be held in purſuance of this Act, the ſaid Commiſſioners, Umpire, and Clerk, and every Proprietor and all other Perſons attending ſuch Meeting ſhall pay their own Expences; and that the ſaid *Thomas Phillips*, and any other Perſon to be appointed Surveyor in his Place in Manner aforeſaid, ſhall be paid ſuch Sum or Sums of Money, *per* Day or otherwiſe, for his Pains and Trouble in attending the ſaid Commiſſioners in the Execution of this Act, as the ſaid Commiſſioners ſhall think juſt and reaſonable. Surveyor.

Perſons advancing Money to be repaid with Intereſt.

XLV. And be it further enacted, That any Perſon or Perſons who ſhall lend any Sum or Sums of Money, for defraying the Expences of applying for and obtaining and executing this Act, ſhall be repaid the ſame out of the Monies which ſhall be raiſed and collected in purſuance hereof, with Intereſt, not exceeding Five Pounds *per Centum per Annum*, from the Time of advancing the ſame.

Appointment of Auditor.

XLVI. And be it further enacted, That *Richard Greſley* of *Kenilworth*, in the ſaid County of *Warwick*, Eſquire, ſhall be, and he is hereby appointed Auditor of the Accounts of the ſaid Commiſſioners; and in caſe of his Death, or Refuſal to act, then ſome other fit and proper Perſon (not intereſted in the Premiſes) ſhall be appointed Auditor for that Purpoſe, by the Majority in Value of the Proprietors liable to the Payment of the Expences of obtaining and executing this Act, who may be aſſembled at any Meeting to be held for electing ſuch Auditor, as often as Occaſion ſhall require; and the Accounts of the ſaid Commiſſioners, containing a true Statement of all Sums by them received and expended, or due to them for their own Trouble and Expences, ſhall, at leaſt once in every Year from the paſſing of this Act until ſuch Accounts ſhall be finally allowed, together with the Vouchers relating to the ſame, be examined by the ſaid Auditor, and the Balance by him ſtated in the Book of Accounts, to be kept in the Office of the Clerk to the Commiſſioners; and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned or valid in Law, unleſs the ſame ſhall be duly allowed by the ſaid Auditor for the Time being as aforeſaid.

Award to be made.

XLVII. And be it further enacted, That the Award to be made by the ſaid Commiſſioners under the Authority of this Act, and the ſaid Act herein-before referred to, together with a proper Map or Plan of the ſaid Commons and Waſte Lands thereto annexed, ſhall, within Twelve Calendar Months after the Execution thereof, be delivered to the Clerk of the Peace for the ſaid County of *Warwick*, who is hereby required to depoſit and keep the ſame among the Records of the ſaid County, ſo that Recourſe may be had thereto by any Perſon or Perſons intereſted in the Premiſes, for the Reception whereof the Fee of Three Pounds Three Shillings ſhall be paid, and no more; and for the Inſpection and Peruſal whereof, the Sum of One Shilling, and no more, ſhall be paid; and the ſaid Award ſhall, from and after the Delivery thereof to the ſaid Clerk of the Peace, be deemed and taken to be inrolled, according to the Directions and within the Meaning of the ſaid Act herein-before referred to; and a Copy of the ſaid Award, fairly tranſcribed in a Book with a proper Map or Plan of the Allotments to be ſet out for the Proprietors of Eſtates in the ſaid Pariſh, ſhall, within the Time aforeſaid, be depoſited in the Pariſh Church of *Stonleigh* aforeſaid, and there kept with the Pariſh Regiſters; and the ſaid Award, and Copy thereof, and any other Copy of the ſaid Award, or any Part or Parts thereof, atteſted by the ſaid Clerk of the Peace, or his Deputy (for every Sheet of which Copy, containing Seventy-two Words, Four-pence and no more ſhall be paid), ſhall, from Time to Time and at all Times thereafter, be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatſoever.

Appeal to the Seſſions.

XLVIII. And be it further enacted, That if any Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done or omitted to be done in purſuance of this Act or the ſaid Act herein-before referred to, (other than and except as to ſuch Claims, Matters and Things, as ſhall be aſcertained, ſettled, tried, or determined by the Verdict of a Jury under the Power and Authority herein-before contained, or where by any of the Proviſions or Clauſes of this Act or the ſaid Act herein-before referred to, the Determinations, Orders, Acts, or Proceedings of the ſaid Commiſſioners or Umpire are declared or directed to be final and concluſive), then and in all ſuch Caſes he, ſhe, or they may appeal to the Juſtices aſſembled at the General Quarter Seſſions of the Peace which ſhall be held for the ſaid County of *Warwick*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners or Umpire, and to the Party or Parties concerned, Ten Days Notice in Writing of ſuch Appeal, and of the Matter thereof, and the Juſtices (not intereſted in the Premiſes) at their ſaid General Quarter Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order, and award ſuch Coſts and Damages as to them, in their Diſcretion, ſhall ſeem reaſonable; and by their Order or Warrant to levy the Coſts and Damages, which ſhall be ſo awarded, by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) upon Demand to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Warrant, Diſtreſs, and Sale; and the Determination of ſuch Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed or removable by *Certiorari* or any other Writ or Proceſs whatſoever into any of His Majeſty's Courts of Record at *Weſtminſter*, or elſewhere; but in caſe ſuch

Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without ſufficient Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants, as to the ſaid Juſtices, in their Diſcretion, ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

Saving Rights of Lords of Manors.

XLIX. And be it further enacted, That nothing in this Act contained ſhall extend, or be conſtrued to extend, to defeat, leſſen, or prejudice the Right, Title and Intereſt of the ſaid *Thomas Leigh*, or the Lord or Lords, Lady or Ladies of the ſaid Manor of *Stonleigh*, for the Time being, of or to any Seigniories, Royalties, Fiſheries, Fiſhing Brooks, Streams of Water, or other Rights, Cuſtoms, and Services incident or belonging thereto; but that the ſaid *Thomas Leigh*, and the Lord or Lords, Lady or Ladies, of the ſaid Manor for the Time being, ſhall and may from Time to Time, and all Times for ever hereafter have, hold, and enjoy the ſame, and all Rents, Heriots, and Services, Courts, Suits of Courts, Franchiſes, Waifs, Eſtrays, Deodands, Eſcheats, and all other Royalties, Privileges, and Appurtenants to the ſaid Manor incident, belonging, or appertaining, (other than and except thoſe for which Compenſation is directed to be made, and which are intended to be extinguiſhed by virtue of this Act), in as full, ample, and beneficial Manner, to all Intents and Purpoſes, as he or they could or might have enjoyed the ſame in caſe this Act had not been made.

General Saving.

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

Act to be printed by the King's Printer.

LI. 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.