ANNO QUINQUAGESIMO

# GEORGII III. REGIS.

## *Cap.* 113.

An Act for incloſing Lands in the Pariſhes of *Tidenham*, *Woolaſtone*, and *Lancaut*, in the County of *Glouceſter*.

[18th *May* 1810.]

WHEREAS there are within the ſeveral Pariſhes of *Tidenham*, *Woolaſtone*, and *Lancaut* in the County of *Glouceſter*, a certain Tract of Commonable or Waſte Land called *Tidenham Chaſe*, and alſo divers other Commonable or Waſte Woodlands and Grounds, containing by Computation One thouſand and ſix hundred Acres, or thereabouts: And whereas there are alſo within the ſaid Pariſh of *Tidenham* a certain Common Meadow called *Tidenham Mead*, containing Sixty-four Acres, or thereabouts, and a certain Warth or Salt Marſh, called *Pill Houſe Warth*, containing One hundred Acres, or thereabouts: And whereas his Grace *Henry Charles* Duke of *Beaufort* is Lord of the Manors of *Tidenham* and *Woolaſtone*, which are co-extenſive with the ſaid ſeveral Pariſhes of *Tidenham*, *Woolaſtone*, and *Lancaut*, and as ſuch is entitled to the Soil of and Royalties within and under the ſaid Commonable and Waſte Lands: And whereas the ſaid *Henry Charles* Duke of *Beaufort* is Patron of the Rectory of *Woolaſtone* and Chapel of *Lancaut*, and the Reverend *John Price*, Bachelor of Divinity, is Rector of the ſaid Pariſhes of *Woolaſtone* and *Lancaut*, and is as ſuch entitled to all the Great and Small Tythes ariſing, renewing or increaſing from, out or in reſpect of the Lands and Hereditaments ſituate within the ſaid Pariſhes reſpectively, or from out, or in reſpect of ſuch of the ſame Lands and Hereditaments as are titheable, or to ſome Moduſſes or other Payments in lieu of Tythes: And whereas *Martha Davis* Widow, *Daniel Burr* Eſquire, and *Mary* his Wife, and *Ann Suſannah Davis* Spinſter, or ſome or one of them, are

or is Patrons or Patron of the Vicarage and Parish Church of *Tidenham* aforesaid, and the Reverend *Thomas Thomas*, Master of Arts, is Vicar of the said Parish of *Tidenham*, and is as such entitled to all Small or Vicarial Tithes, and certain Parts of the Tithe of Hay arising, renewing and increasing, from, out or in respect of the Lands and Hereditaments situate within the said Parish, or from, out or in respect of such of the said Lands and Hereditaments as are titheable, or to some Moduses or other Payments in lieu of Tithes, and *Harriet Maria Williams* Widow, *William Lewis* Gentleman, and *Samuel Jenkins* Esquire, or some or one of them, are or is entitled to the other Parts of the Tithe of Hay, and also to all the other Great Tithes arising, renewing and increasing from, out or in respect of the Lands and Hereditaments within the said Parish of *Tidenham*, or such of the said Lands and Hereditaments as are titheable, or to some Moduses or other Payments in lieu of Tithes: And whereas the said *Henry Charles* Duke of *Beaufort*, Sir *Henry Augustus Montagu Cosby* Knight, the said *Daniel Burr*, *Nathaniel Wells* Esquire, *Charles James* of *Stroat* Esquire, the said *Samuel Jenkins*, *James Hammond* Esquire, *Anthony Hammond* Gentleman, *James Woodroffe* Gentleman, and several other Persons, are Owners and Proprietors of divers ancient Messuages or Cottages and Tofts, (being the Scites of ancient Messuages or Cottages) with the Lands, Tenements and Hereditaments thereto belonging, within the said Parishes or some or one of them, and in respect thereof have Rights of Common, or are entitled to other Rights and Interests in, to, over and upon the said Commonable and Waste Lands, or some Part or Parts thereof; and the said last-mentioned Parties, or some of them, and several other Persons, are also Owners and Proprietors of the said Common Meadow, and the said *Henry Charles* Duke of *Beaufort* is also the Owner and Proprietor of the said Warth or Salt Marsh, subject to certain Rights of Common in, over or upon the same, at certain Seasons of the Year: And whereas an Act was passed in the Forty-first Year of His present Majesty, intitled, *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 Commonable and Waste Lands in their present uncultivated State yield very little Profit, and the Lands and Grounds of the several Owners or Proprietors in the said Common Meadow called *Tidenham Mead*, lie very much intermixed and dispersed in small Parcels, and it would be of great Advantage to the several Persons interested in the said Commonable and Waste Lands, and in the said Common Meadow and Warth or Salt Marsh, if the same Commonable and Waste Lands and Common Meadow and Warth or Salt Marsh were divided and inclosed, and specific Allotments made to the several Proprietors according to their respective Estates, Rights and Interests therein; but such Division and Inclosure cannot be effected without the Authority of Parliament; May it therefore please Your Majesty, That it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Thomas Fulljames*, of *Hasfield Court* in the County of *Gloucester*, Esquire, and his Successor to be appointed in Manner hereinafter mentioned, shall be and he is hereby appointed the sole Commissioner for setting out, dividing and allotting the said Commonable and Waste Lands, and the said Common Meadow and Warth or Salt Marsh, and for putting this Act into

Appointment of Commissioner.

into Execution in such Manner, and subject to such Rules, Orders and Regulations as are hereinafter mentioned, and with such of the Powers and subject to such of the Rules, Orders, Directions, Authorities, Regulations, Restrictions and Provisions contained in the said recited Act, as are not controlled by or repugnant, to any of the Clauses, Provisoes or Regulations contained in this Act; and that he the said *Thomas Fulljames*, or such other Commissioner as shall be hereafter appointed in his Stead, shall have full Power and Authority to call to his Assistance and to Employ such Person as he shall think proper, as an Assistant or Clerk for executing the several Powers by this Act reposed in him the said Commissioner, and to allow to such Assistant or Clerk for his Trouble such Compensation as the said *Thomas Fulljames*, or such other Commissioner shall deem reasonable.

Appointment of new Commissioner.

II. And be it further enacted, That if the said *Thomas Fulljames*, or any other Commissioner to be appointed in his stead, as herein after mentioned, shall die or refuse or neglect to qualify and take upon himself the Execution of the Powers hereby vested in him, for the Space of Two Calendar Months, next after the passing of this Act, or after such his Appointment, or having qualified himself, shall before the Execution of all the Powers and Authorities hereby vested in him die or refuse to act, or become incapable of acting in such Powers and Authorities, then and in every such Case a new Commissioner shall be chosen and appointed by a Majority in value, (to be ascertained by the Land Tax Assessment) of the Persons who for the Time being shall be interested in the said Division and Inclosure, and who shall by themselves or their Agents, be present at a Meeting to be convened for that Purpose, by any Two or more of such Persons interested as aforesaid, within Two Calendar Months next after such Death, Refusal, Neglect or Incapacity, of which Meeting Ten Day's previous Notice at least shall be given in Writing, to be affixed upon the Principal outer Door of each of the Churches of *Tidenham* and *Woolaston*, and of the Chapel of *Lancaut*; and in case the Proprietors or Persons interested as aforesaid, shall make default in appointing any such Commissioner within Two Calendar Months, next after such Death or Neglect, Refusal or Incapacity of any such Commissioner as aforesaid, then and in every such Case it shall be lawful for the Lord or Lords, Lady or Ladies, for the Time being of the said Manors of *Tidenham* and *Woolaston*, and he, she and they is and are hereby required, within Fourteen Days next after the Expiration of the said Two Calendar Months, to appoint some Person, not interested in the said Inclosure, to be a Commissioner in the place of the Commissioner so dying or neglecting, refusing or becoming incapable to act as aforesaid; and every such new Commissioner so to be appointed shall have the like Powers and Authorities for putting this and the said recited Act into Execution, in all respects as the Commissioner to whose Place he shall succed was invested with by virtue of this Act.

Appointment of Surveyor.

III. And be it further enacted, That *David Davies*, of *Langattock Crickhowell* in the County of *Brecon*, Land Surveyor, shall be the Surveyor to act in the Execution of this and the said recited Act, and shall be subject to the Controul and Direction of the said Commissioner; and in case the said *David Davies*, or any Surveyor to be appointed in his stead, shall die, refuse, neglect or become incapable to act before the

Powers

Appointment of new Surveyor.

Powers and Provisions of this Act, shall be fully carried into Execution, then and in every such Case a new Surveyor shall be appointed by the Majority in value, (to be ascertained as aforesaid,) of the Persons who for the Time being shall be interested in the said Division, Inclosure and Allotment, or in case of their making default, then by the Lord or Lords, Lady or Ladies of the said Manors, within such Time from the Death, Incapacity or declining to act of such Surveyor, and upon such or like Notice, and in such or the like Manner in all Respects as is hereinbefore mentioned, for choosing and appointing a new Commissioner in the stead of the said *Thomas Fulljames*, in case of his Death, Refusal, Neglect or becoming incapacitated to act.

Allowance to Commissioner.

IV. And be it further enacted, That out of the Monies that shall be raised for defraying the Expences of obtaining and carrying this Act into Execution, there shall be paid to the said Commissioner, and to his Successor who shall or may be appointed as aforesaid, and who shall act in the Execution of the Powers and Authorities hereby vested in or given to him, as a full Recompence for his Pains and Trouble, the Sum of Three Pounds and Three Shillings, and no more, for each and every Day he shall be employed in travelling and attending for the Purpose of carrying this Act and the said recited Act into Execution, or of exercising any of the Powers hereby vested in him; and that the said Commissioner, and his Successor to be appointed as aforesaid, and all Persons claiming to be interested in the said Inclosure, shall defray his and their own travelling Expences and all other Expences of themselves, their Agents, Attornies and Witnesses, at all Meetings to be held in pursuance of this and the said recited Act.

Notice of Meetings.

V. And be it further enacted, That the said Commissioner shall and he is hereby required to cause public Notice to be given in each of the Churches of *Tidenham* and *Woollaston*, and in the Chapel of *Lancaut* aforesaid, upon some Sunday immediately after Divine Service, or by Writing under his Hand, to be affixed on the most public Outer Door of the said respective Churches and Chapel, and also by Advertisement to be inserted in the News-paper called the *Glocester Journal* if then published, and if not, then in some other News-paper published or circulated in the said County of *Glocester* of the Time and Place of the first and every other Attendance for the Execution of this Act, Eight Days at the least before any such Attendance shall be held, (Attendance by Adjournment only excepted); and all and every the Attendances of the said Commissioner for the Execution of this and the said recited Act, shall be held at some convenient Place, within the Distance of Eight Miles from either of the said Parishes.

Other Notices how to be given.

VI. And be it further enacted, That all other Notices necessary to be given by the said Commissioner in pursuance of this Act or the said recited Act, for any Purpose whatever (except such Notices as are in and by this Act, or the said recited Act, authorized or particularly directed to be given in any other Manner), shal lbe published and given in, and by Advertisement to be inserted in the said News paper called the *Glocester Journal*, if then published, and if not, then in some One or more of the public Newspapers published or circulated in the said County of *Glocester*; and all such Notices so given shall be deemed to be well and sufficiently published

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and given, and to be full and sufficient Notice to all Parties concerned respecting all the Matters and Things to which such Notice shall relate.

Disputed Claims to be heard and determined by the Commissioner.

VII. And be it further enacted, That if any Claim of Right of Common or other Right or Interest in or to the said Commonable and Waste Lands, Common Meadow and Warth or Salt Marsh, intended to be divided, allotted and inclosed by virtue of this Act, delivered to the said Commissioner in pursuance of the said hereinbefore recited Act, shall be objected to by any Person or Persons claiming to be interested in the said Commonable and Waste Lands, and Common Meadow or Warth or Salt Marsh, and the Party or Parties making such Claim shall persist therein, then the said Commissioner shall and he is hereby required, at a Meeting to be by him held for that Purpose, of which he shall give publick Notice at least Ten Days before the Time of holding the same, by Examination of Witnesses upon Oath, and by such other Evidence Ways and Means as he shall think proper, to hear and determine the Matter of every such Claim so made and objected to and persisted in as aforesaid; and the said Commissioner shall and he is hereby authorized and required to assess such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whose Favour any such Determination shall be made, by the Party or Parties against whom the same shall be made, and the same shall be paid within such Time as the said Commissioner shall appoint; and if the Person or Persons who shall be ordered or required to pay such Costs and Charges, shall neglect or refuse to pay the same within Ten Days next after Demand thereof made, the same shall and may be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing, by Warrant under the Hand and Seal of the said Commissioner, which Warrant the said Commissioner is hereby empowered and required to grant upon Proof on Oath of such Neglect or Refusal, and of such Demand as aforesaid, and the Overplus (if any) after the Charges of levying the same shall have been deducted, shall be returned on Demand to the Owner of such Goods and Chattels: Provided always, that nothing in this Act contained shall extend or be construed to extend, so as to enable the said Commissioner to determine the Title to any Messuages, Lands, Tenements or Hereditaments whatsoever.

and to assess Costs.

Persons dissatisfied may try Claims at Law.

VIII. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politick, 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 Commissioner, touching or concerning any Claim or Claims of Common or other Rights or Interests, in, to, over and upon the said Commonable or Waste Lands, Common Meadow and Warth or Salt Marsh hereby directed to be divided and inclosed, or any Part thereof, then and in every such Case it shall and may be lawful to and for such Person or Persons, Body or Bodies Politick, Corporate or Collegiate, to try such Claims at Law at the next or at the following Assizes, to be holden in and for the said County of *Gloucester*, next after such Determination, first giving Fourteen Days Notice in Writing to the said Commissioner, or his Clerk or Assistant for the Time being, of his her or their Intention to bring such Action; and for that Purpose the Person or Persons, Body or Bodies Politick, Corporate or Collegiate, who shall be dissatisfied with the Determination

mination of the ſaid Commiſſioner, ſhall cauſe an Action to be brought upon a feigned Iſſue againſt the Perſon or Perſons in whoſe Favour ſuch Determination ſhall have been made, within Three Calendar Months after ſuch Determination of the ſaid Commiſſioner; and the Defendant or Defendants in ſuch Action or Actions, is and are hereby required forthwith to appoint an Attorney or Attornies, who ſhall appear to ſuch Action, or file common Bail, and accept One or more Iſſue or Iſſues, whereby ſuch Claim or Claims, and the Right or Rights thereby inſiſted on may be tried and determined, (ſuch Iſſue to be ſettled by the proper Officer of the Court in which the ſaid Action ſhall be commenced, in caſe the Parties or their Attornies ſhall differ about the ſame); and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions, ſhall be final bindin and concluſive upon all and every Perſon and Perſons whomſoever, Body and Bodies Politick, Corporate and Collegiate, unleſs the Court wherein ſuch Action or Actions ſhall be brought, ſhall ſet aſide ſuch Verdict or Verdicts, and order a new Trial to be had therein, which it ſhall be lawful for the Court to do as is uſual in other Caſes; and that after ſuch Verdict or Verdicts ſhall have been obtained and not ſet aſide by the Court, the ſaid Commiſſioner ſhall and he is hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials: Provided always, that no ſuch Action, Verdict or new Trial ſhall impede or delay the ſaid Commiſſioner in the Execution of the Powers hereby veſted in him; but the Diviſion and Incloſure hereby directed to be made ſhall be proceeded in in ſuch and the ſame Manner as if no Action or Suit were pending.

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

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

Determination of the Commiſſioner to be final, unleſs Parties proceed to Law.

X. Provided always, and be it further enacted, That all ſuch Orders and Determinations of the ſaid Commiſſioner as ſhall have been made as aforeſaid, with Reſpect to ſuch Claims, touching which no ſuch Action at Law ſhall be brought or commenced and proceeded in within the Time aforeſaid, ſhall be final, binding and concluſive upon all Perſons whomſoever, any thing in this Act contained to the contrary notwithſtanding.

Proviſo in caſe of Death of Parties before Actions brought.

XI. 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 hereinbefore limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politick, 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 or Aſſiſtant for the Time being of the ſaid Commiſſioner, with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if living; and it ſhall thereupon be ncumbent on the Heir or Heirs, or other Perſon or Perſons, who ſhall

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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.

Right of Poſſeſſion of Perſons not to be determined by the Commiſſioner.

XII. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioner to determine any Right or Title between the Parties contrary to the Poſſeſſion of any of ſuch Parties (except in Caſes of Encroachments as hereinafter mentioned), but in caſe the ſaid Commiſſioner ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, he ſhall forbear to make any Determination thereupon until the Poſſeſſion ſhall have been given up, or recovered from ſuch Perſon or Perſons by Ejectment or other due Courſe of Law.

Reſpecting Encroachments previous to the 7th September 1789.

XIII. And be it further enacted, That all Cottages, Erections and Encroachments which have been erected and made upon or taken out of the ſaid Commonable and Waſte Lands, intended to be divided incloſed and allotted by virtue of this Act, previouſly to the Seventh Day of *September* One thouſand ſeven hundred and eighty-nine, and for which no Rent or Amerciament hath been paid, or Attornment made to the Lord or Lords, Lady or Ladies of the ſaid Manor or Manors of which the ſame are Part, or to which the ſame belong, ſhall, as againſt ſuch Lord or Lords, Lady or Ladies, be deemed to be the Property of the Poſſeſſor or Poſſeſſors thereof; and that all other Cottages Erections Encroachments and Incloſures which have been erected and made upon or taken out of the ſaid Commonable and Waſte Lands previouſly to the ſaid Seventh Day of *September* One thouſand ſeven hundred and eighty-nine, ſhall be deemed to be the Property of the Lord or Lords, Lady or Ladies of the ſaid Manors, or ſuch Perſon or Perſons as ſhall claim the ſame from or through them, or any of the Anceſtors of the ſaid *Henry Charles* Duke of *Beaufort*, or ſhall otherwiſe have a lawful Title thereto, but no Allotment ſhall be made for or in lieu of any Common Right which ſhall or may be claimed in reſpect of any Cottage, Erection, Encroachment or Incloſure which hath at any Time heretofore been erected or made upon or taken out of the ſaid Commonable and Waſte Lands.

Reſpecting Encroachments ſince the 7th September 1789.

XIV. And be it further enacted, That all Encroachments and Incloſures made upon or taken out of the ſaid Commonable or Waſte Lands between the Seventh Day of *September* One thouſand ſeven hundred and eighty-nine, and the Seventh Day of *September* One thouſand eight hundred and nine, ſhall be deemed Parts and Parcels of the ſaid Commonable and Waſte Lands, and ſuch of them as ſhall have been made by any Freeholder or Freeholders, his, her or their Tenant or Tenants, in reſpect of or laid to and occupied with his, her or their Freehold Meſſuages, Lands or Tenements within the ſaid Manors or either of them, and for which no Rent hath been paid or Attornment made to the ſaid Duke of *Beaufort*, or his Anceſtors, Lords of the ſaid Manors, ſhall, with all Buildings and Erections thereon, be ſet out and allotted unto ſuch Freeholder or Freeholders as ſhall be in the Poſſeſſion thereof reſpectively, in Part or in full of the Allotments to which he, ſhe or they ſhall be entitled, in Caſe the ſame ſhall not

not in the Judgment of the ſaid Commiſſioner be more than equivalent thereto; and in caſe any ſuch Encroachments ſhall in the Judgment of the ſaid Commiſſioner be of greater Value than his, her or their Share and Proportion of the Commons and Waſte Grounds, then the Perſon or Perſons to whom ſuch Encroachments ſhall be allotted ſhall pay to the ſaid Commiſſioner at or within ſuch Time as he ſhall appoint, ſuch Sum of Money as the ſaid Commiſſioner ſhall adjudge to be the Value of ſuch Encroachment, over and above the Value of the Allotments to which ſuch Perſon or Perſons ſhall be entitled, and the ſame ſhall be applied towards Payment of the Expences of obtaining and executing this Act, and ſhall be recovered in Manner directed by the ſaid recited Act with reſpect to Perſons neglecting or refuſing to pay his, her or their Proportion of the Coſts and Expences of obtaining Acts of Incloſure, and carrying the ſame into Execution; and in caſe there ſhall be any Overplus of ſuch Money, after Payment of ſuch Coſts, Charges and Expences, ſuch Overplus ſhall be divided and apportioned among the ſeveral Proprietors and Perſons intereſted in the ſaid Commonable and Waſte Lands in ſuch ſhares as ſhall be in proportion to their reſpective Rights and Intereſts therein, and the Shares of ſuch of them as ſhall be Tenants in in Fee Simple ſhall be paid to them reſpectively, and the Shares of the other Proprietors and Perſons of and in ſuch Surplus Money ſhall be applied and diſpoſed of in Manner directed by the ſaid recited Act in thoſe Caſes where any Money is 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; and the Remainder of the ſaid Encroachments and Incloſures which ſhall have been made between the ſaid Seventh Day of *September* One thouſand ſeven hundred and eighty-nine and the Seventh Day of *September* One thouſand eight hundred and nine, ſhall be conſidered as Part of the Lands to be allotted to and taken by the ſaid Duke of *Beaufort*, or the Lord or Lady, Lords or Ladies for the Time being of the ſaid Manors of *Tidenham* and *Woolaſtone* reſpectively, and the Value of ſuch Encroachments made ſince the Seventh of *September* One thouſand ſeven hundred and eighty-nine, both with reſpect to the ſaid Duke and to ſuch Freeholder or Freeholders as aforeſaid, ſhall be aſcertained and fixed by the ſaid Commiſſioner or his Succeſſor, according to the yearly Rent or Rents now received and payable to the ſaid Duke of *Beaufort* for the ſame reſpectively, where any Rent or Rents or other Payments ſhall have been made or agreed upon; and where no yearly Rent or Payment ſhall have been made or agreed upon, then at ſuch yearly Rents as the ſame in the Judgment and Opinion of the ſaid Commiſſioner would have been worth Previous to the ſame having been taken in and incloſed from the other Parts of the ſaid Commonable and Waſte Lands, and having been improved in the Cultivation thereof; and in caſe any Perſon or Perſons poſſeſſed of any Encroachment or Encroachments ſhall have paid or agreed to pay any Rent for the ſame, and ſhall after ſuch Payment or Agreement to pay have added thereto by Encroachment, then the Rent to be paid by him or them for the additional quantity of Land ſo taken in and incloſed ſhall be aſcertained and ſettled by the ſaid Commiſſioner or his Succeſſor in Manner hereinbefore mentioned, and added to the Rent or Rents already paid or agreed to be paid for the ſame, and the Value of ſuch Encroachments ſhall be aſcertained as aforeſaid, according to ſuch original and

and additional Rents; and in case any Dispute or Difference shall arise touching any such Encroachments, or the Extent thereof, such Dispute or Difference shall be determined by the said Commissioner.

Certain Leases not to be vacated.

XV. Provided always, and be it further enacted, That nothing herein contained shall be construed to cancel or make void any Lease under the Hand and Seal of, or any Agreement in Writing signed by, the said Duke of *Beaufort*, or any of his Ancestors, for the letting and setting of any Part or Parts of the said Commonable or Waste Lands, but that the same shall continue in Force for the Term, and subject to the Exceptions, Reservations, Rents, Covenants, Clauses, Provisoes and Agreements therein respectively contained, subject nevertheless to the Clause for exchanging and allotting Lands hereinafter enacted.

Respecting Encroachments made since the 7th September 1809.

XVI. And be it further enacted, That all Encroachments or Inclosures which at any Time or Times since the Seventh Day of *September* One thousand eight hundred and nine, have been made upon or taken out of the said Commonable and Waste Lands, shall be deemed Part and Parcel of the said Commonable and Waste Lands, intended to be divided, inclosed and allotted by virtue of this Act.

To prevent breaking the Soil of the Commons without leave.

XVII. And be it further enacted, That it shall not be lawful for any Person or Persons whomsoever from and after the passing of this Act until the Execution of the Award of the said Commissioner, to cut, dig, pare, grave, break up, flay or carry away the Turf or Soil, upon or from off the said Commonable and Waste Lands or any Part thereof, or to fell, lop, top, cut down, burn, take or carry away any Bushes, Thorns or Furze growing thereon, without the License and Consent of the said Commissioner, in Writing under his Hand first had or obtained, (which License and Consent the said Commissioner is hereby empowered to grant, under such Rules, Orders, Regulations and Restrictions, as he shall think proper to insert therein) and if any Person or Persons shall from and after the passing of this Act, and before the Execution of the said Award, cut, dig, pare, grave, break up, flay or carry away any Turf or Soil from any Part of the said Commonable and Waste Lands, or fell, lop, top, cut down, burn, take or carry away any Bushes, Thorns, or Furze growing or being in or upon the same, without such License and Consent as aforesaid, or having obtained such License and Consent, shall act in any Manner contrary thereto, or to the Rules, Orders, Regulations and Restrictions therein contained; every such Person and Persons being convicted thereof either by his, her or their own Confession, or upon the Oath or Oaths of One or more credible Witness or Witnesses, before any Justice of the Peace acting in and for the said County of *Gloucester*, not being any Ways interested in the said Commonable and Waste Lands, (and which Oath or Oaths such Justice is hereby authorized to administer, and to summon the Person or Persons complained of, and to examine such Witness or Witnesses relating to the said Complaint,) shall for every Offence forfeit and pay such Sum of Money as the said Justice shall direct, not exceeding Five Pounds, over and above the Value of such Bushes, Thorns or Furze, the same to be applied by the said Commissioner for the Purposes of this Act; and it shall be lawful for such Justice, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause the said Penalty to be raised and levied by Distress and Sale

of the Goods and Chattels of the Perſon or Perſons offending, (Demand having firſt been made thereof) rendering the Overplus (if any) after deducting the Charges of ſuch Diſtreſs and Sale, to the Owner of ſuch Goods and Chattels; and every Perſon ſhall be allowed to give Evidence of any ſuch Offence notwithſtanding he may be a Proprietor or Occupier of Lands within or an Inhabitant of either of the aforeſaid Pariſhes.

Power to make Drains, &c.

XVIII. And be it further enacted, That the ſaid Commiſſioner ſhall and may order and direct to be ſcoured out, repaired and widened all ancient Brooks, Drains, Ditches, Watercourſes, Tunnels, Water Gates, Sluices, Banks and Bridges, in, over or upon the Lands and Grounds intended to be divided, allotted and incloſed by virtue of this Act; and alſo ſhall and may make, ſet out and appoint ſuch new Ditches, Drains, Watercourſes, Tunnels, Water Gates, Sluices, Banks and Bridges, as well in, through and over the Lands and Grounds hereby intended to be divided and incloſed as aforeſaid, as in, through and over any ancient Incloſures or other Lands and Grounds within the ſaid ſeveral Pariſhes, or any of them, making ſuch Satisfaction to the Proprietor of ſuch ancient Incloſures or other Lands and Grounds not hereby directed to be divided and incloſed, for Damage done thereby, as the ſaid Commiſſioner ſhall think reaſonable, and to be of ſuch Depth, Dimenſions, and Breadth, and in ſuch Directions as the ſaid Commiſſioner ſhall think fit; and the ſaid Commiſſioner ſhall and may and he is hereby directed, in and by his Award, to appoint and order by whom and at whoſe Expence, and at what Times, and in what Manner the ſaid Brooks, Drains, Ditches, Watercourſes, Tunnels, Water Gates, Sluices, Banks and Bridges ſhall be made, and thereafter repaired, cleanſed, ſcoured and maintained; and alſo ſhall and may direct, order and award all or any of the Streams and Springs of Water within the ſaid Commonable and Waſte Lands, and Common Meadow and Warth or Salt Marſh hereby directed to be divided and incloſed, or adjoining to the ſame, or in any incloſed Lands within the ſaid ſeveral Pariſhes or any of them, to be conveyed, carried or turned into ſuch Courſes, and through, over and acroſs ſuch Parts of the Lands or Grounds hereby directed to be divided, allotted and incloſed, or any other Lands in the ſaid Pariſhes or any of them, as he the ſaid Commiſſioner ſhall in his Diſcretion judge proper, for the watering of the ſeveral Allotments to be made by virtue of this Act, or diſcharging ſuch Streams or Springs of Water to their Outfall; provided that no ſuch Stream or Spring of Water be diverted or turned without the Conſent in Writing of the Perſon or Perſons from or out of whoſe Lands, and of the Perſon or Perſons through or into whoſe Lands reſpectively the ſame ſhall be diverted or turned.

Commiſſioner may ſtop up old Road after new ones are made.

XIX. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authorized and empowered, with the Concurrence and Order of two Juſtices of the Peace acting in and for the Diviſion of the County of *Glouceſter*, in which the Road or Roads, Footpath or Footpaths, hereinafter mentioned ſhall be ſituate, and not intereſted in the repair of ſuch Road or Roads, Footpath or Footpaths, to ſtop up and direct to be diſcontinued any public Road or Roads, Footpath or Footpaths, through any Part or Parts of the Lands or Grounds in the ſaid ſeveral Pariſhes of *Tidenham*, *Woolaſtone*, and *Lancaut*, or any of them, which to the ſaid Commiſſioner ſhall appear to be uſeleſs or unneceſſary: Provided always, that ſuch Order ſo to be made ſhall be

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subject to an Appeal to the Quarter Sessions, in like Manner and under the same Forms and Restrictions as if the same had been originally made by such Justices as aforesaid; Provided also, that none of the present Roads or public Highways within the said several Parishes of *Tidenham*, *Woolaston*, and *Lancaut*, or any of them, shall be shut up or discontinued until the Roads intended to remain public Highways within the said several Parishes shall be set out according to the Directions of the said recited Act, and the same shall be properly formed and made safe and convenient for Horses, Cattle and Carriages.

Land liable to be allotted.

XX. And be it further enacted, That all Open Fields and Meadows, where the whole or the greater Part of the Lands lie within the said several Parishes, or any of them, and all Inclosures within the said Parishes, or any of them detached from Homesteads, and not exceeding four Acres, and all Inclosures within the said Parishes, or any of them, containing the Property of two or more Persons within one Fence, shall be deemed Part of the Land to be divided and allotted under this Act, in case the Commissioner shall be satisfied that the same can be so considered without any material Injury to the Parties entitled thereto respectively; and that all Homesteads, Gardens, Orchards, old Inclosures and other Lands and Grounds within the said several Parishes, or any of them, with the Consent in Writing of the respective Persons seised or possessed thereof in their own Rights, either in Fee Simple Fee Tail or for Life or Lives, or for any Term or Terms of Years determinable upon any Life or Lives, or who shall be a Trustee or Trustees for charitable or other Purposes, or of the major Part of such Trustees, or with the Consent in Writing of the Husbands, Guardians, Feoffees, Committees, Attornies or known Agents of any Persons seised or possessed in their own Right aforesaid, who shall be under Coverture, Minors, Lunaticks, beyond the Seas, or under any other Disability of acting for themselves, shall in like Manner be deemed and considered to be Land to be divided and allotted under this Act.

Allotment of the Common Meadow and Warth.

XXI. And be it further enacted, That the said Commissioner shall, after he shall have set out and appointed the several Roads and Drains by the said recited Act and this Act directed to be made, set out and appointed, so far as the same respectively concern the said Common Meadow and Warth or Salt Marsh, assign set out and allot the said Warth or Salt Marsh unto and for the said *Henry Charles* Duke of *Beaufort*, or his Heirs, discharged of all Rights of Common and other Rights in, over or upon the same; and also set out, assign and allot the said Common Meadow called *Tidenham Mead* unto and amongst the several Owners and Proprietors thereof, in such Shares and Proportions as the said Commissioner shall adjudge and determine to be proportionable to the Value of and a full Satisfaction and Compensation to him, her or them respectively for his her or their several and respective Parts or Shares of and in such Common Meadow, and his, her and their several and respective Rights and Interests therein; and the Share and Proportion of the said Common Meadow to be assigned, set out and allotted to the said Duke of *Beaufort* or his Heirs shall be adjoining the said Warth or Salt Marsh.

No Allotment of the Common Heaths and Waste Lands to be made to the Proprie-

XXII. And be it further enacted, That the said Duke, and the several other Owners and Proprietors of the said Common Meadow and Warth or

tors of Lands in Tidenham Mead in respect to such Lands.

or Salt Marsh, shall not, in respect to their several Shares, Rights and Interests therein respectively, be entitled to any Allotment or Allotments of the said Commonable and Waste Lands to be set out, allotted, divided and inclosed by virtue of this Act as hereinafter mentioned.

Allotment for Materials, &c. for Roads.

XXIII. And be it further enacted, That the said Commissioner shall, if he judges proper, but not otherwise, before he divides and incloses the other Commonable and Waste Lands within the said several Parishes of *Tidenham*, *Woolastone*, and *Lancaut*, set out and allot such Parts or Parcels of the said Commonable Lands within the said Parishes, or any of them, as he shall judge proper, as and for public Stone, Gravel, and Sand Pits, with convenient Roads and Ways to and from the same respectively, for the Purpose of making and repairing the Public and Private Roads and Ways within the same Parishes respectively: and the Herbage growing or renewing in or upon such Quantity or respective Quantities of Land to be so set out as last mentioned, shall be and the same is and are hereby vested in the Surveyor or Surveyors of the Highways of the said Parishes respectively, in Trust, to set and let the same, and to apply the Rents and Profits thereof towards the Repairs of the Public Road, and Ways within the said several Parishes; and such Surveyor or Surveyors shall account for such Rents and Profits in the same Manner as he or they is, are or shall be accountable for other Money that shall come to his or their Hands as such Surveyor or Surveyors of the Highways, and shall be under and subject to the like Penalties for any Neglect thereof; and such Allotment or Allotments (if any) for Stone Gravel and Sand Pits shall be inclosed and fenced in such Manner and by such Persons as the said Commissioner shall in and by his Award direct.

Allotment to the Lord of the Manor for his Rights in the Soil, &c.

XXIV. And be it further enacted, That the said Commissioner, after he shall have set out the Public Roads and Ways, and Private Roads, and the said Drains and Watercourses, and Allotments for Stone, Gravel and Sand Pits (if any) shall in the next Place assign, set out and allot unto the said *Henry Charles* Duke of *Beaufort*, or the Lord or Lords, Lady or Ladies for the Time being of the said Manors of *Tidenham* and *Woolastone*, so much and such Part and Parts of the residue of the said Commonable and Waste Lands (except the said Common Mead and Warth or Salt Marsh, but including the Encroachments hereinbefore directed to be made and allotted to him or them) in each of the said several Parishes of *Tidenham*, *Woolastone*, and *Lancaut*, as in the Judgment and Opinion of the said Commissioner shall be equal in Value to One-sixteenth Part thereof; and such Allotment or Allotments shall be in full Compensation, Recompense and Satisfaction to the said Duke of *Beaufort*, or such Lord or Lords, Lady or Ladies for the time being, for all his, her or their Right and Interest in and to the Soil of the said Commonable and Waste Lands, but the same shall be exclusive of the Allotments of and in the said Commonable and Waste Lands which shall in Pursuance of this Act be allotted to him, her or them in lieu of his, her or their Rights of Common.

Allotment to the Rectors, Vicars, and others, in lieu of Tythes.

XXV. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out, allot and award unto the said *John Price*, and his Successors, Rectors as afore-

aforesaid, unto the said *Thomas Thomas*, and his Successors Vicars as aforesaid, and to the said *Harriett Maria Williams*, *William Lewis*, and *Samuel Jenkins* respectively, and their respective Heirs, in lieu of all Great and Small Tythes yearly issuing, arising or renewing, or which at any Time hereafter might or should yearly issue, arise or renew out of or for and in respect of all or any Part of the said Commonable and Waste and other Lands hereby intended to be divided, allotted and inclosed (except the said Common Meadow and Warth or Salt Marsh) and in lieu of all Moduses, and all Payments and Compensations in lieu of such Tythes, so much and such Part or Parts of the said Commonable or Waste or other Lands (except as aforesaid) as in the Judgment and Opinion of the said Commissioner shall in the whole be equal in Value to One Seventh Part of the said Commonable Waste and other Lands to be divided and inclosed by virtue of this Act (except as aforesaid) the same to be subdivided between them the said *John Price*, *Thomas Thomas*, and others, by the said Commissioner, according to their respective Interests in the same, and awarded accordingly; and the same Allotment or Allotments shall and is and are hereby declared to be in full Satisfaction and Discharge of and for the said Tythes, Moduses and all Payments and Compensations in lieu of Tythes (if any) yearly issuing, arising or renewing, or which otherwise would issue, arise, renew or increase from or out of the said Commonable Waste and other Lands hereby directed to be divided, allotted or inclosed by virtue of this Act (except the said Common Meadow and Warth or Salt Marsh): Provided always, that nothing in this Act contained shall prejudice, lessen or defeat the Right or Title of the Rector, Curate and Vicar respectively of the said several Parishes for the Time being, to any Mortuaries, Easter Offerings or Surplice Fees arising or becoming due to them respectively within their said respective Parshes, nor the respective Rights of the said Rector and Vicar to the Tythes (if any) of or arising from the said Common Meadow and Warth or Salt Marsh, and the ancient Homesteads, Gardens, Coppice Woods and Inclosures within the said Parishes respectively, and not intended to be divided and inclosed by virtue of this Act.

**Allotment to Trustees for the use of the Poor.**

XXVI. And be it further enacted, That the said Commissioner shall in the next place assign, set out and allot unto the said *Henry Charles* Duke of *Beaufort*, and the Lord or Lords, Lady or Ladies for the Time being of the said Manors of *Tidenham* and *Woolastone*, the respective Patrons for the Time being of the said Rectory of *Woolastone*, and of the said Vicarage of *Tidenham*, and the Rector for the Time being of the said Parish of *Woolastone*, and the Vicar for the Time being of the said Parish of *Tidenham*, and the Churchwardens and Overseers for the Time being of the Poor of the said several Parishes of *Tidenham* and *Woolastone*, and their respective Successors, such Part or Parts of the said Commonable and Waste Lands hereby intended to be divided, allotted and inclosed as the said Commissioner shall think proper, not exceeding in the Parish of *Tidenham* the Value of Fifty Acres, and in the Parish of *Woolastone* the Value of Twenty-five Acres, on the average value of the said Commonable and Waste Lands in those Parishes respectively, to be used as a Horse, Cow and Sheep Pasture; and also not exceeding in the said Parish of *Tidenham* the Value of Twenty-five Acres, and in the said Parish of *Woolastone* the Value of Fifteen Acres on the average Value of the said Commonable and Waste Lands in those Parishes respectively, to be used for a Potatoe Garden, which said several

ſeveral Allotments ſhall from and after the Execution of the ſaid Award be veſted in the Lord or Lords, Lady or Ladies of the ſaid Manor as aforeſaid, and the ſaid Patrons, Rector, Vicar, Churchwardens and Overſeers of the Poor for the Time being for ever, as Truſtees for the poor Inhabitants of the ſaid reſpective Pariſhes of *Tidenham* and *Woolaſtone*, who ſhall be legally ſettled therein, and ſhall not occupy Lands or Tenements of more than the yearly Value of Ten Pounds, the ſame to be uſed by ſuch poor Inhabitants at ſuch Times of the Year, for ſuch Purpoſes, in ſuch Manner, and ſubject to ſuch Rules, Orders and Regulations as the Truſtees for the Time being or the major Part of them, ſhall from Time to Time nominate, direct, appoint or preſcribe.

Allotments for the Poor.

XXVII. And be it further enacted, That the ſaid Commiſſioner ſhall, upon the Application of the reſpective Overſeers for the Time being of the ſaid Pariſhes reſpectively to be made at any Time within the Space of one Year from the paſſing of this Act, aſſign, ſet out and allot unto the ſaid Overſeers of the Poor for the Time being of each of the ſaid Pariſhes on behalf or on account of whom ſuch Application ſhall be made, ſuch Part or Parts of the ſaid Commonable and Waſte Lands as the ſaid Commiſſioner ſhall think proper, not exceeding in the Pariſh of *Tidenham* the Value of Ten Acres, and in the Pariſh of *Woolaſtone* the Value of Five Acres, and in the Pariſh of *Lancaut* the Value of Three Acres, on the average Value of the ſaid Commonable and Waſte Lands in thoſe Pariſhes reſpectively, for the purpoſe of having Poor-houſes built upon ſuch reſpective Allotments; which ſaid Allotments, from and after the Execution of the ſaid Award, ſhall be veſted in the Lord or Lords, Lady or Ladies of the ſaid Manors, and the Patrons, Rector, Vicar, Churchwardens and Overſeers of the Poor for the Time being of the ſaid reſpective Pariſhes for the Benefit of which they ſhall be repectively appropriated, ſubject to ſuch Rules, Orders and Regulations as the ſaid Truſtees for the Time being, or the major Part of them, ſhall from Time to Time order, direct or appoint.

Empowering ſome of the Truſtees to act by their Agents,

XXVIII. Provided always, and be it further enacted, That it ſhall and may be lawful for the Lord or Lords, Lady or Ladies, Patrons, Rector and Vicar for the Time being reſpectively, to act, in the ſeveral Truſts by this Act repoſed in them, by their Agents or Proxies reſpectively, to be appointed in Writing under their reſpective Hands, to act for them reſpectively as their reſpective Attornies or Subſtitutes for the time being.

Sale of waſte Lands, &c. to defray the Expences. &c.

XXIX. And be it further enacted, That the ſaid Commiſſioner ſhall in the next place, out of the Reſidue of the ſaid Commonable, Waſte and other Lands hereby directed to be allotted and divided, (except the aforeſaid Common Meadow and Warth or Salt Marſh,) mark and ſet out ſuch Part or Parts thereof within the ſaid ſeveral Pariſhes reſpectively, as he ſhall think adequate for the Purpoſes hereinafter mentioned, and when the ſame ſhall be ſo marked and ſet out the ſaid Commiſſioner ſhall and he is hereby authorized and required to ſell the ſame by private Contract or Public Auction or Auctions in the Manner and ſubject to the Directions and Regulations mentioned and contained in the ſaid recited Act; and the Perſon or Perſons Purchaſing the ſame ſhall immediately pay by way of Depoſit, into the Hands of the Commiſſioner, or ſuch Perſon or Perſons as he ſhall direct or appoint, One-fifth Part of his or their Purchaſe Money, and pay the Remainder thereof at ſuch other Time or Times as the

the ſaid Commiſſioner ſhall appoint, whoſe Receipt or Receipts ſhall be a ſufficient Diſcharge or Diſcharges to any Purchaſer or Purchaſers, under or by virtue of this Act, for ſo much Money or Monies as ſhall be in ſuch Receipt or Receipts expreſſed or acknowledged to have been received; and in default of Payment of the Remainder of ſuch Purchaſe Money the Money ſo depoſited ſhall be forfeited, and applied in carrying this Act into Execution; and the Allotment or Allotments for which the whole of ſuch Purchaſe Money ſhall not have been ſo paid in, or for which there ſhall be no bidding at ſuch Auction, ſhall be again put up to Sale and ſold in Manner aforeſaid for the beſt Price or Prices that can be gotten for the ſame, or be ſold by the ſaid Commiſſioner by private Contract for ſuch Sum or Sums as can be had or gotten for the ſame; and every Allotment for which the full Purchaſe Money ſhall be paid ſhall immediately thereupon be abſolutely diſcharged of and from all Common and other Rights therein and thereon, and be veſted in Fee-ſimple in and be incloſed and thenceforth held in Severalty by ſuch Purchaſer or Purchaſers thereof reſpectively as his, her or their private and abſolute Property, and ſhall be allotted accordingly by the ſaid Commiſſioner; and the ſaid Purchaſe Money ſhall be applied by the ſaid Commiſſioner in defraying and diſcharging all the Coſts, Charges and Expences of and attending the obtaining and paſſing this Act, and of ſurveying, admeaſuring, planning, valuing, dividing and allotting the ſaid Commonable and Waſte Lands Common Meadow and Warth or Salt Marſh to be divided, allotted and incloſed by virtue thereof; and all the Charges of the ſaid Commiſſioner and his Aſſiſtants and Servants, and all the Expences of forming, completing and repairing the public Carriage Roads and Highways to be ſet out and appointed by the ſaid Commiſſioner, and of ſcouring, draining ſetting out and appointing the ſaid Drains, Ditches, and other Watercourſes, and all other Expences of carrying this Act and the ſaid recited Act into Execution, in ſuch Manner as the ſaid Commiſſioner ſhall order and direct reſpecting the ſame; and the Overplus of ſuch Purchaſe Money, if any, ſhall be diſtributed amongſt the ſeveral Perſons intereſted in the ſaid Commonable and Waſte Lands in proportion to their ſeveral Rights and Intereſts therein; and the Shares of ſuch of them as ſhall be Tenants in Fee-ſimple ſhall be paid to them reſpectively, and the Shares of the other Proprietors not being Tenants in Fee-ſimple of and in ſuch ſurplus Money ſhall be paid and laid out for their Benefit and for the Benefit of thoſe ſucceeding them in the ſame Manner as directed by the ſaid recited Act with reſpect to Money to be paid for the Purchaſe or Exchange of Lands, Tenements or Hereditaments, or of any Timber 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; and if there ſhall be a Deficiency of ſuch Purchaſe Money for the Purpoſes aforeſaid, the ſame ſhall be borne and paid by the ſeveral Perſons entitled to Allotments under this Act of and in the ſaid Commonable and Waſte Lands, at ſuch Time and Times, in ſuch Shares and Proportions, and in ſuch Manner as the ſaid Commiſſioner ſhall direct, or at the Option of the Perſons liable to pay the ſame deducted out of their ſeveral Allotments: Provided always, that in all caſes where any of the Perſons, Bodies Politick or Corporate, intereſted in any Allotment or Allotments of the ſaid Commonable or Waſte Lands, ſhall be minded and deſirous of paying their reſpective Shares of the ſaid Expences in Money inſtead of ſuſtaining a Loſs in Land their reſpective Allotments, and ſhall and do at the Firſt, Second or Third Meeting

Meeting of the ſaid Commiſſioner give Notice in Writing to the ſaid Commiſſioner of ſuch their Mind and Deſire, then and in every ſuch Caſe the Share or reſpective Shares of the Party or Parties ſo giving ſuch Notice as aforeſaid, of and in all ſuch Expences and Sums of Money to be raiſed as aforeſaid ſhall be paid and diſcharged in Money by ſuch Party or Parties reſpectively, in ſuch Manner and at ſuch Time or Times, and to ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall by Writing under his Hand, order, direct, and appoint; and in all Caſes where any ſuch Payment or Payments in Money ſhall be ſo made as aforeſaid, the ſaid Commiſſioner in ſetting out the Allotment or Allotments of the Party or Parties making ſuch Payment or Payments ſhall have Regard to the Amount of ſuch Payment or Payments reſpectively in aſcertaining the Share and Proportion of the ſaid Commonable and Waſte Lands ſo to be ſet out and allotted to ſuch Party or Parties reſpectively.

Deficiency of Money ariſing by Sales, to be paid by Proprietors.

XXX. And be it further enacted, That in caſe the ſaid Purchaſe Money to ariſe by Sale of Land, Part of the ſaid Commonable and Waſte Lands hereinbefore directed to be ſet out and ſold, ſhall not be ſufficient to anſwer the Purpoſes aforeſaid, then the Reſidue of ſuch Expences ſhall be paid and defrayed by the reſpective Perſons (except in the Caſes hereinbefore mentioned) who ſhall have Allotments on the ſaid Commonable Waſte and other Lands (except as aforeſaid) ſet out and allotted to them reſpectively, according to an Aſſeſſment or Aſſeſſments to be made upon them reſpectively by the ſaid Commiſſioner for that Purpoſe, and to be raiſed, levied or recovered by the ſaid Commiſſioner, in the ſame Manner and by ſuch Remedies by Diſtreſs and Sale, and with ſuch Intereſt, Coſts and Charges, and as fully and completely in every reſpect as is directed for levying the Charges and Expences of obtaining Incloſure Acts, and carrying the ſame into Execution, in or by the ſaid recited Act.

Allotment of the Reſidue.

XXXI. And be it further enacted, That after the ſeveral Allotments hereinbefore directed ſhall be made, and the ſeveral public and private Roads and Ways, and Drains, and Watercourſes ſhall be appointed aſſigned and ſet out by virtue of the ſaid recited Act and this Act, the ſaid Commiſſioner ſhall then aſſign, ſet out and allot all the Reſidue and Remainder of the ſaid Commonable, Waſte and other Lands (except *Tidenham Mead* and the Warth or Salt Marſh of which the Diviſion is hereinbefore directed to be made) unto and amongſt the ſeveral Perſons, Bodies Politick, Corporate or Collegiate, who at the Time of ſuch Diviſion and Allotment ſhall be intereſted therein, in Proportion and according to their reſpective Shares, Rights, Intereſt and Property.

Perſons may ſell their Common Right, and the Allotment to be made to the Purchaſer.

XXXII. And be it further enacted, That it ſhall be lawful for any Perſon or Perſons intereſted in the ſaid Diviſion and Incloſure, at any Time or Times before the Execution of the Award of the ſaid Commiſſioner, to ſell or contract or agree to ſell, his, her or their Right of Common and other Rights and Intereſts, or any Part thereof, in, over or upon the ſaid Commonable and Waſte Lands, Common Meadow and Warth or Salt Marſh, to any Perſon or Perſons whomſoever, ſeparate and apart from the Property in reſpect of which ſuch Perſon or Perſons is, are or ſhall be reſpectively entitled to ſuch Rights of Common and other Rights and Intereſts; and the ſaid Commiſſioner ſhall and he is hereby authorized and required

required (on receiving the Contract or Agreement for Sale, or a Memorandum thereof in Writing ſigned by the Vendor and Vendee) to make an Allotment or Allotments of the ſaid Commonable and Waſte Lands in reſpect of ſuch Rights and Intereſts which ſhall be ſo ſold or contracted to be ſold as aforeſaid, unto the Vendee or Purchaſer thereof under ſuch Sale, Contract or Agreement, or to his, her or their Heirs or Aſſigns for and in reſpect of the Eſtate under which the Vendor claims ſuch Right of Common, Intereſt and other Rights which ſhall be ſo ſold or contracted for or agreed to be ſold as aforeſaid; and every ſuch Vendee or Purchaſer, and his or her Heirs and Aſſigns, ſhall from and after the Execution of the ſaid Award hold and enjoy the Lands ſo to be allotted to him or her as aforeſaid, in the ſame Manner and ſubject to the ſame Incumbrances to all Intents and Purpoſes as the Vendor in every ſuch Sale, Contract or Agreement might, could or ought to have held and enjoyed the ſame, in caſe ſuch Sale, Contract or Agreement had not been made, or ſuch Right of Common, Intereſt or other Right had ſtill remained veſted in ſuch Vendor at the Time of making ſuch Allotment as aforeſaid.

Allotments to be held under the ſame Tenure.

XXXIII. And be it further enacted, That all ſuch Lands and Grounds as ſhall by Authority and in purſuance of this Act be allotted to any of the ſaid Proprietors, ſhall be held by ſuch Proprietors reſpectively under the ſame Tenures, Rents, Cuſtoms and Services as the Lands or other Property in reſpect of which ſuch Allotments ſhall be made were reſpectively held and enjoyed by the ſaid Proprietors before the paſſing of this Act, or would have been held and enjoyed, in caſe this Act had not been paſſed, and the ſeveral Lands and Grounds which in the ſaid Award ſhall be diſtinguiſhed to have been allotted in lieu of Freehold or Copyhold Lands or Hereditaments, ſhall from the Execution of the ſaid Award be deemed Freehold or Copyhold reſpectively, and ſhall from thenceforth be held of the Lord of the Fee under the ſame Rents and by the ſame Services as the Freehold or Copyhold Lands or other Hereditaments in lieu of which they were ſo allotted, were before that Time held, and the Lands and Grounds which ſhall therein be diſtinguiſhed to have been allotted in lieu of Leaſehold Lands or Hereditaments (except as hereinafter mentioned) ſhall in like Manner be deemed Leaſehold, and ſhall be held under the ſame Rents as the Lands or other Hereditaments in lieu whereof they were ſo reſpectively allotted were held, and the Reverſion or Remainder thereof ſhall be veſted in the ſame Leſſors or Perſons reſpectively as the Reverſion or Remainder of ſuch other Lands and Property was veſted before the paſſing of this Act, any Law, Cuſtom or Uſage to the contrary notwithſtanding.

Wills and Settlements not to be affected.

XXXIV. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to revoke, make void, alter or annul any Will or Settlement, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Portion, Debt or Incumbrance, out of, upon or affecting any of the Lands or Grounds to be ſet out, divided, allotted and incloſed as aforeſaid, or any Part or Parts thereof reſpectively, but that the reſpective Perſons unto or for whom any Lands or Hereditaments ſhall be ſet out, aſſigned, allotted or given in Exchange by virtue of this Act, ſhall ſtand and be ſeiſed of the ſame to ſuch and the ſame Uſes, and for ſuch and the ſame Eſtates, and ſubject to ſuch and the ſame Wills, Jointures, Limitations, Truſts,

Truſts, Charges and Incumbrances, and no other, as the ſame Meſſuages Lands, Tenements or Hereditaments, for or in reſpect whereof ſuch Allotments or Exchanges ſhall be made, would have been ſubject or liable to be charged with or affected by, in caſe this Act had not been made.

For fencing the Allotments.

XXXV. And be it further enacted, That the ſeveral Allotments of the ſaid Commonable and Waſte Lands which may be made to the ſaid Rector of *Woolaſtone* and *Lancaut*, and the ſaid Vicar of *Tidenham* reſpectively, for or in reſpect of any Meſſuages or Glebe Lands belonging to the ſaid Churches of the ſaid ſeveral Pariſhes, and in lieu of all Tithes yearly iſſuing, ariſing or renewing, or to iſſue, ariſe or renew out of or in reſpect of the ſaid Commonable or Waſte Lands ſhall be encloſed and fenced in with ſuch Ditches, Drains, Hedges or other Fences as the ſaid Commiſſioner ſhall think proper, and the ſeveral Expences thereof and of maintaining the ſaid Fences for the firſt Seven Years after making the ſame, ſhall be raiſed and paid in like Manner as the Expences of obtaining this Act and of carrying the ſame into Execution, and all ſuch Hedges, Ditches, Drains, and Fences, when made, ſhall for ever after the Expiration of the ſaid Term of Seven Years be maintained ſupported and kept in Repair by and at the Expence of the ſaid Rector of *Woolaſtone* and *Lancaut*, and Vicar of *Tidenham* for the Time being reſpectively; and that all the other Allotments of the ſaid Commonable and Waſte Lands, Common Mead and Warth, or Salt Marſh hereby intended to be ſet out, divided and allotted (except the ſeveral Allotments for Stone, Gravel and Sand Pits) ſhall be encloſed and fenced with proper Ditches, Drains, Hedges or other Fences to be made, and at all Times thereafter repaired by and at the Expence of the ſeveral Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, to or for whoſe uſe the ſame ſhall be reſpectively allotted, within ſuch Time and in ſuch Manner as the ſaid Commiſſioner ſhall in and by his Award, or by any Writing under his Hand previous thereto direct or appoint: Provided always, that in caſe it ſhall happen that any Perſon or Perſons to whom any Allotment or Allotments ſhall be made under this Act, ſhall, in order to encloſe the ſame, have more than an equal and proportionable Share of Boundary Fences to make and raiſe, it ſhall be lawful for the ſaid Commiſſioner, where he ſhall think proper, (having due regard to the Quantity and Value of each and every Allotment, and to the neceſſary Subdiviſions to be made thereon,) to aſcertain and appoint ſuch Sum of Money to be paid to every ſuch Proprietor, towards making ſuch Fences by ſuch other or others of the ſaid Proprietors who may have leſs than an equal Proportion of fencing allotted to him or them, as the ſaid Commiſſioner ſhall think proper; which Sum, if not paid on demand, ſhall be recovered and levied by the Party to whom the ſame is payable, in ſuch Manner and by ſuch Means as Penalties and Forfeitures are by the ſaid recited Act directed to be recovered and levied, or otherwiſe the ſaid Commiſſioner ſhall at his Diſcretion make ſuch Allowance to every ſuch Proprietor towards making ſuch Fences out of the general Fund, to be raiſed by virtue of this Act for defraying the Expences thereof as aforeſaid as he ſhall think reaſonable, in order that the Expences of the ſaid Boundary Fences may be brought as near as may be to a juſt and equal Proportion; Provided nevertheleſs, that it ſhall be lawful for the ſaid Commiſſioner, if he ſhall think fit, to raiſe and make or cauſe to be raiſed

raiſed and made all and every or any of the Hedges and Banks, Ditches, Drains and other Fences againſt all, every or any of the publick or private Roads or Ways, which ſhall or may be by him ſet out and appointed in the ſaid ſeveral Pariſhes of *Tidenham*, *Woolaſtone* and *Lancaut* aforeſaid, under or by virtue of the Powers, Proviſions and Directions contained in this and the ſaid recited Act, and all the Coſts, Charges and Expences of raiſing and making ſuch Hedges and Banks, and of the Spring or Quickſet, or other fencing Stuff to be laid, placed or ſet therein or thereon, and of cutting and making ſuch Ditches or Drains, ſhall be borne and paid by the ſeveral Perſons againſt whoſe Allotments reſpectively the ſame ſhall be ſo raiſed and made (except the ſaid Rector, Vicar and Surveyor of the Highways, to whom Allotments are hereinbefore directed to be made), unto ſuch Perſon or Perſons, and at ſuch Time or Times as the ſaid Commiſſioner ſhall think proper, and by his Award appoint; and in Caſe any ſuch Perſon or Perſons ſhall neglect or refuſe to pay his, her or their Share or Shares of ſuch Charges and Expences, or any Part thereof, unto the Perſon or Perſons who ſhall be thereby appointed to receive the ſame, within the Time to be limited by the ſaid Commiſſioner as aforeſaid, then and in every ſuch Caſe the ſaid Commiſſioner ſhall cauſe the ſame to be levied and recovered in Manner directed by the ſaid recited Act, with Reſpect to levying and recovering Penalties and Forfeitures.

Impowering the Rector and Vicar to raiſe Money for defraying Expences of Buildings.

XXXVI. And be it further enacted, That it ſhall be lawful for each of them, the ſaid Rector of *Woolaſtone* and *Lancaut*, and Vicar of *Tidenham*, for the Time being, and he is hereby empowered, with the Conſent in Writing of the ſaid Commiſſioner, to charge the Allotments which ſhall or may be awarded to him, under or by virtue of this Act or any Part thereof, with the Payment unto any Perſon or Perſons, his, her or their Executors, Adminiſtrators or Aſſigns, of ſuch Sum or Sums of Money actually laid out or expended in making or compleating any Erections or Buildings in or upon the ſaid Allotments, or any Part thereof, but not exceeding Forty Shillings for every Acre of ſuch Allotments, as the ſaid Commiſſioner by any Writing or Writings under his Hand, either before or after the Execution of his Award, or in and by his Award, ſhall certify or declare to be in his Judgment neceſſary or proper to have been laid out or expended in making or compleating ſuch Erection or Building, Erections or Buildings; which ſaid Sum or Sums of Money ſo to be charged as aforeſaid, and the Intereſt thereof ſhall be paid by the ſaid Rector or Vicar for the Time being, in Manner following, that is to ſay, the Intereſt thereof, by equal half-yearly Payments, and ſo much of the Principal remaining due at the End of each Year, to be computed from making ſuch Charge, as ſhall be after the Rate of Five Pounds for each One hundred Pounds; and for ſecuring the Payment of ſuch Sum or Sums of Money, with lawful Intereſt for the ſame, to grant and demiſe the ſaid Allotments, and every or any Part or Parcel thereof, unto any Perſon or Perſons, his, her or their Executors, Adminiſtrators and Aſſigns, for any Term or Number of Years, ſo that every ſuch Grant or Demiſe be made with a Proviſo or Condition to ceaſe and be void, or with an expreſs Truſt to be ſurrendered or aſſigned, when the Sum or Sums of Money thereby to be ſecured, with the Intereſt thereon, ſhall be fully paid and ſatisfied, and ſo that in every ſuch Grant or Demiſe which ſhall be made by the ſaid Rector or Vicar, there ſhall be contained a Covenant to pay and keep down the Intereſt of the Money to be thereby ſecured, and ſuch yearly proportional Part of the

Principal

Principal during his Incumbency of the ſaid Rectory or Vicarage, ſo that no Perſon or Perſons afterwards becoming Incumbent thereof or entitled thereto, ſhall be liable to the Payment of more than Six Months Intereſt that accrued due previous to his or their being preſented to the ſaid Rectory or Vicarage, nor to more of his Proportion of the Principal which ought, under the Proviſion aforeſaid, to have remained unpaid at the Time of his being preſented as aforeſaid; provided always, That if any Sum or Sums of Money ſhall be laid out or expended by ſuch Rector or Vicar in making ſuch Erections or Buildings as aforeſaid, and the Rector or Vicar laying out or expending the ſame, ſhall die before ſuch Grant or Demiſe ſhall be made as aforeſaid, then the Monies ſo laid out or expended, not exceeding Forty Shillings for every Acre, or ſo much thereof as the ſaid Commiſſioner ſhall by any ſuch Writing as aforeſaid allow, with Intereſt for the ſame after the Rate aforeſaid, to be computed from the Death of ſuch Rector or Vicar, ſhall be a Charge or Lien upon the Allotments which ſhall be ſo made to him as aforeſaid, and ſhall be paid to his Executors or Adminiſtrators by his Succeſſors, Rectors or Vicars as aforeſaid, at the Times and in Manner hereinbefore mentioned.

Leaſes to be void as to Open Fields.

XXXVII. And be it further enacted, That for the Purpoſe of facilitating the ſetting out and allotting any open Field or other Lands, which under the Proviſion hereinbefore contained ſhall be conſidered as Part of the Lands to be divided and incloſed under and by Virtue of this Act, and for facilitating the exchanging any Part or Parts of the old incloſed Lands within the ſaid ſeveral Pariſhes of *Tidenham*, *Woolaſtone* and *Lancaut*, or any of them, all and every Leaſe and Leaſes, and Agreement and Agreements for a Leaſe or Leaſes for any Term or Number of Years at Rack or extended Rent or Rents, which is or are now ſubſiſting of or upon all or any Part or Parts of the Meſſuages, Buildings, Lands, Grounds, Tenements or Hereditaments within the ſaid reſpective Pariſhes, either alone, or together with any other Lands, Tenements or Hereditaments, ſituate in any adjoining Pariſh, ſhall ceaſe, determine and be void, ſo far as any ſuch Leaſe or Leaſes, Agreement or Agreements, affect or concern any open Field or other Lands or old Incloſures, which ſhall be allotted or exchanged by Virtue of this Act, but no further or otherwiſe, and every Tenant or Occupier of ſuch allotted open Field or other Lands, and exchanged old Incloſures, ſhall immediately after the ſigning of the Award of the ſaid Commiſſioner, or at ſuch other Time or Times as the ſaid Commiſſioner ſhall thereby, or by any Writing under his Hand for that Purpoſe, appoint, give and reſign up the full and peaceable Poſſeſſion of ſuch allotted or exchanged Lands to the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, to or with whom the ſame ſhall be reſpectively allotted or exchanged, but the Tenant or Occupier, Tenants or Occupiers of ſuch allotted or exchanged Lands, ſhall inſtead thereof have and receive the quiet and peaceable Poſſeſſion of the Lands and Grounds to be taken in Lieu of or in Exchange for ſuch Lands reſpectively, or ſhall at his or their Option receive from the Leſſor or Leſſors, Proprietor or Proprietors of ſuch Lands ſo ſubſtituted or received in Exchange, ſuch Sum or Sums of Money as the ſaid Commiſſioner ſhall aſcertain, order, direct or appoint to be paid to ſuch Tenant or Tenants, Occupier or Occupiers reſpectively, as an Equivalent for the Loſs or Loſſes which he or they ſhall reſpectively ſuſtain thereby; and if the Money ſo to be aſcertained and directed to be paid as aforeſaid ſhall not be paid to the Perſon or Perſons entitled to receive the ſame, within Ten Days after Demand

Demand made thereof, it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby required to raiſe and levy the ſame in Manner directed by the ſame recited Act, with reſpect to the levying and recovering Penalties and Forfeitures. Provided always, That the Option of receiving Satisfaction for the Lands received in lieu of or in exchange for the ſaid allotted or exchanged Lands hereinbefore given to ſuch Tenant or Tenants, Occupier or Occupiers, ſhall be declared in Writing under his, her or their Hand or Hands, and be delivered to the ſaid Commiſſioner within One Month from the Time of his exhibiting the Map or Scheme of Allotments hereinafter directed to be made and exhibited: Provided always, That both in the Caſe of retaining the Lands received in Lieu of or in Exchange for the ſaid allotted or exchanged Lands, and of receiving an Equivalent as aforeſaid, the whole Rent or Rents reſerved or agreed to be reſerved upon any ſuch Leaſe or Leaſes, Agreement or Agreements, ſhall be paid during the Continuance thereof, and the Leſſor or Leſſors, Proprietor or Proprietors ſhall, with reſpect to the ſaid Lands retained by ſuch Tenant or Tenants, Occupier or Occupiers, have the like Powers of recovering the ſaid Rent or Rents as he or they ſhall or may have with reſpect to the remaining Lands and Hereditaments originally compriſed in ſuch Leaſe or Leaſes: Provided always, That if there ſhall be any Leaſe of Lands, Part of which ſhall be ſituate in any of the ſaid Pariſhes of *Tidenham*, *Woolaſtone* or *Lancaut*, and Part in any adjoining Pariſh, Townſhip or Place, all and every ſuch Leaſe or Leaſes upon Rack Rent now ſubſiſting may be vacated, but if any Land ſhall be taken in Exchange, which Land ſhall be under Leaſe, and wholly ſituate in any adjoining Pariſh, the Leaſe of ſuch laſt-mentioned Land ſhall not be vacated.

Rights to be void under certain Conditions.

XXXVIII. And be it further enacted, That all and every Leaſe and Leaſes, and Agreement or Agreements for any Leaſe or Leaſes at Rack or extended Rents, which is or are now ſubſiſting of or upon all or any Part of the Meſſuages, Buildings, Lands, Grounds, Tenements or Hereditaments within the ſaid ſeveral Pariſhes of *Tidenham*, *Woolaſtone* and *Lancaut*, or any of them, either alone, or together with any other Lands, Tenements or Hereditaments, ſhall ceaſe, determine and be void, ſo far as ſuch Leaſe or Leaſes, Agreement or Agreements, affect or concern any Allotment or Allotments of the commonable and waſte Lands which ſhall be made to any Perſon or Perſons whomſoever, for or in reſpect of any ſuch Meſſuages, Lands, Tenements or Hereditaments, compriſed in any ſuch Leaſe or Leaſes, Agreement or Agreements, and it ſhall and may be lawful for the Leſſor or Leſſors, Landlord or Landlords, of any ſuch Meſſuages, Lands, Tenements or Hereditaments, to enter into and upon ſuch Allotment or Allotments, and to hold and enjoy the ſame during all ſuch Time and Term as the ſaid Leſſee or Leſſees, Tenant or Tenants, ſhall or may have to come and be unexpired of and in ſuch Leaſe or Leaſes, Agreement or Agreements reſpectively, making ſuch yearly Deduction or Allowance out of the Rent or Rents in and by ſuch Leaſes or Agreements reſerved or agreed to be paid by ſuch Leſſees or Tenants reſpectively, for and during all the Reſidue of ſuch Term or Terms therein, as the ſaid Commiſſioner ſhall, in and by ſome Inſtrument or Inſtruments in Writing under his Hand for that Purpoſe aſcertain and determine to be a reaſonable Compenſation for the Loſs of the Right or Rights of Common which hath or have been accuſtomed to be uſed and exerciſed by ſuch Leſſee or Leſſees, Tenant or Tenants, in Right of the ſaid Meſſuages, Lands, Tenements and Hereditaments ſo leaſed to or agreed to be held

by him, her or them respectively, unless in Cases where the Right of Common is excepted and reserved in and by any such Lease or Agreement to the Landlord; but in Case any such Lessor or Lessors, Landlord or Landlords shall not within One Calendar Month next after the said Commissioner shall have made such Allotment or Allotments, and exhibited a Map or Scheme thereof as hereinafter directed, give Notice in Writing of his, her or their Intention of taking and holding the Allotment or Allotments so to be made of the said commonable and waste Lands to the Lessee or Lessees, Tenant or Tenants thereof respectively, such Notice to be left at his, her or their last or most usual Place or Places of Abode, then and in every such Case it shall be lawful for such Lessee or Lessees, Tenant or Tenants respectively to enter upon the said Allotment or Allotments, so to be made to such Lessor or Lessors, Landlord or Landlords as aforesaid, and to hold and enjoy the same during all such Term and Terms as he, she or they shall have to come and unexpired in such Messuages, Lands, Tenements and Hereditaments, by Virtue of such Lease or Leases, Agreement or Agreements, upon paying such further or advanced Rent or Rents to his or their Lessor or Lessors, Landlord or Landlords, and under and subject to such Orders and Regulations respecting the Tillage and Management thereof, as shall be ascertained and determined by the said Commissioner, and be specified in and by some Instrument or Instruments in Writing under his Hand, to be made at the joint Expence of such Lessors and Lessees respectively, which Rent or Rents shall be paid at such Time or Times, and in such Manner as the said Commissioner shall by such Instrument or Instruments respectively appoint; and such Lessor or Lessors, Landlord or Landlords shall have the same Powers and Remedies for the recovering and obtaining such additional Rent or Rents as he, she or they had or was or were entitled to have had for obtaining and recovering the original Rent reserved by such Lease or Leases, Agreement or Agreements; but if such Lessee or Lessees, Tenant or Tenants, shall not within One Calendar Month next after the Date of such Instrument or Instruments as lastly mentioned, give or leave Notice in Writing of his, her or their Intention of holding such Allotment or Allotments, and by Writing under his or their Hand or Hands, agree to pay for the same, such Rent or Rents as the said Commissioner shall so appoint, to be paid to the Lessor or Lessors, Landlord or Landlords thereof (such Notice to the Lessor or Lessors, Landlord or Landlords, to be left at his, her or their last or most usualPlace of Abode) then and in such Case the Allotment or Allotments so to be made in Right of the said Messuages, Lands, Tenements and Hereditaments, respectively leased to or agreed to be held by such Lessee or Lessees, Tenant or Tenants, so neglecting or refusing to give Notice as aforesaid, shall go to, and remain unto, and be held and enjoyed by his, her or their respective Lessor or Lessors, Landlord or Landlords, freed and discharged of and from all Right and Interest under or by virtue of such respective Leases.

Beneficial Leases not to be affected.

XXXIX. Provided always, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease or Leases of any Lands, Tenements or Hereditaments within the said Parishes or any of them, but the Person or Persons entitled to such benfiecial Lease or Leases, shall and may hold and enjoy his, her or their Allotment and Allotments, during his, her or their Term or Terms, and under the same Rents and Covenants as are specified in his, her or their Lease or Leases.

XL. And

Meetings to be appointed to receive Applications for Situations.

XL. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to appoint a Time and Place, by Notice to be given in Manner hereinbefore directed for receiving Applications from the ſeveral Proprietors, touching the Situations they would reſpectively chooſe to have their Allotments ſet out and allotted in.

Allotments to be delineated in a Plan and ſhewn to the Proprietors.

XLI. And be it further enacted, That when and ſo ſoon as the ſaid Commiſſioner ſhall have aſcertained the reſpective Rights and Intereſts of the ſaid Proprietors in the Lands and Grounds to be divided and incloſed by virtue of this Act, and alſo the reſpective Shares and Proportions by him propoſed to be allotted to ſuch Proprietors reſpectively in lieu thereof, the ſaid Commiſſioner ſhall give Notice of ſome convenient Time and Place when and where the ſaid Proprietors may be informed of ſuch intended Allotments, and ſee the Scheme thereof ſet out and delineated upon a Map or Plan thereof to be produced for their Inſpection; and as ſome Proprietors may upon Inſpection of ſuch Map be diſſatisfied with the intended Allotments, the ſaid Commiſſioner ſhall at ſuch Time and Place as laſt aforeſaid, or ſome other Time or Place to be appointed by him for that purpoſe receive Statements in Writing of the Complaints and Objections againſt ſuch Allotments, and ſhall forthwith as ſoon after as conveniently may be determine the ſame, and his Determination ſhall be final and concluſive upon all Parties.

Power to make Exchanges.

XLII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner to ſet out, allot and award any Meſſuages, Buildings, Lands, Tenements or Hereditaments, whatſoever within the ſaid ſeveral Pariſhes, or any of them, in lieu of or in exchange for any other Meſſuages, Buildings, Lands, Tenements, new Allotments, old Incloſures or Hereditaments whatſoever, within the ſaid Pariſhes or any of them, or within any adjoining Pariſh, Hamlet, Townſhip or Place, provided that all ſuch Exchanges be aſcertained, ſpecified and declared in the Award of the ſaid Commiſſioner, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors for the Time being, who ſhall be legally or equitably ſeiſed of or entitled in poſſeſſion to the Hereditaments which ſhall be ſo exchanged, or be in the actual Receipt of the Rents, Iſſues, and Profits thereof, whether ſuch Owner or Owners, Proprietor or Proprietors, ſhall be a Body or Bodies Politick or Corporate, or a Body or Bodies Collegiate, Corporation Aggregate or Sole, 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 or the major Part of ſuch Truſtees reſpectively, Huſbands, Committees 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, Femes Covert, Lunaticks, or under any other legal Incapacity, or 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 Politick, Corporate or Collegiate, and under the Hands and Seals of the other 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 Bene-

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fice without the Conſent teſtified as aforeſaid of the Patron thereof, and of the Lord Biſhop of the Dioceſe in which ſuch Lands, Tenements and Hereditaments ſo to be exchanged ſhall lie or be ſituate: Provideda lways, that the Coſts, Charges and Expences, attending the making and completing any Exchange and Partition ſhall be born and paid by the ſeveral Perſons, Bodies Politick, Corporate or Collegiate, making ſuch Exchange or Partition, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioner ſhall order and direct, and the ſame ſhall and may be recovered in the Manner directed by the ſaid recited Act with reſpect to Perſons neglecting or refuſing to pay his, her or their Proportion of the Coſts and Expences of obtaining Acts of Incloſure and carrying the ſame into Execution.

Coſts of Exchanges to be paid by the Parties.

XLIII. And be it further enacted, That if any of the Proprietors aforeſaid, or any other Perſon, ſhall advance and lend any Money for defraying the Expences of applying for and obtaining this Act or carrying the ſame into Execution, every ſuch Perſon ſhall be repaid ſuch Money with lawful Intereſt for the ſame out of the Money which ſhall be firſt raiſed by virtue of this Act.

Proprietors or other Perſons advancing Money to be repaid with Intereſt.

XLIV. And be it further enacted That, once at leaſt in each and every Year during the Execution of this Act (ſuch Year to be computed from the Day of the paſſing thereof) the ſaid Commiſſioner ſhall and he is hereby required to make a true and juſt Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this and the ſaid recited Act; and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be laid before one Juſtice of the Peace in and for the ſaid County of *Glouceſter*, not intereſted in the Premiſes, to be by him examined and ballanced, and ſuch Balance ſhall be by ſuch Juſtice ſtated in the Book of Accounts to be kept in the Office of the Clerk of the ſaid Commiſſioner, and no Charge or Item in ſuch Account ſhall be binding on the Parties concerned or valid in Law unleſs the ſame ſhall have been duly allowed by ſuch Juſtice.

Commiſſioner to lay his Accounts before one Juſtice annually.

XLV. And be it further enacted, That if any Perſon or Perſons, Body or Bodies Politick, Corporate or Collegiate, ſhall think himſelf, herſelf or themſelves aggrieved by any Thing done in purſuance of the ſaid recited Act or this Act (other than and except in ſuch Caſes where the Orders and Determinations of the ſaid Commiſſioner are by the ſaid recited Act or this Act directed to be final, binding and concluſive, and except in ſuch Caſes where an Iſſue at Law ſhall be tried as hereinbefore mentioned), then and in every ſuch Caſe he, ſhe or they may appeal to the General Quarter Seſſions of the Peace, which ſhall be holden in and for the ſaid County of *Glouceſter*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving the ſaid Commiſſioner and the Party or Parties concerned Fourteen Days' Notice, in Writing, of ſuch Appeal and of the Matter thereof, and the Juſtices, not intereſted in the Premiſes, in their ſaid General Quarter Seſſions, are hereby authorized and 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; and in caſe of Non-payment thereof before the then next General Quarter Seſſions, to levy by their Order or Warrant the Coſts and Damages which ſhall be ſo awarded, by Diſtreſs

Power of Appeal.

Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) on Demand to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale, which Determination of the ſaid Juſtices ſhall be final and concluſive on all Parties concerned, and ſhall not be removed or 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 Juſtices to be frivolous or without Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants as to them, the ſaid Juſtices, in their Diſcretion ſhall ſeem reaſonable, and be levied in Manner aforeſaid.

Award.

XLVI. And be it further enacted, That the Award to be made by the ſaid Commiſſioner, under the Direction of the ſaid recited Act, together with ſuch Maps or Plans as ſhall be annexed thereto, when enrolled in Manner directed by the ſaid recited Act, ſhall be depoſited in the Pariſh Church of *Tidenham* aforeſaid.

Reſerving Mines, &c. with Power to work them.

XLVII. Provided always, and be it further enacted, That nothing in this Act contained ſhall be conſtrued or adjudged to defeat, leſſen or prejudice the Right, Title or Intereſt of the Lord or Lords, Lady or Ladies of the ſaid Manors of *Tidenham* and *Woolaſtone* reſpectively for the Time being, of, in and to the Mines of Coal, Lead, Copper, Tin, Iron and all other Mines, Minerals, Ores, Stones, Foſſils and Quarries of what Nature or Kind ſoever (except Limeſtone, Fireſtone, Freeſtone, Pavement-ſtone, Tile-ſtone, Sand-ſtone, Gravel and Sand), within or under the ſeveral and reſpective Parts of the ſaid commonable and waſte Lands hereby intended to be divided, allotted and incloſed as aforeſaid, but that the ſaid Lord or Lords, Lady or Ladies of the ſaid reſpective Manors, ſhall have full Power and Authority of ſearching for, winning and working the ſame, and alſo full Power and Authority to uſe and exerciſe all convenient Ways, Wayleaves, and Liberties of laying, making or repairing Waggon-Ways or other Ways in, over and along the ſaid commonable and waſte Lands, and the ſeveral Allotments thereof, for the ſearching for, winning and working the ſaid Mines, Minerals and Quarries, and alſo for the taking, leading and carrying away, as well the Coal, Lead, Copper, Tin, Iron or other Metals, Mines and Minerals, Ores, Stones and Foſſils, to be gotten in or under the ſaid commonable and waſte Lands (except as aforeſaid), and of making Pits, Shafts Pit-rooms, Heap-rooms, Drifts, Levels and Watercourſes, and erecting and uſing Fire-engines and other Engines, and all other Matters and Things now in Uſe, or hereafter to be invented, for the working, winning, taking, leading and carrying away, and other Purpoſes aforeſaid, or any of them, in, upon, through, over or along the ſaid commonable and waſte Lands, and the reſpective Allotments thereof, and all other Powers, Privileges and Authorities to do or execute any neceſſary Acts or Things for all or any of the Purpoſes aforeſaid, in and over the ſame, in ſuch and the like Manner as they could or might have done in caſe this Act had not been made; but nothing herein contained ſhall authorize or empower the Lord or Lords, Lady or Ladies of the ſaid Manors, for the Time being, or either of them, or any Owner or Owners of the ſaid Coal, Lead, Copper, Tin, Iron or other Metal, Ores, Mines and Minerals, to enter upon any Part or Parts of the ſaid commonable and waſte Lands to be divided, allotted and incloſed, which ſhall be a Dwelling-houſe,

ing-houſe, or other Building, Garden, Orchard, Park, Lawn, Pleaſure-ground, Avenue or Plantation (except Plantations of Coppice Wood), or within the Space of One Hundred Yards of ſuch Dwelling-houſe or other Building, Garden or Lawn, for the Purpoſe of ſearching for or working the ſaid Mines or Minerals.

For ſettling Damages.

XLVIII. And be it further enacted, That if at any Time after the ſaid Diviſion and Incloſure ſhall have been made by Virtue of this Act, the ſaid *Henry Charles* Duke of *Beaufort*, or any Owner or Owners of the ſaid Coal, Lead, Copper, Tin or other Metal, Ores, Mines or Minerals, or his or their Leſſees, Farmers or Tenants, Servants or Workmen reſpectively, ſhall enter upon or make Uſe of any Allotment or Allotments of the ſaid commonable and waſte Lands by this Act directed to be incloſed and allotted, for the Purpoſes of winning and procuring or getting the ſaid Coal, Lead, Copper, Tin, Iron or other Metals, Ores, Mines or Minerals, or other Royalties, or for laying or ſtoring the ſame when got, or the Rubbiſh or other Produce of the ſaid Mines or Works, or for erecting Fire-engines or other Engines and Buildings, or for laying or continuing any Waggon Ways, or other Ways or Roads, or making any other Works above Ground for the Purpoſes aforeſaid, or for uſing or exerciſing any Power or Authority above Ground, hereby given, ſaved and reſerved to the ſaid Lord or Lords, Lady or Ladies of the ſaid Manors reſpectively for the Time being, ſuch Lord or Lords, Lady or Ladies, or his, her or their Leſſees, Farmers or Tenants reſpectively, ſhall make Satisfaction for any Damage or Injury which ſhall or may be done in the working, digging, winning, raiſing or carying away the ſaid Coal, Lead, Tin, Copper, Metals, Ores, Mines or Minerals to the Perſon or Perſons, Body or Bodies Politick, Corporate or Collegiate ſuſtaining ſuch Damage or Injury.

General Saving.

XLIX. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every Perſon and Perſons, Body or Bodies Politick, Corporate or Collegiate, his, her and their Heirs, Succeſſors, Executors and Adminiſtrators, all ſuch Eſtate, Right, Title and Intereſt (other than and except ſuch as are meant and intended to be barred, deſtroyed and extinguiſhed by this Act) of, in, to or out of the ſaid commonable and waſte Lands hereby directed to be divided, allotted and incloſed, as they, every or any of them could or ought to have had and enjoyed, in caſe this Act had not been made.

To be printed by the King's Printer.

L. And be it further enacted, That this Act ſhall be printed by the Printer to the King's moſt Excellent Majeſty; and a Copy thereof ſo printed 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. 1810.