ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 102.

An Act for inclosing Lands in the Parish of *Uphill*, in the County of *Somerset*. [21st *May* 1813.]

WHEREAS there are within the Parish of *Uphill*, in the County of *Somerset*, certain Open and Commonable Pastures and Waste Lands, commonly called or known by the Names of *Uphill Moor*, *Uphill Hill*, *Uphill Green*, *New Ham Warth*, *Slimeridge*, and The *Point* and *Slimeridge Warth;* containing by estimation Three hundred and Forty Acres or thereabouts, whereon divers Persons are entitled to right of Common in respect of their Tenements called *Old Auster* or *Ancient Tenements:* And whereas there are also within the said Parish of *Uphill*, certain Open and Unincloſed Common Arable Lands, in the East and West Fields of *Uphill* aforesaid, containing by estimation Forty-four Acres or thereabouts, which are very inconveniently situated for the Occupation of the Proprietors thereof: And whereas *Simon Payne* Esquire claims to be Lord of the Manor of *Uphill*, and also of the Manor of *Uphill* and *Christon*, and as such to be entitled to the Soil of the said Open and Commonable Pastures and Waste Lands: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in one Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts:* And whereas the said Open and Commonable Pastures and Waste Lands are, in their present State, incapable of any considerable Improvement; and it would be of great Benefit and Advantage to the Proprietors of and Persons interested in the said Open and Commonable Pastures and Waste Lands, if the same were divided

and incloſed, and ſpecific Shares ſet out and allotted in proportion to their ſeveral and reſpective Eſtates, Rights and Intereſts therein; and alſo if the ſaid Open Unincloſed Common Arable Lands were differently ſet out and allotted, as the ſame would thereby be much improved, and rendered more convenient, productive and profitable to the ſeveral Proprietors thereof: But as the Purpoſes aforeſaid cannot be effected without the Aid and 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 *Gabriel Stone*, of *South-Brent* in the County of *Somerſet*, Gentleman, *Joſeph Wollen*, of *Wedmore* in the ſaid County, Gentleman, and *Young Sturge*, of the City of *Briſtol*, Gentleman, and their Succeſſors, to be elected in manner hereinafter mentioned, ſhall be and they are hereby appointed Commiſſioners for ſetting out, allotting, dividing and incloſing the ſaid Open and Commonable Paſtures and Waſte Lands, and for ſetting out and allotting the ſeveral Parcels of the ſaid Open and Unincloſed Common Arable Lands, and for otherwiſe carrying this Act and the ſaid recited Act into Execution; under and ſubject to ſuch of the Regulations, Directions and Reſtrictions contained in the ſaid recited Act, as are not altered, varied or controuled by, or repugnant to the Powers and Proviſions of this Act; and that all Acts, Matters and Things, hereby directed to be done and executed by the Commiſſioners hereby appointed and to be appointed as hereinafter-mentioned, may be done and executed by any Two of them, and the ſame ſhall be as valid and effectual as if done and executed by all the ſaid three Commiſſioners.

Appointment of Commiſſioners.

II. And be it further enacted, That when and as often as any one of the Commiſſioners appointed by this Act, or to be elected and appointed in manner hereinafter-mentioned, ſhall die, or refuſe to act, or become incapable of acting as a Commiſſioner for the Purpoſes of this Act or the ſaid recited Act, then and in every ſuch caſe the ſurviving or remaining Commiſſioners ſhall from time to time, and they are hereby required, by ſome Writing under their hands and ſeals, within Thirty Days after ſuch Death or Refuſal or Incapacity ſhall happen to be known, or as ſoon after as occaſion ſhall require, to nominate and appoint ſome other Commiſſioner, not intereſted in the ſaid Diviſion and Incloſure, in the place and ſtead of ſuch Commiſſioner ſo dying, or refuſing, or becoming incapable to act as aforeſaid: And that when and ſo often as any Two of the Commiſſioners appointed by this Act, or any two Commiſſioners to be appointed in manner aforeſaid, ſhall at one and at the ſame time be dead, refuſe to act, or become incapable of acting in the execution of this Act and of the recited Act, whereby one acting Commiſſioner will alone remain, then and in every ſuch caſe it ſhall be lawful for the Lord of the Manor and the major Part in Value (ſuch Value to be aſcertained by the Number of Common Rights) of the ſeveral Perſons entitled to Common of Paſture in, over and upon the ſaid Open and Commonable Paſtures and Waſte Lands, hereby intended to be divided, allotted and incloſed, or their known Agents or Attor-

Appointment of new Commiſſioner or Commiſſioners.

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nies duly authorized, present at some public Meeting to be holden in the Parish-Church of *Uphill* aforesaid (of which Meeting, and the Intent thereof, Notice shall be given by the said surviving Commissioner or his Clerk, at least Ten Days previous to such Meeting, by affixing such Notice on the Door of the Church of the Parish of *Uphill* aforesaid, and by inserting such Notice in One of the *Bristol* Newspapers circulated in the County of *Somerset*), and they are hereby empowered, by Writing from time to time under their Hands, to elect and appoint two other Persons, not interested in the said intended Inclosure, to be Commissioners in the room and stead of the two Commissioners so dying, or refusing to act, or becoming incapable of acting as aforesaid; and every Commissioner so to be appointed as aforesaid (after taking the Oath prescribed by the said recited Act) shall have and be invested with all and every the Powers given in and by this Act and the said recited Act, to the Commissioners hereby appointed, and shall and are hereby empowered to proceed in the execution of this Act, in all respects as the Commissioners hereby appointed could have done in case such Death, Refusal or Incapacity to act had not taken place or happened; and every such Appointment shall be annexed to, and deposited with the Award of the said Commissioners.

Clerk.

III. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized, to appoint a Clerk to assist them in the execution of the Powers of this and the said recited Act; and such Clerk from time to time to remove and another to appoint, as to them shall seem meet.

Notice of Meetings.

IV. And be it further enacted, That the said Commissioners shall, and they are hereby required to give Notice in the Parish Church of *Uphill* aforesaid, upon some Sunday immediately after Divine Service, and also in one of the *Bristol* Newspapers, of the Time and Place of the First, Second and Third Meetings for executing the Powers hereby vested in them, Fourteen Days at least preceding the time of such Meetings; and also shall give Seven Days' Notice in the Parish Church of *Uphill* aforesaid, upon some Sunday immediately after Divine Service, of every subsequent Meeting for the like Purposes (Meetings by Adjournment only excepted).

Meetings to be held at Uphill, or within Eight Miles thereof.

V. And be it further enacted, That all Meetings to be holden by the said Commissioners for carrying this and the said recited Act into execution, shall be holden in the said Parish of *Uphill*, or within Eight Miles thereof: And that all Notices requisite and necessary to be made and given by the said Commissioners, the manner of making and giving which shall not be provided for by this and the said recited Act, shall be made and given by Advertisement in one of the said *Bristol* Newspapers.

Commissioners to hear and determine Differences.

VI. And be it further enacted, That if any Dispute or Difference shall arise between any of the said Parties interested or claiming to be interested in the said intended Division and Allotments, it shall and may be

be lawful for the ſaid Commiſſioners to examine into, hear and determine the ſame.

Commiſſioners not to determine Titles, nor moleſt Poſſeſſion.

VII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend to authorize or enable the ſaid Commiſſioners to determine the Title to any Meſſuages, Lands, Tenements or Hereditaments whatſoever, nor to determine any Right between any Parties contrary to the Poſſeſſion of any of ſuch Parties (except in caſes of Incroachments made within Twenty Years laſt paſt from the paſſing of this Act, upon the ſaid Commonable Paſtures and Waſte Lands); but in caſe the ſaid Commiſſioners ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, they ſhall forbear to make any Determination thereupon until the Poſſeſſion ſhall have been given up by ſuch Perſon or Perſons, or recovered from ſuch Perſon or Perſons by Ejectment or other due courſe of Law.

Aſſeſs Coſts.

VIII. And be it further enacted, That in caſe the ſaid Commiſſioners ſhall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in purſuance of this Act or the ſaid recited Act, ſee cauſe to award any Coſts, it ſhall be lawful for them, and they are hereby empowered, upon Application made to them for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as they ſhall think reaſonable to be paid to the Party or Parties in whoſe favour any ſuch Determination ſhall be made, by the Perſon or Perſons whoſe Claim or Claims, Objection or Objections ſhall be thereby diſallowed or overruled; and in caſe the Perſon or Perſons who ſhall be liable to pay ſuch Coſts and Charges, ſhall neglect or refuſe to pay the ſame on demand, then and in ſuch caſe it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required, by Warrant under their Hands directed to any Perſon whomſoever, to cauſe the ſame to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any), on Demand, to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Expences of ſuch Diſtreſs and Sale.

Perſons diſſatisfied with Commiſſioners' Determinations, to proceed at Law.

IX. Provided always, and be it further enacted, That in caſe any Perſon or Perſons intereſted or claiming to be intereſted as aforeſaid, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners touching or concerning any Claim or Claims of any Right of Common or other Rights or Intereſts in, over or upon or out of the Lands intended to be divided, allotted and incloſed in purſuance of this Act, or any Part thereof, or touching or concerning any Objection or Objections made in reſpect thereof, it ſhall be lawful for any Perſon or Perſons ſo diſſatisfied, to proceed to a Trial at Law of the Matter ſo determined by the ſaid Commiſſioners, at the Firſt or Second Aſſizes to be holden for the County of *Somerſet* next after the Determination of the ſaid Commiſſioners; and for that purpoſe the Perſon or Perſons who ſhall be diſſatisfied with ſuch Determination, ſhall cauſe an Action to be brought upon a feigned Iſſue againſt the Perſon or Perſons in whoſe favour ſuch Determination ſhall have been made, within Three Calendar Months next after

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the Determination of the ſaid Commiſſioners ſhall be made; and the Defendant or Defendants in ſuch Action or Actions ſhall, and he, ſhe or they is and are hereby required to appear thereto and plead to the ſame, and accept one or more Iſſue or Iſſues, whereby ſuch Claim or Claims, Objection or Objections, and the Rights thereby inſiſted on, may be tried and determined; ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be commenced (in caſe the Parties ſhall differ about the ſame); and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions ſhall be final, binding and concluſive upon all and every Perſon and Perſons whomſoever, unleſs the Court wherein ſuch Action or Actions ſhall be brought, ſhall ſet aſide ſuch Verdict or Verdicts, and order a new Trial to be had thereon, which it ſhall be lawful for the Court to do as is uſual in other Caſes; and that after ſuch Verdict or Verdicts ſhall be obtained and not ſet aſide by the Court, the ſaid Commiſſioners ſhall, and they are hereby required to act in conformity thereto, and allow or diſallow the Claim or Claims, Objection or Objections thereby determined according to the event of ſuch Trial or Trials: Provided always, that the Determination of the ſaid Commiſſioners, touching ſuch Claim or Claims of ſuch Rights of Common or other Rights or Intereſts over, upon or out of the ſaid Lands hereby directed to be divided, allotted and incloſed, or any Part thereof, which ſhall not be objected to, or on which the Party or Parties objecting ſhall not cauſe ſuch Action at Law to be brought and proceeded in as aforeſaid, ſhall be binding and concluſive upon all Parties intereſted.

Actions not to abate by Death of Party.

X. And be it further enacted, That if any of the Parties in any Action to be brought in purſuance of this or the ſaid recited 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.

If Parties die before Action commence, the ſame ſhall not ſtop by reaſon thereof.

XI. Provided alſo, and be it further enacted, That if any Perſon or Perſons in whoſe favour 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 Politic or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame within the Time ſo limited as aforeſaid againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioners with Proceſs for commencing ſuch Action or Actions, in the ſame manner as the Party or Parties might have been ſerved therewith if living; and it ſhall thereupon be incumbent upon the Heir or Heirs, or other Perſon or Perſons who ſhall claim the benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein in the ſame manner as if ſuch Perſon or Perſons had been actually living; and the Rights of all Parties ſhall be equally bound and concluded by the event of ſuch Action or Actions.

Suit not to delay the Incloſure.

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

Right of Common may be extinguiſhed or ſuſpended.

XIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners and they are hereby authorized, at any time or times before the execution of the Award to be made by virtue of this Act, by Notice in writing under their Hands, to be fixed on the principal Door of the ſaid Pariſh-Church of *Uphill*, to order or direct all or any part of the Rights of Common in, over or upon the ſaid Open and Commonable Paſtures and Waſte Lands, and Open and Unincloſed Common Arable Lands, or any Part thereof, to be extinguiſhed, or the Exerciſe thereof to be ſuſpended for and during ſuch time as ſhall be expreſſed in ſuch Notice; and that all ſuch Rights of Common as the ſaid Commiſſioners ſhall, by ſuch Notice in writing, order and direct to be extinguiſhed, or the Exerciſe thereof to be ſuſpended as aforeſaid, ſhall, from the time expreſſed in ſuch Notice affixed on the ſaid Church-Door, ceaſe and determine, and be for ever extinguiſhed, or the Exerciſe thereof be ſuſpended accordingly; any Law, Uſage or Cuſtom to the contrary thereof notwithſtanding.

Power of Commiſſioners to ſet out private Roads and Footways.

XIV. And be it further enacted, That the ſaid Commiſſioners ſhall or may, and they are hereby empowered to ſet out and make ſuch private Roads, Bridleways, Footways, Ditches, Drains, Watercourſes, Watering-Places, Bridges, Bows, Gates, Stiles, Mounds, Fences, Banks, Bounds and Land-Marks in, over, upon, leading to, or through or by the Sides of the Allotments to be made and ſet out in purſuance of this Act; and that no Perſon or Perſons whomſoever ſhall permit any Horſe, Mule, Aſs, Cattle, Sheep, Lambs, Goats, Pigs or Geeſe, to graze in any Highway, Lane or Paſſage, which the ſaid Commiſſioners ſhall order or direct to be ſet out and fenced by virtue of this Act; and the Lord of the Manor, or any Occupier or Proprietor of Lands within the ſaid Incloſure, and his, her, their or any of their Servants are hereby empowered to take and impound every ſuch Horſe, Mule, Aſs, Cattle, Sheep, Lamb, Goat, Pig or Gooſe ſo found grazing as aforeſaid.

Lands to be ſold to pay Expences.

XV. And be it further enacted, That the ſaid Commiſſioners ſhall from time to time ſet out and allot ſuch Part or Parts and Parcels of the ſaid Open and Commonable Paſtures and Waſte Lands called *Uphill Moor*, *Uphill Hill*, *Uphill Green*, *New Ham Warth*, *Slimeridge*, and the *Point* and *Slimeridge Warth*, as they ſhall judge proper for raiſing Money by Sale thereof, ſufficient to pay and diſcharge all the Expences attending the obtaining and executing this Act, and ſhall

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expoſe the ſaid Allotment or Allotments to Sale by public Auction, in manner and ſubject to the Directions and Regulations mentioned in the ſaid recited Act; and that the ſaid Commiſſioners ſhall, on Payment of the Purchaſe-Money for ſuch Allotment or Allotments ſo to be ſold for the Purpoſes aforeſaid, by Indentures under their Hands and Seals to be executed in the Preſence of and atteſted by one or more credible Witneſſes, convey, aſſure and confirm, by way of Leaſe and Releaſe, the ſame Allotment or Allotments unto and to the Uſe of the Purchaſer or Purchaſers thereof, his, her or their Heirs and Aſſigns, for ever, or unto ſuch Perſon or Perſons for ſuch Uſe or Uſes, upon ſuch Truſt or Truſts, and for ſuch Limitation or Limitations, as ſuch Purchaſer or Purchaſers thereof ſhall direct or appoint; ſuch Direction or Appointment to be in writing under his or their Hands and Seals reſpectively.

Allotments for Materials for Highways.

XVI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required to ſet out, allot and award, unto the Surveyors of the Highways of the ſaid Pariſh of *Uphill*, ſuch Part or Parcel of the ſaid Open and Commonable Paſtures and Waſte Lands, hereby directed to be divided, allotted and incloſed, as is ſituated between an ancient Incloſure on the North Side of *Uphill Hill*, commonly called *Jones's Garden*, and the public Road adjoining the Weſt Bow of *Uphill;* and alſo, if they ſhall think neceſſary, ſo much of the Land adjoining the ſaid Garden on the Eaſt thereof, as they ſhall think ſufficient, not exceeding One Acre and a Half in the whole, for the purpoſe of digging for and getting Stone and other Materials for the Repairs of the Highways and public and private Roads within the ſaid Pariſh of *Uphill*, and alſo for ſuch other Purpoſes as the ſaid Commiſſioners ſhall in and by their Award direct or appoint; the Herbage of which Allotment or Allotments ſhall be appropriated in ſuch manner as the ſaid Commiſſioners ſhall, in and by their Award, order, direct and appoint.

Allotment for a public Wharf.

XVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and empowered to ſet out and allot ſo much of the ſaid *Warth*, called *Newham Warth*, adjoining the Weſt Bow, not exceeding Half an Acre, for a public Wharf, for landing, loading and unloading Coals and other Goods brought in or carried out of the Port of *Uphill* aforeſaid.

Allotment for Right of Soil.

XVIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required (after the ſeveral Roads and Ways intended to be made by virtue of this or the ſaid recited Act, ſhall have been ſet out and the Lands ſold as aforeſaid, and the ſaid Lands ſet out for the Stone and Materials for the Highways as aforeſaid, and the Stone and Materials for ſuch other Purpoſes aforeſaid, and ſuch Part of *Newham Warth* to be allotted for a Wharf as aforeſaid) to aſſign, ſet out and allot, unto and for the Lord of the ſaid Manors of *Uphill* and *Uphill* and *Chriſton*, ſo much and ſuch Part or Parcels of the Reſidue of the ſaid Open and Commonable Paſtures and Waſte Lands, hereby directed to be divided, allotted and incloſed, as in the Judgment of the ſaid Commiſſioners ſhall be equal in Value to One full Twentieth Part

Part thereof (Quality, Situation and Convenience conſidered) in lieu of Right of Soil therein: Provided always, and it is hereby declared, that the Lord of the aforeſaid Manors ſhall have One Twentieth Part only of the ſaid Reſidue of the ſaid Open and Commonable Paſtures and Waſte Lands, in lieu of ſuch Rights of Soil, whether there be One Manor or more.

Allotment of Reſidue.

XIX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required to ſet out, allot and award (after the ſeveral Allotments made and ſet out for the ſeveral Purpoſes before mentioned) the Reſidue and Remainder of the ſaid Open and Commonable Paſtures and Waſte Lands unto, for and amongſt the ſeveral Proprietors and Perſons claiming and being allowed Rights of Common thereon, in reſpect of their Tenements commonly called *Old Auſter* or *ancient Tenements*, ſituate within the ſaid Pariſh of *Uphill*, without any regard to the yearly or other Value of ſuch Tenements; it being intended by this Act, that each Old Auſter or ancient Tenement within the ſaid Pariſh (a Right of Common having been claimed and allowed for the ſame within the meaning of this Act) ſhall have an Allotment of equal Value in and upon the ſaid Open and Commonable Paſtures and Waſte Lands, Share and Share alike; and it ſhall be lawful for the ſaid Commiſſioners to ſet out, allot and award, to and for each and every of the ſaid Proprietors, his, her and their Share and Proportion of the ſaid Open and Commonable Paſtures and Waſte Lands, as to the ſaid Commiſſioners ſhall ſeem moſt proper (Quantity, Quality, Situation and Convenience conſidered) to and for ſuch Uſes, and ſubject to ſuch Lives, as he, ſhe or they now reſpectively hold their ſeveral Old Auſter or ancient Tenements, in reſpect whereof he, ſhe or they ſhall claim to be in any wiſe entitled to a Share of or Intereſt in the ſaid Open and Commonable Paſtures and Waſte Lands, ſo intended to be divided, allotted and incloſed as aforeſaid.

For allotting the Common Arable Lands.

XX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to ſet out, allot and award the ſaid Open and Unincloſed Common Arable Lands to the ſeveral and reſpective Perſons intereſted therein, according to their ſeveral and reſpective Eſtates, Rights and Intereſts therein, in ſuch manner and form as to the ſaid Commiſſioners ſhall ſeem expedient and proper (Situation, Quality, Quantity and Convenience being conſidered).

Proprietors of Allotments to fence in and incloſe the ſame.

XXI. And be it further enacted, That all and every Perſon or Perſons to or for whom any Allotment or Allotments of any Part of the ſaid Open and Commonable Paſtures and Waſte Lands, and alſo of the ſaid Open and Unincloſed Common Arable Lands, ſhall be ſet out, ſtaked out, and allotted under and by virtue of this Act, ſhall reſpectively, at his, her and their own Expence, fence in and incloſe the ſame, in ſuch manner and within ſuch time as the ſaid Commiſſioners ſhall in and by their Award, or by any writing under their Hands, direct or appoint.

Commiſſioners may deliver Poſſeſſion of the

XXII. And be it further enacted, That the ſaid Commiſſioners ſhall and may, from time to time as they ſhall find convenient, deliver Poſſeſſion to the ſeveral Perſons intereſted in the ſeveral Diviſions and Allotments hereby directed to be made and ſet out; and ſuch Poſſeſſion, ſo

so delivered, shall be kept and retained by the several Persons entitled thereto, against all Persons whomsoever, although the Award hereinafter directed to be made, shall not at the time of the giving or delivering such Possession have been made and executed. Allotments before execution of the Award.

XXIII. And be it further enacted, That if any Owner or Owners of any Old Auster or ancient Tenement or Tenements in the said Parish of *Uphill* hath or have sold, or shall, at any time before the execution of the Award of the said Commissioners sell, to any Person or Persons whomsoever, all or any Part of such Owner or Owners' Right, Interest and Property, in, over or upon the said Open and Commonable Pastures and Waste Lands, hereby directed to be divided, allotted and inclosed, or in or to any Allotment which shall be set out, or be intended to be made by the said Commissioners, in full or in part Satisfaction of such Right, Interest and Property as aforesaid, then and in every such case it shall be lawful for the said Commissioners, and they are hereby authorized and required, by and with the Consent and Direction in writing of such Vendor or Vendors, to make an Allotment of Land unto the Vendee or Purchaser, or his or her Heirs, Executors, Administrators or Assigns, for or in respect of such Right, Interest and Property, so sold and contracted or agreed to be sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs, Executors, Administrators or Assigns, shall and may, from and after the execution of the said Award, hold and enjoy the Land so to be allotted to him, her or them as aforesaid, in the same manner, to all intents and purposes, as the Vendor in every such Sale and Agreement might, could or ought to have held and enjoyed the same, in case any such Sale or Agreement had not been made, or such Right, Interest or Property had remained in such Vendor at the time of making such Allotment as aforesaid. Common Rights sold, may be allotted to Purchasers.

XXIV. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot and award any Lands, Tenements or Hereditaments within the Parish of *Uphill*, in lieu of and in exchange for any other Lands, Tenements and Hereditaments, within the said Parish or within any adjoining Parish, Hamlet, Townships or Place; provided that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee-simple, Fee-tail, or for Life or Lives, or for Term or Terms of Years absolute, or for Term of Years determinable on Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees or Attornies of or acting for any such Owner or Owners, Proprietor or Proprietors as aforesaid, who, at the time of making such Exchange or Exchanges, shall be respectively Infants, Femes-covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves himself or herself; such Consent to be testified in writing under the Common Seal of the Body Politic, Corporate or Collegiate, or under Power to make Exchanges.

the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange or Exchanges ſo to be made, ſhall be good, valid and effectual in the Law to all intents and purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made of any Lands, Tenements or Hereditaments, held in right of any Church, Chapel or other eccleſiaſtical Benefice, without the Conſent teſtified as aforeſaid of the Patron thereof, and of the Lord Biſhop of the Dioceſe in which ſuch Lands, Tenements or Hereditaments, ſo to be exchanged, ſhall lie and be ſituate.

Expence of Exchanges and Partitions.

XXV. Provided alſo, and be it further enacted, That all Coſts, Charges and Expences, attending the making and completing of any Exchanges and Partitions to be made by virtue of this and the ſaid recited Act, ſhall be paid and borne by the ſeveral Perſons making ſuch Exchanges or Partitions, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioners ſhall order or direct.

For apportioning Coſts and Exchanges.

XXVI. Provided always, and be it further enacted, That in aſcertaining ſuch Coſts and Expences, the ſame ſhall be charged on the ſeveral Proprietors in proportion to the Benefit which will ariſe to their reſpective Lands by the execution of this Act; and the whole of the Charge on the ſeveral Proprietors, and the Grounds on which the Apportionment thereof ſhall be made, ſhall be entered in the Proceedings of the ſaid Commiſſioners, and ſhall be open to the Inſpection of every Perſon who ſhall be ſo charged; and it ſhall be lawful for any of the Perſons charged with ſuch Coſts and Expences, to appeal to the Juſtices of the Peace aſſembled at any General Quarter-Seſſions for the County of *Somerſet*, againſt any Rate which ſhall be made by the ſaid Commiſſioners, within ſuch Time and on giving ſuch Notice to the ſaid Commiſſioners as is hereinafter limited and directed with reſpect to Appeals againſt Proceedings, Orders or Determinations of the ſaid Commiſſioners: Provided alſo, that in all caſes where any Appeal ſhall be made againſt any ſuch Rate, none of the Powers and Authorities given by this Act or the ſaid recited Act ſhall be put in force and exerciſed for the Recovery of ſuch part of ſuch Charge againſt which ſuch Appeal ſhall be made, until ſuch Appeal ſhall have been determined by the ſaid Juſtices; and in caſe the Determination of ſuch Juſtices ſhall be againſt the ſaid Charge, the ſaid Commiſſioners ſhall make a new Charge and Apportionment, againſt which there ſhall be the like Power of Appeal, and ſo from time to time until a Charge and Apportionment ſhall be made, againſt which there ſhall be no Appeal, or which ſhall be confirmed upon Appeal.

Leaſes to be void as to Allotments

XXVII. And be it further enacted, That all and every Leaſe and Leaſes at Rack-rent, of any Meſſuages, Lands or Tenements within the ſaid Pariſh of *Uphill*, ſhall, as far as ſuch Leaſe or Leaſes affect or concern any Allotment or Allotments of Land to be made in reſpect of any ſuch Meſſuages, Lands or Tenements compriſed in ſuch Leaſe or Leaſes, be and the ſame is hereby declared to be null and void as to ſuch Allotment and Allotments; and ſuch Allotment or Allotments ſhall be made and aſſigned unto the Landlord or Landlords, and not to the Tenant or Tenants, Leſſee or Leſſees; and ſuch Allotment or Allotments ſhall be freed and diſcharged

Compenſation to be made in certain Caſes.

diſcharged from all the Right and Intereſt which may or otherwiſe might be claimed in or to the ſame by virtue of ſuch Leaſe or Leaſes; and the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, to whom the Meſſuages, Lands or Tenements compriſed in ſuch Leaſe or Leaſes ſhall belong, ſhall make ſuch Compenſation to the Tenant or Tenants, Leſſee or Leſſees, entitled to the ſame under ſuch Leaſe or Leaſes, as the ſaid Commiſſioners ſhall by Writing under their ſtands direct, for the Right of Common, or any other Rights or Intereſts, in, over or upon the ſaid Open and Commonable Paſtures and Waſte Lands, and Open and Unincloſed Common Arable Lands, or any Part thereof; and if any Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, ſhall refuſe or neglect to make ſuch Compenſation to the Tenant or Tenants, Leſſee or Leſſees entitled thereto, on Demand, then and in ſuch caſe it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required to raiſe and levy the ſame for the Uſe and Benefit of the Perſon or Perſons entitled thereto, by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo refuſing to make ſuch Compenſation as aforeſaid: Provided always, that if there ſhall be any ſuch Leaſe or Leaſes ſubſiſting of any Lands, Part of which ſhall lie in the ſaid Pariſh of *Uphill*, and Part in any adjoining Pariſh, all and every ſuch Leaſe or Leaſes ſhall be vacated; but where any Land ſhall have been taken in exchange, which Land ſhall be under Leaſe, and wholly ſituate in an adjoining Pariſh, the Leaſe of ſuch laſt-mentioned Land ſhall not be vacated.

Compenſation not to be made contrary to Agreement in Leaſes.

XXVIII. And be it further enacted, That nothing in this Act contained ſhall extend, or be conſtrued or adjudged to extend, to revoke, make void, alter or annul any Covenant or Agreement contained in any ſuch Leaſe or Leaſes for making Compenſation or Proviſion as aforeſaid, or to authorize the ſaid Commiſſioners to direct Compenſation to be made as aforeſaid contrary to ſuch Agreement; or ſhall extend, or be conſtrued or adjudged to extend, to revoke, make void, alter or annul any Will or Settlement, or to prejudice any Perſon having any Right or Claim of Dower, Jointure, Annuity, Rent, Debt, Charge, Incumbrance or Intereſt whatſoever in, out of, upon or affecting any of the Lands hereby intended to be divided, allotted and incloſed, or which ſhall be exchanged or aſſigned in Compenſation for any Eſtate or Right in purſuance of this or the ſaid recited Act reſpectively; but as well the Lands allotted, as the Tenements and other Hereditaments which ſhall be exchanged or aſſigned in compenſation for any other Eſtate or Right, ſhall, immediately after ſuch Allotment, Exchange or Aſſignment be made, be veſted, remain and enure, and the ſeveral Perſons to whom the ſame ſhall be allotted, aſſigned or given in exchange as aforeſaid, ſhall thenceforth ſtand and be ſeiſed and poſſeſſed thereof reſpectively, to, for and upon ſuch and the ſame Uſes, Eſtates, Intereſts, Truſts and Purpoſes reſpectively, and be ſubject and liable to ſuch and the ſame Wills, Settlements, Limitations and Remainders, Conditions, Charges and Incumbrances, as the ſeveral Lands, Tenements and Hereditaments, in reſpect whereof ſuch Allotments, Aſſignments and Exchanges ſhall have been made, ſhould or would have ſtood ſeverally limited, ſettled, veſted, or ſubject or liable to or been held by, in caſe the ſame had not been allotted, aſſigned or exchanged, and this Act had not been made (ſave and

Wills and Settlements not to be affected, and Lands allotted or exchanged to enure to the ſame uſes as before.

except ſuch Rents and Services as ſhall have been compenſated for and extinguiſhed, and ſuch Leaſes of Tenements at Rack-rent as ſhall become void by virtue of this Act).

Expences of Act, how paid.

XXIX. And be it further enacted, That the Coſts, Charges and Expences attending the applying for and obtaining this Act, and carrying the ſame and the ſaid recited Act into Effect, and of ſurveying, meaſuring, planning, valuing, dividing and allotting the ſaid Open and Commonable Paſtures, and Waſte Lands, and Open and Unincloſed Common Arable Lands, and for all other the purpoſes of this Act and the ſaid recited Act, and of preparing, executing and depoſiting the Award in this Act mentioned, and all other the neceſſary Charges and Expences ariſing and accruing in the courſe of carrying the Powers herein and in the ſaid recited Act contained into complete Execution, ſhall be paid and diſcharged by the ſaid Commiſſioners out of the Monies to ariſe by Sale of Land as hereinbefore directed.

Application of Surplus-Money.

XXX. And be it further enacted, That in caſe any Part or Parts of the ſaid Open and Commonable Paſtures and Waſte Lands ſhall be ſold for more Money than will be required to defray ſuch Charges and Expences as aforeſaid, then and in ſuch caſe ſuch Surplus-Money ſhall be divided and apportioned between the ſeveral Proprietors of the ſaid Lands hereby directed to be divided, allotted and incloſed, according to their ſeveral and reſpective 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 ſuch other Perſons reſpectively ſhall be applied and diſpoſed of by the ſaid Commiſſioners in manner 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 or Wood growing thereon, and thereby directed to be paid into the Bank of *England*, and to be applied in the Purchaſe of other Lands, Tenements or Hereditaments, to be ſettled to the ſame Uſes.

For making good Deficiency of Land ſold for paying the Expences.

XXXI. And be it further enacted, That if the Money ariſing by the Sale of ſuch Allotment or Allotments as aforeſaid, ſhall not be ſufficient to defray all the Charges and Expences aforeſaid, then the Deficiency ſhall be made up by the ſeveral Perſons intereſted in the ſaid Lands hereby directed to be divided, allotted and incloſed, and ſhall be paid in ſuch Shares and Proportions, and within ſuch Time, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct, nominate and appoint.

Commiſſioners empowered to borrow Money to pay Expences, till Sale of Lands for that purpoſe.

XXXII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to borrow and take up at Intereſt, upon the Security of the ſaid Open and Commonable Paſtures and Waſte Lands, hereby intended to be divided, allotted and incloſed, called *Uphill Moor*, *Uphill Hill*, *Uphill Green*, *New Ham Warth*, *Slimeridge* and The *Point* and *Slimeridge Warth*, of any Perſon or Perſons willing to advance and ſend the ſame, ſuch Sum or Sums of Money as ſhall from time to time be neceſſary for defraying the Charges and Expences of paſſing this Act, and other the Expences of carrying the ſame into Execution.

XXXIII. Provided

Money to be repaid with Intereſt.

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

Allowance to Commiſſioners.

XXXIV. And be it further enacted, That each and every of the ſaid Commiſſioners, and alſo their Clerk, ſhall be allowed the Sum of Three Guineas for his Trouble and Expences, including all travelling Expences, for each and every Day he ſhall neceſſarily attend in the execution of the Powers of this Act or the ſaid recited Act.

Commiſſioners to lay their Accounts before a Juſtice once in every Year

XXXV. 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 of this Act), the ſaid Commiſſioners ſhall, and they are hereby required to make a true and juſt Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the execution of this Act; and ſuch Statement or Account, when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before any Two Juſtices of the Peace for the County of *Somerſet*, to be by them examined and balanced; and ſuch Balance ſhall be by them ſtated in the Book of Accounts to be kept in the Office of the Clerk or Clerks to the ſaid Commiſſioners; and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtices as aforeſaid.

Award to be made.

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

more than Three-pence per Sheet, reckoning Seventy-two Words to each Sheet, ſhall be paid; which ſaid Copy, as alſo the original Award or Inſtrument, and the Copy hereinafter directed to be written on Parchment, and ſigned by the ſaid Commiſſioners, ſhall at all Times hereafter be admitted as legal Evidence in all Courts whatſoever; and the ſaid Commiſſioners are hereby directed and required to deliver a Copy of the Award or Inſtrument, fairly written on Parchment, with a proper Plan or Plans thereto annexed, ſigned by the ſaid Commiſſioners as aforeſaid, unto the Churchwarden or Churchwardens of the ſaid Pariſh of *Uphill* aforeſaid, for the Time being, to be by him or them depoſited in the Pariſh-Cheſt of the Pariſh-Church of *Uphill* aforeſaid, together with the Pariſh-Regiſters, to the end that recourſe may be had thereto by the ſeveral and reſpective Proprietors or Parties intereſted therein.

Perſons aggrieved may appeal to the Quarter-Seſſions.

XXXVII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any thing done or omitted to be done in purſuance of this or the ſaid recited Act, then and in every ſuch caſe (except in ſuch caſes where the Orders and Determinations of the ſaid Commiſſioners are by this or the ſaid recited Act directed to be final, binding and concluſive upon all Parties, and except in ſuch caſes where an Iſſue at Law ſhall be tried, as hereinbefore-mentioned,) he, ſhe or they may appeal to the General Quarter-Seſſions of the Peace, which ſhall be held for the ſaid County of *Somerſet*, within Six Calendar Months next after the Cauſe of Complaint ſhall have ariſen; and the Juſtices in their General Quarter-Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and to award ſuch Coſts as to them in their Diſcretion ſhall ſeem reaſonable, and by their Warrant or Order to levy the Coſts which ſhall be ſo awarded by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any), on Demand, to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale; which Determination of the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed or removeable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter* or elſewhere.

Saving Right of the Lord of the Manor.

XXXVIII. And be it further enacted and declared, That nothing in this Act contained ſhall prejudice, leſſen or defeat the Right, Title or Intereſt of the Lord of the Manors of *Uphill* and *Uphill* and *Chriſton* to all Lead and Coal Mines, and all other Mines and Minerals, and Ores and Quarries, together with all Rights, Powers, Authorities, Privileges, Liberties, Advantages, and all Ways, Paths and Paſſages whatſoever, for the more eaſy and effectual getting, winning, taking, ſelling, venting, carting and carrying away, of and from ſuch Mines and Quarries, all and all manner of Ore-Stone, Coals and Minerals whatſoever; or the Right, Title or Intereſt of the Lord of the ſaid Manors of *Uphill* and *Uphill* and *Chriſton*, of, in and to the Seigniories and Royalties incident or belonging to the ſame; and that the preſent Lord of the ſaid Manors, and all and every the Perſon and Perſons claiming or to claim under him, as Lord or Lords, Lady or Ladies of the ſaid Manors, and all

ſucceeding Lord or Lords, Lady or Ladies of ſuch ſaid Manors for the time being, ſhall and may from time to time, and at all times hereafter, hold and enjoy all Rents, Chief-Rents, Quit-Rents, Heriots, Fines, Suits, Services, Courts, Perquiſites and Profits of Courts, Waifs, Eſtovers, Deodands, and all other Royalties and Privileges whatſoever to ſuch Manors appertaining (other than and except ſuch Right of Soil and Common of Paſture or the Right of Common for which Compenſation is hereinbefore directed to be made, and alſo except all Stone and Quarries of Stone in or over any Lands or Eſtates allotted by virtue of this Act) in as full, large, ample and beneficial a manner, to all intents and purpoſes, as they or any of them might have held and enjoyed the ſame before the paſſing of this Act, or in caſe the ſame had never been made.

General Saving.

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

Evidence to the Act.

XL. And be it further enacted, That this Act ſhall be printed by the ſeveral Printers to the King's Moſt Excellent Majeſty, duly authorized to print the Statutes of the United Kingdom; and a Copy thereof, ſo printed by any of them, ſhall be admitted as Evidence thereof by all Judges, Juſtices and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1813.