ANNO QUINQUAGESIMO QUARTO

# GEORGII III. REGIS.

## *Cap.* 93.

### An Act for incloſing Lands within the ſeveral Pariſhes of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, and *Penſelwood*, in the County of *Somerſet*.

[27th *May* 1814.]

WHEREAS there are, within the Pariſh of *Kilmington*, in the County of *Somerſet*, a certain Open and Common Paſture or Tract of Commonable Land called *Kilmington Common*, and divers other Parcels of Commonable and Waſte Land, containing in the Whole, by Eſtimation, Two hundred Acres or thereabout; and Sir *Richard Colt Hoare* Baronet is Lord of the Manor of *Kilmington*: And whereas there are within the Pariſh of *Charlton Muſgrave* certain Open and Common Paſtures or Tracts of Commonable Land called *Charlton Common*, *South Marſh Common*, and *Barrow Common*, and divers other Parcels of Commonable and Waſte Land, containing in the Whole, by Eſtimation, One hundred Acres or thereabout; and *John Jekyll* is Lord of the Manor of *Barrow* otherwiſe *Barrow Lane* in the ſeveral Pariſhes of *Charlton Muſgrave* and *Wincanton*: And whereas there are within the Pariſh of *Wincanton*, certain Open and Common Paſtures or Tracts of Commonable Land called *Wincanton Common* and *Ball Common*, and divers other Parcels of Commonable and Waſte Land, containing in the Whole, by Eſtimation, One hundred and fifty Acres or thereabout; and *Henry Seymour* Eſquire, and *Uriah Meſſiter* and *George Meſſiter*, Eſquires,

Eſquires, are Lords of the Manor of *Wincanton:* And whereas there is within the Pariſh of *Penſelwood* Part of a certain Open and Common Paſture or Tract of Commonable and Waſte Land called *Leigh Common*, containing by Eſtimation Sixty Acres or thereabout; and the Right Honourable the Earl of *Egremont*, the Right Honourable the Earl of *Ilcheſter*, and the ſaid Sir *Richard Colt Hoare*, are Lords of the Manor of *Penſelwood:* And whereas the ſaid ſeveral Pariſhes of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, and *Penſelwood*, are all ſituate in the ſaid County of *Somerſet*, and near to each other: And whereas the ſaid Open and Common Paſtures and other Commonable and Waſte Lands, within the ſaid ſeveral Pariſhes of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, and *Penſelwood*, are unproductive of any or but little Benefit to the Perſons entitled thereto, and in their preſent State incapable of Improvement; but if the ſame were divided into ſpecific Shares, and allotted unto and amongſt the ſeveral Proprietors thereof in Severalty, in lieu of and in proportion to their reſpective Rights and Intereſts therein, and if ſuch Allotments were incloſed, the ſame might be conſiderably improved: But inaſmuch as the ſame cannot be effected without the Authority of Parliament; May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That *Thomas Davis* of *Horningsham*, in the County of *Wilts*, and *John Charlton* of *Stourton*, in the ſame County, Gentlemen, and their Succeſſors, to be elected in Manner herein-after mentioned, ſhall be and they are hereby appointed Commiſſioners for dividing, allotting, and incloſing the ſaid Open and Common Paſtures, and other Commonable and Waſte Lands hereby authorized to be divided, allotted, or incloſed, and for executing all and every the Powers, Authorities, Directions, Clauſes, and Proviſions herein-after particularly mentioned, and alſo ſuch of the Powers, and ſubject to ſuch Rules and Regulations as are contained in an Act 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*, as are not varied, altered, or otherwiſe provided for in any of the Proviſions contained in this Act.

Commiſſioners.

Appointment of Umpire.

II. And be it further enacted, That in the Event of any Difference of Opinion or Diſagreement happening or ariſing at any Time or Times between the ſaid Commiſſioners herein named and appointed, or hereafter to be named and appointed, under or by virtue of the Powers or Authorities of this Act or the ſaid recited Act, then and in ſuch Caſe the ſeveral Matters ſo in difference, and which cannot be decided without the Intervention of a third Perſon, ſhall be ſubmitted to *William Jennings*, of *Everſhot* in the County of *Dorſet*, Gentleman, as an Umpire to decide the ſame, or in the Event of his Death, Refuſal, or neglecting or becoming incapable of acting, then to ſuch Perſon as ſhall be elected and appointed Umpire in the Room and Stead of the ſaid *William Jennings*, or any future Umpire to be appointed in Manner herein-after mentioned; and the Deciſion of ſuch Umpire in the Matters ſubmitted to him ſhall be final and concluſive between the ſaid Commiſſioners, and be carried into Effect accordingly, ſubject nevertheleſs to ſuch Power of Appeal as is

by this or the ſaid recited Act given to the Acts of the ſaid Commiſſioners: Provided always, that before the ſaid Umpire or any Umpire to be hereinafter appointed ſhall begin to act or to determine between the ſaid Commiſſioners, he ſhall in the Preſence of one or both of the ſaid Commiſſioners, or one of His Majeſty's Juſtices of the Peace acting in and for the ſaid County of *Somerſet*, take and ſubſcribe the following Oath; (which Oath the ſaid Commiſſioners or Juſtice are or is hereby empowered and required to adminiſter):

Oath of Umpire.

'I, *A. B.* do ſwear, That I will, as an Umpire, faithfully, impartially, and honeſtly, according to the beſt of my Ability and Judgment, decide and determine all ſuch Matters as ſhall be ſubmitted to my Deciſion or Determination by the Commiſſioners appointed in or by virtue of the Powers and Authorities of an Act, intituled [*here inſert the Title of this Act*,] according to Equity and good Conſcience, and without Favour or Affection, Prejudice or Partiality to any Perſon or Perſons whomſoever. So help me GOD.'

Which Oath ſo taken and ſubſcribed by ſuch Umpire in the Event of his being ſo called in to act, ſhall be annexed to the ſaid Award and enrolled therewith; and a Copy of the Enrolment thereof ſhall be admitted as legal Evidence.

For appointing new Commiſſioners or Umpire.

III. And be it further enacted, That when and as often as either of the ſaid Commiſſioners, or any Commiſſioner or Commiſſioners or Umpire to be nominated and appointed in purſuance of this Act, ſhall die, or refuſe or neglect to act, or become incapable of acting as a Commiſſioner or Commiſſioners or Umpire for the Purpoſes of this Act, then and in every ſuch Caſe the major Part in Value (to be aſcertained by the Land Tax Aſſeſſment) of the ſeveral Proprietors of Lands in the ſaid Open and Common Paſtures and Commonable Lands preſent at a public Meeting to be holden at ſome Houſe within the Pariſhes of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, or *Penſelwood* aforeſaid, or within Eight Miles of one of the ſaid Pariſhes (of which Meeting and the Intent thereof Notice ſhall be given by the Clerk to the ſaid Commiſſioners previous to ſuch Meeting, by affixing ſuch Notice on One of the principal outer Doors of the Pariſh Churches of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, and *Penſelwood* aforeſaid, and by inſerting the ſame in *The Taunton Courier*, *Sherborne* and *Yeovil Mercury*, and *Saliſbury* and *Wincheſter Journal*, or one of them, if ſuch Papers be then publiſhed, if not, then in ſome other Newſpaper printed or circulated in the ſaid County of *Somerſet*) ſhall and they are hereby empowered by Writing from Time to Time under their Hands, to elect and appoint ſome other Perſon or Perſons, not intereſted in the ſaid intended Diviſion, Allotment, and Incloſure to be a Commiſſioner or Commiſſioners or Umpire (as the Caſe may be) in the room and ſtead of ſuch Commiſſioner or Commiſſioners or Umpire ſo dying, or refuſing or neglecting to act, or becoming incapable of acting as aforeſaid; and every Commiſſioner and Umpire ſo to be appointed from Time to Time, after taking the Oath preſcribed in that Behalf, ſhall have the ſame Power and Authority to act in the Execution of the Powers given in and by this and the ſaid recited Act, as if ſuch Commiſſioner or Umpire had been named a Commiſſioner or Umpire in and by this Act.

IV. And

Allowance to Commissioners, Umpire, and Clerk.

IV. And be it further enacted, That each of the said Commissioners and Umpire shall be allowed the Sum of Three Pounds and Three Shillings by the Day, and no more, in Satisfaction of the Expence and Trouble which he shall incur in the Execution of the Powers of this Act or the said recited Act; and the said Commissioners shall have full Power, and they are hereby authorized, to appoint a Clerk to assist them in the Execution of this Act and the said recited Act, and such Clerk from Time to Time to remove and appoint another, as to them shall seem meet; and the said Clerk shall in like Manner be allowed the Sum of Three Pounds and Three Shillings for his Expences and Trouble for each and every Day he shall necessarily attend the Commissioners in the Execution of this and the said recited Act.

Commissioners to give Notice of their Meetings.

V. And be it further enacted, That the said Commissioners shall and they are hereby required with all convenient Speed after the passing of this Act, to give public Notice in the Parish Churches of *Kilmington*, *Charlton Musgrave*, *Wincanton*, and *Penselwood* aforesaid, upon some *Sunday* immediately after Divine Service, in Writing, to be affixed on One of the Doors of each of the said Parish Churches, immediately before Divine Service, and the like Notice in *The Taunton Courier*, *Sherborne* and *Yeovil Mercury*, and *Salisbury* and *Winchester Journal*, or One of them, or such other Provincial Newspaper as aforesaid, of the Time and Place of the First Meeting for carrying this and the said recited Act into Execution, and shall give public Notice, in Manner aforesaid, of the Time and Place of their Second and Third Meetings for executing the Powers hereby and by the said Act vested in them, Fourteen Days at least before such last-mentioned Meetings; and of each and every subsequent Meeting (Meetings by Adjournment only excepted) the said Commissioners shall give at least Ten Days Notice, to be affixed on One of the Doors of each of the Parish Churches, upon some *Sunday* immediately before Divine Service; and in case the said Commissioners shall not meet at the Time and Place appointed for any such Meeting, or to which any Meeting shall be adjourned, it shall and may be lawful to and for such Commissioner as shall attend, and to and for the Clerk to the said Commissioners, in case neither of the said Commissioners shall attend, to adjourn such Meeting from Time to Time to any future Day, not exceeding Fourteen Days from the Day of such Adjournment, such Meeting to be holden at the same Place, or at such other Place within the said Parishes of *Kilmington*, *Charlton Musgrave*, *Wincanton*, or *Penselwood*, or within Eight Miles thereof, as to the said Commissioner or Clerk making such Adjournment shall seem most convenient; and the said Commissioner or the Clerk making such Adjournment, is hereby required to give timely Notice thereof to the absent Commissioner or Commissioners: Provided always, that all Meetings to be holden by the said Commissioners for carrying this and the said recited Act into Execution, shall be holden within the said Parishes of *Kilmington*, *Charlton Musgrave*, *Wincanton*, or *Penselwood*, or one of them, or within Eight Miles thereof.

Other Notices how to be given.

VI. Provided always, and be it further enacted, That all other Notices requisite and necessary to be made and given by the said Commissioners, (the Manner of making and giving of which shall not be otherwise provided for by this Act), shall be made and given by Advertisements in the

the ſaid *Taunton Courier*, *Sherborne* and *Yeovil Mercury*, and *Saliſbury* and *Wincheſter Journal*, or in One of them, or in ſuch other Newſpaper as aforeſaid.

Commiſſioners to direct what inclоſed Lands may be ſurveyed.

VII. Provided always, and be it further enacted, That nothing in the ſaid recited Act or this Act contained ſhall extend or be conſtrued to extend ſo as to require the ſaid Commiſſioners or their Surveyor to make or cauſe to be made any Admeaſurement, Plan or Valuation of any of the Meſſuages, Cottages, Orchards, Gardens, Homeſteads, ancient inclоſed Lands and Grounds, or any other Lands or Grounds in the ſaid ſeveral Pariſhes of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, and *Penſelwood*, or either of them, unleſs or farther than the ſaid Commiſſioners ſhall deem ſuch Admeaſurement, Plan or Valuation expedient and neceſſary for the Purpoſes of this Act.

Commiſſioners to ſettle Diſputes.

VIII. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between the ſaid Proprietors or any of them, and any Perſon or Perſons, Body or Bodies Politic, Corporate, Collegiate or Eccleſiaſtical, intereſted or claiming to be intereſted in the ſaid Lands and Grounds to be divided, allotted and inclоſed by virtue of this Act, or in any Part or Parts thereof, or in the ſaid Diviſion and Allotments; or touching or concerning the reſpective Rights and Intereſts which they or any of them ſhall have or claim to have in, over or upon the Lands and Grounds to be divided, allotted and inclоſed by virtue of this Act; or touching or concerning any other Matter or Thing relating to the ſaid Diviſion and Allotments, it ſhall and may be lawful to and for the ſaid Commiſſioners and they are hereby authorized and empowered to examine into, hear, and determine the ſame: Provided always, that nothing in this Act contained ſhall authorize and empower the ſaid Commiſſioners or Umpire to determine the Title to any Meſſuages, Cottages, Lands, Tenements or Hereditaments whatſoever.

Commiſſioners to aſſeſs Coſts.

IX. 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 the ſaid recited Act or this Act, ſee cauſe to award any Coſts, it ſhall and may be lawful for the ſaid Commiſſioners and they are hereby empowered, upon Application made to them for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as they ſhall think reaſonable to be paid to the Party or Parties in whoſe favour any Determination of the ſaid Commiſſioners 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 and Seals directed to any Perſon or Perſons whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Allowing Parties to try Rights at Law.

X. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, Body or Bodies Politic, Corporate, Charitable, Collegiate or Eccleſiaſtical, or Truſtee or Truſtees, intereſted in the ſaid intended Diviſion, Allotment or Incloſure, ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners or Umpire, touching or concerning any Right or Intereſt in, over, and upon the ſaid Open and Common Fields, Common Meadows, Common Paſtures, and Waſtes, or other Lands hereby authorized or directed to be divided, allotted, and incloſed, then and in ſuch Caſe it ſhall and may be lawful to and for the Perſon or Perſons, Party or Parties ſo diſſatisfied, to proceed to a Trial at Law of the Matter ſo determined by the ſaid Commiſſioners or Umpire, at the then next Aſſizes for the ſaid County of *Somerſet*, if the ſame ſhall not happen within Three Calendar Months next after ſuch Determination; but if the ſaid next Aſſizes ſhall happen within Three Calendar Months next after ſuch Determination, then at the following Aſſizes to be holden for the ſaid County of *Somerſet*; and for that Purpoſe the ſaid Perſon or Perſons, Body or Bodies Politic, Corporate, Charitable or Collegiate, who ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners, ſhall cauſe an Action to be brought upon a feigned Iſſue againſt the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, in whoſe Favour ſuch Determination ſhall have been made, within Two Calendar Months next after ſuch Determination of the ſaid Commiſſioners or Umpire, and ſhall alſo, within One Calendar Month after ſuch Determination, give Notice in Writing to the ſaid Commiſſioners or Umpire of his, her, or their being ſo diſſatisfied; and the Defendant or Defendants in ſuch Action or Actions ſhall and he, ſhe, or they is and are hereby required to name an Attorney or Attornies, who ſhall appear thereto, or file Common Bail, and accept One or more Iſſue or Iſſues, whereby ſuch Claim or Claims, and the Right or 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 ſuch 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 and concluſive upon all and every the ſaid Bodies Politic, Corporate, Charitable, Collegiate, Eccleſiaſtical, Truſtees, and upon all and every other 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 therein, which it ſhall be lawful for the Court to do, and alſo upon ſufficient Cauſe ſhewn to put off the Trial of ſuch Action or Actions, as is uſual in other Caſes; and after ſuch Verdict or Verdicts ſhall be obtained and not ſet aſide by the Court, the ſaid Commiſſioners ſhall and they are hereby authorized and required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials, and ſuch Allowances and Diſallowances ſhall be final and concluſive upon all Parties: Provided always, that the Determination of the ſaid Commiſſioners or Umpire, touching ſuch Right or other Rights or Intereſts in, over, and upon the ſaid Open and Common Fields, Common Meadows, Common Paſtures and other Commonable Lands, hereby authorized or directed to be divided and allotted, which ſhall not be objected to in due Time, or being objected to, the Party or Parties objecting not cauſing ſuch Action at Law to be brought and proceeded

ceeded in as aforeſaid, ſhall be final and concluſive upon all Parties: Provided alſo, that if any of the Parties in any Action, Suit, or Proceeding, to be brought or commenced in purſuance of this Act, ſhall die pending the ſame, ſuch Action or Proceeding ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened.

Deaths of Parties not to ſtay Proceedings.

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 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 on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein in the ſame Manner as if ſuch Perſon or Perſons had been actually living, and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

Proviſion in caſe of Deaths of Parties before Actions brought.

XII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioners or Umpire to determine any Right between any Parties contrary to the Poſſeſſion of ſuch Parties (except in Caſes of Encroachments made within the Period of Twenty Years, as herein-after is mentioned); but in caſe the ſaid Commiſſioners or Umpire 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 or recovered from ſuch Perſon or Perſons by Ejectment or other due Courſe of Law.

Right of Poſſeſſion not to be determined by the Commiſſioners.

XIII. And be it further enacted, That all Encroachments and Incloſures made in, upon, and from or near to any of the Open and Commonable Fields, Common Paſtures and Commonable Lands, or any Highways, Roads or Lands within the ſaid ſeveral Pariſhes within the Space of Twenty Years next before the paſſing of this Act (except ſuch as have been made by the Lord or Lords of any or either of the ſaid Manors, or their Tenant or Tenants reſpectively by their Authority) ſhall ſeverally be deemed Part of the Open and Common Lands reſpectively in or from which the ſaid Encroachments or Incloſures have been made, and ſhall be ſet out, divided, and allotted as ſuch under this Act, or be thrown open to ſuch Roads or Highways, or otherwiſe ſhall and may be ſet out, appointed and allotted to the ſaid Lords of the ſaid Manors for or in reſpect of their or his Right of Soil, or other their reſpective Share or Proportion, to be ſet out or allotted for them by virtue of or under this Act.

Reſpecting Encroachments.

XIV. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners and they are hereby authorized and empowered, from and after having ſet out and appointed the Public and Private

Commiſſioners may ſtop up uſeleſs Roads.

Private Carriage Roads, Highways, Bridleways and Footways throughout the ſaid ſeveral Pariſhes, in the Manner directed by the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, to ſtop up, order to be diſcontinued, and diſpoſe of, any old and accuſtomed Carriage Roads, Highways, Bridleways, and Footways, which may in the Diſcretion of the ſaid Commiſſioners become uſeleſs or be diſpenſed with, under and ſubject nevertheleſs to the Controul of Two Juſtices of the Peace acting in and for the ſaid County, and to the Power of Appeal in that Behalf contained in the ſaid recited Act.

Certain Lands liable to be allotted.

XV. And be it further enacted, That all Lands, Fields, or Incloſures, being the Property of any Body Politic, Corporate, Charitable, Collegiate, or Eccleſiaſtical, or veſted in any Truſtee or Truſtees, and of any other Perſon or Perſons, or being the Property of any Two or more Perſons within, adjoining, or belonging to the ſaid Pariſhes of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, and *Penſelwood*, or either of them, within one Fence, whether ſuch Properties belong to them in Fee, in Poſſeſſion, or in Reverſion, or are held of One Lord or Landowner, or of any Body Corporate, Charitable or Collegiate, by different Copies of Court Roll, or Leaſes for any Term or Terms of Years, or determinable on the Death of One or more Life or Lives, or by any other Mode whatſoever, whereby the Duration of Intereſt is different or uncertain, ſhall be conſidered as Commonable Lands, and be divided and allotted accordingly, by virtue of and under the Powers and Authorities of this Act and the ſaid recited Act.

Allotment to Lords of Manors for Right of Soil.

XVI. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby directed to ſet out and allot ſuch Part or Parts of the ſaid Open Common and Waſte Lands hereby authorized and directed to be divided and allotted, as the ſaid Commiſſioners ſhall adjudge to be fair and equitable, not exceeding in Value One Twentieth Part thereof (after deducting the Public Roads to be ſet out therein) unto and for the Lords of the ſeveral Manors of *Kilmington*, *Barrow* otherwiſe *Barrow Lane*, *Wincanton*, and *Penſelwood* aforeſaid, in lieu of their Rights of Soil in, over, and upon the ſame reſpectively.

Allotment of the Reſidue.

XVII. And be it further enacted, That the ſaid Commiſſioners ſhall divide, ſet out, and allot all the Reſidue of the ſaid Common called *Wincanton Common*, unto and for the ſeveral Owners and Proprietors thereof and Perſons intereſted therein, according to the Number of their reſpective Rights in, upon, and over the ſame; and of the other Open and Commonable Paſtures, and other Lands hereby authorized or directed to be divided and allotted, unto and for the ſeveral Owners and Proprietors thereof and Perſons intereſted therein, in lieu of and in Proportion to their reſpective Lands and Rights of Common or other Rights therein.

Commiſſioners to allot to Perſons purchaſing or reſerving Rights of Common.

XVIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required, upon the Requeſt in Writing by or on the Behalf of any Perſon or Perſons who ſhall or may to the Satisfaction of the ſaid Commiſſioners have purchaſed or reſerved any of the ſaid Rights of Common, to appoint, ſet out, and allot, in and by their Award, unto or for ſuch Perſon or Perſons, all and every the ſaid Rights of Common ſo purchaſed or reſerved as aforeſaid, in One or more entire Allotment or Allotments.

XIX. And

Commiſſioners may direct fencing of certain Allotments.

XIX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required to order and direct that ſuch of the Allotments as they ſhall judge proper and neceſſary to be inclоſed, ſhall be fenced with Ditches and Quickſet Hedges on the outward Boundaries thereof, by and at the Expence of the Proprietors or Perſons to whom the ſame ſhall be reſpectively awarded; and all ſuch Fences ſhall be made, and thereafter be maintained and repaired, in ſuch Manner and in ſuch Shares and Proportions and by ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct and appoint.

Commiſſioners empowered to deliver Poſſeſſion of Allotments.

XX. And be it further enacted, That the ſaid Commiſſioners may from Time to Time, as they ſhall find convenient, deliver to the ſeveral Perſons intereſted in the ſeveral Diviſions and Allotments to be ſet out under this Act, Poſſeſſion of their reſpective Allotments, and ſuch Poſſeſſion ſo delivered, ſhall be kept and maintained by the ſeveral Perſons entitled thereto, ſubject and chargeable nevertheleſs with the Rate or Rates which the ſaid Commiſſioners ſhall make or charge thereon, although the Award of the ſaid Commiſſioners ſhall not then have been made and executed.

For allowing Exchanges to be made.

XXI. 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 ſaid Pariſhes of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, and *Penſelwood*, or any or either of them, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments therein, or within any adjoining Pariſh, Townſhip or Place; provided that all ſuch Exchanges be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors ſhall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courteſy of *England*, or by Copy of Court Roll for any Life or Lives, or for Years determinable on any Life or Lives, or with the Conſent of the Guardians, Truſtees, Feoffees for Charitable or other Uſes, Huſbands, Committees, 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, Lunatics, or under any other legal Diſability, or who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf or herſelf reſpectively (ſuch Conſent to be teſtified under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other conſenting Parties reſpectively); and all and every Exchange and Exchanges ſo to be made, ſhall be good, valid and effectual in the Law to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Eccleſiaſtical Benefice, without the Conſent, teſtified as aforeſaid, of the Patron of ſuch Church, Chapel, or Benefice, and alſo of the Biſhop of the Dioceſe in which ſuch Lands, Tenements, or Hereditaments ſo to be exchanged ſhall lie and be ſituate; and all ſuch Exchanges ſhall be aſcertained, ſpecified and declared in the Award of the ſaid Commiſſioners.

Expence of Exchanges to be paid by the Parties.

XXII. Provided always, and be it further enacted, That all Coſts, Charges and Expences attending the making of any Exchanges under the

the Powers herein-before contained, ſhall be paid, borne and defrayed by the ſeveral Perſons making ſuch Exchanges, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioners ſhall by any Writing under their Hands, or in or by their Award, order and direct.

Allotments to enure to ſame Uſes as Lands in reſpect of which they are made.

XXIII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend ſo as to make void or annul any Deed or Deeds, Will or Settlement, or to prejudice any Perſon having or claiming any Jointure, Dower, Debt, Portion or Incumbrance, out of, upon or affecting any of the Lands and Grounds to be divided and allotted in purſuance of this Act, but that ſuch Lands and Grounds ſhall from thenceforth be, remain, and enure, and the ſeveral Perſons to whom the ſame ſhall be allotted as aforeſaid, ſhall ſtand and be ſeiſed thereof, to, for, and upon ſuch and the ſame Uſes, Truſts and Eſtates, and ſubject to the ſame Wills, Settlements, Limitations, Remainders, Charges, and Incumbrances, as the ſeveral Lands, Tenements and Hereditaments, for or in reſpect of which ſuch Allotments ſhall be made as aforeſaid were held and would have been ſubject and liable to be charged with or affected by in caſe this Act had not been paſſed.

For paying the Expences of the Act.

XXIV. And be it further enacted, That all and every the Coſts, Charges, and Expences incident to the obtaining and paſſing this Act, and of ſurveying, admeaſuring and valuing, dividing, allotting, and incloſing the ſaid Open and Common Paſtures, and other Commonable Lands hereby authorized to be divided, allotted, and incloſed, and of preparing and inrolling the Award and Map, and Copies thereof, and all other the Coſts, Charges, and Expences of the ſaid Commiſſioners and of the ſeveral Perſons employed in preparing the ſame, or otherwiſe employed by the ſaid Commiſſioners in carrying the ſeveral Powers of this Act and the ſaid recited Act into Execution, and all other Sum and Sums of Money which the ſaid Commiſſioners are hereby directed or empowered to raiſe or levy, ſhall be paid, borne and defrayed by the Owners and Proprietors, or other Perſons, Bodies Corporate, Charitable, and Collegiate, intereſted in the ſaid Lands, in Proportion as near as may be to their reſpective Eſtates, Rights, Intereſts and Lands therein, due regard being had to the Expences occaſioned by each Perſon's Eſtates, and alſo to the Value thereof; and the Shares and Proportions of the ſaid Coſts, Charges and Expences to be borne by the reſpective Owners and Perſons ſo intereſted in Manner aforeſaid, ſhall be ſettled by the ſaid Commiſſioners, and ſhall be paid by ſuch Perſon or Perſons in and by ſuch Rate or Rates, Shares and Proportions, and at ſuch Time or Times and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct or appoint, and in caſe of Refuſal or Neglect to pay their, his, or her Proportion of ſuch Coſts, Charges and Expences, according to ſuch Direction or Appointment as aforeſaid, then and in ſuch Caſe the ſame ſhall and may be recovered in the Manner directed in and by the ſaid recited Act.

Lands may be ſold, or Money raiſed by either or both Ways, &c.

XXV. Provided always, and be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners, and they are hereby authorized and empowered to raiſe the aforeſaid Coſts, Charges and Expences, or ſuch Part or Portion thereof as they ſhall deem expedient, by a Rate or Rates, or by a Sale or Sales, in the Manner directed by the ſaid recited Act, or wholly by either, or in part by both of the ſaid Ways and Means, as the ſaid Commiſſioners in their Diſcretion ſhall think fit;



Provided

Provided always, that in caſe the Land ſet apart for ſale in the firſt Inſtance, ſhall not prove of ſufficient Value when ſold, in the Diſcretion of the Commiſſioners, then and in ſuch Caſe it ſhall be lawful for them to ſet apart and to ſell in like Manner any further or other Part of the ſaid Open and Common Paſtures, and other Commonable and Waſte Lands: Provided alſo, that if there ſhall be any Overplus of the Money ariſing by ſuch Sale or Sales, the ſame ſhall be paid to the Perſon or Perſons entitled thereto, or applied and diſpoſed of by the ſaid Commiſſioners, in Manner directed by the ſaid recited Act with reſpect to the Money to be paid for the Purchaſe or Exchange of any Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes.

Perſons advancing Money to be repaid with Intereſt.

XXVI. And be it further enacted, That ſuch Perſon or Perſons who ſhall advance any Sum or Sums of Money for the Purpoſes of this Act, ſhall, if he, ſhe or they require the ſame, be repaid the ſame with Intereſt, at the Rate of Five Pounds *per Centum per Annum*, out of the Firſt Monies that ſhall be received or raiſed by or come to the Hands of the ſaid Commiſſioners under the Powers of this Act, by or from any Sale, Rate, or otherwiſe; and which Sum and Sums of Money ſo to be advanced ſhall be and be deemed to be a Charge, as well on ſuch Monies ſo to be received or raiſed by the ſaid Commiſſioners by Rate, Sale, or otherwiſe, as upon the Lands, Grounds, and Premiſes ſo to be charged therewith as aforeſaid.

Commiſſioners Accounts to be ſettled by a Juſtice.

XXVII. 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 paſſing thereof) the ſaid Commiſſioners ſhall and they are hereby authorized and 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 One or more of His Majeſty's Juſtices of the Peace for the ſaid County of *Somerſet* (not intereſted in the ſaid intended Diviſion and Incloſure) to be by ſuch Juſtice or Juſtices examined and balanced; and ſuch Balance ſhall be by him or them ſtated in the Book of Accounts to be kept in the Office of the Clerk to the Commiſſioners, and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtice or Juſtices.

Directions where the Award ſhall be depoſited.

XXVIII. And be it further enacted, That One Part of the Award to be made by the Commiſſioners, when inrolled in Manner directed by the ſaid recited Act, as to ſo much and ſuch Part of the Lands as lie within each of the ſaid Pariſhes (together with a Map or Plan thereunto annexed) ſhall be depoſited in each of the ſeveral Pariſh Churches of *Kilmington*, *Charlton Muſgrave*, *Wincanton*, and *Penſelwood*, aforeſaid, in the Pariſh Regiſter Cheſt, or other Place wherein the Papers and Books relating to the ſaid Pariſhes are uſually kept, for the Convenience of Acceſs thereto by the ſeveral Perſons intereſted therein.

Appeals to the Quarter Seſſions.

XXIX. And be it further enacted, That if any Perſon or Perſons, Bodies Politic, Corporate, Collegiate or Eccleſiaſtical, ſhall think himſelf, herſelf, or themſelves aggrieved, by any Thing done in purſuance of the

the ſaid recited Act or this Act, then and in ſuch Caſe (except in ſuch Caſes where the Orders or Determinations of the ſaid Commiſſioners are by the ſaid recited Act or this Act directed to be concluſive, and except as to ſuch Clauſes, Matters and Things as are herein-before authorized to be tried or determined by an Iſſue at Law), he, ſhe or they may appeal to any General Quarter Seſſions of the Peace which ſhall be holden for the County of *Somerſet*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, giving Fourteen Days Notice in Writing of ſuch Appeal to the ſaid Commiſſioners; and the Juſtices at the ſaid General Quarter Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and make ſuch Orders therein, and award ſuch Coſts as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order or Warrant to levy the Coſts which ſhall be ſo awarded, by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) on Demand to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale; which Determination of the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed or removable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter* or elſewhere.

Saving the Rights of the Lords of Manors.

XXX. And be it further enacted, That nothing in this Act contained ſhall prejudice, leſſen or defeat the Right, Title or Intereſt of any Lord or Lords, Lady or Ladies, of, in, or to the Seigniories or Royalties incident or belonging to the ſeveral Manors of *Kilmington*, *Barrow* otherwiſe *Barrow Lane*, *Wincanton* and *Penſelwood*, or either of them, (ſave and except the Right to the Soil of and in the Open, Common and Waſte Lands and Grounds hereby directed to be divided and allotted); but that ſuch Lords ſhall and may from Time to Time, and at all Times hereafter, hold Courts, and receive Fines and Quit Rents, Waifs and Eſtrays, and enjoy all Royalties and Privileges to the ſame Manors reſpectively belonging or incident thereto, in as full, ample and beneficial a Manner, to all Intents and Purpoſes, as ſuch Lords or their Succeſſors might have held and enjoyed the ſame before the paſſing of this Act, or in caſe the ſame had not been paſſed.

General Saving of other Rights.

XXXI. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politic and Corporate, his, her or their Heirs, Succeſſors, Executors and Adminiſtrators, all ſuch Eſtates, Rights, Titles, and Intereſts (other than ſuch as are meant and intended to be barred and deſtroyed by this Act), of, in, to or in reſpect of the Lands and Hereditaments to be divided and allotted by virtue of this Act, as he, ſhe or they or any of them might or could have had and enjoyed in caſe this Act had not been paſſed.

Act to be printed by the King's Printers.

XXXII. 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. 1814.