



ANNO QUINQUAGESIMO SECUNDO

GEORGI III. REGIS.



Cap. 171.

An Act for disafforesting the Forest of *Parkhurst*, in the County of *Southampton*, and for inclosing the Open Commonable Lands within the said Forest.

[20th June 1812.]

WHEREAS the King's most Excellent Majesty, in Right of His Crown, is seized to Himself, His Heirs and Successors, of the Forest of *Parkhurst*, in the *Isle of Wight*, in the County of *Southampton*, and is entitled to the Soil of the same; which Forest is computed to contain about Two thousand five hundred Acres: And whereas the Owners of Freehold Messuages, Lands, and Tenements, within the several Parishes in the said *Isle of Wight*, or the Tenants or Occupiers thereof for the Time being, are or claim to be entitled to certain Rights of Common within, upon, and over the said Forest, save and excepting a large Tract of the said Forest, containing by Estimation about Four hundred and fifteen Acres, which has been formerly inclosed and fenced, and which is not subject to any Right of Common or any other Rights whatsoever, save and except the Claim of the Inhabitants of the Town of *Newport*, to sere and broken Wood, and the Claim of the Lord of the Manor of *Godsbill*, in the said *Isle of Wight*, to Timber for Repairs of the Tenements within the said Manor: And whereas the Right Honourable *James Edward Harris*, commonly called Viscount *Fitzharris*, is Governor of the said Island, Warden of the said Forest, and in Right thereof is entitled to certain Rights and Benefits, Privileges and Patronage, within and over the said Forest, so long as the same shall remain a Forest; and also in Right of a certain Messuage, Farm, and Lands belonging to His Majesty, in Right of

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His Crown, called *Park Farm*, is or claims to be entitled to Right of Common, and other Rights, in, upon, and over the said Forest: And whereas Dame *Dorothy Carter* and *Arthur Atherly* Esquire, as Devisees in Trust under the Will of Sir *John Carter* Knight, deceased, are possessed of the Manors of *Alwington* and *Carisbrooke*, and the dissolved Priory of *Carisbrooke*, together with certain Messuages or Tenements called *Alwington Farm* and *Cook's Farm*, and other Tenements within the said Manor, adjoining to the said Forest, and in Right thereof are or claim to be entitled to Rights of Common in, upon, and over the said Forest: And whereas the Corporation of the Town of *Newport*, in the *Isle of Wight*, are or claim to be entitled to a Right of Common in, over, and upon the said Forest: And whereas the Provost and Fellows of *Queen's College, Oxford*, are possessed of a certain Messuage or Tenement called *Werrar Farm* and *Dobnor*, adjoining the said Forest; and the Warden and Scholars, Clerks of the College of *Winchester*, are possessed of another Messuage or Tenement called *Saint Cross Farm*, also adjoining the said Forest; and each of the said Colleges, in Right of their respective Messuages or Tenements, claim to be entitled to a Right of Common in, over, and upon the said Forest: And whereas *George Ward* Esquire, *William Hughes*, *James Jolliffe*, and others, as Owners of particular Messuages, Lands, and Tenements, in the several Parishes of *Carisbrooke*, *Saint Nicholas*, and *Northwood*, claim Rights of Common in, over, and upon the said Forest; and the Inhabitants of the said Town of *Newport* claim to be entitled to a Right of cutting and carrying away a certain Quantity of Furze annually from the said Forest: And whereas the said Forest was heretofore of great Value and Utility from the Timber and Underwood thereon, which of late Years have been very much injured, and in most Places totally destroyed; and the Soil thereof, in its present uncultivated State, is but of small Value to His Majesty and the Public, but is capable of considerable Improvement: And whereas, from the great and increasing Difficulty of procuring a Supply of Timber from foreign Countries, and the Estates of private Individuals in the United Kingdom, for the Use of the Navy, it has become necessary to adopt Measures for insuring a more adequate Supply thereof in this Kingdom: And whereas from the Facility of Conveyance to His Majesty's Dock Yard at *Portsmouth*, great Benefit would be derived to His Majesty and the Public, if the said Forest were disafforested, and the Open Commonable Lands within the same were divided, allotted, and inclosed, and an Allotment made to His Majesty, His Heirs and Successors, of the said Four hundred and fifteen Acres, and also if a Portion of the Open Commonable Parts of the said Forest were allotted to His Majesty, His Heirs and Successors, for the Growth and Preservation of Timber: 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*: 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 *Abraham Furbhouse Driver*, of the *Kent Road* in the County of *Surrey*, Gentleman, *Thomas Richardson*, of *Chelsea*, in the County of *Middlesex*, Gentleman, and *George Doswell*, of *Rumsey*, in the said County of *Southampton*, Gentleman, and their Successors, to be nominated or appointed

Three Commissioners appointed for carrying into effect the Purposes of this Act.

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in Manner hereafter mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Forest, and the Open Commonable Parts of the said Forest, and for carrying into Execution the several other Purposes of this Act, in such Manner as is hereinafter provided or mentioned, and with such of the Powers, and subject to such of the Rules, Orders, Regulations, Restrictions, and Provisions contained in the said recited Act of the Forty-first Year of the Reign of His present Majesty, as are not varied, altered, or otherwise provided for by this Act; and that all Acts, Matters, or Things, authorized or necessary to be done and executed by the said Commissioners for effecting the Purposes aforesaid, may be done and executed by any Two of them, and the same shall be as valid and effectual as if such Acts, Matters, and Things had been done and executed by all the Commissioners herein nominated and appointed.

Power for
Two of them
to act.

II. And be it further enacted, That in case the said *Abraham Purshouse Driver*, or any Person to be nominated and appointed a Commissioner in his Room or Stead by virtue of this Act, shall die or refuse to act, or become incapable of acting as such Commissioner in the Execution of the said recited Act and this Act, then and in such Case it shall and may be lawful for the Commissioners of His Majesty's Woods, Forests, and Land Revenue, or the Surveyor General of the Land Revenue for the Time being, within One Calendar Month after such Death, Refusal, or Incapacity as aforesaid, shall be made known, by Notice in Writing, signed by any of the said Commissioners, to nominate and appoint a proper Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the Room or Stead of the said *Abraham Purshouse Driver*, or of such other Person nominated or appointed in his Room or Stead, so dying or refusing or becoming incapable to act as aforesaid, and so from Time to Time as often as any Commissioner to be nominated and appointed by the Commissioners of His Majesty's Woods, Forests, and Land Revenue, or by the Surveyor General of the Land Revenue for the Time being, shall die, refuse, neglect, or become incapable to act as such Commissioner in the Execution of the said recited Act and this Act; and in case the said *Thomas Richardson*, or any Person to be nominated and appointed a Commissioner in his Room or Stead by virtue of this Act, shall die, refuse, neglect, or become incapable to act in the Execution of this Act, and of the said recited Act, then and in every such Case it shall and may be lawful for the said Corporation of *Newport*, and the Directors and acting Guardians of the Poor of the said *Isle of Wight* for the Time being, to nominate, elect, and appoint, by any Instrument in Writing under their Hands, or under the Hands of their Agents or Proxies, some fit and proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room or Stead of the said *Thomas Richardson*, or such other Person nominated and appointed in his Room or Stead, so dying or refusing or becoming incapable to act as aforesaid, and so from Time to Time as often as any Commissioner to be nominated and appointed shall die, refuse, or become incapable to act as such Commissioner in the Execution of the said recited Act and this Act; and in case the said *George Doswell*, or any Person to be nominated and appointed by virtue of this Act a Commissioner in his Room or Stead, shall die, or refuse to act, or become incapable of acting in the Execution of this and the said recited Act, then and in every such Case it shall and may be lawful

For appointing new Commissioners in case of Death.

lawful for the Lord or Lords of Manors, or the major Part of them interested in the said Forest to be allotted and inclosed, to nominate and appoint, by any Instrument in Writing under their Hands, or under the Hands of their Agents or Proxies, a proper Person or Persons (not interested in the said Division and Inclosure) to be a Commissioner in the Room or Stead of the said *George Dofwell*, or of such other Person to be nominated and appointed in the Room or Stead of him so dying or refusing to act, or becoming incapable of acting as aforesaid, and so from Time to Time as often as any such Case or Cases shall happen; and every Commissioner so to be nominated and appointed shall, after taking and subscribing the Oath prescribed in that Behalf, have the like Power and Authority for carrying the said recited Act and this Act into Execution, and shall be subject and liable to the like Rules, Regulations and Restrictions, as if he had been originally nominated a Commissioner in and by this Act.

Acting Commissioners, in case of Neglect, to make new Appointments.

III. Provided always, and be it enacted, That if the Commissioners of His Majesty's Woods, Forests, and Land Revenue, or the Surveyor General of the Land Revenue for the Time being, or the said Corporation of *Newport*, and the acting Directors, and acting Guardians of the Poor of the said *Isle of Wight* for the Time being, or the said Lord or Lords of Manors interested in the said Forest as aforesaid, or any of them respectively, shall make Default in nominating and appointing any new Commissioner so directed to be nominated and appointed by them respectively as aforesaid, within the respective Times for that Purpose limited, and in Manner aforesaid, then and in every such Case it shall and may be lawful to and for the surviving or remaining Commissioners or Commissioner, and they and he are and is hereby required from Time to Time, by Writing under their or his Hands or Hand, within One Calendar Month next after the Expiration of such respective Times so allowed for nominating such new and succeeding Commissioners as aforesaid, to nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room or Stead of every such Commissioner so dying, refusing or becoming incapable to act as aforesaid; and every Commissioner so nominated and appointed shall, after taking and subscribing the Oath prescribed in that Behalf, have the like Power and Authority for carrying the said recited Act and this Act into Execution, and shall be subject and liable to the like Rules, Regulations, and Restrictions, as if he had been originally nominated a Commissioner in and by this Act.

Regulations as to the Attendance of Commissioners.

IV. Provided always, and be it enacted, That if any of the said Commissioners hereby nominated shall refuse or neglect to attend at the first Meeting appointed to be holden for carrying this Act into Execution, and duly qualify himself by taking and subscribing the Oath prescribed in that Behalf; or if any of the said Commissioners shall, at any Time after the first Meeting, wilfully absent himself from any Three following successive Meetings appointed to be holden by virtue of this Act, or having been absent from Two successive Meetings, shall not attend during the whole of the Third or next succeeding Meeting, such Meetings being known to him, either by his being present at the Appointment thereof, or Notice thereof in Writing having been given to him, or left at his last or usual Place of Abode by the Clerk or Clerks to the said Commissioners, and such Commissioner not having been prevented by Sickness, or other reasonable Cause to be allowed by the other Commissioners, from attending
or

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

V. And be it further enacted, That *Richard Nightingale* the younger, of *Lyndhurst*, in the said County of *Southampton*, and *James Clarke* of *Newport*, aforesaid, Land Surveyors, shall be and they are hereby nominated and appointed Surveyors, for viewing, surveying, and measuring the said Forest and the Open Commonable Parts thereof, and they are hereby accordingly authorized and directed, as soon as conveniently may be after the passing of this Act, to view, survey, and measure the said Forest, and the Open Commonable Parts thereof, and all the Buildings and Encroachments whatsoever made in and upon the same, and to describe and lay down the same by way of Map or Plan, whereon, or in a Book of Reference to be annexed thereto, shall be set forth the Number of Statute Acres, Roods, and Perches of the said Forest, and the Open Commonable Parts thereof, and the several Buildings and Encroachments made thereon, and of what such Encroachments respectively consist, and the Names of the several Persons holding and enjoying the same; and that when and so soon as the said Surveyors shall have finished and completed the said Survey, Map, or Plan, they shall, by Notice in Writing under their Hands, apprise the said Commissioners thereof, and appoint a Time and Place for a Meeting with them, of which Fourteen Days previous Notice at least shall be given unto each of the said Commissioners; at which Meeting the said Surveyors shall deliver under the said Commissioners present at such Meeting, their Survey and Plan and Book of Reference, and shall subscribe the same with their Names, in the Presence of the said Commissioners, who shall attest the same; and the said Surveyors shall take and subscribe the following Oath; (that is to say),

Surveyors appointed to survey and measure, map, &c.

Survey to be delivered to the Commissioners, and certified on Oath.

I *A. B.* do swear, That by virtue and in pursuance of an Act made in the Fifty-second Year of the Reign of King *George* the Third, intituled *An Act for disafforesting the Forest of Parkhurst, in the County of Southampton, and for inclosing the Open Commonable Lands within the said Forest*, I have taken a true and exact Admeasurement and Survey of the said Forest, and the Open and Commonable Parts thereof directed by the said Act to be inclosed, and of all the Buildings and Encroachments whatsoever made in and upon the same, to the best of my Judgment and Ability; and that the Survey, Map, or Plan, and Book of Reference, whereunto I have now set my Hand, are and do contain, a just and true De-

[*Loc. & Per.*]

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scription,

‘ scription, Survey, and Admeasurement and Account of the said Forest,
 ‘ and the Open Commonable Parts thereof, and of all the Buildings and
 ‘ Encroachments in and upon the same, with the Names of the several
 ‘ Persons holding and enjoying the same respectively; and that the same
 ‘ were made and taken by me, according to the best of my Knowledge,
 ‘ Information, and Belief, and the true Intent and Meaning of the said
 ‘ Act, without Favour, Affection, or Partiality, to any Person or Persons:
 ‘ And I do further swear, that I will faithfully, impartially, and honestly,
 ‘ according to the best of my Skill and Judgment, execute the several
 ‘ other Trusts reposed in me as a Surveyor by virtue of the said Act,
 ‘ without Favour or Affection, Prejudice, or Partiality, to any Person or
 ‘ Persons whomsoever. ‘ So help me GOD.’

One Commis-
 sioner may
 administer the
 Oath.

Which Oath it shall and may be lawful to and for any one or more of the
 said Commissioners to administer; and the said Oath, when so taken, shall
 be written on Parchment, and subscribed by the said Surveyors, and duly
 attested by the said Commissioners under their Hands, and shall be inrolled
 with the Award to be made by the said Commissioners.

For electing
 new Survey-
 ors in case of
 Death.

VI. Provided always, and be it enacted, That in case the said Surveyors
 herein-before appointed, or either of them, or any other Surveyor or Sur-
 veyors to be appointed as herein-after mentioned, shall die, or refuse or
 neglect to act, or become incapable of acting in the Execution of the said
 recited Act and this Act, then and in every such Case it shall and may be
 lawful for the said Commissioners, by Writing under their Hands and Seals,
 to nominate and appoint some other fit and proper Person (not interested
 in the said intended Division and Inclosure) to be a Surveyor in the Room
 or Stead of every Surveyor so dying, refusing, or neglecting to act or be-
 coming incapable of acting in the Execution of the said recited Act and
 this Act; and every Surveyor so nominated and appointed shall have the
 like Powers and Authorities, and shall be subject and liable to the
 like Rules, Regulations, and Restrictions, as if he had been originally
 named a Surveyor in and by this Act.

Surveyors to
 make a Sur-
 vey and Plan
 of Lands;

VII. And be it further enacted, That as soon as conveniently may be,
 the said Surveyors shall proceed to make an accurate Survey and Plan of
 the Whole or such Parts as the said Commissioners shall direct, as well of
 all Messuages, Cottages, and Sites thereof, as of all Lands and Grounds
 in whatsoever Manor, Parish, Township, Hamlet, or Place the same are
 situate, in respect whereof the Owners or Occupiers of the same respect-
 ively are entitled to a Right of Common upon the Open Commonable
 Lands and Grounds to be allotted and inclosed by virtue of this Act, or
 any Part thereof, save and except such Lands and Grounds as have been
 already surveyed, and as herein-after directed not to be again surveyed or
 planned; and shall enquire and find out in and by the Survey and Plan
 thereof, in a Book of Reference to the same set forth, a minute and exact
 Account of all and singular the Premises so surveyed, and the Quantity
 and Contents of each several Field, Inclosure, and Parcel of Land thereof,
 with the Names of all and every the Owners and Occupiers thereof respect-
 ively, thereby distinguishing such of the Premises as are of a Freehold
 Tenure, from such as are of Copyhold or Customary or Leasehold
 Tenures, and of what particular Manors or Lordships or Persons the said
 Copyhold or Customary or Leasehold Tenements are severally and respect-
 ively holden.

and to set
 forth in a
 Book of Re-
 ference to the
 Plan, an exact
 Account of
 the Premises
 surveyed, and
 the Names of
 the Owners.

VIII. And

VIII. And be it further enacted, That it shall and may be lawful for any Person or Persons having in his, her, or their Custody or Possession, any actual Survey, Map, or Plan, of any Lands or Grounds in respect whereof the Owners or Occupiers are entitled to Rights of Common, or other Rights, in, over, or upon the said Forest, to produce and deliver such Surveys, Maps, or Plans, to the said Commissioners, at such Time or Times as they shall appoint for that Purpose; and the said Commissioners shall thereupon enquire on the Oath as well of the Person or Persons producing and delivering such Surveys, Maps, and Plans respectively as of such other Person or Persons as they shall think fit (which Oath the said Commissioners, or any One of them, are and is hereby authorized to administer), into the Authenticity and Accuracy of every such Survey, Map, or Plan; and in Cases where the Commissioners shall be satisfied that such Surveys, Maps, or Plans, are authentic and have been accurately made, and will answer the Purpose of a new Survey (but not otherwise) they the said Commissioners shall deliver the same over to the said Surveyors, with Directions to insert and copy the same into their Survey of the said Forest, and the Open and Commonable Parts thereof, instead of making a new Admeasurement and Plan of the Lands and Grounds so comprized and described in the Maps and Plans approved as aforesaid; and that the said Commissioners shall allow, pay, and satisfy for such approved Surveys, to the Person or Persons to whom the same shall belong, such Sum and Sums of Money as the said Commissioners shall think proper, out of the Monies to be raised by them for the Purposes of this Act.

Proprietors producing approved Surveys, &c. already made, to be allowed for them.

IX. And be it further enacted, That the First Meeting of the said Commissioners, for putting this Act into Execution, shall be held at *Newport* in the *Isle of Wight*, on the First Day of *July* One thousand eight hundred and twelve, or as soon afterwards as Circumstances will admit; and that the said Commissioners shall cause Notice in Writing to be affixed upon each of the principal outer Doors of the several Churches or Chapels of the Parishes of *Carisbrooke*, *Saint Nicholas*, *Newport*, and *Northwood*, and also a like Notice, by Advertisement, to be inserted in such public Newspaper or Newspapers usually circulated in the said County, as the said Commissioners shall direct, of the Time and Place of their First and every future Meeting (Meetings by Adjournment only excepted) for the Execution of the Powers hereby and by the said recited Act vested in them, Eight Days at least before the Times appointed for such respective Meetings; and in case only One of the said Commissioners shall meet at the Time and Place appointed for any Meeting, or to which any Meeting shall be adjourned, it shall be lawful for such Commissioner, or for the Clerk or Clerks to the said Commissioners, in case none of the said Commissioners shall attend, to adjourn the said Meeting to be holden on any future Day not exceeding Twenty-one Days from the Day of Adjournment, at the same or some other convenient Place within Eight Miles of the said Forest, and the Commissioners, or Clerk or Clerks making such Adjournment, is and are hereby required to give timely Notice thereof to the absent Commissioners.

Where Meetings shall be held.

Notice to be affixed on the Church Doors and inserted in the Newspapers.

Authority for One Commissioner or the Clerk to adjourn a Meeting.

X. And be it further enacted, That all other public Notices requisite or necessary to be given by the said Commissioners, shall be given by Advertisement, to be inserted in such of the public Newspapers usually circulated

Other Notices, how to be given.

circulated in the said County of *Southampton*, as the said Commissioners shall direct.

415 Acres
formerly in-
closed not
subject to
Right of
Common.

XI. And be it further enacted, That the said Four hundred and fifteen Acres of the said Forest, which were formerly inclosed and fenced in, and which are not subject to any Right of Common, or any other Rights or Claims save as aforesaid, shall not be deemed and taken to be Part of the Lands by this Act to be divided, allotted, and inclosed; but that the said Commissioners shall and they are hereby authorized and required to set out and allot the same to the King's most Excellent Majesty, discharged of all Claims and Rights whatsoever, and exclusive of the Allotment of the Open Commonable Parts of the said Forest to be made to His said Majesty by virtue of this Act.

Claims of
Right to be
produced.

XII. Provided always, and be it enacted, That all Persons having or claiming any Estate or Interest in or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, shall by themselves or their Agents deliver their respective Claims in Writing to the said Commissioners, at a Meeting to be holden for that Purpose, in Manner directed by the said recited Act of the Forty-first Year of the Reign of His present Majesty, of which Meeting Twenty-one Days Notice in Writing, under the Hands of the said Commissioners, expressing the Purpose of such Meeting, shall be given in the Manner herein-before directed.

Commission-
ers may settle
Disputes as to
Rights or
Interests
claimed;

but not deter-
mine Titles
to Estates.

XIII. And be it further enacted, That in case any Dispute or Difference shall arise between any of the Parties interested, or claiming to be interested, in the said intended Division and Inclosure, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the same, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, it shall and may be lawful for the said Commissioners, and they are hereby authorized and empowered to examine into and hear and determine the same respectively: Provided always, that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Lands, Tenements, or other Hereditaments whatsoever.

Power to
assess Costs
relative to
disputed
Claims and
Objections;

which may be
levied by Dis-
tress.

XIV. 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 or of the said recited Act, see cause to award any Costs, then and in such Case 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 either to the public Account for or towards the Expences occasioned in or relating to the investigating, settling and determining of such Claim or Claims, if finally disallowed, or to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in every such Case it shall and may be lawful to and for the said Commissioners, and they are hereby

authorized and required, by Warrant under their Hands directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

XV. And be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division and Allotments, 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 whatsoever, in, over, or upon the said Open Commonable Parts of the said Forest hereby directed to be divided, allotted, or inclosed, or any Part or Parts thereof, then and in every such Case it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next Assizes, or at the Assizes following the next to be holden for the said County of *Southampton*; and for that Purpose the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who shall be so dissatisfied with the Determination of the said Commissioners, 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, or against the said Commissioners, if the Subject of their Determination shall be of such a Nature as will affect the Persons in general interested in the said Open and Commonable Parts of the said Forest, or within Three Calendar Months next after such Determination or Order 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 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 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 binding, final and conclusive, upon all and every Person and Persons whomsoever, Body and Bodies Politic, Corporate or 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 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 to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials, in which the said Commissioners shall be Defendants; the Costs and Charges payable by the said Commissioners in such Action or Actions shall be paid and discharged out of the Monies to be raised by them for the Purposes of this Act.

Allowing Parties to try their Rights by an Issue at Law.

If Parties are dissatisfied with the Judgement of the Commissioners, they may bring an Action.

XVI. Provided always, and be it enacted, That the Determination of the said Commissioners, touching such Claim or Claims of any Right of Common

[*Loc. & Per.*]

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OR

Determination of Commissioners to be final.

or other Rights or Interests in, over, or upon the said Forest hereby directed to be divided, allotted, and inclosed, or any Part thereof, shall (in case such Determination shall not be so objected to, or being objected to, such Action or Actions at Law shall not be brought and proceeded in within the Time and in Manner herein for that Purpose mentioned) be final and conclusive upon all and every Person and Persons, Body and Bodies Politic, Corporate, or Collegiate.

ACTIONS not to abate by Death of Parties.

XVII. And be it further enacted, That if either of the Parties in any Action to be brought, or Appeal had in pursuance of this Act, shall die pending the same, such Action or Appeal shall not abate by Reason thereof, but shall be proceeded in as if no such Event had happened.

Trials not to suspend the Execution of the Powers of the Act.

XVIII. Provided always, and be it enacted, That no such Difference, Dispute, or Proceeding, touching the Title to any Lands, Tenements, or Hereditaments, shall impede or delay the said Commissioners in the Execution of this Act, but the Division or Inclosure hereby directed to be made shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding; and the said Commissioners shall, by proper Marks and Bounds, set out the Lands and Grounds which shall be allotted in lieu of such litigated Property, so that the same may be distinguished from any other Lands and Grounds, and may be had and taken by the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who upon the Determination of such Difference or Suit shall be entitled to the same.

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

XIX. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Bodies Politic, Corporate, or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the Clerk or Clerks to the said Commissioners with Process for commencing such Action or Actions in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs or other Person or Persons who shall claim the Benefit of such Determinations 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.

Persons in Possession not to be molested without due Course of Law.

XX. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties (except in Cases of Encroachment); 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 or recovered from such Person or Persons by Ejectment or other due Course of Law.

XXI. And

XXI. And be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall consider himself, herself, or themselves, prejudiced or aggrieved by the Determination of the said Commissioners, respecting the Limits or Boundaries of any Parish, Manor, Township, Hamlet, District, or Place, upon the said Open Commonable Parts of the said Forest hereby directed to be divided, allotted, and inclosed, or of any Parish, Manor, Township, Hamlet, District, or Place adjoining thereto, as the same shall be set out and ascertained by the said Commissioners, pursuant to the recited Act of the Forty-first Year of the Reign of His present Majesty, and shall, by Writing under their, his, or her Hands or Hand, give Notice to the said Commissioners within One Calendar Month next after such Determination, of his, her, or their Desire to have the same determined by an Issue at Law, instead of an Appeal to the Quarter Sessions, under the Provision of the last recited Act, then and in such case it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with such Determination, to have the same ascertained by Trial of an Issue at Law, under the Provisions of this Act, in case of any disputed Right or Claim.

Allowing the Trial of Parochial Boundaries by an Issue at Law, instead of Appeal to the Quarter Sessions.

XXII. Provided nevertheless, and be it enacted, That nothing herein contained shall extend to preclude the said Commissioners from adjudging and determining the Quantity and Value of the Land in virtue whereof any Person or Persons shall be allowed to have a Right of Common upon the said Open Commonable Parts of the said Forest hereby directed to be divided, allotted, or inclosed, or any Part thereof; but for the Purpose of adjusting the Allotment of Land to be made to the Person or Persons entitled to such Rights, in Lieu and Satisfaction thereof, the said Commissioners shall and they are hereby authorized to adjudge and determine the Quantity and Value of all and every of such Lands respectively, and rate and estimate the same as to them shall seem just and reasonable, according to the real Value thereof for the Purposes of Husbandry, without regard to any Artificial or Extraordinary Value arising from Local, Temporary, or other peculiar Advantages; and such their Judgement and Determination shall be binding and conclusive upon all Parties whomsoever: Provided also, that nothing herein contained shall extend to authorize the said Commissioners, or any of them, to consider any ancient Messuage or Building, or Site thereof, in respect of which any Right of Common shall be allowed, at any more or greater Value than any other ancient Messuage or Building, or Site thereof; but the said Commissioners shall rate and estimate all ancient Messuages and Buildings, and Sites thereof, at an equal Value one with another, and at such Value as they shall think most expedient.

Commissioners may adjudge the Quantity and Value of the Lands, &c.

but all ancient Messuages to be considered of equal Value.

XXIII. And be it further enacted, That immediately after all the Allotments to be made in pursuance of this Act shall, by Order of the said Commissioners, be marked or staked out, all the several Shares or Allotments to be set out as aforesaid shall be and be deemed and taken to be in lieu and in full Compensation, Satisfaction, and Discharge, of all Rights of Common whatsoever, which the Persons interested in the Allotment and Inclosure, or any of them, could or might have had or been entitled to, in, over, and upon the Open and Commonable Parts of the said Forest, or any Part or Parts thereof respectively; and from that Time

After Allotments made, Rights of Common to cease, and the Allotments shall be taken in lieu of all Rights whatsoever on the Forest,

all

Right of
Common may
be suspended
or extin-
guished before
the Execution
of the Award.

all Right of Common whatsoever, in or upon the said Forest, shall cease and be for ever annulled, abolished, and extinguished: Provided nevertheless, that it shall be lawful for the said Commissioners, at any Time before the Execution of the said Award, by Notice in Writing under their Hands, to be affixed upon the principal Outer Doors of the several Churches or Chapels to each Parish, Township, Hamlet, or Place, entitled to Right of Common upon the said Open Commonable Parts of the said Forest, to order and direct all or any Part of the Rights of Common in or over the said Forest, or any Part or Parts thereof, to be extinguished, or Exercise thereof to be suspended for and during such Time or Times as shall be expressed in such Writing; and all such Rights of Common as the said Commissioners shall by such Writing order and direct to be extinguished, or exercise thereof to be suspended as aforesaid, shall, from the Time mentioned in such Writing, cease, determine, and be extinguished, or the Exercise thereof shall be suspended accordingly; any Law, Usage, or Custom, to the contrary thereof in anywise notwithstanding.

No Turf to
be taken away
after passing
of the Act.

XXIV. And be it further enacted, That if any Person or Persons shall dig, cut, or take away any of the Turf, Bushes, Underwood, or Soil of the Lands or Grounds to be allotted and inclosed by virtue of this Act, for any Use or Purpose whatsoever, or under any Right, Privilege, or Claim, or Pretence of Right, Privilege, or Claim whatsoever, then and in every such Case, on due Proof made before the said Commissioners on Oath, (which Oath the said Commissioners are hereby empowered to administer), the said Commissioners shall and they are hereby required, by Warrant under their Hands and Seals directed to any Person or Persons, whomsoever, to cause any Sum or Sums of Money, not exceeding Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending in the Premises, rendering the Overplus (if any) on Demand, to the Person or Persons whose Goods and Chattels shall be so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as aforesaid shall be applied towards the Payment of the Costs, Charges, and Expenses of executing this Act.

Penalty to be
levied by
Distress.

The Commis-
sioners, with
the Consent of
the Owners,
may set out
Boundary
Fences.

XXV. And be it further enacted, That if the said Commissioners shall deem it expedient or proper to shorten the Boundary Fences between the Lands and Grounds by this Act directed to be divided, allotted, and inclosed in the said respective Parishes, Townships, Hamlets, or Places, and any Parish or Parishes adjoining thereto, or to make the same Boundary Fences regular, it shall be lawful for the said Commissioners, with the Consent of the Owner or Owners of the said Land upon which any Fence or Fences shall or may be intended to be made, to set up the Boundary or Boundaries between the Lands by this Act directed to be divided, allotted and inclosed, and any adjoining Parish or Parishes, in such Manner as they shall think proper for the Purposes aforesaid; and after such Boundary or Boundaries shall be so set out as aforesaid, the same shall be formed by such Person or Persons in such Manner and at such Time or Times as the said Commissioners in and by their said Award shall order and direct, and the same shall for ever thereafter be deemed and taken to be the Boundary or Boundaries between the said respective Parishes, Townships, Hamlets, or Places, and such adjoining Parish or Parishes; any Law, Custom, or Usage, to the contrary thereof in anywise notwithstanding.

The Bound-
ary Fences
to be made
by such Per-
sons as the
Commission-
ers shall
direct.

XXVI. And

XXVI. And be it further enacted, That all Intakes or Encroachments made on the said Forest, and which have been made within the Space of Forty Years now last past, and for which no Licence, Consent, or Grant shall have been obtained, shall be deemed and considered Part and Parcel of the Lands and Grounds to be allotted or inclosed by virtue of this Act, as if the same were actually lying open and uninclosed.

Encroachments made within 40 Years, to be considered Part of the Ground to be inclosed.

XXVII. Provided always, and be it further enacted, That all such Encroachments as have been made and occupied without Interruption for more than Forty Years, shall become the Property of, and are hereby vested in the Persons who shall be the Owners or Proprietors thereof at the Time of passing this Act; but such Persons shall not for or on account of any such Encroachment, be entitled to any Allotment for any Right of Common, or other Right in or over the said Forest.

Occupation for more than 40 Years to vest the Property in the Owners.

XXVIII. And whereas under the Authority of an Act, passed in the Eleventh Year of the Reign of His present Majesty, intituled *An Act for establishing a House or Houses of Industry in the Isle of Wight, for the Reception, Maintenance, and Employment of the Poor belonging to the several Parishes and Places within the said Island*, Eighty Acres of the Soil of the said Forest were granted to the Guardians of the Poor, incorporated in the said Act, by Letters Patent under the Exchequer Seal, bearing Date the Twenty-first Day of *March* One thousand seven hundred and seventy-two, for a Term of Nine hundred and ninety-nine Years, for the Purpose of establishing a House of Industry in the *Isle of Wight*: And whereas, by the Authority of the Lords of His Majesty's Treasury, Eighty-five Acres more of the Soil of the said Forest were authorized to be put into the Possession of the said Guardians of the Poor, for the Use of the said House of Industry, with a Condition that the same should be taken as Part of the Lands to be allotted to the Persons having a Right of Common in the said Forest, in the Event of a general Inclosure thereof: And whereas the said Provost and Fellows of *Queen's College*, in Right of the said Farms and Lands called *Werrar* and *Dobnor*, and the said Warden and Scholars of the College of *Winchester*, in Right of the said Lands of *Saint Cross*, and the Owner of a certain other Farm and Lands also called *Dodner*, claim a Right of Common and other Rights in the said Eighty-five Acres, of which the said Guardians of the Poor were so put into Possession as aforesaid: And whereas, in order to provide for the said last-mentioned Claims, in case they shall be established to the Satisfaction of the said Commissioners, it will be necessary that such Parts of the said Eighty-five Acres as the said Commissioners shall adjudge to be a proper Compensation for such Rights, shall be set out and allotted to the Person or Persons, Body or Bodies Corporate or Collegiate, so establishing such Rights in lieu thereof; be it therefore enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required to set out and allot to and for the said several Person and Persons, Body and Bodies Politic, Corporate, or Collegiate, who shall, to the Satisfaction of the said Commissioners, establish their Rights in the said Eighty-five Acres, so much and such Part thereof as they the said Commissioners shall think proper, in lieu of such Rights in, over, and upon the same; and that the said Commissioners shall set out and allot the remaining Part of the said Eighty-five Acres, unto and for the said Guardians of the Poor, to be by them applied and disposed of in such Manner as they shall from Time to Time think most beneficial for the said House

Commissioners to allot Parts of certain Lands in Compensation for particular Rights;

and the remaining Part of the said Lands to the Guardians

of the Poor, as Part of their Allotments under this Act;

of Industry; and which said Residue of the said Eighty-five Acres, so to be allotted to the said Guardians of the Poor, shall be deemed and taken to be Part of the Allotment to be made under the Provisions of this Act to the said Guardians of the Poor, in Lieu and Satisfaction of the general Rights of the Freeholders of the said Island, in, over, and upon the said Forest.

which Lands shall be confirmed to them.

XXIX. And be it further enacted, That the said Eighty Acres, granted to the said Guardians of the Poor under the Authority of the said Act, shall be and the same are hereby confirmed to them for the Purposes aforesaid.

Commissioners to set out Roads.

XXX. And be it further enacted, That the said Commissioners shall and they are hereby required to set out such and so many private Roads and Ways as shall be necessary for giving to His Majesty, His Heirs, Successors, and Assigns, and to His Surveyor General of His Woods, and the Deputy Clerk and Servants of such Surveyor General, convenient Access to the Allotments of His said Majesty.

Power to turn and stop Roads on giving Notice, and having the Consent of Two Justices.

XXXI. And be it further enacted, That the said Commissioners shall and may turn or abate and stop up, or order to be turned or abated and stopped up, any ancient Carriage Road or Way, Roads or Ways, or ancient Footway or Path, Footways or Paths in, through, upon, or over any of the said Open Commonable Lands and Grounds hereby directed to be divided, allotted, and inclosed, where they shall judge it requisite or expedient, giving such Notice of a Day to be appointed by them to receive Objections; as in the said recited Act of the Forty-first Year of the Reign of His present Majesty is directed or required in the case of setting out the Roads and Ways therein mentioned, and observing the Directions of the said recited Act as to the obtaining the Concurrence and Order of Two Justices of the Peace previous thereto, and subject to an Appeal to the Quarter Sessions, as in the said recited Act is mentioned.

Commissioners empowered to turn Watercourses with the Consent of Proprietors of the Lands.

XXXII. And be it further enacted, That it shall and may be lawful for the said Commissioners, and they are hereby empowered to direct, order, and award all Streams of Water, Springs, and Watercourses, within the Lands and Grounds hereby directed to be divided, allotted, and inclosed, to be carried and conveyed in such Courses and through such of the said Lands and Grounds so hereby intended to be divided, allotted, and inclosed, as they in their Discretion shall think necessary and proper for the Purposes aforesaid: Provided always, that no such Streams of Water, Springs, or Watercourses, shall be diverted or turned without the Consent in Writing of the Person or Persons from and into whose Lands the same shall be carried or conveyed.

Allotments for Repairs of Roads to be made to the Surveyors of the Highways.

XXXIII. And be it further enacted, That the said Commissioners shall and they are hereby required, as soon as conveniently may be after setting out Public Roads and Highways, as by the said recited Act of the Forty-first Year of the Reign of His present Majesty is directed, to set out and allot unto and for the Surveyors of the Highways of the several Parishes, Townships, Hamlets or Places, within which the said Lands and Grounds hereby directed to be divided, allotted, and inclosed respectively lie, so much and such Part or Parts of the said Lands and Grounds to be divided, allotted, and inclosed, not exceeding Fifteen Acres, and in such Places as the said Commissioners

Commissioners shall think proper, not being any Part of the said Four hundred and fifteen Acres, for getting Stone, Gravel, or other Materials for the Repairs, from Time to Time for ever, for the same Public and Private Roads and Highways within such respective Parishes, Townships, Hamlets, and Districts; and any Grass and Herbage arising therefrom shall be and the same are hereby vested in the said respective Surveyors of the Highways for the Time being, who shall let the same, and account respecting the Rents and Profits in the same Manner as they are by Law liable to account for other Monies collected and received by them as Surveyors aforesaid.

Any Grass and Herbage arising therefrom vested in the Surveyors.

XXXIV. And be it further enacted, That the said Commissioners shall mark and set out such Part and Parts of the said Open and Commonable Parts of the said Forest hereby directed to be divided, allotted, and inclosed, as by the Sale thereof will, in the Judgment of the said Commissioners, raise a sufficient Sum of Money to defray and discharge all the Costs, Charges, and Expences incident to and attending the preparing and inrolling the Award to be made by the said Commissioners, and of surveying, admeasuring, planning, valuing, dividing, fencing, and allotting the Lands and Grounds to be divided, fenced, allotted, and inclosed by virtue of this Act, and all the Charges of the said Commissioners, their Assessors, Clerks, Assistants, and Servants, and all the other necessary Expences of the several Persons to be employed by the said Commissioners in and about the same, and all the Expences of forming, compleating, and repairing the public Carriage Roads and Highways to be set out by the said Commissioners as aforesaid, and all other Expences of carrying this and the said recited Act into Execution; and the said Commissioners shall and they are hereby required to sell the Lands and Grounds so marked and set out in such Allotment or Allotments, as to them shall seem proper, to any Person or Persons, for the best Price or Prices that can be gotten for the same, by public Auction or Auctions to be holden for that Purpose, and the Person or Persons so purchasing the same at such public Auction, shall immediately pay (by way of Deposit) into the Hands of the said Commissioners, or such Person or Persons as they shall direct and appoint, One Fifth Part of his, her, or their Purchase Money, and shall pay the Remainder thereof within Three Calendar Months next after the said Sale, or at such other Time as the said Commissioners shall appoint; and in Default thereof, the Money so deposited shall be forfeited, and applied for carrying this Act into Execution, and the Allotment or Allotments for which the Whole of such Purchase Money shall not have been so paid, or for which there shall be no Bidding at such Auction, shall be again put up to Sale, and sold by public Auction in Manner aforesaid, for the best Price or Prices that can be gotten for the same, or be sold by the said Commissioners afterwards by private Contract, for any Sum or Sums of Money not less than the remaining Four Fifths of the Price or respective Prices for which the same was or were before respectively sold; and every Allotment for which the full Purchase Money shall be paid, shall be immediately thereupon absolutely discharged of and from all Claims, Charges, and Incumbrances thereon, and be vested in Fee Simple in and be 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 Commissioners; and the said Purchase Money shall

Lands to be sold for Payment of Expences.

Lands to be sold by Auction.

be applied by the said Commissioners in defraying such Costs, Charges, and Expences, as herein directed.

Allotments to the King to be one full Third Part in Value of the Remainder of the Open and Commonable Parts of the Forest.

XXXV. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out and allot unto and for the King's Majesty, His Heirs and Successors, as His and their own proper Demesne Lands and Estates, together with all and singular the Buildings, Timber Trees, Wood, and Underwood, standing and being thereon respectively, One full Third Part in Value of the Remainder of the said Open and Commonable Parts of the said Forest by this Act to be divided, allotted, and inclosed, and which said Allotment shall, from and after and so soon as the same shall be fenced in and severed from the Lands adjoining thereto, independent and without Reference to the Time when the other Allotments shall be made, become and remain the exclusive and absolute Property of His Majesty, His Heirs and Successors, freed, exonerated, and for ever discharged of and from all Rights of Common Pasture and Turbary, Common of Estovers, and other Rights of what Nature or Kind soever.

Such Part of the Allotment to His Majesty as shall be deemed by Referees just, to be allotted to Lord Fitzharris for his Life, and after to vest in His Majesty.

XXXVI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered to allot to the said *James Edward Viscount Fitzharris* during his Life so much and such Part or Share of the said One-third Part herein-before directed to be set out and allotted unto and for His said Majesty, His Heirs and Successors as aforesaid, of the Open and Commonable Parts of the said Forest, as the said *Abraham Pursbouse Driver*, *Richard Webb* of the City of *Salisbury* Gentleman, and *John Wickens* of *Maperton*, in the County of *Dorset*, Gentleman, or any Two of them, shall by Writing under their Hands award to be a just and full Equivalent and Compensation for and in lieu of the Right of Common and all other Rights to which he the said Viscount is entitled over or upon the said Forest, in respect of the said Messuage, Farm, and Lands called *Park Farm*, and all other Rights and Benefits of him the said Viscount as Governor of the said Island, or Warden of the said Forest, upon or by Reason of disafforesting the same; and that from and after the Decease of the said *James Edward Viscount Fitzharris*, such Allotment shall be vested in His Majesty, His Heirs and Successors, for the same Purposes, and under the same Regulations and Restrictions as are herein directed with respect to the Allotment to His Majesty.

The Land now held by the Barrack Department shall be a Part of the Allotment to His Majesty.

XXXVII. And whereas the several Quantities of Twenty Acres and Ninety-eight Acres of the Soil of the said Forest have been taken Possession of, under the Authority of the Lords of His Majesty's Treasury, by the Barrack Department, in order to erect certain Barracks thereon, and to establish a Military Depôt, and are now held and used by the said Department for that Purpose; be it therefore enacted, That the Land held by the Barrack Department shall be deemed and taken, and the said Commissioners are hereby authorized and required to set out and allot the same, as Part of the said Allotment of the Open and Commonable Parts of the said Forest so to be made to His said Majesty by virtue of this Act.

Another Piece of Land allotted to the Crown.

XXXVIII. And whereas a Piece or Parcel of Ground, containing by Admeasurement Two hundred and fifty Acres or thereabouts, adjacent to the said

said Barracks, is from its Contiguity to the said Barracks and other Circumstances, peculiarly convenient for His Majesty's Service, and it is therefore expedient that the same should be allotted to the Crown; be it therefore enacted, That the said Piece or Parcel of Ground shall be deemed and taken, and the said Commissioners are hereby authorized and required to set out and allot the same as Part of the said Allotment of the Open and Commonable Parts of the said Forest so to be made to His Majesty, His Heirs and Successors, by virtue of this Act.

XXXIX. And be it further enacted, That all such Parts of the said Allotments so to be made to His Majesty, His Heirs and Successors, as shall not be requisite and necessary for the Use of the said Military Depot as aforesaid, shall be set apart as Nurseries for Timber and Wood, except the Piece or Parcel of Ground containing Two hundred and fifty Acres or thereabouts, being adjacent or contiguous to the said Barracks as aforesaid.

Such Parts of the Allotments as shall not be necessary for the Military Depot to be Nurseries for Timber.

XL. And, to the End that the said Inclosures may be preserved in the Crown for public Use as aforesaid, be it further enacted, That in case any Person whatever shall presume to take or obtain any Gift, Grant, Estate, or Interest of or in the said Inclosures, or any Wood or Trees growing thereon, every such Gift, Grant, Estate or Interest, shall *ipso facto* be null and void, and the Person so taking the same shall be utterly disabled to have, hold, and enjoy any such Gift, Grant, Estate or Interest, and also shall forfeit Treble the Value of any such Gift or Grant, to him who shall first sue for the same in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt, wherein no Essoign or Wager at Law shall be allowed to the Defendant.

Any Grant of Inclosure, Trees, &c. to be void.

XLI. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next Place, to set out and allot the Residue of the said Open Commonable Parts of the said Forest, to and amongst all and every the Person and Persons, Body or Bodies Corporate or Collegiate, entitled to the Commonage in, over, or upon the same respectively, or any Part or Parts thereof respectively, in proportion to the real Value of their several and respective Messuages or Cottages, Lands and Hereditaments, in respect whereof they are entitled to such Right of Common, and to the Part or Parts of the Lands to be inclosed in, over, or upon which their respective Rights of Common shall extend, due Regard being had, in settling the *Quantum* of each Allotment, to the Quality and Situation of the Land to be comprized therein; and shall also set out and award every Allotment as near to the Messuage or Messuages, Cottages, Sites, Lands and Tenements, in respect whereof such Person or Persons, Bodies Corporate or Collegiate, shall be entitled to Right of Common, as conveniently may be.

The Residue of the Open Commonable Parts of the Forest, to be allotted to Persons entitled to Common.

XLII. Provided always, and be it further enacted, That nothing in the said last mentioned Clause contained shall extend, or be construed to extend, to authorize and empower the said Commissioners to set out and allot any Part or Parts of the said Residue of the said Open and Commonable Parts of the said Forest hereby intended to be divided, allotted, and inclosed, to any Person or Persons, Body or Bodies Corporate or Collegiate, claiming only as a Freeholder or Freeholders of the said *Isle of Wight*; but that the said Commissioners shall and they are hereby re-

Commissioners not to allot any Part of the said Residue to any one claiming only as a Freeholder, &c.

quired to set out and allot so much and such Part and Parts of the said Residue of the said Open Commonable Lands as they shall think a sufficient Compensation for such general Right of the said Freeholders of the said Island, unto and for the said Guardians of the Poor, to be by them applied and disposed of in such Manner as they shall deem most beneficial for the said House of Industry; and which said Allotment so to be set out and allotted to the said Guardians of the Poor, is to be in Addition to the Residue of the said Eighty-five Acres heretofore directed to be allotted to them, and also in lieu and full Compensation and Discharge of all Rights which the said Freeholders of the said *Isle of Wight* have or claim to have in, over, or upon the said Forest.

Compensation to the Inhabitants of Newport, in lieu of their Rights;

and also to the Lord of the Manor of Godshill.

XLIII. And be it further enacted, That the said Commissioners shall and they are hereby authorized or required to settle and adjust such Compensation as they may think proper to be paid and made by His said Majesty, His Heirs or Successors, unto or for the Use of the Inhabitants of the said Town of *Newport*, in lieu of any Right or Rights they may establish to the Satisfaction of the said Commissioners, to lere and broke Wood within the Limits of the said Four hundred and fifteen Acres herein-before directed to be allotted and set apart for His said Majesty; and also unto and for the said Lord of the said Manor of *Godshill*, for any Right or Rights he may establish, to the Satisfaction of the said Commissioner, to Timber for Repairs of all or any Messuages, Tenements, or Buildings within the said Manor; such Compensation to be made either by the Payment of any Sum or Sums of Money, or by the Allotment of any Portion or Portions of the Land so to be allotted to His said Majesty, as the said Commissioners shall order and direct.

The Compensation to Newport to be paid to the Churchwardens and Overseers of the Poor.

XLIV. Provided also, and be it further enacted, That any Sum or Sums of Money, or any Portion or Portions of Land that shall or may be paid or allotted in lieu of the said Rights of the said Inhabitants of *Newport* to such lere and broke Wood, shall be paid to or vested in the Churchwardens and Overseers of the Poor of the said Parish of *Newport* for the Time being, to be by them applied and disposed of in such Manner as may be deemed most beneficial for the poor Inhabitants of the said Town, except that no Part thereof shall be applied in Aid of any Rate or Rates to be made for the Relief of the Poor of the said Town.

Owners of Common Rights may have their Allotments laid together on Application to the Commissioners, before Allotments made.

XLV. And be it further enacted, That if any of the several Owners of ancient Messuages, Cottages, Scites, or Homesteads, Lands, Tenements, or Hereditaments, shall be desirous that their respective Shares in the said Open and Commonable Parts of the said Forest so directed to be divided, allotted, and inclosed as aforesaid, in respect of their Common Rights belonging to such Messuages, Cottages, Scites, or Homesteads, Lands, Tenements, or Hereditaments, shall be allotted together in One or more Parcel or Parcels, and shall express such their Desire in Writing to the said Commissioners at One of their Meetings to be holden in pursuance of this Act, before such Allotment or Allotments shall have been otherwise fixed by the said Commissioners, then and in such Case the said Commissioners shall and they are hereby required to set out the several Parcels of Land to be allotted to such several Persons in one Allotment, and such Allotment shall be used and enjoyed by the several Proprietors thereof in such Manner and

and under such Regulations as the said Commissioners shall in that Behalf direct or appoint in their said Award.

XLVI. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights of the Persons interested in the said intended Inclosure, and also the respective Shares and Proportions by them proposed to be allotted to such Persons respectively in lieu thereof, they the said Commissioners shall give Notice, in Manner aforesaid, of the Day or Days and Place where all Persons interested may peruse a Schedule of such intended Allotments, and inspect the Map or Plan whereon the same shall be delineated, and may have and receive a Copy of such Schedule as far as the same relates to each Person respectively; and as some Persons may, upon Perusal of the said Schedule and Inspection of such Map or Plan, be dissatisfied with their intended Allotments, the said Commissioners shall give Notice of One Meeting at least to be held by them for hearing Complaints and Objections against such intended Allotments, and for hearing and determining all such Objections; and their Determinations in the Premises, as to Quality and Situation, shall be binding, final, and conclusive to all Parties.

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

and Commissioners shall give Notice of a Day for hearing Objections.

XLVII. And be it further enacted, That all such Fences, or such Part or Parts thereof as the said Commissioners shall direct, shall for ever after the making thereof be kept in Repair by the Person or Persons who for the Time being shall be entitled to such Allotment or Allotments; and all Fences in pursuance of this Act to be made for dividing and inclosing the Residue of the said Open and Commonable Parts of the said Forest, shall be made, and at all Times for ever thereafter repaired and maintained, by and at the Expence of the Proprietors interested in such Residue, in such Parts and Proportions, and within such Time and in such Manner, as the said Commissioners shall, in and by their Award, direct or appoint.

Allotments of Residue to be fenced and kept in Repair by Proprietors.

XLVIII. Provided always, and be it further enacted, That if, owing to the Situation or other Circumstances of any Allotment or Allotments, it shall happen that the Proprietor or Proprietors thereof shall not have a proportionable Share of Boundary Fencing thereto, it shall be lawful for the said Commissioners, where they shall judge reasonable, to ascertain and appoint any Sum or Sums of Money to be contributed and paid by such Proprietor or Proprietors, towards the Expence of the Boundary Fencing of such other or others of the said Proprietors who may happen to have too great a Proportion thereof, in order that the Expences of the Boundary Fencing may be brought, as near as may be, to a just and equal Proportion, Regard being had to the necessary Subdivision Fences within the respective Allotments; and the Money to be so ascertained and applied shall be levied and recovered in the same Manner as the Expences of executing this and the said recited Act, in case of a Deficiency, from the Sale of Land herein-before directed to be levied and recovered.

Satisfaction to be made for unequal Share of Boundary Fences.

XLIX. Provided always, and be it enacted, That all and every the Allotments to be made in pursuance of this Act, for or in respect of any Freehold Estates, shall be deemed and taken to be held and enjoyed as Freehold Estates; and all and every the Allotments to be made for or in respect of any Copyhold or Customary Estates, held of any Manor or

Allotments to remain of the same Tenure.

Manors

Manors in which the Lands and Grounds to be inclosed by virtue of this Act respectively lie or are situate, shall be deemed or taken to be as Copyhold or Customary Estates, and shall be held of the Lords thereof under the same Rents, and by the same Customs and Services as the Copyhold or Customary Lands and Hereditaments, for which they were so allotted, are or ought to have been held, and shall pass by the like Surrenders as the Copyhold or Customary Lands and Hereditaments, in respect whereof such Allotments shall be made, now pass.

Sale of Allotments before the Execution of the Award.

L. Provided always, and be it further enacted, That if any of the Persons interested in the said Division and Inclosure, shall sell, or shall at any Time hereafter and before the Execution of the said Award, sell his, her, or their Right, Interest, or Property, in, over, and upon the said Open Commonable Parts of the said Forest, hereby directed to be divided, allotted, and inclosed, or any Part thereof, to any other Person or Persons, then it shall be lawful for the said Commissioners, and they are hereby authorized and required, to make an Allotment of Land unto the Vendee or Purchaser in such Sale, or to his or her Heirs or Assigns, for or in respect of such Right, Interest, and Property sold; and every such Vendee or Purchaser, and his and her Heirs and Assigns, shall and may, after the Completion of such Sale, hold the Land and Ground so to be allotted to him, her, or them as aforesaid, in the same Manner, pursuant to the Terms of such Sale, to all Intents and Purposes, as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made.

Treasury empowered to purchase or exchange Lands.

LI. And be it further enacted, That it shall and may be lawful for the Lords Commissioners of His Majesty's Treasury, on Behalf of His Majesty, as well before as after the making the Award of the said Commissioners, to agree with and to purchase from any other Person or Persons who shall be entitled to any Allotment of Land under this Act, all or any Part of their respective Allotments to be made to them under this Act, or to exchange with such Person or Persons, or with the Owners or Proprietors of any Lands or Grounds adjoining the said Forest (when they shall be willing to exchange rather than sell the same) any of the Allotments hereby to be made to His said Majesty, for any Allotment to be set out under the Authority of this Act, or for an equal Quantity in Value of the same, to His Majesty, His Heirs or Successors, in his or their Right as of Fee; such Lands so purchased or taken in Exchange to be inclosed and appropriated in the same Manner as His Majesty's Allotments under this Act, to the Growth and Preservation of Timber.

Commissioners to allot Lands in Exchange for others, with Consent of the Owner.

LII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to set out, allot, and award, any Lands, Tenements, or Hereditaments within any of the Parishes, Townships, Hamlets, or Places in which the said Open and Commonable Grounds lie or are situate, or any Part thereof, in Lieu of and in Exchange for any other Lands, Tenements, and Hereditaments whatsoever, within any of the Parishes, Townships, Hamlets, or Places, in which the said Open Commonable Lands and Grounds respectively be or are situate, or within any adjoining Parish, Hamlet, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared, in the said Award of the said Commissioners, or some other Deed or Deeds, Instrument or Instruments

struments in Writing, under their Hands and Seals, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments, which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail general or special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges, shall be respectively Infants, Females Covert, Lunatics, or under other legal Incapacity, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other Parties consenting 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.

LIII. 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 Bishop of the Diocese, or other Ordinary of the Ecclesiastical Jurisdiction, in which such Lands, Tenements, or Hereditaments so to be exchanged, shall lie or be situate.

Lands held in Right of any Ecclesiastical Benefice not to be exchanged without Consent of the Patron, &c.

LIV. Provided always, and be it enacted, That the Costs, Charges, and Expences attending the making or completing of all Exchanges and Partitions under the Powers and Authorities in this Act and the said recited Act of the Forty-first Year of His present Majesty's Reign, or either of them contained, shall be paid and borne by the several Persons, Bodies Politic, Corporate, or Collegiate, making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioners shall order and direct.

Expences of Exchange how to be paid.

LV. And be it further enacted, That all Leases and Agreements for Leases at Rack Rent now subsisting of all or any of the Lands, Tenements, and Hereditaments which shall be divided, allotted, and exchanged respectively by virtue of this Act, within the said several and respective Parishes, Townships, or Hamlets, or any of them, shall cease and be void at such Time or Times as the said Commissioners, by Writing under their Hands to be affixed on the Doors of the Churches or Chapels of such respective Parishes, Townships, Hamlets, or Places, shall direct, the respective Lessors or Landlords making such Satisfaction in Money to their Lessees or Tenants for the Losses they shall sustain by this Determination of their respective Leases or Agreements, as the said respective Parties shall agree upon, or as the said Commissioners, upon an Application made to them in Writing by either Party, shall order and direct; and if the Money so to be paid as aforesaid shall not be paid, according to the Directions of the said Commissioners, within Twenty-one Days after Demand thereof in Writing under the Hand or Hands of the Person or Persons to whom the same shall be payable, it shall be lawful for the said Commissioners, and they are hereby required, to raise and levy the same for the Use and Benefit of the Person or Persons en-

For vacating Leases at Rack Rent.

Not to vacate
beneficial
Leases.

titled thereto, by such Ways and Means as the Costs, Charges and Expenses of obtaining and executing this Act may be raised and recovered: Provided always, that if there shall be any Lease of Lands, Part of which shall be in the said Parishes, Townships or Hamlets, or any of them, and Part in any adjoining Parish, all and every such Lease or Leases upon Rack Rent now subsisting may be vacated, but where any Lands shall have been taken in Exchange, which Lands shall be under Lease, and wholly situate in an adjoining Parish, the Lease of such last-mentioned Lands shall not be vacated: Provided always, that nothing herein contained shall extend, or be construed to extend, to set aside or make void any Lease or Leases from any Bodies Politic, Corporate or Collegiate, or Person or Persons, for any Life or Lives, or for Twenty-one Years, or for any longer Term, for the granting of which a Fine has been taken of any Lands, Tenements or Hereditaments, in the said several respective Parishes, Townships, Hamlets, or Places or any of them, to any Person or Persons whomsoever; but the Person or Persons entitled to such beneficial Lease shall and may hold and enjoy his, her, or their several and respective Terms, and under the same Rents and Covenants as is or are specified in his, her, or their respective Leases from the said Bodies Politic, Corporate or Collegiate, Person or Persons, to him, her, or them respectively.

Tenants for
Life may
grant Leases
for any Num-
ber of Years,
not exceeding
21.

LVI. And be it further enacted, That it shall and may be lawful for such of the said Proprietors who are Tenants for Life, to grant any Lease or Leases to any Person or Persons whomsoever of the Lands to be allotted to them or any Part or Parts thereof, with the Appurtenances, for any Term or Number of Years not exceeding Twenty-one, so as that the same do commence in Possession, and not in Reversion, and so as upon every such Lease or Leases there be reserved or made payable during the Continuance thereof respectively, the best and most improved yearly Rent or Rents, or other Considerations that can be reasonably had and obtained for the same, without taking any Sum or Sums of Money, by way of Fine or Foregift, for or in respect of such Lease or Leases, and so as no such Lessee or Lessees have thereby Power to commit Waste, and so as in every such Lease or Leases there be contained a Clause of Re-entry on Non-payment of the Rent or Rents to be thereby reserved and made payable to the Person or Persons granting such Lease or Leases, and the several other Persons who in Succession may be entitled to the same Lands, and so as the Lessee or Lessees do at the same Time execute a Counterpart or Counterparts of such Lease or Leases.

Power for en-
franchising
Copyholds.

LVII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby empowered, with the Consent of the respective Lord or Lords of the Manor or Manors of whom any Messuages, Cottages, Lands, or Tenements, in the said several and respective Parishes of *Carisbrooke, St. Nicholas, and Northwood*, or any of them, are or shall be holden by Copy of Court Roll, and of the Customary Tenant or Tenants by whom any such Messuages, Cottages, Lands or Tenements, shall be respectively holden, in and by the Award of the said Commissioners, or by any other Writing or Writings to be signed and sealed by the said Commissioners, and by such Lord or Lords, and Tenant or Tenants respectively, or by the Husbands, Trustees or Guardians, Committees or Attorneys, of and for any such Tenants being Femes Coyert, Minors, Lu-
natics,

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

LVIII. Provided always, and be it further enacted, That the Money to be received for the Enfranchisement of any Copyhold Lands or Tenements, in pursuance of this Act, shall be paid to the Lord or Lords of the Manor or Manors respectively of whom the Copyhold Hereditaments so to be enfranchised shall at the Time of the Enfranchisement thereof be holden, where such Lord or Lords shall be seised of such Manor or Manors in Fee Simple;

Appropriation of the Money.

Simple; and in all other Cases the Money to be received for such Enfranchisement shall be paid and applied in Manner directed by the said recited Act of the Forty-first Year of the Reign of His present Majesty, with respect to the Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of Lands, Tenements, or Hereditaments, to be settled to the same Uses.

Wills and Settlements not to be affected.

LIX. Provided always, and be it enacted, That nothing herein contained shall extend, or be construed, adjudged, deemed, or taken to revoke, annul, or make void, any Settlement, Deed, Will, or Lease whatsoever, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Debt, Charge, or Incumbrance, in, out of, upon or over, or affecting the said Open Commonable Parts of the said Forest so to be divided, allotted, and inclosed, or exchanged, by virtue of the said recited Act of the Forty-first Year of the Reign of His present Majesty, or of this Act or any Part or Parcel thereof; but that the several Allotments to be allotted or given in Exchange upon such Division or Inclosure thereof, to the several Proprietors respectively, shall immediately after such Allotments or Exchange shall be made and set out, be, remain, and enure, and be held and enjoyed, and the several Persons to whom the same shall be so allotted or exchanged as aforesaid, shall from the signing the said Award, stand, be seised, and be possessed thereof respectively to such and the same Estates, and with such and the same Powers and Authorities for making Leases thereof or otherwise, and subject to such and the same Wills, Limitations, Conditions, Settlements, Trusts, Provisions, Remainders, Reversions, Debts, Charges, and Incumbrances (Right of Common and Common of Pasture as aforesaid, and such other Exceptions and Provisions as are herein made, only excepted) as the said several Lands and Hereditaments in respect or in lieu thereof, or in Right whereof such Allotments were and are to be made to them respectively, stood severally limited or subject and liable unto at the Time of making such Allotments respectively, or signing the said Award.

Right to Tythes not to be prejudiced nor the Manner of Payment affected by this Act.

LX. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to prejudice, lessen, or defeat, the Right, Title, or Interest, of the several Rectors, Vicars, and Lay Impropriators, for the Time being, of the said several and respective Parishes of *Carisbrooke*, *Saint Nicholas*, and *Northwood*, or any of them, or any other Person or Persons whomsoever, in or to any Tythes, Great or Small, arising or renewing out of or payable for or in respect of any Lands, Tenements, or Hereditaments, within the same several Parishes, Townships, Hamlets, or Places respectively; but that such Great and Small Tythes shall be paid and payable at all Times hereafter in such and the same Manner as they would have been in case this Act had not been made.

His Majesty's Rights in regard to Deer to remain until such Time as the Commissioners shall appoint.

LXI. And be it further enacted, That His Majesty's Rights of, in, and over the said Forest of *Parkhurst* shall remain and continue vested in His Majesty, His Heirs and Successors, and that all the Laws and Statutes of this Realm now in force for the Protection of Deer, and for punishing Persons guilty of any Offences in Breach of such Laws, shall remain and continue

continue in Force and Effect, for the Protection of His Majesty's Deer within the Regard of the said Forest, and for the Punishment of Offences therein, until such Time as the said Commissioners shall appoint; any Thing in this Act contained to the contrary thereof in anywise notwithstanding: Provided always, that in case any Allotment or Allotments of the said Open Commonable Lands and Grounds, so to be allotted, divided, and inclosed as aforesaid, shall be actually inclosed, and the Fences thereof completed, before the Day which shall be named by the Commissioners for disafforesting the said Forest, then and in every such Case it shall be lawful for the Owner of any Allotment to hunt and kill any Deer within such Allotment, without being subject to any Pain, Penalty, or Punishment for so doing.

LXII. And be it further enacted, That from and after the said Day to be named by the said Commissioners as aforesaid, all Right of Soil and Game, of Deer, and all other Forestial Rights and Privileges whatsoever of the King's Majesty, His Heirs and Successors, and His or their Lessee or Lessees, and of all other Persons whomsoever, within, upon, and over the said Forest of *Parkhurst*, or the Regard thereof, shall cease, determine, and be for ever extinguished, and the Whole of the said Forest shall be disafforested to all Intents and Purposes whatsoever.

The Forest disafforested from and after a Day to be named by the Commissioners.

LXIII. And be it further enacted, That from and after the said Forest shall be disafforested, no Rabbits shall be kept on any of the Allotments directed to be made by virtue of this Act, on any Account or Pretence whatsoever.

After the Forest is disafforested, no Rabbits to be kept.

LXIV. And be it further enacted, That the said Commissioners shall and they are hereby required to value all Timber, of every Description whatsoever, and all Underwoods, Bushes, Hollies and Thorns, Heritors and Standils, which shall be standing or growing upon such Parts of the said Forest as shall not be allotted to His Majesty, His Heirs and Successors; as also to direct under their Hands what Sum or Sums of Money shall be paid, and by whom, to His Majesty, His Heirs and Successors, for the Timber, Underwood and Bushes, Hollies and Thorns, Heritors and Standils, which shall be standing and growing on any Part or Parts of the said Forest.

Commissioners to value Timber, &c. on such Parts as shall not be allotted to His Majesty.

LXV. And for the better Preservation of the Trees, Woods, Underwoods, Heritors, and Standils growing, or which may hereafter be planted and nourished to grow, or be growing in or upon any Part of the said Allotments so to be made in pursuance of this Act, as well before as after the same shall be divided by Fences into the several Allotments as aforesaid; be it further enacted, That all Persons whomsoever who shall, from and after the passing of this Act, unlawfully cut down and split, bark, peel, damage, deface, destroy, or carry away any Timber Tree or other Tree, Wood or Covert, or green Stick, or any Heritor and Standil, within the Limits of the Regard of the said Forest, not being the Owners thereof, shall be subject and liable to all such Pains, Penalties, and Punishments, as are provided by the Laws and Statutes of this Realm to be brought, given, imposed, or inflicted upon any Person or Persons committing the like Offence or Offences in the Lands, Grounds, Woods, or Cop-

Penalties for Persons damaging Trees, &c.

pices, being inclosed, and the private Property of any of His Majesty's Subjects.

For preventing Quicksets from being damaged by Sheep.

LXVI. And be it further enacted, That no Sheep or Lambs shall be kept in any of the new Inclosures to be made by virtue of this Act, during the Space of Ten Years from the Execution of the said Award, unless the Person or Persons keeping any such Sheep or Lambs shall and do, at his, her, or their own Expence, fence or guard his, her, or their Neighbours Quicksets adjoining the Inclosures wherein such Sheep or Lambs shall be kept, so as to prevent any Damage being done to such Quicksets by such Sheep or Lambs; and it shall not be lawful for any Person or Persons to turn or put, or cause to be turned or put, any Sheep, Lambs, Horses, Asses, or other Beasts or Cattle, into any of the Ways, Lanes, or Roads, on either Side of which any newly planted Fence shall be growing.

Surplus produced by Sales to be divided between Proprietors in Fee according to their Interests.

LXVII. And be it further enacted, That in case such Part or Parts of the said Open Commonable Parts of the said Forest, hereby directed to be sold as herein-before mentioned, shall be sold for more Money than will be required to defray such Costs, Charges, and Expences as aforesaid, then and in such Case One-third Part of such Surplus Money shall be appointed and appropriated unto and for His said Majesty, His Heirs and Successors, and the remaining Two-thirds shall be divided and apportioned between the several Persons interested in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, (except the Surveyors of the Highways in respect of their Allotments as Surveyors as aforesaid), in such Shares as shall be in Proportion to such their respective Property, Rights, and Interests; and the respective Shares of such of them as shall be Tenants in Fee Simple of their respective Allotments, shall be paid to them respectively; and the Shares of such other Proprietors or Persons of and in such Surplus Money, shall be applied and disposed of in Manner directed by the said recited Act of the Forty-first Year of the Reign of His present Majesty, in case 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.

Surplus Expences of the Act to be raised by Rate.

LXVIII. And be it further enacted, That in case the Monies to be raised by such Sale as aforesaid shall not be sufficient to pay and defray all the Costs, Charges, and Expences as aforesaid, then One-third Part of such Deficiency shall be paid and borne by His said Majesty, His Heirs and Successors, and the remaining Two-third Parts of the said Deficiency shall be borne and paid by the several Persons interested in the said intended Division and Inclosure (except the Surveyors of the Highways, in the Respect of the Allotments hereby directed to be made to them as Surveyors), in such Parts, Shares and Proportions, and shall be paid by such Person or Persons, and at such Times and Manner, as the said Commissioners shall in and by their said Award, or by any other Writing or Writings under their Hands, either previous to or after the Execution of their said Award, order, direct, and appoint, according to the Value of their respective Allotments in the said Open Commonable Parts of the said Forest; and the said Commissioners are hereby authorized and required

The Commissioners to make a Rate

from Time to Time, as often as they shall deem it necessary and proper, either before or after the Execution of the said Award, to raise the Amount of such Two-third Parts of such Deficiency by a Rate or Rates accordingly; and in case any such Owner or Owners, or other Person or Persons interested as aforesaid, shall refuse or neglect to pay his, her, or their Share, Part, or Proportion of such Costs, Charges, and Expences, according to such Order, Direction, and Appointment as aforesaid, then and in such Case the same shall and may be levied and recovered in Manner directed by the said recited Act.

according to the Value of the several Allotments; in case of a Deficiency, the Rate to be levied as directed in the General Inclosure Act.

LXIX. And whereas some of the Persons interested in the said Open Commonable Parts of the said Forest hereby directed to be divided, allotted, and inclosed, may have Occasion to borrow Money to defray their respective Shares and Proportions of the Charges and Expences of carrying this Act into Execution; be it therefore enacted, That it shall and may be lawful for all Persons whomsoever interested in such Lands and Grounds, being a Tenant or Tenants for Life with or without Impeachment of Waste, or Tenants in Fee Tail general or special, or by the Courtesy of *England*, or Lessee or Lessees for any Life or Lives, or for Years determinable on any Life or Lives, and also to and for the Husbands, Guardians, Trustees, and Committees of any of the said Owners or Proprietors under Coverture, Minors, Ideots, Lunatics, or beyond the Seas, or labouring under any other Disability whatsoever, and also to and for all Persons acting as Guardians, Trustees, or Committees of any Owners or Proprietors being under any Disability or Incapacity whatsoever, whether such Owners or Proprietors respectively be Tenants for Life with or without Impeachment of Waste, Tenants in Fee Tail general or special, or Tenants by the Courtesy of *England*, or Lessee or Lessees for any Life or Lives, or for Years determinable on any Life or Lives (except the Surveyors of the Highways of the said respective Parishes, for or in respect of any Allotment or Allotments made to them as Surveyors as aforesaid), by any Deed or Deeds, Writing or Writings, under their respective Hands and Seals, to be duly executed and attested by Two or more credible Witnesses, to charge the Freehold Part, and by Surrender or Surrenders duly passed according to the Custom or Customs of the Manor whereof the same is, are, or shall be holden, to charge the Copyhold Part of such Lands and Grounds as shall be allotted to such Owners and Proprietors respectively, with any Sum or Sums not exceeding Five Pounds for each and every Acre thereof, for defraying their respective Proportion of the Charges and Expences of executing this Act, and of inclosing and subdividing their respective Allotments, as the said Commissioners shall think proper for such Purpose; the same to be paid to such Person or Persons, and to be applied for the Purposes aforesaid, in such Manner as the said Commissioners shall direct and appoint; and for securing the Repayment of such Sum and Sums of Money, with Interest for the same, to grant, lease, demise, mortgage, surrender, or otherwise subject their said respective Allotments, or any Part thereof, unto any Person or Persons who shall advance and lend such Sum or Sums of Money respectively, his, her, or their Heirs, Executors, Administrators, or Assigns, for any Term or Number of Years as to the Freehold Part thereof, and for such Estate, Term, or Interest, as to the Copyhold Part thereof, as shall be conformable to the Custom of the respective Manors, so that every such Grant, Lease, Mortgage, Demise, Surrender, or Security, be made with a Proviso or Condition to cease and be void, or

Tenants for Life empowered to borrow Money.

with

with an exprefs Trust to be surrendered, when ſuch Sum or Sums of Money thereby to be ſecured, and the Intereſt thereof, ſhall be fully paid and ſatisfied; and ſo that in every ſuch Grant, Leaſe, Mortgage, Demiſe, Surrender, or Security, which ſhall be made by any Perſon or Perſons intereſted in or entitled unto the ſaid Premises for the Term of their natural Life only, or by his, her, or their Guardian or Guardians, Trustee or Trustees, Committee or Committees, there be contained a Proviſo or Covenant that the Owner or Proprietor of the ſaid Premises ſhall duly pay and keep down the Intereſt of any Sum or Sums of Money to be thereby ſecured during their reſpective Lives; and that no Perſon afterwards becoming ſeiſed or poſſeſſed of the ſaid Premises ſhall be liable to the Payment of any further or larger Arrear of Intereſt than for One Year preceding the Time at which the Title to ſuch Poſſeſſion ſhall have commenced; and every ſuch Grant, Leaſe, Mortgage, Demiſe, Surrender, or Security of the ſaid Premises, ſhall be good, valid, and effectual in the Law, for the Purpoſes thereby intended.

Power for certain Perſons incapacitated to ſell their Allotments.

LXX. And be it further enacted, That it ſhall be lawful for the ſaid Commissioners, on Application being made to them in Writing by any of the Huſbands, Guardians, Trustees, Committees or Attornies of or for any of the ſaid Proprietors or Perſons intereſted in the Premises, being under Coverture, Minors, Ideots, Lunatics, or beyond the Seas, or under any other Diſability or Incapacity, or by the Perſons acting as ſuch Guardians, Trustees, Committees or Attornies reſpectively, or by any of the Proprietors of the Lands hereby directed to be divided, allotted, and incloſed, or any Part thereof, who are, or is, or ſhall be Tenant or Tenants in Tail, or for any Life or Lives, or on any other Contingencies, to ſell any Part of the Allotment or Allotments to be made by virtue of this Act, to ſuch incapacitated Proprietor or Proprietors, or other Perſon or Perſons by whom, or on whoſe Behalf any ſuch Application ſhall be made as aforeſaid, for the Purpoſe of raiſing any Sum of Money ſufficient to defray the reſpective Shares and Proportions of the Coſts, Charges, and Expences of executing the ſaid recited Act and this Act, which ſhall be charged upon, or be payable by ſuch incapacitated Proprietors, or other Perſon or Perſons reſpectively, and of fencing and incloſing and ſubdividing his, her or their Allotments, and of making and completing ſuch Sale, ſhall be made by the ſaid Commissioners in ſuch and the like Manner, and ſubject to ſuch and the like Rules and Regulations as are mentioned and preſcribed in and by the ſaid recited Act, in reſpect of the Sale of any Lands authorized to be ſold for paying the Expences of obtaining and carrying into Execution any Act for dividing, allotting, and incloſing any Lands and Grounds; and each and every Allotment for which the full Purchase Money ſhall be paid, ſhall be conveyed by the ſaid Commissioners, at the Expence of ſuch Purchaſer or Purchaſers, unto and to the Uſe of, or in Trust for ſuch Purchaſer or Purchaſers, and his, her, or their Heirs reſpectively, or as he, ſhe, or they ſhall appoint, and ſhall be incloſed and held by ſuch Purchaſer or Purchaſers reſpectively in Severalty, and the Receipt of the ſaid Commissioners ſhall be a good and ſufficient Diſcharge to ſuch Purchaſer or Purchaſers for the ſaid Purchase Money, which ſhall be applied by the ſaid Commissioners in or towards defraying ſuch laſt-mentioned Coſts, Charges, and Expences; and if any Overplus ſhall remain in the Hands of the ſaid Commissioners, the ſame ſhall be applied and diſpoſed of by them in Manner directed by the ſaid recited Act, with reſpect to the Money

Money which is thereby directed to be paid into the Bank of *England*; for the Purchase or Exchange of any Lands, Tenements or Hereditaments, to be settled to the same Uses, or of Timber or Wood growing thereon, and which ought to be laid out in the Purchase of other Lands, Tenements, and Hereditaments, as therein mentioned: Provided always, that it shall not be lawful to raise by such Sale any further or greater Sum of Money than the Person or Persons, Part of whose Allotment or Allotments shall be sold as aforesaid, would have been empowered or authorized to borrow or charge upon his, her, or their Estate or Estates, under or by virtue of the said recited Act: Provided also, that in all Cases where any Lands shall be sold for Payment of Expences as aforesaid, it shall not be lawful for the Proprietor or Person whose Lands shall be so sold, to charge the same, by virtue of the said recited Act or this Act, with any Money towards Payment of such Expences.

LXXI. And be it further enacted, That if any Person or Persons shall advance any Sum or Sums of Money for defraying the Expences of carrying this Act into Execution, every such Person shall be repaid the same, with Interest at the Rate of Five Pounds *per Centum per Annum*, out of the Monies that shall be raised or received by the said Commissioners, by virtue of this Act, for defraying such Expences.

Money to be repaid with Interest.

LXXII. And be it further enacted, That out of the Money which shall be raised for defraying the Expences of obtaining, passing, and executing this Act and the said recited Act, the said Commissioners, who shall act in the Execution of the Trusts and Powers of this Act, shall be paid the Sum of Three Guineas each, and no more, for each and every Day he or they shall be attending in or about the Execution thereof, and in travelling to and from the Meetings necessary for that Purpose, the same to include and be in Satisfaction of all Costs and Expences, in travelling and otherwise, which he or they shall be put to in executing the same; and the Clerk to the said Commissioners shall be paid and allowed for each and every Day he shall in like Manner be attending, such Sum as the said Commissioners or any Two of them shall think just and reasonable, not exceeding Three Guineas a Day; and that the Surveyors shall be paid and allowed, for their Pains and Trouble, such Sum or Sums of Money as the Commissioners shall think just and reasonable; and that every Proprietor, Attorney, and Agent, who shall attend the said Commissioners at any of their Meetings to be held in pursuance of this Act, shall pay his own Expences at all such Meetings; and in such Cases as the Objection or Approbation of the Proprietor, of any Act, Matter, or Thing, to be done or proposed to be done in pursuance of the said recited Act and this Act, is directed to be made and testified at any Meeting or Meetings, it shall be lawful for the Proprietor to attend such Meeting or Meetings by their respective Agents or Proxies, duly authorized in Writing under their respective Hands, whose Act or Votes shall be as effectual as if such Proprietors were present in Person.

Compensation for Commissioners, Clerks, and Surveyors.

Proprietors may attend Meetings by their Agents or Proxies.

LXXIII. 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 Commissioners shall and they are hereby required to make a true and just Statement or Account of any Sums of Money by them or any of them received and expended, or due to them

Accounts to be examined and balanced by Two Magistrates annually, and no Items in

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for

the Account shall be binding unless allowed by 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, if required, laid before Two or more of His Majesty's Justices of the Peace for the said County of *Southampton*, (not interested in the said intended Division and Inclosure,) to be by them examined and balanced (such Justices being hereby authorized to take or call such Aid and Assistance in such Examination as they shall think fit, and to charge the incidental Expences), and the Balance shall be by such Justices stated in the Books of Account to be kept in the Office of the Clerks of the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in the Law, unless allowed by Two Justices of the Peace as aforesaid.

Commissioners to sit 12 Days in every Two Months, and the Award to be made in Three Years from passing of this Act.

To be deposited with the Clerk of the Peace for the County of *Southampton* or Town of *Newport*.

LXXIV. And be it further enacted, That after the Surveyors shall have made and delivered their Survey of the said Forest to the said Commissioners, in Manner herein-before directed, they the said Commissioners, or the major Part of them, shall proceed in the Execution of this Act, and the said recited Act, with all possible Dispatch, and shall sit or employ themselves in the Execution of this Act, at least Twelve Days in the every Two Calendar Months ensuing, exclusive of the Days of travelling to the Place or Places of Meeting, until the whole of their Proceedings shall be completed; and that the Award of the said Commissioners shall be made and executed within Three Years next after the passing of this Act; and when the same shall be inrolled in Manner directed by the said recited Act, it shall be deposited and left with the Clerk of the Peace of the said County of *Southampton*, to be by him kept among the Records of the said County of *Southampton*, or with the Town Clerk of *Newport*, as the said Commissioners shall direct; where the same shall and may be inspected and perused at all seasonable Times in the Day-time for ever thereafter, by any Person or Persons whomsoever, paying the Sum of Five Shillings, and no more, to the said Clerk of the Peace, or Town Clerk, or his Deputy, for every such Inspection and Perusal.

Attested Copy of Award and Plan of Allotments to be left with the Commissioners of Woods, &c.

and also with the Auditor of Land Revenue.

LXXV. And be it further enacted, That the said Commissioners shall and they are hereby required to make a Copy, attested under their Hands, of their Award, and also a Map or Plan of all the Allotments, and transmit the same to the Commissioners of His Majesty's Woods, Forests, and Land Revenue, or to the Surveyor General of His Majesty's Woods and Forests for the Time being, within Two Calendar Months next after the making and executing of the said Award, to be by him filed and kept amongst the Muniments of his Office; and also an authenticated Duplicate thereof to the Auditor of the Land Revenue; such respective Map and Duplicate to be produced, read, and received in Evidence, on all Occasions where any Question, Doubt, or Controversy may arise, relating to or affecting the Rights or Interests of His Majesty, His Heirs or Successors, in respect of such Allotment or Allotments, Rights or Interests.

Duplicate of Award, etc. to be made, if required.

LXXVI. And be it further enacted, That the said Commissioners shall, at the Request, Costs, and Charges, of any Person or Persons, Bodies Politic, Corporate, or Collegiate, having an Allotment of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, at any Time within the Space of Six Months after depositing of the said general Award as aforesaid, make and execute a Copy or Copies of the said general Award and Surveys,

or Plans, or any of them, or any Part or Parts thereof respectively, for the Use of every Person or Persons, Bodies Politic, Corporate, and Collegiate, requesting the same; and every such Copy, without being inrolled, and on Paper stamped according to Law for Copies of Records, at all Times thereafter shall be admitted as legal Evidence in all Courts whatsoever.

LXXVII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved, by any Thing done in pursuance of this or the said recited Act, (other than and except such Orders and Determinations as are by the said recited Act made in the Forty-first Year of the Reign of His present Majesty, or by this Act, directed to be made final and conclusive, and save and except in such Cases wherein an Issue at Law shall be tried, as herein-before directed) then, and in every such Case, he, she, or they may appeal to the General Quarter Session of the Peace which shall be held in the said County of *Southampton*, within Three Calendar Months after such Cause of Complaint shall have arisen, on giving to the said Commissioners Ten Days previous Notice of such Appeal; and the Justices of the said Quarter Session are hereby required to hear and determine the Matters of every such Complaint, and make such Order therein, and to award such Costs as to them shall seem reasonable, and by their 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) to the Owner or Owners, after deducting the reasonable Charges; which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari*, or any Writ or Writs whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

Parties aggrieved may appeal to the General Quarter Session.

LXXVIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all Bodies Politic, Corporate, or Collegiate, and their Successors, and to all and every Person and Persons whomsoever, his and their Heirs, Executors, Administrators, and Assigns, all such Estate, Right, Title, Interest, Claim, and Demand whatsoever (other than and except such as is and are hereby expressed, meant, and intended to be barred, destroyed, or extinguished), as they, every or any of them, had or enjoyed in, to, or out of the said Forest, or as they, every or any of them, now have or hath, or could have had and enjoyed therein in case this Act had not been made.

General Saving.

LXXIX. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without specially pleading the same.

Public Act.

