



ANNO QUINQUAGESIMO TERTIO

GEORGI III. REGIS.

Cap. 178.

An Act for inclosing Lands in the Parish of *Winterbourne Monckton* in the County of *Wilts.*

[22d June 1813.]

WHEREAS there are, within the Parish of *Winterbourne Monckton*, in the County of *Wilts*, several Open and Common Fields, Common Meadows, Common Pastures, Downs, Commons, and other Commonable Lands, containing in the Whole by Estimation Nine hundred and sixty-five Acres or thereabouts: And whereas *Edward William Leyborne Popham* Esquire is Lord of the Manor of *Winterbourne Monckton*: And whereas the King's most Excellent Majesty is Patron of the Vicarage and Parish Church of *Winterbourne Monckton* aforesaid; and the Reverend *James Mayo* is Vicar of the said Vicarage and Parish Church, and as such is entitled to all Vicarial or Small Tythes arising within the said Parish, except of Six hundred and forty Acres or thereabouts, and also to the Great or Rectorial Tythes of One hundred Acres or thereabouts, within the said Parish: And whereas *Charles Hitchcock* is entitled to the Great or Rectorial Tythes arising from Six hundred and forty Acres, or thereabouts, of Arable and Pasture Land within the said Parish, called *Winterbourne Monckton Farm*, and to the Tythes of Hay, Wool, and Lamb, arising from the same Six hundred and forty Acres or thereabouts in the said Parish; and the said *Edward William Leyborne Popham* is entitled to all the rest of the Great or Rectorial Tythes within the said Parish, amounting to Nine hundred Acres or thereabouts, subject to a Lease heretofore granted thereof by *Edward Popham* Esquire to *William Hitchcock*, since deceased, for a Term

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of Years determinable on the Deaths of the said *William Hitchcock*, *John Hitchcock*, and *Harry Hitchcock*: And whereas the said *Edward William Leyborne Popham*, *John Brown*, the said *John Hitchcock*, and the Reverend *James Mayo*, and divers other Persons, are Owners and Proprietors of or otherwise interested in the said Open and Common Fields, Common Meadows, Common Pastures, Downs, Commons and other Commonable Lands, and are or claim to be also entitled to certain Rights of Common and other Commonable Rights and Interests in, over, and upon the same: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating in One Act, certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas by reason of the intermixed State of the Property in the said Open and Common Fields, Common Meadows, Common Pastures, Downs, Commons and other Commonable Lands, the same are not capable of being cultivated in the most profitable Manner, and it would be beneficial to all Parties concerned if the same were to be set out, divided and allotted unto and amongst the several Proprietors thereof, and Persons interested therein, according and in Proportion to their respective Estates, Rights and Interests, and if such Allotments were conveniently laid together and inclosed; and it will also be advantageous to all the Parties interested in all the Lands and Grounds within the said Parish of *Winterbourne Monckton*, if the same are exonerated from Tythes; but inasmuch as the said several Objects cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Open and Common Fields, Common Meadows, Common Pastures, Downs, Commons, and other Commonable Lands in the Parish of *Winterbourne Monckton* aforesaid, shall, as soon as conveniently may be after the passing of this Act, be divided, allotted, and inclosed; and that all the Lands and Grounds within the said Parish subject and liable to Tythes shall be exonerated therefrom; and that *John Davis* of *Bloxham*, in the County of *Oxford*, Gentleman, and *Richard Richardson* of *Lincoln's-Inn Fields*, in the County of *Middlesex*, Gentleman, and their Successors to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for valuing, dividing, allotting, and inclosing the said Open and Common Fields, Common Meadows, Common Pastures, Downs, Commons, and other Commonable Lands, and for exonerating from Tythes the Lands and Grounds within the Parish of *Winterbourne Monckton*, and for putting this and the said recited Act in Execution, in Manner and subject to the Rules, Orders and Directions herein-after contained, and also subject to the Powers, Provisions and Regulations of the said recited Act, except where the same are hereby varied or altered.

Commissioners.

Appointing a Third Commissioner, in case the Commissioners shall differ in Opinion.

II. Provided always, and be it further enacted, That if they the said Commissioners or their Successors shall differ in Opinion upon any of the Matters and Things directed to be executed by them by virtue of this Act, in that case *John Gale* of *Sturt*, in the County of *Wilts*, Gentleman, shall be and he is hereby appointed a Third Commissioner for carrying this and the said recited Act into Execution, with respect to such Matters and Things only on which the said Two first-named Commissioners or their Successors

Successors shall differ in Opinion as aforesaid; and in such Case it shall be lawful for any One of the said first-mentioned Commissioners or their Successors, together with the said *John Gale*, or his Successor, to execute all Powers, Authorities, Acts, Matters and Things requisite to be done in the Execution of this or the said recited Act, and which shall be as valid and effectual to all Intents and Purposes as if done and executed by the said Two first-named Commissioners.

III. Provided always, and be it further enacted, That if before the Powers and Authorities reposed in the said Commissioners shall have been fully executed and performed, the said *John Davis* or *Richard Richardson* shall die, or refuse to act, or qualify himself, or shall become incapable of acting as a Commissioner in the Execution of such Powers and Trusts, it shall be lawful for the Impropriators and Vicar for the Time being, and the said *John Brown*, or his Heirs or Assigns, and they are hereby required by Writing under their Hands to appoint some other fit Person, not interested in the said intended Division and Inclosure, to be a Commissioner in the Place of the said *John Davis* or *Richard Richardson*, and so from Time to Time as often as any Commissioner to be appointed by the said Impropriators and Vicar for the Time being, and the said *John Brown*, or his Heirs or Assigns, shall die or refuse to act, or to qualify himself, or become incapable of acting as aforesaid, and so from Time to Time as often as any Commissioner to be appointed as aforesaid shall die, or refuse to act, or to qualify himself, or shall become incapable of acting as aforesaid; and that in case the said *John Gale* shall die, or refuse to act, or to qualify himself, or shall become incapable of acting as a Commissioner in the Execution of such Powers and Authorities, it shall be lawful for the said Impropriators and Vicar, and *John Brown*, or his Heirs or Assigns, who shall by themselves or their respective Agents attend the Meeting or Meetings to be appointed by the surviving or remaining Commissioner or Commissioners for that Purpose, by Writing under their Hands, to appoint some other fit Person (not interested in such Division and Inclosure) to be a Commissioner in the Place of the said *John Gale*, and so from Time to Time as often as any Commissioner to be appointed as last aforesaid shall die, or refuse to act, or to qualify himself, or shall become incapable of acting as aforesaid; and if the said respective Parties herein-before named and authorized to appoint a new Commissioner in the room of the said *John Davis* or *Richard Richardson*, shall for the Space of Twenty-one Days after Notice to them given by the surviving or remaining Commissioners or Commissioner, refuse or neglect to appoint a new Commissioner in the Place and Stead of either of them, the said *John Davis* or *Richard Richardson*, who shall die, or refuse to act, or to qualify himself, or shall become incapable of acting as aforesaid, or if the said Impropriators and Vicar, and *John Brown*, or his Heirs or Assigns, shall refuse or neglect to appoint such new Commissioner in the room of the said *John Gale*, then and in every such Case the surviving or remaining Commissioners or Commissioner shall from Time to Time, by Writing under their or his Hands or Hand, appoint a fit and proper Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the Place of each Commissioner so dying or refusing to act, or to qualify himself, or become incapable of acting as aforesaid, whose Place shall not be filled up by the Person or Persons primarily enabled to appoint such new Commissioners or Commissioner as aforesaid; and every Commissioner to be appointed by

Appointing
new Commis-
sioners.

the Person or Persons respectively, and in the Manner hereby directed, shall have the like Powers and Authorities for putting this and the said recited Act into Execution as if he had been expressly named and appointed a Commissioner by this Act.

Power for Commissioners to appoint a Clerk.

IV. And be it further enacted, That the said Commissioners shall appoint a Clerk or Clerks to assist them in the Execution of this and the said recited Act, and shall or may remove such Clerk or Clerks, and appoint another or others in his or their room, as to them shall seem meet; and in case of the Death, Incapacity, or declining or neglecting to act of any such Clerk or Clerks, then and in any such Cases the said Commissioners shall and may appoint any other Person or Persons they may think proper to be their Clerk or Clerks.

Allowance to the Commissioners.

V. And be it further enacted, That each of the Commissioners acting in Execution of the Trusts and Powers hereby vested in them, shall be allowed and paid in Satisfaction of their Trouble and Expences, the Sum of Three Pounds and Three Shillings and no more for every Day on which they shall be respectively employed in travelling to, attending on, or returning from so acting; and at all the Meetings to be held in pursuance of this Act the said Commissioners and Clerk shall pay their own Expences.

Surveyor.

VI. And be it further enacted, That *Thomas Phillips* of *Andover*, in the County of *Southampton*, Land Surveyor, shall be and is hereby appointed Surveyor for making such Survey, Admeasurement, or Plan, and for reducing the same into Writing, and specifying and setting forth such Particulars as are in that Behalf directed under and by virtue of this and the said recited Act; and in case the said *Thomas Phillips* shall die, refuse, or neglect to act, or be or become incapable of acting, the said Commissioners shall and they are hereby required and authorized forthwith to elect and appoint another Surveyor in his Stead, and so from Time to Time as often as the Surveyor for the Time being shall die, or refuse or neglect to act, or be or become incapable of acting; and no Person shall act as such Surveyor until he shall have taken and subscribed an Oath or Affirmation in the following Words; (that is to say,)

‘ I Do swear [or, being one of the People called *Quakers*, do solemnly declare and affirm,] that I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Duties incumbent on me as a Surveyor, by virtue of an Act passed in the Fifty-third Year of His Majesty King *George* the Third, intituled [here set forth the Title of this Act,] according to Equity and good Conscience, and without Partiality, Favour or Affection, Prejudice or Malice to any Person or Persons whomsoever. So help me GOD.’

Which Oath or Affirmation the said Commissioners, or any One of them, are or is hereby authorized and required to administer; and the said Oath or Affirmation so taken and subscribed by such Surveyor or Surveyors, shall be annexed to and deposited with the Award of the said Commissioners.

Notice of Meetings.

VII. And be it further enacted, That the said Commissioners shall and they are hereby required to give public Notice in Writing, to be affixed upon one of the Outer Doors of the Parish Church of *Winterbourne Monck-*

ton aforesaid, on some *Sunday* during Divine Service, of the Time and Place of their First and every subsequent Meeting for putting this and the said recited Act in Execution, at least Fourteen Days before the Time appointed for holding such Meetings respectively (Meetings by Adjournment only excepted); and it shall and may be lawful for the Commissioners at any of their Meetings to be holden in pursuance of this Act, from Time to Time, as they shall find it convenient, to continue such Meeting by Adjournment for the due Execution of this Act, leaving Notice at the Place where the said Commissioners shall be sitting at the Time of any Adjournment, of the Time and Place to which such Meeting shall be adjourned: Provided always, that if only One of the said Commissioners shall attend at the Time and Place appointed for any Meeting to be holden pursuant to this Act, it shall be lawful for such One Commissioner, and if no Commissioner shall attend at the Time and Place so appointed, then it shall be lawful for the Clerk to the said Commissioners, and such Commissioner and Clerk respectively have hereby full Power to adjourn such Meeting to any future Day they shall respectively see most convenient, to be holden at the same or any other Place, the Clerk giving due Notice to the absent Commissioners or Commissioner of the Time and Place to which every Adjournment shall be made; and so from Time to Time as often as there shall be Occasion, until Two Commissioners shall be present; provided also, that all Meetings of the said Commissioners in the Execution of this or the said recited Act, shall be held within Eight Miles of the said Parish of *Winterbourne Monckton*.

VIII. And be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners shall be so made and given in Writing, to be signed by their Clerk or Clerks by their Order, and affixed on the principal Outer Door of the Parish Church of *Winterbourne Monckton* aforesaid, and also by Advertisement in the Newspaper called *The Salisbury Journal* or *Reading Mercury*, or in some other Newspaper printed or circulated in the said Parish of *Winterbourne Monckton*.

Other Notices how to be given.

IX. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested in the said intended Division and Inclosure, touching or concerning the respective Shares and Proportions, Rights and Interests which any of them shall claim of and in the Lands and Grounds hereby directed to be divided, allotted and inclosed, it shall be lawful for the said Commissioners, and they are hereby empowered to inquire into, hear and determine the same respectively: Provided always, that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Lands, Tenements, or Hereditaments whatsoever.

Commissioners to settle Disputes.

X. 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 Encroachments made within the Period of Twenty Years as herein-after mentioned; but in case the said Commissioners shall be of Opinion against the Rights of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been given up or re-

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

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covered from such Person or Persons by Ejectment, or other due Course of Law.

Power to
award Costs.

XI. 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 or him in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they and he are and is hereby empowered, upon Application made to them or him for that Purpose, to settle, assess, and award such Costs and Charges as they or he shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections shall be disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners, and they and he are and is hereby authorized and required, by Warrant under their Hands and Seals, or his Hand and Seal, 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 so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Allowing
Parties dis-
satisfied with
Commission-
ers Determi-
nation to try
their Rights
at Law.

XII. Provided always, and be it further enacted, That if any Person or Persons, or Body or Bodies Politic or Corporate, who shall make any Claim or Claims to or upon any of the Commons and Commonable Grounds, or any other Lands and Hereditaments intended to be divided or affected by this Act, or any Right or Interest therein, or who shall object to any Claim or Claims to be made by any other Person or Persons, Body or Bodies Politic or Corporate, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any such Claim or Objection, and shall give Notice thereof in Writing to the said Commissioners, within Sixty Days after such Determination shall have been so made by the said Commissioners, of which Notice the said Commissioners are hereby required, immediately upon or as soon as may be after the Receipt thereof, to cause a true Copy to be delivered to or left at the usual Place of Abode of the adverse Party or Parties, or of his, her, or their respective Agents or Attornies, then, but not otherwise, it shall be lawful for the Person or Persons, Body or Bodies Politic or Corporate, giving such Notice, or their respective Heirs, Successors, or Assigns, to proceed to a Trial at Law of the Matter or Matters so determined by the said Commissioners, at the then next Assizes to be holden for the County of *Wilts*, unless such next Assizes shall happen within Four Calendar Months after making the Determination in Question, and in that Case at the following Assizes, and for that Purpose the Person or Persons, Body or Bodies Politic or Corporate, who shall be dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought in One of His Majesty's Courts at *Westminster*, upon a feigned Issue, against the Person or Persons, Body or Bodies Politic or Corporate, in whose Favour such Determination shall have been made; and the Defendant or Defendants in such Action or Actions shall name an Attorney or Attornies, who shall appear

appear thereto and file common Bail, and accept One or more Issue or Issues, whereby the 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 final and conclusive upon all and every such Person and Persons, Body or Bodies Politic and Corporate, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial or new Trials to be had therein, which it shall be lawful for the Court to do; and also upon sufficient Cause shewn to put off the Trial of such Issue, 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: Provided always, that in case the Determination of the said Commissioners touching the Matters aforesaid shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action or Actions at Law to be brought and proceeded in within the Time and in the Manner for that Purpose mentioned, such Determination shall be final and conclusive upon all Parties; and if any of the Parties, Plaintiffs, or Defendants in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason of such Death, but shall be proceeded in as if such Death had not happened.

Deaths of Parties not to abate Actions.

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

Suits respecting Titles not to impede the Execution of this Act.

XIV. And be it further enacted, That if any of the Proprietors or Persons interested in the said intended Division and Inclosure shall happen to die before making of the Allotments or the Execution of the Award of the said Commissioners, the Powers and Authorities in this Act contained shall not be determined or suspended, but the Share or Shares in the Premises of the Party or Parties respectively so dying, shall be allotted to the Person or Persons, who shall at the Time of making the Allotments or the Execution of the said Award, appear to the said Commissioners to be in Possession of or entitled to the same, and such Person or Persons shall be liable to the Charges and Expences, and other Conditions of this Act, in like Manner as if he, she, or they had been in Possession of or entitled to the same at the Time of passing this Act.

Deaths of Parties not to prevent the Execution of this Act.

XV. Provided

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

XV. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Bodies Politic or Corporate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same, within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the Clerk 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 also be incumbent on the Heir or Heirs, or Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Shortening Boundary Fences.

XVI. And be it further enacted, That in order to shorten the Boundary Fences between the Lands hereby directed to be divided and inclosed, and any of the adjoining Parishes, it shall be lawful for the Commissioners, with the Consent in Writing under the Hand or Hands of the Lords or Ladies of the Manors respectively, and of the Owner or Owners of any of the Lands upon which such Fence or Fences is or are intended to be made, in Writing under their respective Hands, to set out, ascertain and determine the Boundary Fences to be made between the Lands hereby directed to be divided and inclosed, and any of the adjoining Parishes, in such Manner as they shall judge proper, for the Purposes aforesaid; and after such Boundary Fences shall be ascertained, determined and set out as aforesaid, the same shall be fenced by such Person or Persons in such Manner, and at such Time or Times as the said Commissioners shall order and direct in and by their Award, and shall be for ever hereafter deemed and taken to be the Boundaries between the Lands hereby directed to be divided and inclosed, and such adjoining Parish or Parishes respectively, any Law, Usage, or Custom to the contrary thereof notwithstanding.

Power to divert Roads.

XVII. And be it further enacted, That it shall and may be lawful for the said Commissioners, and they are hereby authorized and empowered to divert and stop up any old public Carriage Road, Bridleway, or Footpath, leading through and over the Lands and Grounds intended to be divided and inclosed by virtue of this Act, or passing or leading through any of the old Inclosures in the said Parish; and the Soil of the Roads or Ways so to be diverted or stopped up shall be deemed and taken as Part of the Lands and Grounds to be divided and inclosed, provided that no such Carriage Road, Bridleway, or Footpath, passing or leading through old Inclosures shall be stopped up without the Concurrence and Order of Two Justices of the Peace for the said County of *Wilts*, acting in and for the Division or Hundred in which such Carriage Road, Bridleway, or Footpath shall be situated, and not interested in the Repairs of such Roads; and such Order shall be subject to an Appeal to the Quarter Sessions

Sessions for the said County of *Wilts*, in like Manner and under such Forms and Restrictions as if the same had been originally made by such Justices.

XVIII. And be it further enacted, That the said Commissioners shall and may scour and widen all ancient Brooks, Ditches and Tunnels, in or upon the Lands and Grounds intended to be hereby inclosed, and also shall and may make, set out, and appoint such new Ditches, Drains, Watercourses, Tunnels, Watergates, Sluices, Banks and Bridges, as well in, through, and over the Lands and Grounds hereby intended to be divided and inclosed as aforesaid, as in, through, and over any ancient Inclosures or other Lands and Grounds within the said Parish of *Winterbourne Monckton*, with the previous Consent in Writing of the Proprietors of such ancient Inclosures, or other Lands and Grounds not hereby directed to be divided and inclosed, of such Depth and Breadth, and in such Directions as the said Commissioners shall think fit; and the said Commissioners shall and may, and they are hereby directed in and by their Award to appoint and order by whom, and at whose Expence, and at what Time, and in what Manner the said Brooks, Drains, Ditches, Watercourses, Tunnels, Watergates, Sluices, Banks, Bridges, and other Requisites shall be made, and thereafter repaired, cleansed, scoured, and maintained, and also shall and may direct and order all or any of the Streams, Springs of Water and Watercourses within the said Open and Common Fields, Lands or Grounds hereby directed to be divided, allotted and inclosed, or any inclosed Land within the said Parish of *Winterbourne Monckton*, to be conveyed, carried and turned into such Courses, and through, over, and across such Parts of the Lands or Grounds hereby directed to be divided and inclosed, or any other Land in the said Parish, as they the said Commissioners shall in their Discretion judge proper, for the Watering of the several Allotments to be made as aforesaid; provided that no such Stream, Spring of Water, or Watercourse, shall be turned from its present Course, in, through, from, or over any inclosed Lands or Grounds, without the Consent in Writing of the Owner or Owners for the Time being of the Lands from which and through or into which the same shall be diverted and carried.

Power to
make Drains,
&c.

XIX. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, at any Time when they in their Judgment shall think it convenient and proper, by Notice for that Purpose under their Hands, to be affixed on One of the Outer Doors of the said Parish Church of *Winterbourne Monckton* aforesaid, on some *Sunday* immediately before and until after Divine Service, to order the Right of Common in, upon, and over the Lands and Grounds hereby directed to be divided and inclosed, or any of them, to be extinguished, either in Whole or in Part, or to be suspended; and from and after the Time or Times to be mentioned in and appointed by any such Notice, all such Right of Common as shall thereby be directed to be extinguished or suspended, shall be extinguished according to and as shall be expressed in and directed by such Notice; and until such Division and Allotment as is hereby directed shall have been made of the Lands and Grounds to be divided and allotted, all such Lands and Grounds shall be stocked with such Cattle, and at such Times, and in such Manner only, and the Tillage Lands shall be sown by the Occupiers thereof, or by such other Persons as the said Commissioners shall appoint,

Power to ex-
tinguish
Rights of
Common.

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with such Sorts of Corn and Grain, and with such Kinds, Quantities, and Qualities of Grass, Turnips, and other Seeds, and shall be kept, ordered, and continued in such Course of Husbandry and Tillage, as the said Commissioners shall by Writing under their Hands in that Behalf direct, any Usage or Custom to the contrary notwithstanding; and that no Meadow, Pasture, or fresh Ground, Part of the Lands and Grounds hereby directed to be divided and allotted, and not in Tillage at the Time of passing this Act, shall be, without the Consent in Writing of the said Commissioners, before the Allotment thereof, ploughed, broken up, or converted into Tillage; and every Occupier of any such Land or Ground who shall refuse or neglect to comply with any such Direction of the said Commissioners; or who shall plough, break up, or convert into Tillage any such Meadow, Pasture, or fresh Ground, without the Consent in Writing of the said Commissioners, shall forfeit and pay a Sum not exceeding Five Pounds for every Acre of such Tillage Land with respect to which such Refusal or Neglect shall happen; and for every Acre of such Meadow, Pasture, or fresh Ground which shall be ploughed, broken up, or converted into Tillage, and so in Proportion in each Case for a greater or less Quantity than an Acre.

Allotment for Sand and Gravel Pits.

XX. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby required to set out, allot, and award, out of the said Lands and Grounds so intended to be divided, allotted, and inclosed as aforesaid, one or more Plot or Plots within the said Parish of *Winterbourne Monckton*, not exceeding in the whole Ten Acres, as and for public Sand or Gravel Pits, and not exceeding Five Acres, as and for public Chalk, Marl, Clay, or Mortar Pits, with convenient Ways thereto, to be used for the Repairs of the public Roads, and the Improvement of the Land within the said Parish, and to award and direct to whom the Herbage of such Allotments shall belong.

Allotment to the Vicar for Glebe and Common Right.

XXI. And be it further enacted, That the said Commissioners shall set out and allot unto the said *James Mayo* and his Successors, as and for his Allotment for Glebe and Common Right, so much of the Common Arable Fields as will in their Judgment be equivalent thereto.

Allotment to the Impro- priator and Vicar, for their Tythes of Open Fields and Commonable Grounds.

XXII. And be it further enacted by the Authority aforesaid, That as soon as the said Valuation and Survey are completed, and the Claims of the Parties are settled and adjusted, the said Commissioners shall set out and allot unto and for the Improprator or Impropriators of the Great or Rectorial Tythes for the Time being respectively, and the said *James Mayo*, and his Successors Vicars of *Winterbourne Monckton* aforesaid, for and in lieu of their several and respective Improprate and Vicarial Tythes, yearly issuing, arising, or renewing out of all and every the said Open and Common Fields, Common Pastures, Downs, Commons, and other Commonable Lands, within the Parish of *Winterbourne Monckton* aforesaid, over and above such Allotment as the said Improprator and Vicar shall or may be respectively entitled to in respect of their Glebe Land and Common Rights, and for and in lieu of all Dues, Payments and Compositions in lieu of such Tythes, such Plot or Plots of the Lands or Grounds by this Act intended to be divided and allotted as in the Judgment of the said Commissioners, or any Two of them, shall be equal in Value, (Quality, Quantity, Situation,

tion, and Convenience considered) to One Fourth Part of all the Arable Land in the said Open and Common Fields within the said Parish of *Winterbourne Monckton* (except the Glebe Land,) and such Plot or Plots of the Lands and Grounds so intended to be divided and allotted as in the Judgment of the said Commissioners shall be equal in Value (Quantity, Quality, Situation and Convenience considered) to One Eighth Part of the Herbage or Surface of the Common Pastures within the said Parish (except Glebe Land), which said Plots or Allotments shall be taken and deducted from and out of the respective Shares of the said Open and Common Fields and other Commonable Lands belonging to the several Persons whose Commonable Lands shall be exonerated from the said Tythes, or from or out of the Land to be allotted to them respectively in lieu of such Commonable Lands, and shall be in full Satisfaction and Discharge of and for the said several and respective Improprate and Vicarial Tythes, issuing, arising and renewing from and out of the said Open and Common Fields, Common Pastures, Downs, Commons and other Commonable Lands within the said Parish of *Winterbourne Monckton*.

XXIII. And be it further enacted by the Authority aforesaid, That the said Commissioners and their Successors shall also set out and allot to and for the Improprator or Improprators for the Time being, or his or their Lessee or Tenant as aforesaid, and the said *James Mayo*, and his Successors, Vicars of *Winterbourne Monckton*, for and in lieu of their several and respective Improprate and Vicarial Tythes, and Dues in lieu of Tythes arising, renewing and increasing, or payable to them respectively out of, upon, or for all and every, or any of the Homesteads, Gardens, Orchards, Closes, or other ancient Inclosures within the said Parish of *Winterbourne Monckton*, belonging to the Owners and Proprietors of Lands by this Act intended to be divided and allotted, such Plots or Parcels of the said Lands so intended to be divided, allotted and inclosed, as in the Judgment of the Commissioners allotting the same shall be a full and equivalent Compensation for such last mentioned Tythes and Dues respectively, and then and from thenceforth the same several Proprietors respectively shall for ever hold and enjoy his, her, and their several Homesteads, Gardens, Orchards, Closes, or other ancient Inclosures, absolutely freed and for ever discharged of and from all such Improprate and Vicarial Tythes as aforesaid.

Allotment to the Improprator and Vicar for the Tythes of old Inclosures.

XXIV. Provided always, and be it further enacted, That the said Commissioners shall and they are hereby required to apportion, allot, and divide all such Plots and Parcels of Land to be set out as a Compensation for Great and Small Tythes between and amongst the Owners of the Great Tythes payable within the said Parish, and the Vicar for the Time being of the said Vicarage according to their respective Rights and Interests in the said Tythes; and such Plots or Parcels of Land so to be set out, divided, allotted, and apportioned as aforesaid, shall be and are hereby declared to be in lieu and full Discharge of and for all and all Manner of Great and Small Tythes, Moduses, Compositions, or other Payments in lieu of Tythes arising, growing, issuing out of, or payable in respect of any Messuages, Homesteads, Orchards, Gardens, Open Fields, Commonable Lands, Waste Grounds, Inclosed Lands, and all other Lands, Tenements, and Hereditaments whatsoever in the said Parish (except *Easter Offerings*, Surplice Fees and Mortuaries, and an annual Payment of Ten Pounds by the

Tythe Allotments to be apportioned between Owners of Great Tythes and the Vicar.

Impropiator of the adjoining Parish of *Averbury*, payable to the said Vicar, which shall be continued and be respectively payable as if this Act had not been made.)

Proprietors not having sufficient Open Field Land to make Compensation in Money.

XXV. And be it further enacted, That in case there are any Homesteads, Gardens, Orchards, or other ancient inclosed Lands and Grounds in the said Parish of *Winterbourne Monckton*, the respective Proprietors whereof shall not be entitled to any or not to a sufficient Interest or Property in the Lands or Grounds so to be divided, allotted, and inclosed by virtue of this Act, to make Compensation for the Tythes payable thereout, such Proprietors shall respectively pay or cause to be paid unto such Person or Persons, and at such Time or Times as the said Commissioners shall appoint, such Sum or Sums of Money as the said Commissioners shall adjudge and determine to be a full Compensation and Satisfaction for the Tythes or Compositions for Tythes of such Homesteads, Gardens, Orchards, or other ancient inclosed Lands and Grounds respectively, or of such Part thereof for which a Compensation in Land cannot be made as aforesaid, which Sum or Sums shall be applied towards defraying the Expences of the several Persons from whose Allotment any Deduction shall have been made for making Compensation for Tythes as aforesaid, attending the obtaining and passing this Act and carrying the same and the said recited Act into Execution, and shall and may be raised and recovered in like Manner as such last-mentioned Expences are directed to be raised and recovered; and the Surplus, if any, of such Sum and Sums shall be apportioned and paid amongst and to the several Persons from whose Allotment any Deductions shall have been so made as aforesaid, in case they shall be seised in Fee Simple of their Estates, or otherwise such Surplus shall be appropriated in the Manner directed by the said Act of the Forty-first Year of the Reign of His present Majesty with respect to the Money paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or the Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands, Tenements, and Hereditaments to be settled to the same Uses.

Mortuaries, Easter Offerings and Surplice Fees not to be abolished.

XXVI. Provided always, and be it further enacted, That nothing in this Act contained shall extend to the Abolition of any Mortuaries, *Easter Offerings*, or Surplice Fees, to which the said Vicar of *Winterbourne Monckton* is now entitled in Right of his Vicarage, but that the said Vicar, and his Successors, and Curates, shall and may hereafter have, take, receive, and enjoy all such Mortuaries, *Easter Offerings*, and Surplice Fees, in the same Manner as if this Act had not been made.

Power for the Vicar to borrow Money.

XXVII. And whereas the said *James Mayo*, and his Successors, Vicars of *Winterbourne* and *Monckton* aforesaid, may have Occasion to borrow Money to pay and defray the necessary Charges and Expences which will attend the making the Subdivision Fences and other Conveniencies necessary to be made in, upon, or across the several Lands hereby ordered and directed to be allotted and set out to and for the said *James Mayo*, and his Successors, Vicars as aforesaid, in order to complete the intended Inclosure of the said Lands, and to furnish the Occupiers thereof with such Buildings and Conveniencies as may be necessary for the proper Occupation thereof, and cannot, without the Aid and Authority of Parliament, make any effectual Security

Security of the Lands and Grounds to be allotted to him or them for the Repayment of such Money to be advanced and lent for the Purposes aforesaid; be it further enacted, That it shall and may be lawful to and for the said *James Mayo*, and his Successors, Vicars as aforesaid, with the Consent of the Bishop of the Diocese, and the Patron of the said Vicarage for the Time being, signified by Writing under his Hand for that Purpose first had and obtained, to charge all and every the Lands and Grounds which shall be assigned or allotted to him or them, or taken in exchange by virtue of this Act, with any Sum or Sums of Money not exceeding Two hundred Pounds, to be paid by such Person or Persons as the said Commissioners shall for that Purpose nominate and appoint, in order to be applied or disposed of for the Purposes before mentioned, and for securing the Repayment of the said Sum or Sums so to be raised, with Interest, to grant, mortgage, lease or demise the Lands or Grounds to be charged unto such Person or Persons, Bodies Politic or Corporate, who shall advance and lend the same, for any Term or Number of Years, so as such Grant or Demise be made with a Proviso to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money to be thereby secured, with the Interest thereof, shall be fully paid and satisfied; and the said Vicar and his Successors is and are hereby required and made liable to pay and keep down the Interest of the said Money to be thereby secured, in such Manner that no Person afterwards becoming possessed of the said Lands and Grounds shall be subject and liable to pay any further or larger Arrear of Interest than for One Year preceding the Time when the Title of such Possession shall accrue or commence, and also to pay off and discharge annually not less than One-twentieth Part of the Principal so as aforesaid to be advanced, to such Person or Persons, Bodies Politic or Corporate, who shall advance and lend the same, until the whole of such Principal shall by such annual Payments and Instalments be paid off and discharged.

XXVIII. Provided always, That the Allotments to the said Impropropriators and Vicar of *Winterbourne Monckton* aforesaid, shall be inclosed and ring-fenced by Ditches and Quickset Hedges, or other proper Mounds and Fences already made or to be made in or upon such Allotments, or in or upon the next adjoining Allotment or Allotments, or on other Lands or ancient Inclosures; and in case the Fences for inclosing the said Allotments, or any of them, to the said Impropropriators and Vicar shall be directed to be made upon the same Allotments, or any of them, the same shall be made, and for the Term of Seven Years supported and maintained by and at the Expence of such of the other Proprietors, in such Proportion and in such Manner as the said Commissioners shall award, direct and appoint; and from and after the Expiration of the said Term of Seven Years the Fences so made on the Allotments to the said Impropropriators and Vicar shall be for ever supported by and at the Expence of and be the Property of the said Impropropriators and Vicar; but in case the Ring Fences of the said Allotments to the said Impropropriators and Vicar shall be made in or upon the next adjoining Allotment or Allotments, the same shall be made by and at the Expence of such other of the said Proprietors of the said Open Fields by this Act directed to be divided, in such Manner and Proportions as the said Commissioners shall direct; which said Fences shall be of substantial Posts and Two Rails on one Side, and substantial Posts and Three Rails on the other Side, or of good and sufficient

Allotments
to certain
Persons to be
fenced off
by other
Proprietors.

ficient Stake Hedges on both Sides for the Security of good Quick Plants to be planted at the Expence of the Proprietors of Lands to be inclosed, according to their respective Interests therein.

Power for
Vicar to lease
for Years.

XXIX. And be it further enacted, That it shall and may be lawful to and for the said *James Mayo* and his Successors, Vicars of *Winterbourne Monckton* aforesaid, by and with the Consent and Approbation of the Bishop of the Diocese and of the Patron of the said Vicarage for the Time being, to demise or lease all or any Part or Parts of the Lands or Grounds which shall be allotted to him, or any Lands, Grounds or Buildings which shall be taken in Exchange by him by virtue of this Act, for any Term or Number of Years not exceeding Twenty-one Years, so as such Lease or Leases do commence within Twelve Calendar Months next after the making the said Award, and so as the best and most improved yearly Rents be reserved and made payable thereon, and so as no Fine or Fines be taken by the said *James Mayo* for the making or granting thereof, and so as such Lease or Leases be not made with Power to commit Waste, and so as the usual Provisoos and Covenants be contained in the same, for the due Cultivation, Management and Improvement, by good Husbandry, of the Lands to be thereby demised, and so as such Rent or Rents thereby to be reserved be made payable to the said Vicar of the said Vicarage for the Time being, by Four equal Quarterly Payments in the Year, and so as in every such Lease or Leases there be contained a Clause of Re-entry on Nonpayment of Rent or Rents thereby to be reserved and made payable, and so as the respective Lessee or Lessees to whom such Lease or Leases shall be so made, do seal, execute, and deliver a Counterpart of such Lease or Leases; and every such Lease and Leases so to be made as aforesaid shall be good, valid and effectual in the Law to all Intents and Purposes whatsoever, any Law, Statute or Usage to the contrary notwithstanding.

No Lease of
the Vicar's
Lands to be
made without
the King's
Consent.

XXX. Provided always, and be it further enacted, That no Lease or Leases to be made by virtue of the said recited Act or this Act, of any of the Lands and Grounds to be allotted to the Vicar of the said Vicarage of *Winterbourne Monckton* aforesaid for the Time being, in Right of his Vicarage, shall be good, valid and effectual, unless the Consent of the King's most Excellent Majesty, His Heirs and Successors, as Patrons of the said Vicarage, shall be had and obtained thereto previous to the Execution of such Lease or Leases.

Power for in-
capacitated
Persons to
charge their
Estates with
Money to-
wards exone-
rating the
same from
Tythes, or the
Expences of
the Act.

XXXI. And be it further enacted, That it shall be lawful for the Husband, Guardians, Trustees, Committees, or Attornies of any of the Owners or Proprietors of the Lands and Grounds which shall by virtue of this Act be exonerated from Tythes by a Money Payment or Money Payments, who shall be under Covert, Minors, Lunatics, beyond the Seas, or under any other Disability or Incapacity, and for any of the said Owners or Proprietors being Tenant in Tail, or for Life or Lives, or for Years determinable on a Life or on Lives, or on any other Contingency, to charge such Lands and Premises with such Sum or Sums of Money as the said Commissioners shall by Writing under their Hands, direct to be paid for the Exoneration thereof from Tythes; and for the Share or Shares of the Owners and Proprietors thereof of the Costs and Charges of passing this Act, and carrying the same into Execution; and to grant, mortgage, surrender, lease or demise such Lands and Premises in such Manner, and with

with and subject to such Conditions and Restrictions, as are by the said recited Act enacted and provided for raising the Shares and Proportions of the Owners or Proprietors of allotted and exchanged Lands, of the Costs and Expences of passing Acts of Inclosure, and carrying the same into Execution.

XXXII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required in the next Place to set out for the Lord of the Manor, or other Franchise or Royalty within which the Commons and Waste Lands hereby directed to be divided and allotted are situate, so much thereof as by the said Commissioners shall be adjudged to be equal in Value to One-fifteenth of such Commons and Waste Lands, and to allot and award the Land so to be set out to the Lord or Lords of such Manor or other Franchise or Royalty, according to and in Compensation for his or their several and respective Rights and Interests of and in the Soil of the said Commons and Waste Lands.

Allotment for
the Lord of
the Manor.

XXXIII. And be it further enacted, That the said Commissioners shall enquire into and determine what Inclosures have been taken from, and what Encroachments have been made upon the said Waste Lands; and all such Inclosures taken out, and Encroachments made upon or from any Part thereof respectively within the Space of Twenty Years now last past, shall be deemed Part and Parcel of the said Waste Lands, and shall be divided and allotted accordingly.

Encroach-
ments.

XXXIV. And be it further enacted, That the said Commissioners shall immediately after making such Allotments as aforesaid, divide, set out and allot the Residue of the Lands and Grounds hereby directed to be divided and inclosed, unto and amongst the several Proprietors thereof and Persons interested therein, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be a fair and just Compensation for their respective Lands, Grounds, Rights of Common, and other Rights and Interests; and the several Allotments to be made by the said Commissioners by virtue of this Act shall be binding, final and conclusive, so far as regards the Quantities and Situations of such Allotments respectively.

Allotment of
the Residue.

XXXV. Provided also, and be it further enacted, That all and every such Allotment and Allotments as shall be made either of the said Common Fields, and Common Meadows, Common Pastures, Downs, Commons, and other Commonable Lands in respect of any Messuages, Lands and Hereditaments which are wholly or in Part Tythe free or exempt from Tythes, shall in like Manner also be Tythe free or exempt from Tythes; and that all and every such Allotment and Allotments as shall be made, either of the said Common Fields, Common Meadows, or of the said Common Pastures, Downs, Commons, and other Commonable Lands in respect of any Messuages, Lands and Hereditaments which are subject to any Tythes, Moduses, or other Payments in lieu of Tythes, shall in like Manner be and remain subject to Tythes, Moduses or other Payments in lieu of Tythes.

Allotments in
respect of
Tythe free
Land to be
Tythe free.

XXXVI. And be it further enacted, That in case any of the Proprietors entitled to Rights of Common in or over such Parts of the Commons and Waste

Commission-
ers empower-
ed to set out
Waste

Common
Pastures.

Waste Lands as are not herein before directed to be set out and awarded to the Lord of the Manor, or any Part thereof, shall request to have their Common Rights compensated by a Common Pasture instead of distinct Allotments of Lands, and shall give Notice thereof to the said Commissioners within such Time as the said Commissioners shall for that Purpose appoint; and the Commissioners shall be of Opinion that the Number of Proprietors who have made such Request, shall be sufficient to enable the said Commissioners to set out such Allotment or Allotments as will answer the Purpose of a Common Pasture, then it shall be lawful for the said Commissioners, and they are hereby required to set out and allot, to and for the Proprietors making such Request from and out of such Parts of the Commons and Waste Lands aforesaid most convenient for that Purpose, such Parcel or Parcels thereof as shall in the Judgment of the Commissioners be an Equivalent and Compensation for the Rights of Common, to which the Proprietors making such Request shall be entitled; and in case it shall appear to the said Commissioners (without such Request to them made) that any of the said Parts of the Commons or Waste Lands last mentioned, by reason of the Situation, the Smallness of the Quantity, or Interfection by Roads or other Circumstances, cannot be divided and inclosed to the Advantage of the Persons interested therein, the said Commissioners are hereby authorized to set out and allot the Herbage of such Commons and Waste Lands, as and for Common Pastures, to such of the Proprietors or Persons having Common Rights or other Interests in the Lands and Grounds hereby directed to be divided and inclosed, to whom the same shall in the Judgment of the said Commissioners be most convenient and valuable in Situation, in or towards Satisfaction for the Rights and Interests of such Proprietors respectively; and the Land so to be allotted for Common Pastures, whether the same shall be allotted at the Request of such Proprietors as aforesaid, or without such Request, shall be used and enjoyed by the respective Proprietors, to whom the same shall be allotted, and by their Successors and Tenants respectively in such Proportions, and shall be stocked with such Kinds and Number of Cattle, and at such Seasons and Times in the Year, and subject to such Regulations and Orders as the said Commissioners by the Award to be by them made, shall establish and direct.

Several In-
closures with-
in One Fence,
deemed Part
of Lands to
be allotted.

XXXVII. And for better ascertaining what Lands shall be divided, allotted and inclosed pursuant to this Act; be it further enacted, That all Fields or inclosures containing the Property of Two or more Persons within One Fence, shall be deemed Part of the Lands to be divided, allotted and inclosed by virtue of this Act, and shall be divided, allotted and inclosed accordingly.

Lands to be
inclosed at the
Expence of
the Owners.

XXXVIII. And be it further enacted, That the several Allotments to be made of the said Lands and Grounds by this Act directed to be divided, allotted and inclosed, shall within the Space of Twelve Calendar Months next after the signing and sealing the said Award, or such other Time as the said Commissioners shall therein order and direct, be inclosed, hedged, ditched and fenced at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, or other Person or Persons interested in the same, except the said Impropiators and Vicar.

XXXIX. And

XXXIX. And be it further enacted, That in case through the Necessity of Situation, or other unavoidable Accident or Circumstance, it shall so happen that any One or more of the said Proprietors shall not have an equal Quantity of Boundary Mounds or Fences allotted to him, her, or them on the said intended Inclosure, it shall and may be lawful for the said Commissioners, and they are hereby authorized and required, where they shall judge it necessary and reasonable, first taking into Consideration the interior Mounds necessary to be made, to award, ascertain, and appoint what Sum or Sums of Money such Proprietor or Proprietors shall respectively pay and contribute towards making the Mounds and Fences of such other of the said Proprietor or Proprietors who have too great a Proportion of Mounding according to the Quantity and Value of the Lands and Grounds allotted to him, her, or them by virtue of this Act, in order that the same Boundary Mounds and Fences may be brought as near as may be to a just and equal Proportion, to be settled by the said Commissioners, and as they shall respectively deem reasonable and just, and shall award, order, and direct and appoint; and the Money so ordered, directed, and appointed to be paid, shall be raised, levied, and recovered in such and the same Manner as the other Expences of carrying this Act into Execution are herein-after ordered and directed to be recovered.

Commissioners to direct Contributions for large Proportions of Fencing.

XL. And be it further enacted, That convenient Gaps and Openings shall be left in such Fences and Inclosures as shall be made in pursuance of this Act, for the Space of Twelve Calendar Months after such Fences and Inclosures shall be made, for the Passage of Cattle, Carts, and Carriages through the same, unless the several Parties interested therein shall agree to have the same made up sooner.

Gaps and Openings to be left for a limited Time.

XLI. And be it further enacted, That where any Person or Persons shall be seized or possessed of Lands or other Hereditaments hereby directed to be divided, allotted and inclosed, held by different Tenures, or for, by or under different Estates or Titles, the said Commissioners shall, upon the Request of the Persons so seized or possessed respectively, inquire into, ascertain, and determine the respective Lands or other Hereditaments held by such several Tenures, or for, by or under such different Estates or Titles respectively, shall set out distinct Allotments in respect of such Parts thereof as shall be or arise within the Common and Open Fields, or other Lands and Grounds hereby directed to be divided and inclosed.

Distinct Allotments to be made for Lands holden by different Tenures.

XLII. And be it further enacted, That where the Proprietor or Proprietors of any Lands or Hereditaments which shall be allotted, inclosed, partitioned, or exchanged by virtue of this or the said recited Act, shall hold their respective Lands or Hereditaments by different Tenures, or for different Estates, or under different Titles, the said Commissioners shall, upon the Request of such respective Proprietors in Writing under their Hands, ascertain and distinguish the Lands or other Hereditaments held by each such Tenures for each of such Estates respectively, and shall accordingly in their Award distinguish and set out distinct and several Allotments for such respective Lands or other Hereditaments; and where, from the Want of the necessary Information before the Commissioners, or from any other Cause, their Award shall omit discriminating as herein-before is mentioned, such Titles, different Estates and different Tenures, and within Twelve Calendar Months after making the said Award, Request

Discrimination of Tenures to be made by separate Allotments, and supplemental Instruments may be executed by the Commissioners for supplying Omissions in certain Cases.

[Loc. & Per.]

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shall

shall be made to the said Commissioners by any Person or Persons interested, by Writing under his, her, or their Hand or Hands, to have such Omissions supplied by a separate Instrument or Instruments, then and in every such Case the said Commissioners are hereby authorized to do every Thing necessary for supplying such Omission, and so far as that Purpose shall require, to examine Witnesses, and in every other Respect to proceed and act in the Cases aforesaid as if the Award had not been made; and when they shall have obtained what they shall think sufficient Information, they are hereby also authorized, by any Deed or Deeds under their Hands and Seals, to ascertain and distinguish the Difference of Tenures, Estates, and Titles respectively, and accordingly to make distinct and several Allotments in the same Manner as they are hereby required to do in Cases where such Discrimination is directed to be contained in the said Award; and every such separate Instrument, after having been duly executed by the said Commissioners, shall have the same Effect as if it was contained in the said Award; and such Instrument shall be deposited, and Evidence thereof shall be given in the same Manner as by this Act is directed concerning the Award of the said Commissioners herein-after mentioned; and all Expences which shall be reasonably incurred in and about any such supplemental Instrument as aforesaid, shall be payable by the Person or Persons who shall have so requested the said Commissioners as aforesaid, or by his, her, or their Heirs, Executors or Administrators.

Power to sell,
&c. Allot-
ments before
the Execution
of the Award.

XLIII. And be it further enacted, That it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act, to give, grant, bargain, sell demise, mortgage, convey, assure, and dispose of all their Estate, Right, Title, and Interest therein, at any Time before the Execution of the Award of the said Commissioners, and every such Gift, Grant, Bargain, Sale, Demise, Conveyance, and Disposition thereof, as well by Will as by any other Instrument or Assurance, shall be of the same Force and Validity, as if made after the Execution of the said Award; and it shall also be lawful for any of the Owners or Proprietors of any Common Right, upon the Lands and Grounds hereby directed to be divided and inclosed, to sell and dispose of the same, or of the Allotment or Allotments to be made and set out in Respect thereof by virtue of this Act, separately and distinctly from the Estate in Right of which he or she is or may be entitled to the same, in such Manner as he or she might have done at any Time after the Execution of the said Award; and it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to award all and every such Allotment and Allotments which shall be so sold and disposed of to the Purchaser or Purchasers thereof, or other Person or Persons who shall be entitled to the same by any such Sale or Disposition.

Exchanges
to be made.

XLIV. And be it further enacted, That it shall and may be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, Tythes, or Hereditaments within the said Parish of *Winterbourne Monckton*, in lieu of and in Exchange for any other Lands, Tenements, Tythes, and Hereditaments within the said Parish, or within any adjoining Parish or Hamlet, Township or Place; provided that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioners, and be made with the Consent of the Owner, or Owners, Proprietor or Proprietors for the Time being, seised of or entitled in Possession to the Lands,
Tenements,

Tenements, Tythes, or Hereditaments which shall be so exchanged, or to the actual Receipt of the Rents, Issues, and Profits thereof, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic or Corporate, or a Body or Bodies Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for Charitable or other Uses, or the major Part of such Trustees respectively, Husbands, Committees or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any 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 and Exchanges so to be made, shall be good, valid and effectual in the Law, to all Intents and Purposes whatsoever; provided nevertheless, that no Exchange shall be made of any Lands, Tenements, Tythes or Hereditaments, held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent testified as aforesaid of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, Tythes, and Hereditaments so to be exchanged shall lie or be situate.

XLV. Provided always, and be it further enacted, That the Costs, Charges, and Expences attending the making and completing any Exchanges or Partitions, 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; and the same shall and may be recovered in the Manner herein-after directed for the Recovery of the Costs of obtaining and executing this Act.

Expence of Exchanges and Partitions by whom to be paid.

XLVI. And be it further enacted, That in case any Lands or Grounds whereon any Underwoods, Thorns, Hedges, Bushes or Shrubs, shall at the Time of making such Allotments be standing, growing or being, shall be allotted to any Person or Persons, other than such as was or were the Proprietor or Proprietors, Owner or Owners thereof, at and immediately before such Allotments were made; then and in such Case it shall and may be lawful for such former Owners and Proprietors respectively, at any reasonable Time or Times within the Space of Six Calendar Months, or within any shorter Space of Time to be appointed by the said Commissioners after such Allotments shall be made, to enter upon the Lands and Grounds upon which such Underwoods, Thorns, Hedges, Bushes and Shrubs, shall be standing and being, and with Horses and Carriages to carry away the same, at his, her, or their free Wills and Pleasures, to and for his, her, or their proper Use and Benefit; provided nevertheless, that no Underwoods, Thorns, Bushes or Shrubs, or Tree or Trees growing within the said Open and Common Fields, and other Commonable Lands at the Time of passing this Act, shall be cut down, stocked up or destroyed, before the said Commissioners shall have fixed the several Allotments to the several Proprietors in pursuance of this Act, unless the Owner or Owners thereof shall first have Licence under the Hands of the

Bushes, &c. belonging to former Proprietors may be cut and carried away within Six Months;

but not till Allotments are fixed.

said

said Commissioners so to do; and in case any Hedges now standing upon the Premises, shall be assigned or appointed by the said Commissioners, as or for a Boundary or Sub-division Fence, for any Allotments to be made as aforesaid, all Hedges shall be left uncut for the Benefit of such Person or Persons to whom such new Allotments shall belong by virtue of this Act, he, she, or they making such Allowance or Consideration to the former Owners or Proprietors of such Hedges respectively as the said Commissioners shall by any Writing under their Hands in that Behalf order and appoint; and in case any of the Persons to whom the Ground shall be allotted, whereon such Hedge or Hedges shall stand, shall refuse to pay to the Amount of such Valuation, or make such other Consideration as the said Commissioners shall direct, then the said Commissioners shall and may, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person and Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale.

Leases at
Rack Rent to
be vacated.

XLVII. And be it further enacted, That all and every Lease and Leases and Agreement and Agreements for any Lease or Leases at Rack Rent of all or any Part of the said Lands, Grounds, and Premises hereby intended to be divided, allotted, and inclosed pursuant to this Act, or of any Messuages, Buildings, Homesteads, Gardens, Orchards, or old inclosed Lands held with the same, or with any Lands or Grounds which shall be exchanged by virtue of this Act, shall become vacated, cease, determine and be utterly void, as and from the Twenty-ninth Day of *September* next after the passing of this Act; and the respective Lessors or Owners of the Messuages, Tenements, Lands, Grounds, Hereditaments, and Premises comprized in any such Lease or Agreement, shall pay or receive such Sum, or make or receive such Satisfaction to or from their Lessee or Lessees, Tenant or Tenants respectively, as the said Commissioners shall in and by any Writing under their Hands, or by their Award, ascertain as reasonable to be paid or received on account thereof, or as an Equivalent for or on account of such Lease or Agreement so becoming vacated and void: Provided always, that if there shall be any such Lease or Agreement for a Lease of Lands, Part of which shall lie in the said Parish of *Winterbourne Monckton*, and Part in any adjoining Manor, Parish, Township or Place, all and every such Lease or Agreement for a Lease shall also become vacated and void; but where any Lands shall have been taken in Exchange, which Lands shall be under Lease, and wholly situate in an adjoining Manor, Parish or Place, such last-mentioned Lease shall not become vacated or void.

Leases at
Rack Rent
not to be va-
cated, if
Tenant con-
sents to pay
advanced
Rent, to be
settled by
Commission-
ers.

XLVIII. Provided always, and be it further enacted, That no Lease or Agreement for a Lease at Rack Rent shall so cease, determine or be void, in any Case where the Lessee or Tenant, Lessees or Tenants, shall by a Notice in Writing under his, her, or their Hand or Hands, to be given to the said Commissioners at any Meeting to be held in pursuance of this or the said recited Act, previous to the marking or staking out of the Allotments in the said Open and Common Fields, and Commonable Lands, that such Lessee or Tenant, Lessees or Tenants, will accept the Allotment or Allotments then made or to be made, for or in lieu or in respect of the

Common Fields, Lands and Common Rights comprized in such Lease or Agreement, for and during the Continuance thereof, at such advanced Rent as the said Commissioners shall by any Writing under their Hands or by their Award ascertain and direct to be fair and reasonable for such Allotment or Allotments, and for the Messuages, Buildings, Homesteads, Gardens, Orchards, and old inclosed Lands comprized or included in such Lease or Agreement, or in any Case where the Lessor or Owner shall by a like Notice in Writing under his, her or their Hand or Hands, to be given to the said Commissioners at any such Meeting, signify and declare that such Lessor or Owner will be satisfied and willing to accept such advanced Rent, to be ascertained and directed in Manner aforesaid, for such Allotment or Allotments and Messuages, Buildings, Homesteads, Gardens, Orchards and old inclosed Lands comprized or included in such Lease or Agreement.

XLIX. And be it further enacted and declared, That nothing in this Act contained shall extend to revoke, make void, annul or alter any Settlement, Deed or Will, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Rent Charge, Debt or Incumbrance whatsoever, in, out of, upon or affecting any of the Lands, Tenements and Hereditaments hereby directed to be divided and allotted, or which shall be exchanged or assigned in Compensation for any other Estate or Right in pursuance of this Act respectively; but as well the Lands allotted as the Tenements or other Hereditaments which shall be assigned in Exchange or in Compensation for any other Estate or Right, shall, immediately after such Allotment, Exchange or Assignment shall be made, be vested, remain and enure; and the several Persons to whom the same shall be allotted, assigned or given in Exchange as aforesaid, shall thenceforth stand forth and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations and Remainders, Conditions, Charges and Incumbrances, as the several Lands, Tenements and Hereditaments, in respect whereof such Allotments, Assignments and Exchanges shall have been made, should or would have stood severally limited, settled, vested, or subject or liable to, or been held by, in case the same had not been allotted, assigned or exchanged, and this Act had not been made, save and except such Rents and Services as shall have been compensated for and extinguished, and such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act.

This Act not to alter or revoke Wills.

L. And be it further enacted, That the Proprietors whose Allotments on the said Division shall have been tilled, ploughed, sown, folded or manured by any former Proprietor or Occupier thereof, shall pay unto the Person or Persons respectively who shall have tilled, ploughed, sown, folded or manured the same, or any Part thereof, his, her or their Executors or Administrators, such Sum and Sums and at such Time and Times as the said Commissioners shall think reasonable, and shall by Writing under their Hands ascertain and direct; and if by reason of the Management of any former Occupier of the preceding Crop or Crops, or by any other Means, it shall happen that the Allotment or Allotments to any Proprietor shall not contain a due and reasonable Proportion of Land in a proper state for Wheat or other Tythe Crop, or if any such Allot-

Regulating and directing the Course of Husbandry.

ment or Allotments shall in the Judgment of the said Commissioners be, from any Cause, in a worse Condition to be occupied than the Average of the Land allotted by virtue hereof, then the Person or Persons to whom any such Allotment or Allotments shall be made, shall receive such Compensation and Satisfaction from any other of the Proprietors, or from the former Occupier, as the said Commissioners shall determine and adjudge to be just and equitable; and in case any of the Sums which shall by the said Commissioners be directed to be paid as aforesaid, shall not be paid to the Person or Persons and at the Time or Times to be appointed by the said Commissioners for Payment thereof, it shall be lawful for them, and they are hereby required to levy the same in like Manner as the Expences of passing this Act and carrying the same into Execution are directed to be raised and levied.

No Cattle to be kept in the Inclosures for Seven Years.

LI. Provided always, and be it further enacted, That no Cattle, Sheep or Lambs shall be kept in any of the Allotments to be made by virtue of this Act (whereon any new Fence shall be raised), during the Space of Seven Years next after the Execution of the said Award, unless the Person keeping the same shall first, at his, her or their own Expence, make and maintain a sufficient Fence to guard and protect the young Fences belonging or adjoining to such Allotments respectively, from being hurt or damaged by such Cattle, Sheep or Lambs, whether such young Fences be made or set up by the Owner or Occupier of such Allotments as aforesaid, or by the Owner or Occupier of the Allotment or Allotments adjoining thereto; and in case any Person shall turn in or keep any Cattle, Sheep or Lambs in any such Allotment, without raising or keeping up such Fences as aforesaid, it shall be lawful for the Owner or Owners of any adjoining Allotment or Allotments, to enter into such Allotment or Allotments, when, where and as often as such Cattle, Sheep or Lambs shall be so turned in or kept, and from Time to Time to take, drive away and impound the same, as Damage feazant.

Money advanced to be repaid with Interest.

LII. And be it further enacted, That the Money that shall be advanced by any Person or Persons for the Purpose of defraying the Expences of applying for and obtaining this Act, or which, after the passing of this Act, shall be advanced or lent to or be paid by the Direction of the said Commissioners for carrying the same into Execution, shall be repaid with lawful Interest to the Person or Persons lending, advancing or paying the same, out of the first Money to be raised for defraying the Expences of obtaining and executing this Act.

Paying the Expences of this Act.

LIII. And be it further enacted, That the Costs and Charges of and incident to and attending the obtaining and passing of this Act, of surveying, admeasuring, planning, dividing and allotting the Lands and Grounds hereby directed to be divided and inclosed and exonerated from Tythes, and of making the public Roads to be set out, and of preparing and enrolling the Award of the said Commissioners, and all the Charges and Expences of the said Commissioners, and of the several Persons to be employed by them either before or after the Execution of the said Award, in, about or concerning the Execution of this or the said recited Act, shall be borne and defrayed by all the Proprietors and Owners of or Persons having Rights or Interests in the Lands or Grounds hereby directed to be divided, allotted, and inclosed, and exonerated from Tythes (except the said

faid Impropriators and Vicar of the faid Vicarage of *Winterbourne Monckton*, and his Successors, Vicars of the faid Vicarage for the Time being), in such Proportions, and shall be paid to such Person or Persons, and at such Time or Times either before or after the Execution of the faid Award, as shall be settled, adjusted, determined and directed by the faid Commissioners, by any Writing under their Hands; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share or Proportions of such Charges and Expences within the Time limited by the faid Commissioners, then and in such Case the same shall and may be levied and recovered in such and the same Manner as is provided or mentioned by the faid recited Act.

LIV. 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 faid Commissioners shall and they are hereby required to make a true and just Statement or Account of all the Sums of Money by them received and expended, or due to them for their Trouble and Expences, in the Execution of this and the faid recited Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before One or more of His Majesty's Justices of the Peace for the faid County of *Wilts*, not interested in the faid intended Division, Allotment and Inclosure, to be by him or them examined and balanced; and such Balance shall by such Justice or Justices be stated in the Book of Accounts to be kept in the Office of the Clerk to the faid Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice or Justices. Commissioners to account.

LV. And be it further enacted, That the Award to be made by the faid Commissioners according to the Directions of the faid recited Act, shall be made and executed within the Space of Three Years from the passing of this Act; and shall, after the same shall have been enrolled in Manner directed by the faid recited Act, be deposited and kept in the Church of *Winterbourne Monckton* aforesaid. Award.

LVI. And be it further enacted, That if any Person or Persons shall think himself, herself or themselves aggrieved by any Thing done by or under the Authority of the faid Commissioners in pursuance of this or the faid recited Act (other than and except such Claims, Matters and Things as herein-before or by the faid recited Act directed or authorized to be ascertained, settled, tried or determined by the Verdict of a Jury; or where, by any of the Provisions of the faid recited Act or of this Act the Determinations, Acts, or Proceedings of the faid Commissioners are directed to be final and conclusive); then and in every such Case, he, she or they may appeal to any General Quarter Sessions of the Peace which shall be holden for the County in which the Cause of Complaint shall have arisen, within Four Calendar Months next after the Cause of Complaint shall have arisen, giving Thirty Days Notice of such Appeal and of the Matters thereof to the faid Commissioners, and to the Parties interested therein; and the Justices in their said General Quarter Sessions are hereby required to hear and determine the Matter of such Appeal, and to make such Order therein, and to award such Costs, as to them in their Discretion shall seem reasonable, and by their Warrant or Order to levy the Costs which shall be Appeal.

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 of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale, which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by *Certiorari*, or any other Writ or by Process whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

General
Saving.

LVII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to the said *Edward William Leyborne Popham*, Lord of the said Manor of *Winterbourne Monckton*, and all and every other Person and Persons, Bodies Politic and Corporate, his, her, or their Heirs, Successors, Executors, Administrators and Assigns, (other than and except the respective Persons to whom any Allotment or Allotments of Land, or other Compensation shall be made by virtue of this Act, in respect of the Interest or Property for which such Allotment or Compensation shall be made, and except such other Rights and Interests as the Intents and Purposes of the Inclosure hereby authorized shall absolutely require to be barred, extinguished, or destroyed by this Act) all such Estates, Rights and Interests, as they, every or any of them had or enjoyed of, in, to, or in respect of the Lands and Grounds hereby directed to be divided and inclosed, before the passing of this Act, or could or might have had or enjoyed, if this Act had not been passed.

Act to be
printed by
the King's
Printers.

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

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