



ANNO QUINQUAGESIMO TERTIO

GEORGI II. REGIS.

Cap. 56.

An Act for inclosing Lands in *Ecchinswell*, in the
County of *Southampton*. [15th April 1813.]

WHEREAS there are in the Tything of *Ecchinswell* otherwise *Itchingswell*, within the Parish of *Kingsclere* in the County of *Southampton*, certain Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds, containing by Estimation Five hundred Acres, or thereabouts: And whereas the Right Honourable *Henry George* Earl of *Carnarvon* is Lord of the Manor of *Ecchinswell* otherwise *Itchingswell* aforesaid: And whereas Sir *Robert Kingsmill* Baronet, and divers other Persons, are Owners or Proprietors of the said Lands and Grounds; and are entitled to Common of Pasture for their Cattle in and over the said Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds, or some Part or Parts thereof respectively: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the Lands of the respective Proprietors in the said Open and Common Fields lie intermixed, and dispersed in small Parcels, and in their present State are inconveniently situated for the Cultivation and Management thereof; but if the said Open and Common Fields, together with the said Common

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Pastures, Common Down and other Commonable Lands and Grounds, were divided and inclosed, and specific Parts and Shares thereof allotted to and among the said Proprietors and the other Persons interested therein in Severalty, in lieu of and in Proportion to their Lands, Rights of Common, and other Interests therein respectively, the same might be greatly improved, and made more beneficial to the Persons interested therein; but such Division, Allotment and Inclosure cannot be effectually established 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 *George Barnes* of *Andover*, in the County of *Southampton*, Gentleman, shall be and he is hereby appointed Commissioner, for dividing, allotting and inclosing the said Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds within the said Tything of *Ecchinswell* otherwise *Itchingswell*, and for carrying this Act and the said recited Act into Execution, under and subject to such of the Regulations, Directions, Restrictions and Provisions contained in the said recited Act, as are not altered, varied or controlled by or repugnant to any of the Powers and Provisions contained in this Act.

How new
Commission-
er is to be
appointed.

II. And be it further enacted, That in case the said Commissioner shall die, refuse to act, or become incapable of acting, before the Powers and Authorities hereby vested in him shall be fully executed and performed, it shall and may be lawful to and for the major Part in Value (to be ascertained by the Land Tax Assessment), of the Proprietors interested in the said Inclosure, at a Meeting to be held for that Purpose, of which Meeting Ten Days Notice in Writing shall be given (under the Hands of any Two or more of the said Proprietors), by affixing such Notice on the outer Door of the Chapel of *Ecchinswell* otherwise *Itchingswell* aforesaid, and also by Advertisement in One of the County Newspapers, if any such shall be then published, and if not, then in any of the adjoining County Newspapers, within Forty Days next after the Death, Refusal or Incapacity of the said Commissioner shall happen, under their Hands, to appoint some other Person (not interested in the said Inclosure) to be a Commissioner in the room of the Commissioner herein named who shall so die, refuse, or become incapacitated as aforesaid, and so in case any future Vacancy shall happen in the Manner aforesaid, such Vacancy shall be filled up in like Manner from Time to Time as often as there shall be Occasion; and every Person who shall be appointed a Commissioner in pursuance of this Act shall (after taking the Oath prescribed by the said recited Act) have the same Powers and Authority in all Respects as if he had been originally appointed a Commissioner in and by virtue of this Act; and all Acts and Proceedings of such Commissioner so appointed shall be as valid and effectual as if done by the Commissioner herein named.

Notice of
Attendance.

III. And be it further enacted, That the said Commissioner shall and he is hereby required to cause public Notice to be given upon some *Sunday* immediately after Divine Worship, in the Chapel of *Ecchinswell* otherwise *Itchingswell*, or by Writing to be affixed on the principal outer Door of the said Chapel, and also by Advertisement to be inserted in One of the County Newspapers, in case such Newspaper shall be then published, of the
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the Time and Place of his First and every subsequent Attendance for the Execution of this Act, at least Ten Days before every such Attendance shall be had, (Attendances by Adjournment only excepted,) and the said Commissioner shall and may adjourn such Attendance from Time to Time as he shall see Occasion, for the further Execution of this and the said recited Act; and in case the said Commissioner shall not be present at such Time, and at the Place appointed for such Attendance, then it shall be lawful for the Person who shall act as Clerk to the said Commissioner to adjourn the same to any future Day, not exceeding Twenty-one Days from the Day of Adjournment: Provided always, that all Attendances of the said Commissioner shall be held at the *Swan Inn* in *Kingsclere*, or within Eight Miles of the Boundary of the said Tything of *Ecchinswell* otherwise *Itchingwell*.

IV. And be it further enacted, That all other Notices necessary to be made and given by the said Commissioner shall be so made and given by Advertisement to be inserted in the *Reading Mercury*, or in case the same shall not be at that Time printed, then in some other Newspaper generally circulating in the County of *Southampton*.

Other Notices how to be given.

V. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the Lands and Grounds hereby intended to be divided, allotted and inclosed, or any Part thereof, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have therein, or touching or concerning any Common Rights or Interests which they may have or claim in, upon or over the same, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, it shall be lawful for the said Commissioner, and he is hereby authorized to examine into, hear, and determine the same, and his Determination therein shall be binding and conclusive, save and except as herein-after mentioned.

Commissioner to settle Disputes.

VI. Provided always, and be it further enacted, That nothing in this Act contained shall extend to authorize or enable the said Commissioner to determine the Title to any Messuages, Lands, Tenements or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any of such Parties, (except in Cases of Encroachments), but in case the said Commissioner shall be of opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment, or other due Course of Law.

Commissioner not to determine Titles, nor molest Possession.

VII. And be it further enacted, That in case the said Commissioner shall upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this Act, or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess and award such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whose Favour any such Determination shall be made, by the Person or Persons whose

Assess Costs.

whose Claim or Claims, Objection or Objections, shall be thereby 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 Commissioner and he is hereby authorized and required, by Warrant under his Hand directed to any Person whomsoever, to cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) on Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Expences of such Distress and Sale.

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

VIII. Provided always, and be it enacted, That in case any Person or Persons interested in the said Division and Inclosure shall be dissatisfied with the Determination of the said Commissioner touching or concerning any Rights or Interests which they may have or claim to have in, upon or over the same, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the then next or at the following Assizes to be holden for the said County of *Southampton*, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioner shall cause an Action to be brought, upon a feigned Issue, against the Person or Persons in whose Favour such Determination shall have been made within Three Calendar Months next after such Determination of the said Commissioner, and the Defendant or Defendants in such Action or Actions shall, and he, she or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same, and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding and conclusive, upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had thereon, which it shall be lawful for the Court to do as is usual in other Cases; and that after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioner shall and he is hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioner touching such Claim or Claims to such Common Rights, or other Rights or Interests in, over or upon the said Lands and Grounds hereby directed to be divided, allotted and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be binding and conclusive on all Parties; and that if any of the Parties in any Action to be brought in pursuance of this Act shall die pending the same, such Action shall not abate by Reason thereof, but shall be proceeded in as if no such Event had happened.

Determinations not
objected to,
to be final.

IX. Provided

IX. Provided also, and be it enacted, That if any Person or Persons in whose Favour such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought (if living) shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time 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 of the said Commissioner with Proccs for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent upon the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

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

X. And be it further enacted, That if any of the Parties or Persons interested in the said intended Division and Inclosure shall happen to die before the making of the Allotments, or the Execution of the said Award, the Powers and Authorities in this and the said recited Act shall not be determined or suspended, but the Share or Shares of the Person so dying shall be allotted to the Person or Persons who shall at the Time of making the Allotments appear to the said Commissioner to be in the Possession of or entitled to the same, which Person or Persons shall be liable to the Charges, Expences and other Conditions of this and the said recited Act; and the said Commissioner shall and may proceed to execute the Powers and Authorities given him by this and the said recited Act in such Manner as he might have done in case such Party or Parties, Person or Persons, had been living.

Deaths of Parties not to prevent Execution of this Act.

XI. And be it further enacted, That a true, exact and particular Survey and Admeasurement, Plan and Valuation of the Lands and Grounds by this Act directed to be divided, allotted and inclosed, and of such of the Messuages, Cottages, Orchards, Gardens, Homesteads, ancient inclosed Lands and Grounds within the said Tything of *Ecchinswell* otherwise *Itchingswell*, as in the Judgment of the said Commissioners shall be proper and necessary to be surveyed and valued, shall on or before the Tenth Day of *October* next after the passing of this Act (or as soon after as conveniently may be) be made by the said Commissioner, or such other Person or Persons as he shall appoint, in Manner directed by the said recited Act; provided that nothing herein or in the said recited Act contained shall oblige or compel or be construed to oblige or compel any Survey, Admeasurement, Plan and Valuation to be made of any other Lands and Grounds than of the Lands and Grounds intended to be divided, allotted and inclosed by virtue of this Act.

Valuation and Survey to be made.

Commissioners to direct Water-courses.

XII. And be it further enacted, That the said Commissioner shall and he is hereby empowered to direct, order, and award all Streams of Water, Springs and Watercourses in the said Open and Common Fields, Common Pastures, and other Commonable Lands and Grounds hereby intended to be divided, allotted and inclosed, to be carried and conveyed in such Courses, and through such of the Lands and Grounds hereby directed to be divided and allotted, as he in his Discretion shall think proper for the Purposes aforesaid; provided that such Streams of Water, Springs and Watercourses, be not diverted or turned without the Consent in Writing of the Person or Persons interested in such Streams of Water, Springs, and Watercourses, and of the Owners of the Lands or Premises from which such Streams or Watercourses are intended to be turned.

Allotments for Gravel Pits.

XIII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out, allot, and award such Plot or Plots of Lands and Grounds hereby directed to be divided, allotted and inclosed, as he shall think necessary, (not exceeding in the whole Two Acres) as and for public Pits for getting Gravel, Chalk or Rubble, with convenient Roads to and from the same, such Pits to be used for the Purpose of getting Materials for the Repairs of the public and private Roads within the said Tything, all which said public Pits or the Value thereof, as also the Value of the Land or Ground to be set out and allotted for public and private Roads through and over the new Allotments, shall be taken from and out of the Value of the Lands and Grounds hereby directed to be divided and allotted, before any of the new Allotments are made to any of the Persons entitled thereto, in proportion to the Rights and Interests of the Proprietors of the said Lands and Grounds, and other Persons interested therein respectively.

Allotment to the Lord of the Manor.

XIV. And be it further enacted, That the said Commissioner shall and he is hereby required to set out and allot, unto and for the said *Henry George Earl of Carnarvon*, as Lord of the Manor of *Ecehinswell* otherwise *Itchingswell* aforesaid, so much and such Part of the Common Down and Waste Lands, hereby directed to be divided, allotted and inclosed, as shall in his Judgment be equal in Value to One Fifteenth Part of the whole of the said Common Down and Waste Lands, for and in lieu of and as a full Recompence and Satisfaction for his Right of the Soil of the said Common Down and Waste Lands.

Allotment for Sale to defray Expences.

XV. And be it further enacted, That the said Commissioner shall set out, allot and award the Residue of the said Common Down, or such Part or Parts thereof as he shall think proper, for the Purpose of selling the same, and when the same shall be sold the said Commissioner shall apply the Monies arising from the Sale thereof towards defraying the Charges and Expences attending the obtaining and passing of this Act, and of carrying the same into Execution, and shall expose the said Allotment or Allotments to Sale by public Auction, after giving Fourteen Days Notice of the Time appointed for such Sale, in such Manner as in the said recited Act is directed with respect to the Sale of Land; provided also, that in case any Owner or Owners, Proprietor or Proprietors, of the Lands hereby

hereby intended to be divided allotted and inclosed, shall be minded and desirous to have a separate Allotment of the said Common Down set out to or for him, her, or them, and shall be willing to pay and contribute his, her or their Share and Proportion, or respective Shares and Proportions, in respect of such Allotment, of the Costs, Charges and Expences of the Division and Inclosure hereby directed to be made, and of such his Mind and Desire shall give Notice in Writing to the said Commissioner on or before the Tenth Day of *November* next after the passing of this Act, then the said Commissioner shall set out and allot to such Owner or Owners, Proprietor or Proprietors respectively, such Plot or Parcel, Plots or Parcels of the said Common Down as in the Judgment of the said Commissioner he, she or they shall be entitled to; and after Payment of the said Share and Proportion of the said Costs, Charges and Expences as aforesaid, by the said Owner or Owners, Proprietor or Proprietors respectively, the same Plot or Parcel, Plots or Parcels of the said Common Down, shall be held and enjoyed by him, her or them, for his, her, and their exclusive Use, and such Plot or Parcel, Plots or Parcels, of the said Common Down shall not be sold by the said Commissioner with the Residue of the said Common Down in pursuance of the Power herein-before given, any Thing in this Act contained to the contrary notwithstanding.

If any Owner or Proprietor choose to pay his Proportion of the Expences of the Inclosure, his Share of the Common Down not to be sold.

XVI. And be it further enacted, That in case any Surplus of the Money to arise by Sale of Land as herein-before mentioned, shall remain after Payment of such Expences as aforesaid, such Surplus shall be paid to the Person or Persons entitled thereto if seised in Fee Simple of the Estates in respect whereof they shall be entitled to any Allotment of or Interest in the said Common Down and Waste Lands; or otherwise such Surplus shall be paid into the Bank of *England* in the Manner directed by the said recited Act with respect to Money, to be paid for the Purchase or Exchange of Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments to be settled to the same Uses.

Application of Surplus Money.

XVII. And be it further enacted, That in case it shall appear to the said Commissioner that any Part of the Commons or Waste Lands aforesaid consisteth of Wood, and produceth but little Herbage for Cattle, and that such Wood belongeth to the said *Henry George Earl of Carnarvon*, as Lord of the Manor of *Ecchinswell* otherwise *Itchingswell* aforesaid, it shall and may be lawful for the said Commissioner and he is hereby required to set out, direct, and make the Boundary of the said Wood, and allot the same to the said Lord of the Manor; and the said Commissioner shall ascertain the Value of the Right to the Herbage and Feeding thereon, and shall deduct so much Land from the Allotment to be made to the said Lord of the Manor for the Soil, or from any other of his Allotments, as shall in the Judgment of the said Commissioner be of equal Value with the said Herbage and Feeding.

Power to allot and set out the Woods.

XVIII. And be it further enacted, That the said Commissioner shall and he is hereby required, after making the several and respective Allotments herein-before directed, to set out, allot and divide all the Residue of the said

The Residue of the Lands to be allotted.

faid Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds by this Act directed to be divided, allotted and inclosed, unto and among the several Owners and Proprietors of or Persons interested in the same, in Proportion to their several and respective Lands, Rights of Common, and other Rights, Property and Shares therein respectively.

Gaps and
Openings to
be left for a
limited Time.

XIX. 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.

Power to
make Ex-
changes.

XX. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot and award any Lands, Tenements or Hereditaments within the said Parish of *Kingsclere*, in Lieu of and in Exchange for any other Lands, Tenements or Hereditaments within the said Parish, or within any adjoining Township, Parish, Hamlet or Place, provided that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors 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 a Life or Lives, or for any Term of Years at a small Annual Quit Rent, or with the Consent of the Guardians, Trustees, Feoffees for Charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors, aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise be 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 consenting Parties respectively; and all and every such Exchange and Exchanges so to be made shall be good, valid and effectual in the Law, to all Intents and Purposes whatsoever; provided nevertheless, that no Exchange shall be made of any Lands, Tenements or Hereditaments, held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements or Hereditaments so to be exchanged, shall lie and be situate.

Expences of
Exchanges
and Parti-
tions.

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

XXII. Provided

XXII. Provided always, and be it further enacted, That the Lands and Grounds in the said Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds which shall be divided and allotted as aforesaid, to any of the Proprietors in lieu or in respect of any Lands or Tenements, now belonging to the said Proprietors respectively, which are Copyhold, shall from and after the Execution of the Award of the said Commissioner be deemed to be Copyhold, though the same were before Freehold, and shall be held by and under the same Tenures, Rents, Customs and Services of the Lords of the same Manors as the Copyhold Lands or Tenements, in lieu or in respect whereof such Allotments shall be made, were before held; and the Lands and Grounds in the said Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds which are now Copyhold, and held of the said Lord or Lords, and shall be allotted as aforesaid to any of the Proprietors in lieu or in respect of any Lands or Tenements belonging to such Proprietor or Proprietors respectively, which are Freehold, shall for ever after the Execution of such Award be deemed to be Freehold, though the same were before Copyhold, and shall be held by and under the same Tenures, Rents, Customs, and Services of the Lords of the same Manors respectively as the Freehold Lands or Tenements, in lieu or in respect whereof such Allotments shall be made are now held, save and except such Customary Rights of Common in the said Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds or any of them, which now belong to any of the Freehold or Copyhold Lands or Tenements as are and is hereby declared and directed to be extinguished and destroyed; and except as is by this Act otherwise particularly directed.

Freehold
Lands
awarded to
Copyholder
to be Copy-
hold, and
vice versa.

XXIII. And be it further enacted, That all Leases and other Agreements for the letting or holding of any of the Lands, Rights of Common, or other Rights in the said Open Common Fields and Premises by this Act intended to be divided, allotted, and inclosed at Rack Rent, or for letting or holding at Rack Rent of any Lands, Tenements or Hereditaments, which by virtue of this and the said recited Act shall be exchanged, whether alone, or jointly with any other Lands, Tenements or Hereditaments, Rights of Common and other Rights within the said Parish of *Kingsclere*, shall on the Tenth Day of *October* after the passing of this Act cease, determine, and be utterly void, and the Lessors or Landlords shall pay or allow to the Lessees or Tenants under such Leases or Agreements, or otherwise holding at Rack Rent as aforesaid respectively, such Sum or Sums of Money for any Improvements which the said Hereditaments so respectively held, and grant the said Lessees or Tenants such other Satisfaction and Privileges, with respect to their quitting the Premises, as the said Commissioner shall direct or appoint, as reasonable to be paid, allowed or given to such Lessee or Lessees, Tenant or Tenants, in that Behalf; and the said Lessees or Tenants shall pay to the respective Lessors or Landlords of the Premises respectively, such Sum or Sums of Money, Rent or Rents, as the said Commissioner shall direct or appoint as reasonable to be paid by such Lessees or Tenants respectively, for or with respect to such holding, from the Tenth Day of *October* next, up to the Time of vacating such Leases or Agreements respectively; and the said Commissioner is hereby authorized and required, upon Application from any of the respective Parties interested in the Matters aforesaid, to be made to the said Commis-

Leases at
Rack Rent
to be void.

tioner at any Meeting to be held by him before the said Tenth Day of *October*, to settle and adjust such Matters between the said Parties respectively; and the said Commissioner is hereby empowered to examine any Witness or Witnesses upon Oath (which Oath he is hereby empowered to administer), touching the same, and to make such Order or Orders therein as he shall think reasonable and just, and the said Order or Orders shall be binding upon and duly observed by the said Parties, and every of them: Provided always, that if there shall be any Lease of Lands, Part of which shall be in the said Tything of *Ecchinswell* otherwise *Itchingswell*, and Part in any adjoining Parish, all and every such Lease or Leases upon Rack Rent now subsisting may be vacated, but where any Land shall have been taken in Exchange, which Land shall be held under Lease, and wholly situate in an adjoining Parish, the Lease of such last-mentioned Land shall not be vacated: Provided always, that nothing in this Act contained shall extend or be construed to extend to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents or Incumbrances, out of, upon, or affecting any of the Messuages, Buildings, Lands or Grounds to be divided, allotted, inclosed or exchanged as aforesaid, or any Part or Parts thereof respectively, but that the respective Persons to whom any Lands or Hereditaments shall be allotted or given in Exchange by virtue of this or the said recited Act, shall be seised thereof to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, Charges and Incumbrances, and no other, as the Messuages, Buildings, Lands, Grounds and Hereditaments, whereof such Person was seised or possessed at or immediately before the Execution of the Award to be made by the said Commissioner, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to be charged with or affected by in case this Act had not been made.

Wills and Settlements not to be affected.

Not to take away the Right of Tythes.

XXIV. Provided also, and be it further enacted, That nothing in this Act contained shall extend to take away, lessen, or defeat the Right, Title, or Interest of *Thomas Woodham* Gentleman, or of *Jean Mary Lady Bolton*, or either of them, or the Vicar of the Vicarage of *Kingsclere* for the Time being, in and to all such Great and Small Tythes arising, renewing or happening out of or from the said Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds within the said Tything of *Ecchinswell* otherwise *Itchingswell*, and all such Payments and Compositions in lieu of Tythes as they or any of them are or is now respectively entitled; but that all such Tythes, both Great and Small, and all Payments and Compositions in lieu thereof shall remain due and payable to the said *Thomas Woodham*, or the said *Jean Mary Lady Bolton*, and the said Vicar for the Time being respectively, in such Manner as the same were due and payable before the passing of this Act.

Commissioner to direct the Course of Husbandry till the Allotments made.

XXV. And be it further enacted, That from and after the passing of this Act, until such Division and Allotment shall be made as aforesaid, all the Tillage and other Lands lying in the said Common Fields and Premises hereby directed to be divided and allotted, shall be cropped or sown by the Owners or Occupiers thereof, with such Corn, Grain, or Grass Seeds, and

and in such Proportions and Manner; and shall be stocked with such Cattle, and ploughed, kept, ordered, and continued in such Course of Husbandry, as the said Commissioner shall by any Writing or Writings under his Hand in that Behalf from Time to Time order, direct and appoint, if he shall think proper to make or give any Order or Direction concerning the same; and that no Meadow, Pasture, or Greenward Ground (being Lands and Grounds by this Act intended to be divided, allotted, and inclosed as aforesaid) shall, before the making of such Division and Allotment, be ploughed, broken up, and converted into Tillage.

XXVI. And be it further enacted, That all the Charges and Expences incident to and obtaining and passing of this Act, over and above the Monies which shall be produced by Sale of the said Common Down, or such Part thereof as shall be sold in pursuance of the Power for that Purpose herein-before contained, and also all the Costs, Charges, and Expences attending the surveying, admeasuring, planning, valuing, dividing, and allotting the said Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds hereby directed to be divided, allotted and inclosed as aforesaid; and of preparing and enrolling the Award of the said Commissioner, and of making, maintaining and supporting such Fences, Gates, Stiles, Drains, or other Matters and Things, as the said Commissioner shall think reasonable and just to be made, supported and maintained by and at the Expence of the Proprietors in general, or any Number of them, and which cannot, according to the Provisions and Directions herein or in the said recited Act contained, concerning the Fences herein-before made for the several Allotments herein-before mentioned, or with Justice and Equity be ordered to be made, supported and maintained by and at the Expence of any one of the said Proprietors, and also of providing, sowing and managing the Grass Seeds which may be sown in pursuance of this Act, and all the Charges and Expences of the said Commissioner for his Time and Trouble in and about the obtaining and executing this Act, and all other necessary Charges and Expences of the several Persons to be employed by the said Commissioner, either before or after the Execution of the said Award, or otherwise in or about the Premises, and all other necessary Expences in, about, or concerning the same, shall be paid, borne and defrayed by the several Proprietors and Persons interested in the said Open and Common Fields, Common Pastures, Common Down and other Commonable Lands and Grounds respectively, in such Shares and Proportions, and at such Time or Times, and in Manner as the said Commissioner shall by his said Award, or by any other Writing under his Hand, order, direct and appoint: Provided always, that the said Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioner at any of his Meetings to be held in pursuance of this Act.

Expences of
this Act how
to be paid.

Proprietors
and Agents
to pay their
own Ex-
pences.

XXVII. And be it further enacted, That if any of the Proprietors or Persons interested in the Lands and Grounds hereby directed to be divided, allotted and inclosed, or any other Person or Persons, shall advance and pay any Money in Discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said Commissioner, together with lawful Interest for the same.

Money ad-
vanced to be
repaid with
Interest.

XXVIII. And

Allowance to
Commissioner.

XXVIII. And be it further enacted, That the said Commissioner shall be allowed the Sum of Three Guineas and no more, for his Trouble and Expences, including all travelling Expences, for each and every Day he shall necessarily attend in the Execution of the Powers of this Act, or of the said recited Act.

Commissioner
to lay his
Accounts
before Two
Referees once
in every Year.

XXIX. And be it further enacted, That Once at least in each and every Year during the Execution of this Act, (such Year to be computed from the Day of the passing of this Act) the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this Act, and such Statement of Account when so made, together with the Vouchers relating thereto, shall be by him laid before *William Portal* of *Laverstoke*, in the said County of *Southampton*, and *John Rawlinson* of *Coombe*, in the said County, Esquires, or either of them, to be by them or either of them examined and balanced, and such Balance shall be by the said *William Portal* and *John Rawlinson*, or either of them, stated in the Books of Accounts to be kept in the Office of the Clerk to the said Commissioner; 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 the said *William Portal* and *John Rawlinson*, or either of them.

In case of
Death of
Referees
others to be
appointed.

XXX. Provided always, and be it further enacted, That in case the said *William Portal* and *John Rawlinson*, or either of them, shall die, or refuse to act as a Referee or Referees as aforesaid, before the Matters and Things to be done by virtue of this Act shall be entered upon or fully performed and finished, it shall be lawful for the major Part in Value (to be ascertained by the Land-Tax Assessment) of the Proprietors of the Lands and Grounds hereby intended to be divided and inclosed, assembled at a Meeting specially convened for that Purpose, by Notice to be affixed on the principal outer Door of the said Chapel of *Ecchinswell* otherwise *Itchingswell*, Ten Days at least before the Time appointed for holding such Meeting, by Writing under their Hands, to appoint some other fit and proper Person or Persons, not interested in the said Division and Inclosure, to be a Referee or Referees in the Place and Stead of the said *William Portal* and *John Rawlinson*, or either of them, and so often as Occasion may require; and the Person or Persons so to be from Time to Time nominated and appointed as a Referee or Referees shall have the like Power and Authority for executing the Purposes aforesaid as the said *William Portal* and *John Rawlinson*.

Award to be
deposited.

XXXI. And be it further enacted, That the Award to be made by the said Commissioner, when enrolled in Manner directed by the said recited Act, shall, together with a Plan annexed, be deposited and kept with the Parish Register in the Chest of the Chapel of *Ecchinswell* otherwise *Itchingswell* aforesaid.

Appeal.

XXXII. Provided always, and be it further enacted, That if any Person or Persons shall think him, her or themselves aggrieved by any Thing done or omitted to be done in pursuance of this or the said recited Act, then and

in every such Case (except in such Cases where the Orders and Determinations of the said Commissioner are by this and the said recited Act to be final and conclusive, and except in such Cases where an Issue at Law shall be tried as herein-before mentioned) he, she, or they may appeal to any General Quarter Sessions of the Peace which shall be holden in and for the said County of *Southampton*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving Fourteen Days Notice of such Appeal, and the Justices in their said General Quarter Sessions are hereby required to hear the Matter of every such Appeal, and to make such Order or Orders thereon, and award such Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be 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 every such Distress and Sale; which Determination or Orders of the said Justices shall be binding and conclusive to all Parties therein concerned, and shall not be removed or removeable by *Certiorari*, or any Writ or Process whatsoever, in any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

XXXIII. Provided always, and be it further enacted, That nothing in this Act contained shall prejudice, lessen, or defeat the Right, Title, or Interest of the said Earl of *Carnarvon*, his Heirs or Assigns, to any Right of Free Warren or Free Chase, or to the Seigniorities, Rights of Free Warren and Free Chase, and other Royalties, Rights, and Services belonging thereto, to which he or they may be entitled in and over all or any of the said Common Fields, Common Downs or Waste Land intended to be divided, allotted, and inclosed by this Act, or over any Lands belonging to the said Earl of *Carnarvon* which may be given in Exchange for any other Lands under the Authority of this Act, but that the said Earl of *Carnarvon*, his Heirs and Assigns, shall and may hold and enjoy all such Rights, Royalties, Jurisdictions, and Pre-eminences (other than and except to the Right of the Soil and Waste Lands to be divided and allotted by virtue of this Act) in as full, large, ample, and beneficial a Manner as he and they could or might have held and enjoyed the same in case this Act had not been made. Saving Rights
of the Lord.

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

[*Loc. & Per.*]

II K .

XXXV. And

Evidence
Clause.

XXXV. 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.