



ANNO QUINQUAGESIMO SECUNDO

GEORGI III. REGIS.

\*\*\*\*\*

*Cap. 127.*

An Act for inclosing Lands in *Saint Mary Extra*,  
and *South Stoneham*, in the County of *Southampton*.  
[20th May 1812.]

**W**HEREAS there are within the several Parishes of *Saint Mary Extra*, and *South Stoneham*, both in the County of *Southampton*, a certain Common or Waste called *Bitterne Common*, containing by Estimation Two hundred and thirty-one Acres, Three Roods, Seven Perches, or thereabouts; a certain other Common or Waste, called *Weston Common*, containing by Estimation Five hundred and fifty-seven Acres, One Rood, Thirty-three Perches, or thereabouts; and a certain other Common or Waste, called *Weston Marsh*, and containing by Estimation Eleven Acres, Two Roods, Thirty Perches, or thereabouts, making together in the whole Eight hundred Acres, Three Roods, Thirty Perches, or thereabouts, and also other commonable Lands: And whereas the Honourable and Right Reverend *Brownlow* Lord Bishop of *Winchester*, in Right of his See of *Winchester*, and as Lord of the Manor of *Bitterne*, in the said County, is entitled to certain Rights in the Soil of the said several Commons and Wastes, called *Bitterne Common*, *Weston Common*, and *Weston Marsh*, and other Commonable and Waste Lands by this Act directed to be divided, allotted, and inclosed: And whereas the Reverend *Francis North* is Rector of the Parishes and Parish Churches of *Saint Mary Extra*, and *South Stoneham* aforesaid, and as such is entitled to the Great Tythes issuing and arising from all the Lands within the said Parishes respectively: And whereas the Reverend *John*

[*Loc. & Per.*]

30 L

*Mulso*

Appointment  
of Commis-  
sioners.

*Mulso* is Vicar of the Parish and Parish Church of *South Stoneham* afore-  
said, and as such is entitled to the Small Tythes issuing and arising from  
all the Lands within the said Parish: And whereas the said Honourable and  
Right Reverend the Bishop of *Winchester* is the Patron of the Rectory of  
*Saint Mary Extra*, and *South Stoneham* afore-~~said~~, and the said *Francis*  
*North*, as Rector of the Parishes and Parish Churches of *Saint Mary Ex-*  
*tra*, and *South Stoneham* afore-~~said~~, is Patron of the Vicarage of *South*  
*Stoneham* afore-~~said~~: And whereas *William Chamberlayne* Esquire, *David*  
*Lance* Esquire, *James Dott* Esquire, *Thomas Lewin* Esquire, *George*  
*Waring* Esquire, and *Elizabeth* his Wife, the Reverend *William Waring*,  
Dame *Harriot Holland* Widow, Dame *Joanna Rumbold* Widow, and  
divers other Persons, are the Owners and Proprietors of, or interested  
in the said Commons or Wastes, called *Bitterne Common*, *Weston Common*,  
and *Weston Marsh*: And whereas the said Commons, Wastes, and Com-  
monable Lands, in their present uncultivated State, afford very little Pro-  
fit or Advantage to the several Persons interested therein, but the same  
are capable of considerable Improvement; and it would be very advanta-  
geous to the said several Persons, and to all other Persons interested there-  
in, and of great public Utility, if the same were divided and inclosed,  
and specific Shares allotted to the several Proprietors thereof, in lieu of  
and in Proportion to their several and respective Rights and Interests  
therein; but such Division, Allotment, and Inclosure, cannot be made  
and effected without the Authority of Parliament: And whereas an Act  
was passed in the Forty-first Year of His present Majesty's Reign, in-  
titled, *An Act for consolidating in One Act certain Provisions usually inserted*  
*in Acts of Inclosure, and for facilitating the Mode of proving the several*  
*Facts usually required on the passing of such Acts*: May it therefore please  
Your Majesty, that it may be enacted, and be it enacted by the King's  
most Excellent Majesty, by and with the Advice and Consent of the Lords  
Spiritual and Temporal, and Commons, in this present Parliament as-  
sembled, and by the Authority of the same, That *Richard Eyles*, of *Pe-*  
*tersfield*, in the County of *Southampton*, Esquire, *George Doswell* of *Romsey*,  
in the said County of *Southampton*, Yeoman, and *John Doswell Doswell*,  
of the Town and County of *Southampton*, Surveyor, and their Successors,  
to be elected in Manner hereinafter mentioned, shall be and they are here-  
by appointed Commissioners for setting out, dividing, and allotting the  
said Commons and Wastes, called *Bitterne Common*, *Weston Common*, and  
*Weston Marsh*, and other commonable Lands, within the said Parishes of  
*Saint Mary Extra* and *South Stoneham* (except as hereinafter mentioned  
and excepted), and for carrying into Execution the several Purposes of  
this Act, pursuant to the Powers, Regulations, and Directions herein-  
after contained, and also pursuant and subject to such of the Powers, Au-  
thorities, Regulations, Restrictions, and Provisions, contained in the  
said recited Act, as are not controlled by or repugnant to any of the  
Clauses, Provisions, or Regulations contained in this Act.

For choosing  
new Commis-  
sioners.

II. And be it further enacted, That in case any or either of the said  
Commissioners, or their Successors, shall die, or refuse, or become in-  
capable to act, before the Powers and Authorities hereby vested in them  
shall be fully executed and performed, then and so often as the same  
shall happen, it shall be lawful for the major Part in Value (such Value  
to be ascertained by the Land Tax Assessment) of the Proprietors in-  
terested

interested in the said Inclosure, to elect a new Commissioner (not interested in the said Inclosure) in his Room or Stead, at a Meeting to be held for that Purpose, not sooner than Twenty Days after the Death, Refusal, or Incapacity of any such Commissioner shall happen, and of which Meeting, and of such Death, Refusal, or Incapacity, Ten Days Notice shall be given, by affixing such Notice on the said Church Doors, signed by the Clerk to the said Commissioners, or by the surviving Commissioner, or by any Three or more of the Persons interested in the said Inclosure; and in case the major Part in Value of the Proprietors interested in the said Inclosure, shall neglect to appoint such new Commissioner within Twenty-one Days after such Death, Refusal, or Incapacity, shall happen or be known, then the surviving or remaining Commissioner or Commissioners, for the Time being, as soon after such Default as conveniently may be, shall, by Writing under their or his Hands or Hand (as the Case may be), appoint any other fit Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the Room and Stead of every Commissioner so dying, or refusing, or becoming incapable to act as aforesaid; and so from Time to Time, as often as any such Commissioner shall die, or become incapable to act as aforesaid; such other Commissioner shall be appointed in like Manner as is hereinbefore directed for the Appointment of any Commissioner in the Room and Stead of the said *Richard Eyles, George Dofwell, and John Dofwell Dofwell*, or any or either of them; and every Commissioner so to be elected in pursuance of this Act shall have, and be vested with the same Powers and Authorities in all respects as if he had been originally appointed a Commissioner in and by this Act.

III. Provided always, and be it further enacted, That it shall be lawful for any Two of the Commissioners, for the Time being, and they are hereby fully authorized and empowered to execute, do, and perform every and any Act, Matter, and Thing whatsoever, by this and the said recited Act authorized to be executed, done, and performed by the said Commissioners; and every such Act, Matter, or Thing, which shall be executed, done, and performed, by any Two of the said Commissioners for the Time being, shall be as valid and effectual, to all Intents and Purposes, as if all the said Commissioners hereinbefore named and appointed, or to be appointed as aforesaid, had been present, and executed, done, and performed the same.

Powers vested in Two Commissioners.

IV. And be it further enacted, That the said Commissioners shall, and they are hereby required, to cause public Notice to be affixed on the principal outer Doors of the Parish Churches of *Saint Mary Extra*, and *South Stoneham* aforesaid, of the Time and Place of their first Meeting for putting this Act in Execution, at least Fourteen Days before such Meeting, and the like Notice shall be given of all their subsequent Meetings (Meetings by Adjournment only excepted); and no Meeting of the Commissioners for executing the Powers of the said recited Act, and this Act, shall be held at any greater Distance than Eight Miles from the Parishes of *Saint Mary Extra*, and *South Stoneham* aforesaid: Provided always, that the several Proprietors of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, their Attornies, and Agents, shall pay and defray their own Charges and Expences, when they, or

Commissioners to give Notice of the Meeting.

any of them, shall attend the said Commissioners at any of their Meetings to be holden in pursuance of this Act.

Other Notices how to be given.

V. And be it further enacted, That the Notices required by the said recited Act to be given in some public Newspaper of setting out public Carriage Roads, and of reading and executing the Award of the said Commissioners, and all other Notices in Execution of this Act, shall be given and published in the Newspaper called the *Salisbury and Winchester Journal*, or in case the same shall not continue to be published, then in some other Newspaper published in the Town or County of *Southampton*.

Commissioners to settle Disputes.

VI. And be it further enacted, That in case any Dispute or Difference shall happen to arise between the Parties that now are, or shall, before the making the Award of the said Commissioners, be interested in the said intended Division and Inclosure, or any of them, touching or concerning the respective Shares and Proportions which they, or any of them shall claim in the said Lands and Grounds hereby intended to be divided and inclosed as aforesaid, or touching or concerning the respective Shares and Proportions which they, or any of them, ought to have of or in the said intended Division and Inclosure, it shall be lawful for the said Commissioners, and they are hereby authorized to hear and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever.

Commissioner not to molest Possession.

VII. 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 of such Parties (except in Cases of Encroachments as hereinafter mentioned), but in case the said Commissioners shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons, by Ejectment, or other due-Course of Law.

Power to assess Costs.

VIII. And be it further enacted, That it shall be lawful for the said Commissioners, if they in their Discretion shall think it proper so to do, to award, order, and assess such Costs and Charges as they shall respectively think reasonable, to be paid to the Party or Parties in whose Favour they shall make their Determination respectively, by the Person or Persons whose Claims, Complaints, or Objections, shall be thereby disallowed; and in case such Costs and Charges shall not be paid on Demand, then the said Commissioners are hereby empowered, by Warrant under the Hands and Seals of the said Commissioners, to levy such Costs and Charges by Distress and Sale of the Goods and Chattles of such Person or Persons, rendering the Overplus (if any) upon Demand, after deducting the reasonable Charges attending such Warrant, Distress, and Sale, to the Person or Persons whose Goods and Chattels shall be so distrained and sold as aforesaid.

Allowing Parties dissatisfied with De-

IX. Provided always, and be it further enacted, That if any Person or Persons making any Claim or Claims to any Land or Hereditaments

ments intended to be divided or affected by this Act, or any Rights or Interests therein, or objecting to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioners, and shall be desirous of having such Claim or Claims, Rights and Interests respectively, tried at Law, shall by themselves, or their respective Agents or Attornies, give Notice thereof in Writing to the said Commissioners, within Twenty-one Days after such Determination shall have been made by the said Commissioners (of which Notice the said Commissioners are hereby required, immediately on the Receipt thereof, or as soon afterwards as conveniently may be, to give Information to the adverse Party or Parties, or his, her, or their respective Agents or Attornies, by Writing under their respective Hands, to be delivered to, or left at the last usual Place of Abode of such Party or Parties, Agent or Attornies respectively), then and in such Case it shall be lawful for the Person or Persons giving such Notice as aforesaid, their respective Heirs or Assigns, forthwith to proceed to a Trial at Law of the Matter so determined by the said Commissioners at the then next or at the Second following Assizes to be holden for the said County of *Southampton*, after such Notice shall be given as aforesaid, but not afterwards, in a feigned Action or Actions for that Purpose, to be commenced in One of His Majesty's Courts of Record at *Westminster*, by the Person or Persons, Body or Bodies Politic or Corporate, their respective Heirs, Successors, or Assigns, giving such Notice as aforesaid, against the Party or Parties making such Claim or Objection as aforesaid, and the Verdict or Verdicts which shall be given in such Action or Actions shall be final and conclusive to and upon all and every Person or Persons, Body and Bodies Politic and Corporate 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 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 the Determination of the said Commissioners touching such Rights or Interests in, over, or upon the Lands or 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 of Law to be brought and proceeded in as aforesaid, shall be final and conclusive upon all Parties.

terminations  
of the Com-  
missioners to  
try their  
Rights by  
Law.

X. And be it further enacted, 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.

Death of  
Parties not  
to stop Ac-  
tions.

XI. Provided always, and be it further enacted, That if any Person or Persons, in whose Favour any Determination as aforesaid shall have been made, and against whom any Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons who might have brought such Action or Actions against the Person or Persons so dying, to bring the

Provision in  
case of Death  
of Parties  
before Action  
brought.

same, within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the 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 such Parties shall be equally bound and concluded by the Event of such Action or Actions.

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

XII. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching or concerning the Title of any Person or Persons in or to any Lands, Tenements, or Hereditaments, for or in respect of which any Right or Interest in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, shall be claimed, 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 said Division, Allotment, and Inclosure, shall be proceeded in notwithstanding such Suit or Suits.

Death of Parties not to suspend the Execution of this Act.

XIII. And be it further enacted, That if any of the Parties interested in the said intended Division and Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioners shall not be determined or suspended, but the said Commissioners shall and may proceed to execute the Powers and Authorities given to them by this Act, in such Manner as they might have done in case such Parties had not died; and that the Share or Shares of the Person or Persons so dying shall be allotted to such Person or Persons who by Descent, Devise, or otherwise, shall become entitled to the same, and shall be accepted and fenced by him, her, or them, according to the Directions of the said recited Act, or this Act; and he, she, or they shall be liable to the Charges and Expences, and other Conditions of this and the said recited Act.

Surveys to be made and Surveyors to be appointed.

XIV. And be it further enacted, That true and exact Surveys and Admeasurements shall be taken, and fair Plans made, of the said Commons or Wastes so intended to be divided and allotted, and also of the several Messuages, Lands, Tenements, and Hereditaments, in respect of which Right of Common is claimed thereon, some Time before the First Day of *March* One thousand eight hundred and thirteen, or as soon after as conveniently may be, by some fit and proper Person, being an experienced Surveyor of Lands (not beneficially interested in the said Division, nor an Agent to any Person so interested), as the Commissioners for the Time being shall, by Writing under their Hands from Time to Time nominate and appoint.

Surveyors to take an Oath.

XV. Provided always, and be it further enacted, That no Person or Persons shall be capable of acting as a Surveyor as aforesaid, until he shall have taken and subscribed before the said Commissioners, or One of them, an Oath in the Form following; (that is to say)

I do swear, that I will faithfully, impartially, and honestly, act according to the best of my Skill and Judgment in surveying and measuring the Commons or Wastes, intended to be divided and inclosed by virtue of an Act passed in the Fifty-second Year of the Reign of His Majesty King George the Third, intituled, *An Act for inclosing Lands in Saint Mary Extra, and South Stoneham, in the County of Southampton, and in making Plans or Maps thereof, to be laid before the Commissioners for putting the said Act into Execution.*

Surveyor's Oath.

' So help me GOD.'

Which Oath the said Commissioners, or One of them, are and is hereby authorized and required to administer, when and so often as Occasion shall require, which Oath, and also the Instrument or Instruments of Appointment of any new Surveyor, shall be respectively inrolled in the same Place, and Evidence thereof given in the same Manner as by the said recited Act, and this Act is directed concerning the general Award to be made by the said Commissioners.

How to be administered

XVI. And be it further enacted, That the said Surveyor shall, after the said Division and Allotment of the Lands and Grounds intended to be hereby divided and inclosed shall be completed, make a fair Plan upon Vellum of all the said Lands and Grounds intended to be hereby divided and allotted, wherein respectively shall be truly and distinctly delineated, set down, marked, and expressed, the several Matters and Things necessary and proper to be inserted therein, for the better explaining the Award of the said Commissioners.

Surveyor to make a fair Plan upon Vellum of the Commons, and his Charge for the same.

XVII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized, at any Time or Times before the Execution of their Award, by Notices in Writing, under their Hands, to be affixed on the principal outer Doors of the Churches of *Saint Mary Extra* and *South Stoneham* aforesaid, to order and direct all or any Part of the Rights of Common in, over, and upon the said Commons and Waste Lands and Grounds, or any of them, or any Part thereof respectively, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Notices; and all such Rights of Common as the said Commissioners shall by such Notices so order and direct to be exchanged, or the Exercise thereof to be suspended as aforesaid, shall from the Time of affixing such Notices on the Doors of the said Churches, or from the Day to be stated in such Notices, cease, determine, and be extinguished, or the Exercise thereof be suspended accordingly (any Law, Usage, or Custom to the contrary notwithstanding).

Rights of Common to be extinguished.

XVIII. And be it further enacted, That all such Lands which have been taken in or inclosed out of and from the said Commons, Wastes, or Commonable Lands, or any of them, for Twenty Years or upwards before the passing of this Act, shall be, and the same are hereby vested in the several Persons who are the Owners and Proprietors thereof respectively at the Time of the passing of this Act, their several and respective Heirs and Assigns, or otherwise, according to their several and respective Estates and Interests therein, and shall in all respects whatsoever be deemed and considered as ancient Inclosures within the said Parishes of *Saint Mary*

Lands which have been inclosed for Twenty Years and upwards to be deemed ancient Inclosures, and not to be subject to the

*Extra*

Powers of  
his Act.

*Extra and South Stoneham*, and not subject to any of the Powers hereby given to or vested in the said Commissioners touching the said Commons, Wastes, or Commonable Lands, within the said several Parishes.

Encroach-  
ments to be  
allotted to  
Persons in  
Possession  
thereof.

XIX. Provided always, and be it further enacted, That the said Commissioners shall, and they are hereby required, in all Cases where the same can be done without Prejudice or Inconvenience to the Occupation of the adjoining Lands, to assign and allot unto all and every Person or Persons, Body or Bodies Politic or Corporate, entitled to and having Right of Common upon the said Commons or Wastes, or any of them as are in the Possession of any such Encroachment or Encroachments, as is or are hereinbefore directed to be deemed Part and Parcel of the said Commons or Wastes, and all and every the Lands and Grounds comprised therein, and all Edifices and Buildings erected thereon, for or in Part of the Allotment or Allotments which shall be made to them respectively by virtue of this Act, unless it shall happen that such respective Encroachments shall be greater or more (Quantity and Quality considered) than the Allotment or Allotments would amount to which such Person or Persons, Body or Bodies Politic or Corporate, in the Possession of such Encroachment or Encroachments respectively, would be entitled to, for and in respect of their ancient Estate, in which Case a proportionate Part of such Encroachment or Encroachments shall be deducted from the same respectively; and the said Commissioners are hereby directed and required, in their Valuation of such Encroachment for the Purposes aforesaid, to estimate the same according to their original Value as Waste Land, or in their open State, without any Regard to the Improvement thereon, or to the Value of the Edifices and Buildings which are erected or built thereon.

Power to  
Commission-  
ers to remove  
certain En-  
croachments.

XX. Provided always, and be it further enacted, That it shall be lawful for the said Commissioners to remove and displace all such Encroachments as have been heretofore made on the said Common, called *Pear-tree Green Common*, as they shall think proper, save and except such Encroachments thereon as have been made or confirmed by virtue of any Copy of Court Roll of the said Manor of *Bitterne*, and which last-mentioned Encroachments are hereby confirmed and established.

For making  
Drains, &c.

XXI. And be it further enacted, That it shall be lawful for the said Commissioners to cause and order to be scowered and widened all ancient Brooks, Ditches, Drains, Watercourses, Tunnels, Watergates, Banks, and Bridges, in the Parishes of *Saint Mary Extra* and *South Stoneham*, aforesaid, and also to erect, set up, and appoint such new Ditches, Drains, Watercourses, Banks, and Bridges, of such Breadth and Depth, and in such Directions, as the said Commissioners shall think proper, as well in, through, and over the Lands and Grounds hereby directed to be divided and inclosed as aforesaid, as also in, through, and over any ancient Inclosures, or any other Lands and Grounds within the said Parishes of *Saint Mary Extra* and *South Stoneham*, or either of them (making such Satisfaction to the Proprietors of such ancient Inclosures, or other Lands or Grounds not hereby directed to be divided and inclosed for the Damage done thereby, as they shall think proper); and the said Commissioners shall, and they are hereby required in and by their said Award, to order and award by whom, at whose Expence, at what Time, and in what



Manner, the said Brooks, Ditches, Drains, Watercourses, Tunnels, Banks, and Bridges, shall be made, and thereafter repaired, cleansed, scowered, and maintained; and also shall order, direct, and award, all or any of the Streams, Springs of Water, and Watercourses, within the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, to be carried, conveyed, or turned in such Courses, and through, over, and across such Part of the said Lands and Grounds hereby directed to be divided and inclosed as the said Commissioners shall in their Discretion judge proper for the watering of the several Allotments to be made as aforesaid: Provided always, that such Streams, Springs, and Watercourses shall not be diverted or turned without the Consent in Writing of the Owner or Owners of the Lands from or out of which any such Stream, Spring, or Watercourse shall be diverted, and also of the Owners of the Land into which the same shall be turned.

XXII. And be it further enacted, That the said Commissioners shall, and they are hereby empowered and required to set out and allot One or more Plot or Plots, Piece or Pieces of the said Commons, Wastes, and other Commonable Lands hereby directed to be divided, allotted, and inclosed, not exceeding Ten Acres, as and for public Gravel-pits and Sand-pits, with convenient Roads to and from the same, to be used in common by the Proprietors of Lands and Estates in the said Parishes of *Saint Mary Extra* and *South Stoneham*, and their respective Tenants, as well for their own necessary Use as for the Repairs of the public and private Roads and Ways within the said Parishes.

Allotments  
for Gravel  
Pits and  
Sand Pits.

XXIII. And be it further enacted, That the said Commissioners shall and may, and they are hereby authorized and required to ascertain the Value of One Sixteenth Part of the said Commons and Wastes, called *Bitterne Common*, *Weston Common*, and *Weston Marsh*, and of the several other Wastes and Commonable Lands in the said Parishes of *St. Mary Extra* and *South Stoneham*, hereby directed to be divided, allotted, and inclosed; and shall set out, allot, and award such Parcel and Parcels of the said Commonable Lands as shall be equivalent to the said One Sixteenth Part, unto the said Lord Bishop of *Winchester* and his Successors, Lords of the said Manor of *Bitterne*, in lieu of and as a Compensation for his and their Right and Interest in, or to the Soil of the said Commons, Wastes, and other Commonable Lands within the said Parishes of *Saint Mary Extra* and *South Stoneham*; which Allotment, when so made, the said Lord Bishop and his Successors shall have Power to lease for Three Lives, in such Form and Manner as he and his Predecessors, Bishops of *Winchester* aforesaid, have usually leased their Lands and Estates within the said Parishes of *St. Mary Extra* and *South Stoneham*.

Allotments  
to the Lord  
of the Manor.

XXIV. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out and allot, unto, and for the said *John Mulso* as such Vicar as aforesaid, for, and in lieu of the Vicarial Tythes yearly issuing, growing, arising, or renewing upon, from, or out of such Part or Parts of the said Commons and Waste Lands and Grounds, by this Act intended to be divided, allotted, and inclosed, as are situate, lying, and being in the said Parish of *South Stoneham* aforesaid, such Allotments or Parcels of the said Commons and Waste Lands and

Allotment  
for Vicarial  
Tythes of the  
Parish of  
South Stone-  
ham.

[Loc. & Per.]

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Grounds,

Grounds, as they the said Commissioners shall consider an equivalent for the Vicarial Tythes arising, growing, and renewing from and out of such Part or Parts of the said Commons and Waste Lands and Grounds as are situate, lying, and being in the said Parish of *South Stoneham* aforesaid, which said Allotments for Vicarial Tythes shall be in full Satisfaction and Discharge of, and for the said Vicarial Tythes arising, growing, and renewing from and out of such Part or Parts of the said Commons or Wastes, and other Commonable Places as are situate, lying, and being in the said Parish of *South Stoneham* aforesaid (Mortuaries, Easter Offerings, and other Surplice Fees only excepted).

Allotment of  
the residue,

except part  
of Bitterne  
Common and  
the whole of  
Pear Tree  
Green Com-  
mon.

XXV. And be it further enacted, That after the said Allotments shall have been assigned and set out in Manner hereinbefore directed, then the said Commissioners shall set out, divide, allot, and award all the Residue and Remainder of the said Commons, called *Bitterne Common*, *Weston Common*, and *Weston Marsh*, and all other the Wastes and Commonable Lands hereby intended to be divided, allotted, and inclosed as aforesaid, in the said Parishes of *South Stoneham*, and *Saint Mary Extra*, (save and except a certain Part of the said Common called *Bitterne Common*, numbered Thirteen in the Plan and Measurement thereof, containing about Fourteen Acres Three Roods, and which terminates in a Point of Land leading to *Pear Tree Green*, and also, save and except a small Piece or Parcel of Commonable Land called *Pear Tree Green Common*, containing about Thirteen Acres, Three Roods, and Eight Perches, or thereabouts,) unto and amongst the several Owners and Proprietors thereof respectively, and such other Persons who at the Time of making such Division and Allotment, as aforesaid, shall be entitled to and interested in the same, in Proportion to their several Shares, Rights, Property, and Interests therein respectively.

The Bishop  
and Vicar's  
Allotments  
to be fenced  
by the Com-  
missioners.

XXVI. And be it further enacted, That the said Commissioners shall, before the Execution of their General Award, cause the Allotments which shall be awarded to the Lord Bishop of *Winchester*, in respect of his See of *Winchester*, and to the Vicar of *South Stoneham* aforesaid, in respect of the said Vicarage, to be inclosed, hedged, ditched, and fenced, with good and sufficient Boundary Fences, the Expences whereof, as also of carrying this Act into Execution; in respect of such Allotments, shall be paid and defrayed by and out of the Monies hereby directed to be raised for carrying this Act into Execution; and from and after making such Inclosures and Hedges, Ditches and Fences to the said Allotments, all such Hedges, Ditches, and Fences, shall for ever thereafter be kept in Repair by the Lord Bishop of *Winchester* and the Vicar of *South Stoneham* aforesaid, respectively, and their respective Successors as aforesaid, and the Owner and Owners of the adjoining Allotment or Allotments, or any of them, in such Shares and Proportions as the said Commissioners shall, in and by their said General Award, order, direct, and appoint.

Allotments  
to be fenced.

XXVII. And be it further enacted, That the several Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched, and fenced at the Expence of the respective Proprietors to whom such Fences shall be allotted or directed to belong, with Quicksets, or in such other Manner, and within such Time and Times, as the said Commissioners shall by their said Award, or any other Writing, previous to the Execution of the said Award under their Hands, direct or appoint.

XXVIII. And

XXVIII. And be it further enacted, That in case the Proprietor or Proprietors of any Lands or other Hereditaments by this Act authorized to be divided, allotted, or exchanged, shall hold their respective Lands or Hereditaments for different Estates, or under different Titles, the said Commissioners shall ascertain and distinguish the Lands, or other Hereditaments held for each of such Titles respectively, and shall distinguish the different Allotments, or other Hereditaments, to be accepted and taken as an Equivalent in respect of each of them; and the said Commissioners shall, and they are hereby authorized and required to set forth and declare in and by their General Award, in right of what Estates in particular such Allotments shall have been made respectively, and therein separately to describe and ascertain the Situation of every such Settlement.

Distinct Allotments to be made for Lands holden by different Titles, or for different Estates.

XXIX. Provided always, and be it further enacted, That the Allotments to be made and set out by virtue of this Act, in right of any Property under Lease for any Term of Years, not exceeding Twenty-one Years at Rack Rents, shall be allotted and set out to the respective Lessors and Landlords, and shall be held and enjoyed by them free from all Right and Interest of their respective Tenants; and such respective Lessors, their Heirs and Assigns, shall make such Abatement out of the Rents reserved by such Leases respectively, in respect of any Loss which the said respective Tenants may suffer or sustain on account of such Allotments, as the said Commissioners shall adjudge reasonable, and shall in and by their said Award, or any other Writing under their Hands, direct or appoint.

Allotment in respect of Leasehold Property to be set out to the Lessors, &c.

XXX. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Parishes of *St. Mary Extra* and *South Stoneham*, or either of them, in lieu of, and in Exchange for any other Lands, Tenements, and Hereditaments within the said Parishes, or either of them, or within any adjoining Parish, 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, or 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 with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owner or Owners, Proprietor or Proprietors, for the Time being, as 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 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

Exchanges may be made.

fiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged, shall lie and be situate.

Expences of Exchanges and Partitions how to be paid.

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

This Act not to effect Wills, &c.

XXXII. And be it further enacted, That nothing in this Act contained shall extend, or be construed, deemed, adjudged, or taken to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person or Persons having or claiming any Jointure, Dower, Portion, Debt, Rent, or Incumbrance, out of, upon, or affecting any of the Lands or Grounds so intended to be divided, allotted, and inclosed as aforesaid, or which shall be exchanged in pursuance of this, or the said recited Act, or any Part thereof respectively, otherwise than by the Substitution of the Lands and Grounds to be assigned, and allotted or exchanged upon such Division and Inclosure as aforesaid, in pursuance of this Act, for the Lands, Grounds, and Hereditaments, in lieu whereof such Allotments and Exchanges shall respectively be made; but that the several Lands or Grounds so to be assigned and allotted upon such Division and Inclosure to the several Parties concerned, or their Trustees respectively, or which shall be taken in Exchange in pursuance of this Act, shall immediately after such Allotments or Exchanges are made, continue vested in such and the same Person and Persons respectively, for such and the same Estate and Estates, Interest and Interests respectively, and to, for, and upon such and the same Uses, Trusts, Intents, and Purposes, and under and subject to such and the same Limitations, Powers, Provisions, Charges, and Incumbrances, as the several and respective Lands, Tenements, old Inclosures, new Allotments, and other Hereditaments, in lieu or in respect whereof such Allotments and Exchanges shall be respectively made as aforesaid, now are, or might, would, or ought to have been subject or liable to, and charged with or affected by, before the passing of this Act, or in case the same had not been made.

Vicarial Tythes of South Stoneham to cease.

XXXIII. And be it further enacted, That from and immediately after the setting out of the said Allotments in lieu of the Vicarial or Small Tythes, all the Vicarial or Small Tythes arising, renewing, increasing, or becoming due and payable out of and for the Lands and Grounds in the said Parish of *South Stoneham*, by this Act intended to be divided, allotted, and inclosed, shall cease and be for ever extinguished.

No Tythes to be paid to the Rector for Five Years.

XXXIV. And be it further enacted, That no Tythes, either Great or Small, which would arise, renew, increase, or become due and payable out of and for the Lands and Grounds by this Act intended to be divided, allotted, and inclosed, and to which the Rector of *Saint Mary Extra* and *South Stoneham* aforesaid for the Time being would be entitled, shall be paid or payable for the Space of Five Years next after the Day of the Execution of the Award of the said Commissioners.

XXXV. And be it further enacted, That in the mean Time, and until such Division and Allotment shall be made as aforesaid, the Pasture, Tillage, and Mode of Husbandry of the said Commons, Wastes, and Commonable Lands hereby directed to be allotted, divided, and inclosed, shall in all respects be governed, ordered, and controlled by the said Commissioners, by Writing or Writings under their Hands, in case they shall think it expedient to make any Order or Regulation in that respect, any Usage or Custom to the contrary thereof in any wise notwithstanding.

Directing  
the Course of  
Husbandry.

XXXVI. And be it further enacted, That all the Costs, Charges, and Expences incident to the obtaining and passing this Act, and the surveying, measuring, dividing, allotting, and inclosing the said Lands and Grounds, and the Costs and Charges of forming and putting in good and sufficient Repair the public Carriage Roads in, over, and through the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and of preparing and inrolling the Award of the said Commissioners, and all other necessary Costs, Charges, and Expences in and about the Premises, shall be paid, borne, and defrayed by the Owners and Proprietors of, and Persons interested in the Lands, Grounds, and Hereditaments to be divided, allotted, and inclosed by virtue of this Act, in such Shares and Proportions as the said Commissioners shall appoint by any Rate or Rates to be made by them for that Purpose (save and except the said Lord Bishop of *Winchester*, and the said Vicar, and their respective Successors, in respect of any Allotment or Allotments to be made to them respectively as such Lord Bishop and Vicar by virtue of this Act; and the several Sums of Money thereby rated, shall be paid to such Person or Persons, and at such Time and Place as the said Commissioners shall in and by their Award, or any other Writing to be by them signed, either before or after the Execution thereof, order and direct; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share or Proportion of such Charges and Expences as aforesaid, then and in such Case the said Commissioners shall cause the same to be levied and recovered in the Manner directed by the said recited Act.

For paying  
the Expences  
of this Act.

XXXVII. And be it further enacted, That if any Person or Persons shall advance any Sum or Sums of Money for defraying the Expences of obtaining and passing this Act, or for the Use of the said Commissioners in carrying the same into Execution, every such Person shall be repaid the same with Interest, at the Rate of Five Pounds *per Centum per Annum*, out of the first Monies that shall be raised and come to the Hands of the said Commissioners for defraying the Expences of obtaining and executing this Act.

Monies ad-  
vanced to be  
repaid with  
Interest.

XXXVIII. And be it further enacted, That the said Commissioners, or such of them who shall act in the Execution of the Powers and Authorities by this Act vested in them, shall be allowed and paid the Sum of Two Pounds Twelve Shillings and Sixpence for every Day they or he shall act or travel for the Purpose of acting, or in returning Home from acting therein, which Allowance shall be and is hereby declared to be in full Satisfaction for their or his Trouble and Expences in the Execution of this Act.

Commis-  
sioners'  
Allowance.

[*Loc. & Per.*]

300

XXXIX. And

Persons ap-  
Pointed to  
examine the  
Commission-  
ers' Accounts.

XXXIX. And be it further enacted, That once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of the passing of this Act), the said Commissioners shall, and they are hereby required to make a just and true Statement or Account of all Sums by them received and expended, or due to them for their own Trouble or Expences in the Execution of this Act, and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by them laid before *James Florance* Esquire, and *Thomas Woodham* Gentleman, or either of them, to be by them or either of them, examined and balanced, and such Balance shall be by them, or either of them, stated in the Book of Accounts to be kept in the Office of the Clerk of the said Commissioners, and no Charge or Item in such Accounts shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by the said *James Florance* and *Thomas Woodham*, or either of them.

In case of  
their Death  
others to be  
appointed.

XL. Provided always, and be it further enacted, That in case the said *James Florance* and *Thomas Woodham*, or either of them, shall die or refuse to act as Auditors as aforesaid, before the Matters and Things to be by them done by virtue of this Act, shall be entered upon or fully performed and finished, it shall be lawful for the Proprietors of the major Part in Value 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 Church Doors of the said Parishes of *Saint Mary Extra* and *South Stoneham*, Ten Days at least before the Time appointed for holding such Meeting, by Writing under their Hands, to appoint some other fit and proper Persons (not interested in the said Division and Inclosure) to be Auditors in the Place and Stead of the said *James Florance* and *Thomas Woodham*, or either of them, and as often as occasion may require, and the Person or Persons so to be nominated and appointed shall have the like Powers and Authorities for executing the Purposes aforesaid as the said *James Florance* and *Thomas Woodham*, or either of them, have or had.

Award to be  
inrolled and  
deposited  
with the  
Clerk of the  
Peace.

XLI. And be it further enacted, That the General Award to be made by the said Commissioners, pursuant to the Directions of the said Act and this Act, shall be inrolled with the Clerk of the Peace for the County of *Southampton*, and the said original General Award, and such Plans and Surveys as may be annexed thereto, shall be lodged and deposited in the Office of the Clerk of the Peace, for the said County of *Southampton*, to remain with the Records of the Court of General Quarter Sessions of the Peace there, to the End that Recourse may be had thereto by any Person or Persons interested in the said Division; which said Award and Plans, and every other Award and Instrument to be lodged with the said Award, shall and may be inspected at all reasonable Times, upon reasonable Notice of the Party requiring such Inspection; and that a Copy of such Award and Plans shall be also deposited in a Tin-box in each of the said Parish Churches of *Saint Mary Extra* and *South Stoneham*.

Commission-  
ers may  
execute  
Copies of the

XLII. And be it further enacted, That the said Commissioners shall at the Request, Costs, and Charges of any Person or Persons, Body or Bodies Politic or Corporate, his, her, and their Stewards or Agents, having

having any Allotment or Allotments of the said Lands or Grounds hereby intended to be divided, or otherwise interested therein, at any Time before the depositing of the said Award, make and execute (at the Costs and Charges of the Person or Persons requiring the same) a Copy or Copies of the said Award, Plans, and Surveys, or any of them, for the Use of the Person or Persons requesting the same, and such Copy or Copies shall at all Times be admitted and allowed as legal Evidence in all Courts whatsoever.

Award for Persons requiring and paying for the same.

XLIII. And be it further enacted, That where the Proprietor or Proprietors of any Lands, or other Hereditaments, which shall be divided, allotted, or exchanged, by virtue of this Act, shall hold their respective Lands and Hereditaments for different Estates, or under different Titles, and where from the Want of the necessary Information before the said Commissioners, or from any other Cause, their Award shall have omitted the distinguishing and ascertaining of the Lands or other Hereditaments holden for each of such Estates, and under each of such Titles respectively, and the setting out and awarding of several and distinct Allotments for such respective Lands, or other Hereditaments as hereinbefore is required, and within Twelve Calendar Months after the making the said Award, request shall be made to the said Commissioners by any Person or Persons interested, by Writing under his or their Hand or Hands, to have such Omission supplied by a separate Instrument, 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 as if the Award had not been made; and when they shall have obtained what they shall think sufficient Information, they are hereby authorized, by any Deed under their Hands and Seals, to distinguish and ascertain the Difference of Tenure, Estates, and Titles respectively, and accordingly to make distinct and several Allotments in the same Manner as is hereby required, where such Discrimination should be contained in the said Award; and every such separate Instrument shall be inrolled in the same Place, and Evidence thereof shall be given in the same Manner, as by the said recited Act and this Act, or either of them respectively, are or is directed concerning the said General Award of the said Commissioners; and all Expences which shall be reasonably incurred in or about any such separate Instrument as aforesaid, shall be payable by the Person or Persons who shall have so requested the said Commissioners to make and execute the same, or by his or their Heirs, Executors, or Administrators; and every such separate Instrument shall, from and immediately after the due Execution thereof by the said Commissioners, have the same Effect to all Intents and Purposes as if the Contents thereof had been inserted and contained in their said General Award, and the same shall after such Inrolment as aforesaid, be delivered to the Person or Persons upon whose Request any such Omission shall have been supplied, or to the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title to the Premises in question shall, in the Opinion of the said Commissioners, most properly belong.

In Cases, where Lands shall be holden by different Titles, &c. and the Commissioners shall not have distinguished such Lands, and awarded distinct Allotments for the same in their General Award, they may on request do the same by Deed after the making of the said Award.

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

Appeal.

Act

Act (except in such Cases where the Orders and Determinations of the said Commissioners are hereby, or by the said recited Acts directed to be final and conclusive, and except in such Cases wherein an Issue at Law shall be tried as hereinbefore mentioned), then and in such Case he, she, or they may appeal to any General Quarter Sessions of the Peace which shall be held in and for the said County of *Southampton*, within Four Calendar Months next after the Cause of Complaint shall have arisen, such Appellant or Appellants first giving Fourteen Days Notice, at the least, of his, her, or their Intention to bring such Appeal, and of the Matter thereof, to the said Commissioners, or some or one of them; 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 therein, and to award such Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties, Person or Persons liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Costs and Charges of such Distress and Sale, which Determination or Order of the said Justices shall be final and conclusive to all Intents and Purposes whatsoever.

General  
Saving.

XLV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and also to all and every Person and Persons, Body or Bodies Politic and Corporate, his, her, and their respective Heirs, Successors, Executors, Administrators, and Assigns, all such Estate, Right, Title, and Interest (other than and except such as are meant and intended to be barred and destroyed by this Act), as he, they, every, or any of them had and enjoyed, of, in, to, or out of the said Commons, Wastes, and Commonable Lands hereby directed to be divided and inclosed before the passing of this Act, or could, might, or ought to have had and enjoyed in case the same had not been made.

Public Act.

XLVI. 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.

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LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1812.