



ANNO QUINQUAGESIMO PRIMO

GEORGI III. REGIS.

Cap. 217.

An Act for inclosing Lands in the Parish of *Drayton*,
in the County of *Berks*. [26th June 1811.]

WHEREAS there are within the Parish of *Drayton*, in the County of *Berks*, certain Open and Common Fields, Common Meadows, Common Pastures, and other Commonable and Waste Lands, and divers ancient Inclosures: And whereas Sir *George Jerningham* Baronet, is Lord of the Manor of *Drayton*; and the Warden and Scholars of *Mary College* of *Winchester* in *Oxford*, commonly called *New College*, are Lords of the Manor of *West Drayton* within the Parish of *Drayton* aforesaid, and as such they are respectively entitled to the Right of Soil in the Commons and Waste Lands within their said respective Manors: And whereas the said Sir *George Jerningham* is seised of or entitled to the Improprate Rectory of *Drayton* aforesaid, and in Right thereof, is seised and possessed of all the Tythes and Tenths, both Great and Small, arising, renewing or payable within the said Rectory and Parish of *Drayton* aforesaid, (except the Tythes of such Part of the said Common Meadows as are herein-after mentioned to belong to *William Caudwell*, and also except certain Meadows, called *Wild Moor*, *Tippenny Wood*, *Hill Mead*, *Great Moor*, and *Little Moor*, which are respectively Tythe free): And whereas *William Caudwell* is seised and possessed of the Tythes and Tenths of Hay and Milk yearly arising and issuing out of and from the several Pieces or Parcels of Meadow or Pasture Ground, called *Berry Croft*, *Broadmere*, *Dick* and *Gooseham*, containing together by Estimation Fourteen Acres or thereabouts, with Half an Acre by Estimation in *Little Moor*, Parcel of the Common Meadows and Pastures at *Drayton* aforesaid: And whereas the said Sir *George*

[*Loc. & Per.*]

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Jerningham,

Jerningham, the said Warden and Scholars, *William Caudwell*, and divers other Persons are seised, possessed of, or interested in the Residue of the Lands, Grounds, Commons, and Waste Lands, lying in the said Open and Common Fields, Meadows, Pastures and other Commonable and Waste Lands, and of, in, or to the inclosed Lands within the said Parish: 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 it would be very advantageous to the several Proprietors of and Persons interested in the said Lands and Grounds, if the same were divided and inclosed, and specific Allotments made to them respectively in lieu of their several and respective Lands, Grounds, Tythes, Common Rights and Interests therein, but the same cannot be done 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 *John Davis* of *Bloxham*, in the County of *Oxford*, Gentleman, and *George Barnes* of *Andover*, in the County of *Southampton*, Gentleman, and their Successors, to be appointed in Manner hereinafter mentioned, shall be and they are hereby appointed Commissioners for the Purpose of dividing, allotting, laying in Severalty and inclosing the said Open and Common Lands, Common Meadow, Common Pasture, Waste and other Commonable Lands, and for putting this Act into Execution in the Manner, and subject to the Rules, Orders, and Directions herein contained, and also subject to the Regulations and Provisions of the said recited Act, except where the same are hereby altered or varied.

Commis-
sioners.

If Commis-
sioners dis-
agree, an
Umpire to be
appointed.

II. Provided always, and be it further enacted, That if the said *John Davis* and *George Barnes* or their Successors, to be appointed as aforesaid, shall disagree in Opinion touching or concerning any Matter or Thing to be by them done and performed in the Execution of the Powers in this or the said recited Act, then and in every such Case it shall and may be lawful for the said *John Davis* and *George Barnes* and their Successors, to be appointed as aforesaid, and they are hereby directed and required with all convenient Speed, after such Disagreement of Opinion shall happen, to nominate and appoint some Third Person (not interested in the Premises) to refer the Matter thereof to him as an Umpire for settling and determining such Disagreement or Difference of Opinion; and the Judgement and Determination of such Umpire thereupon shall be deemed and considered to be the Judgement and Determination of the said Commissioners.

Umpire to
take an Oath.

III. Provided always, and be it further enacted, That no Person shall be capable of acting as an Umpire in the Execution of this or the said recited Act, until he shall have taken and subscribed the Oath or Affirmation following; (that is to say),

I do swear [or, being One of the People called *Quakers*, do solemnly affirm], That I will faithfully, honestly, and impartially, according to the best of my Skill and Ability, execute and perform the Powers and Authorities reposed in me as Umpire by virtue of an Act, passed in the Fifty-first Year of the Reign of King
George

George the Third, intituled, *An Act [here set forth the Title of this Act]* according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.
 ' So help me GOD.'

Which Oath or Affirmation it shall be lawful for either of the said Commissioners to administer, and he is hereby required to administer the same; and such Oath or Affirmation, when so taken and subscribed by such Umpire, shall be annexed to and inrolled with the Award of the said Commissioners.

IV. And be it further enacted, That when and so often as any of the said Commissioners herein-before named or to be appointed in Manner herein-after mentioned, shall die, refuse to act, or become incapable of acting as a Commissioner for the Purposes of this Act, then and in every such Case a new Commissioner or Commissioners (not being in any Manner interested in the said Lands, Grounds, and Premises, or any Part thereof) shall and may be elected in Manner following; (that is to say), if the said *John Davis* shall die, refuse to act, or become incapable of acting as aforesaid, it shall be lawful for the said Sir *George Jerningham*, his Heirs or Assigns, by any Writing under their or his Hand and Seal or Hands and Seals, to appoint One other Commissioner in the Room of the said *John Davis*, and so from Time to Time as often as any Commissioner appointed by the said Sir *George Jerningham*, his Heirs or Assigns, shall die, refuse to act, or become incapable of acting as aforesaid; and if the said *George Barnes* shall die, or refuse to act, or become incapable of acting as aforesaid, it shall and may be lawful for the Majority in Value (such Value to be ascertained by the Land Tax Assessment) of the other Proprietors or Persons, and Bodies Politic, Corporate or Collegiate, interested in the Lands and Grounds directed by this Act to be divided, allotted, and inclosed, or to and for their known Agents or Attornies, who shall be present at a Meeting held for that Purpose at some convenient Place at *Abingdon* in the County of *Berks*, in pursuance of publick Notice to be given by Order of the surviving Commissioner, in the Weekly Newspaper published at *Reading*, if any such there then be, by Writing to be affixed to the principal outer Door of the Parish Church of *Drayton* aforesaid, Twenty-one Days at least before such Meeting, by Writing under the Common Seal of any such Bodies Politic, Corporate or Collegiate, and under the Hands of such other Persons, to appoint One other Commissioner in the Room of the said *George Barnes*, and so from Time to Time, as often as any Commissioner appointed by the said last-mentioned Proprietors shall die, or refuse to act, or become incapable of acting as aforesaid; and in case the said respective Parties, or any of them, shall make Default in appointing any such new Commissioner for the Space of Twenty-eight Days after any such Vacancy shall happen, it shall be lawful for the surviving or remaining Commissioner, and he is hereby required by Writing under his Hand, to appoint One other Commissioner in the Room of each Commissioner so dying, or refusing to act, or becoming incapable of acting as aforesaid; and every such new Commissioner so to be appointed, shall have the same Powers and Authorities by virtue of this Act, as the Commissioner, in whose Room he shall succeed, had or would have been invested with, in case such Death, Refusal or Incapacity to act, had not taken place.

New Commissioner to be chosen on Death or Refusal to act.

V. And

Allowance to
Commissioners
and
Umpire.

V. And be it further enacted, That every Commissioner and Umpire employed in the Execution of this Act, shall be allowed the Sum of Three Pounds and Three Shillings and no more, for his Trouble and Expences for each Day he shall necessarily attend in the due Execution of the Powers of this and the said recited Act, out of which said Allowance such Commissioner shall defray his own Expences; and the said Commissioners shall have Power, and they are hereby authorized to appoint a Clerk or Clerks to assist them in the Execution of this and the said recited Act, and such Clerk or Clerks from Time to Time to remove, and another or others to appoint, as to them shall seem meet; and such Clerk or Clerks shall in like Manner be allowed the Sum of Three Pounds and Three Shillings for his or their Trouble, Charges and Expences for each and every Day he or they shall necessarily attend the said Commissioners in the Execution of this and the said recited Act; and every Proprietor and other Person interested in the Execution of this Act, and their Solicitors and Agents who shall attend any Meeting to be held by the said Commissioners in pursuance of this Act, shall bear and pay his and their own Expences of such Attendance.

Proprietors to
pay their own
Expences.

Notice of
Meetings.

VI. And be it further enacted, That the said Commissioners shall and they are hereby required to cause public Notice in Writing to be affixed upon the principal outer Door of the Parish Church of *Drayton* aforesaid, upon some *Sunday* immediately preceding Divine Service, and also by Advertisement to be inserted in the weekly Newspaper published at *Reading* (if any such shall then be), of the Time and Place of their First and every other Meeting for executing the Powers hereby vested in them, Ten Days at least before every such Meeting shall be held (except Meetings by Adjournment only); and the said Commissioners shall and may from Time to Time adjourn such Meetings to such Time and Place as they shall think proper; and if at the Time and Place appointed for any such Meeting, no more than One Commissioner shall attend, such One Commissioner may adjourn such Meeting; and if no Commissioner shall attend, it shall be lawful for the Clerk or Clerks to the said Commissioners to adjourn such Meeting to such Time and Place as he or they shall think most convenient: Provided always, that all the Meetings of the said Commissioners shall be held at *Abingdon* in the County of *Berks*, or some other convenient Place within Eight Miles of the said Parish of *Drayton*.

How other
Notices are to
be given.

VII. And be it further enacted, That all Notices necessary to be given by the said Commissioners shall be made and given by Advertisement, to be inserted in the weekly Newspaper published at *Reading* (if any shall then be), or by Writing affixed (by Order of the Commissioners) on the outer Door of the Parish Church of *Drayton* aforesaid.

What Lands
to be inclosed.

VIII. And, for the better ascertaining what Lands shall be divided, allotted, and inclosed, pursuant to this Act, be it further enacted, That all Fields or Inclosures containing the Property of Two or more Persons within One Fence, and also all Inclosures of whatever Tenure the same respectively be, where or over or upon which any Person or Persons hath or have Right of Common, as well as all Open and Common Arable Meadows and Pasture Land, and all other intermixed Right or Property, and all Waste Lands whatsoever within the said Parish of *Drayton*, shall be considered

sidered as Commonable Land; and be divided, allotted, and inclosed accordingly.

IX. And be it further enacted, That if any Dispute or Difference shall arise between the Proprietors or other Persons interested in the said intended Division and Inclosure, or any of them, touching or concerning their respective Shares or Properties of and in the said Lands and Grounds, it shall be lawful for the said Commissioners, and they are hereby authorized and required by Examination of Witnesses upon Oath or upon View, or other satisfactory Evidence, to hear and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioners to determine the Title of any Person or Persons, Bodies Politic, Corporate or Collegiate, to any Messuages, Cottages, Lands, or Hereditaments whatsoever.

Commissioners to determine Disputes.

X. Provided always, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners or Umpire, to determine any Right between any Parties contrary to the Possession of any of such Parties (except in respect of Encroachments); but in case the said Commissioners or Umpire shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereon 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.

Possession not to be molested without due Course of Law.

XI. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered upon Application made to them for that Purpose, to settle, assess, award and order such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections shall be thereby disallowed or over-ruled; and in case the Person or Persons who shall be liable and ordered to pay such Costs and Charges shall neglect or refuse to pay the same upon Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby respectively authorized and required by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons whose Goods and Chattels shall have been distrained and sold, but first deducting thereout the Costs and Charges attending such Distress and Sale.

Power to award Costs.

XII. Provided always, and be it further enacted, That if any Person or Persons, interested in the said Division and Inclosure, shall be dissatisfied with the Determination of the said Commissioners or Umpire, touching or concerning any Claim or Claims of any Rights or Interests, in, over and upon the Lands and Grounds hereby intended to be divided, allotted, and inclosed, or any Part thereof, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall

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

Be lawful for the Person or Persons so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners or Umpire, at the then next or the following Assizes to be holden for the said County of *Berks*; and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners or Umpire, 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 Two Calendar Months next after such Determination of the said Commissioners or Umpire; 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 and 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 such Person and Persons whomsoever, Body or Bodies Corporate or Collegiate, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts; and order a new Trial to be had thereon, which it shall be lawful for the said 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 or Umpire touching such Claim or Claims, which shall not be objected to, or being objected to, the Parties or Party objecting not causing such Action or Actions at Law to be brought and proceeded in as aforesaid, shall be final and conclusive on all Parties.

Determina-
tion of Com-
missioners,
not objected
to, to be
final.

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

and if Parties
die, Proceed-
ings not to
abate.

XIII. Provided always, and be it further enacted, That if any Person or Persons, in whose Favour any such Determination 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 or Clerks 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 also be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, in like 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; and 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 Death had happened.

XIV. And

XIV. And be it further enacted, That the said Commissioners shall and they are hereby required, before any Allotment or Allotments shall be made in pursuance of this Act, to set out, appoint and allot a proper Quantity or Quantities, Parcel or Parcels of Land or Ground, Parts of the Lands and Grounds hereby intended to be divided, allotted and inclosed, for Stone or Gravel Pits, or Quarries, for the Purpose of furnishing Materials for making and repairing the Roads and Ways already in existence, and to be set out and appointed by the said Commissioners in the said Parish of *Drayton*; which Lands shall be fenced in such Manner, and such Fences shall be kept in Repair by such Person or Persons as the said Commissioners shall by their Award order and direct; and such Parcel or Parcels of Land shall be vested in the Surveyor or Surveyors of the Highways of the said Parish of *Drayton* for the Time being, upon Trust, and for the Purposes aforesaid.

Commissioners to set out Stone and Gravel Pits

XV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out, allot, and award, unto and for the said Sir *George Jerningham*, his Heirs or Assigns, as Lord of the Manor of *Drayton* aforesaid, and to the said Warden and Scholars of *New College* in *Oxford*, and their Successors, as Lords of the said Manor of *West Drayton*, for and in lieu of their respective Rights to the Soil in the said Commons and Waste Lands within their respective Manors, such Part, Share and Proportion of the Lands and Grounds hereby intended to be divided, allotted and inclosed, as in the Judgement of the said Commissioners, (Quantity, Quality, Situation and Convenience considered), shall be a reasonable Compensation and full Satisfaction for all Right of Soil which such Lords now respectively have or might, or of right ought to have, as Lords of the said respective Manors, in such Commons and Waste Lands, if this Act had not passed; and in ascertaining such respective Quantities, the said Commissioners shall have regard to the Proportions of Common Rights belonging to and enjoyed by the Tenants and Occupiers of Land of the said respective Lords.

Allotment to the Lords of the Manor for Right of Soil.

XVI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out, allot and award unto and for the said Sir *George Jerningham*, or the Impropiator for the Time being, for and in lieu of all Great and Small Tythes yearly issuing, arising or renewing out of and from all and every the said Open and Common Fields, Common Meadows, Common Pastures, and other Commonable Lands within the Parish of *Drayton* aforesaid, which belong to the said Warden and Scholars, or which are in any Manner held by Copyhold or other Tenants under the said Warden and Scholars, and also which belong to any other Person or Persons out of or from which the said Sir *George Jerningham* is entitled to such Tythes, (save and except the said Sir *George Jerningham* himself, or any of his Leasehold or Copyhold Tenants, for and in respect of any Lands or Hereditaments held under him, and for and in lieu of all Moduses and all Payments and Compositions in lieu of such Tythes, (if any), such Plot or Plots or Allotments of the Lands and Grounds by this Act intended to be divided, allotted and inclosed, as in the Judgement of the said Commissioners, (Quantity, Quality, Situation, and Convenience considered), shall be equal in Value to One-fifth Part of all the Arable Land in the said Open and Common Fields, and One-ninth Part of all the said Common Meadows, Common Pastures, and other

Allotments in lieu of Tythes.

Commonable

Commonable Lands, of and belonging to the said Warden and Scholars, and their Leasehold, Copyhold or other Tenants, and all and every other Person or Persons respectively as aforesaid, who have any such Land as aforesaid, (save and except the said Sir *George Jerningham*, and his Copyhold, Leasehold and other Tenants as aforesaid, in respect of any Lands or Hereditaments held under him, and which are hereby intended to be divided, allotted and inclosed, without being in any Manner exonerated from Tythe); and the same Allotment or Allotments respectively shall be taken and deducted from and out of the respective Shares of the said Open and Common Fields, Common Meadows, Common Pastures and other Commonable Lands belonging to the several Persons whose Commonable or other Lands shall be exonerated from the said Tythes or Compositions, or from or out of the Land to be allotted to them respectively in lieu of their Commonable Lands, and shall be in full Satisfaction and Discharge of and for the said Tythes and Compositions issuing, arising, or renewing from and out of the said Open and Common Fields, Common Meadows, Common Pastures and other Commonable Lands within the said Parish of *Drayton*, due and payable to the said Sir *George Jerningham* as aforesaid.

Allotments in lieu of the Tythes of ancient Inclosures in *Drayton*.

XVII. And be it further enacted, That it shall and may be lawful for the said Commissioners, and they are hereby authorized and required to set out, allot, and award, unto and for the said Sir *George Jerningham*, (over and above and exclusive of the several Allotments herein-before directed to be made to him), such further distinct Portions, Parcels, and Quantities of the Lands hereby directed to be divided and allotted, belonging to the Owners of any Messuages, Cottages, Tenements, Mills, Gardens, Orchards, or other ancient Inclosures within the said Parish of *Drayton*, now subject and liable to the Payment of any Tythes or Dues to the said Sir *George Jerningham* as aforesaid, (other than and except such of the said Messuages, Cottages, Tenements, Mills, Gardens, Orchards, or other ancient Inclosures, as are the Property of him the said Sir *George Jerningham*, or held under him for Lives by any Lease or Copy of Court Roll, which are not intended to be exonerated from Tythes, but to remain subject and liable thereto; as if this Act had not been made), as the said Commissioners making such Allotments shall think and adjudge to be a full Compensation for the said Tythes and Compositions issuing or payable out of or for any such Messuages, Cottages, Tenements, Mills, Gardens, Orchards, and other ancient Inclosures as aforesaid; but in case any of the Owners of the said Messuages, Cottages, Tenements, Mills, Gardens, Orchards, or ancient Inclosures in the said Parish of *Drayton*, shall not be entitled to Lands or Common Rights in the said Common Fields, Common Meadows or Commonable Lands, sufficient to make such Compensation in Land as aforesaid, then and in every or any such Case the said Commissioners shall and may and they are hereby required to ascertain, limit, and appoint, in and by their Award to be made in pursuance of this and the said recited Act, such respective yearly Rents or Sums of Money to be issuing and payable out of the said respective Messuages, Cottages, Tenements, Mills, Gardens, Orchards, and old inclosed Lands, in lieu of the Tythes or Compositions thereof, or of such Parts thereof, for which such Compensation in Land cannot be made as aforesaid, as in the Judgment of the said Commissioners ascertaining and appointing the same, shall be or make up a full Equivalent and Compensation to the said Sir *George Jerningham* for the said Tythes and Compositions so payable to them

them out of the said Messuages and other Premises respectively; which said respective Rents or Sums of Money shall for ever afterwards be issuing from the said Premises respectively out of which the same shall be limited and appointed to be paid as aforesaid; and shall be payable to the said Sir George Jerningham, his Heirs and Assigns, on the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September* by equal Half-yearly Payments in every Year, the First Payment whereof shall grow due and be made on the Twenty-ninth Day of *September* next; and the said Sir George Jerningham, his Heirs and Assigns, shall and may at all Times after the Execution of the said Award, have and exercise such and the same Remedies and Powers, by Distress and Entry, for recovering the said respective yearly Rents so to be ascertained and appointed as aforesaid, when the same shall be in Arrear, as by the Laws now in force are provided and given to other Landlords for the Recovery of Rack Rents in Arrear.

XVIII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered to set out and allot unto and for the said *William Caudwell*, for and in lieu of his Tythes yearly issuing, arising or renewing out of and from the aforesaid several Pieces or Parcels of Meadow or Pasture Ground called *Berry Croft, Broadmere, Dick, Gooseham*, and Half an Acre in *Little Moor*, such Plot or Plots or Allotments of the Lands and Grounds by this Act intended to be divided, allotted, and inclosed, as in the Judgment of the said Commissioners, (Quantity, Quality, and Situation considered), shall be equal in Value to One-ninth Part of the said Pieces or Parcels of Meadow Ground from which such Tythes arise or become payable as last aforesaid; and the same Allotment or Allotments respectively shall be taken and deducted from and out of the respective Shares of the said Open and Common Fields, Common Meadows, Common Pastures, and other Commonable Lands belonging to the several Persons to whom the said several Pieces or Parcels of Meadow or Pasture Ground; and Half Acre of Land to be exonerated from Tythes as last aforesaid do belong, and shall be respectively allotted to the said *William Caudwell*, in full Satisfaction and Discharge of and for his Tythes of the same several Pieces or Parcels of Meadow or Pasture Ground, and Half Acre of Land respectively as aforesaid: Provided always, that nothing in this Act contained, shall prejudice, lessen or defeat the Right or Title of the officiating Minister of *Drayton* for the Time being, to any Mortuaries, *Easter Offerings*, or any Surplice Fees whatsoever, arising or becoming due to him in the said Parish of *Drayton*, but that the same and every of them shall remain due and payable in the same Manner as before the making and passing this Act.

Allotment to
William
Caudwell in
lieu of his
Tythes of
Berry Croft,
Broadmere,
Dick, Goose-
ham, and
Half an Acre
in Little
Moor.

Surplice Fees,
&c. to con-
tinue payable.

XIX. And be it further enacted, That the said Commissioners shall cause and order all and every the Allotment and Allotments of Land to be made to the said Sir George Jerningham in lieu of Tythes as aforesaid, to be inclosed and fenced on the outward Boundaries thereof respectively, and the Expence thereof, together with the Expences of raising, repairing and maintaining the same for the Space of Seven Years, shall be paid and defrayed by the several Person and Persons whose Land shall be so exonerated from such Tythes, in such Shares and Proportions as the said Commissioners shall award, order, and direct; and for the Purpose of raising and paying such Expences of making and maintaining the Fences of such Tythe Allotments as are herein-before directed, the said Commissioners are hereby

Outward
Boundaries
of Allotments
of Arable
Land in lieu
of Tythes to
be fenced.

authorized, directed, and required to make a special Rate and Assessments or Rates and Assessments, upon all and every the Proprietors and Owners of the Land intended to be exonerated from such Tythes, distinct and separate from any other Rate or Assessment, which shall be subject to such and the same Power and Remedies for Recovery thereof, as is hereby given for Recovery of other Expences of obtaining this Act, and carrying the same into Execution.

Allotment of
the Residue.

XX. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required in the next Place to divide, set out and allot the Residue and Remainder of the said Open and Common Fields, Common Meadows, Common Pastures and other Commonable and Waste Lands by this Act intended to be divided, allotted and inclosed, unto and amongst the several Owners and Proprietors thereof and Persons interested therein, in Proportion and according to their several and respective Rights and Interests therein respectively.

Power to
divide and
allot ancient
Inclosures.

XXI. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, by and with the Consent and at the Request of the respective Owners of old inclosed Lands, Grounds, or Hereditaments, lying within the said Parish of *Drayton*, to order and direct such old inclosed Lands, Grounds, and Hereditaments, or such Part or Parts thereof as the Owners thereof respectively shall so consent and desire to have taken up, and considered and allotted as Part and Parcel of the Lands hereby directed to be divided and inclosed, and which shall be done accordingly; and thereupon such Allowances shall be made to the respective Owners thereof, on account of the beneficial Circumstances and Situation of the Property, as the said Commissioners shall adjudge to be just and reasonable; and the said Commissioners shall and they are hereby required to set out, allot and award unto and for the respective Owners of such old inclosed Lands, Grounds, and Hereditaments, in lieu thereof, so much and such Plot or Plots of Land, Part of the Lands and Grounds hereby directed to be allotted or inclosed, as they the said Commissioners (Quantity, Quality, and Situation considered) shall think reasonable and just, subject to the Orders and Directions herein contained.

Exchanges
may be made.

XXII. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tythes, Tenements or Hereditaments whatsoever within the said Parish of *Drayton*, in lieu of and in Exchange for any other Lands, Tythes, Tenements or Hereditaments whatsoever within the said Parish, 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, Proprietor or Proprietors of the Lands, Tenements, Tythes 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 Lives, 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 and other Uses, Husbards, Committees, or Attornies of or acting for such Owners or Proprietors as aforesaid, who at the Time of making such Exchange or Exchanges shall

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 always, 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 Lord Bishop of the Diocese in which such Lands, Tythes, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

XXIII. Provided always, and be it further enacted, That all Costs, Charges, and Expences attending the making and completing any Exchanges and Partitions, shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioners shall order and direct.

Expences of Exchanges and Partitions to be borne and paid by the Parties.

XXIV. And be it further enacted, That nothing in this or the said recited 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, Grounds, Tythes, or Hereditaments to be divided, allotted, or awarded in Exchange, by virtue of this or the said Act herein-before referred to, or any Part or Parts thereof respectively, but that the respective Persons to whom any Lands or Hereditaments shall be allotted or awarded in Exchange by virtue of this or the said Act so referred to, 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, as the Messuages, Buildings, Lands, Grounds, or Hereditaments, whereof such Person was seised or possessed at or immediately before the Execution of the Award to be made by the said Commissioners, 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 passed.

Wills and Settlements, not to be affected.

XXV. And be it further enacted, That if any Person or Persons, by or from whom any Claim or Claims shall be made, shall happen to die before the said intended Division and Allotment shall be made and perfected, and before the said Commissioners shall have made their Award touching or concerning the same, then and in such Case the Powers and Authorities hereby and by the said recited Act granted and vested in the said Commissioners, shall not in anywise be determined, suspended, or affected by such Death or Deaths, but that the said Commissioners shall and may proceed in and execute the Powers and Authorities hereby and by the said recited Act given, and every of them, in such and the same Manner as they could or might have done if such Person or Persons had still survived and been living at the Time of the said Award being made and executed; and that the Part or Parts, Share or Shares of the
Lands

Death of Parties not to delay Inclosure.

Lands and Grounds hereby directed to be divided, allotted, and inclosed, which any Person or Persons so dying would have been entitled unto, shall be allotted and set out to the Person or Persons who shall be entitled to the same, according to the best Information or Knowledge of the said Commissioners, and such Person or Persons shall accordingly accept and fence, and have, hold, and enjoy such Part or Parts, Share or Shares, according to the several Limitations, Trusts, Powers, and Interests in anywise limited, declared, appointed, or provided, of and concerning the Premises in respect whereof he, she, or they shall be entitled to such Part or Parts, Share or Shares of the Lands and Grounds hereby intended to be divided, allotted, and inclosed.

Extinguishing
Right of
Common.

XXVI. And be it further enacted, That it shall be lawful for the said Commissioners or Umpire and they are hereby authorized at any Time before the Execution of the Award, to be made by them in pursuance of the said recited Act and this Act, by any Writing under their Hands to be affixed upon the Door of the Parish Church of *Drayton* aforesaid, to order and direct all or any Commonable Rights or Interests in, over, or upon the said Commonable Land and Waste Grounds or any Part thereof to be extinguished, or the Exercise thereof to be suspended as aforesaid, the same shall from the Time of affixing such Writing on the said Church Door, or at any other Time to be appointed by the said Commissioners or Umpire in or by such Writing, cease, determine, and be extinguished, or the Exercise thereof shall be suspended accordingly, any Law, Usage, or Custom to the contrary notwithstanding.

No Sheep or
other Cattle
to be de-
pastured after
Right of
Common is
suspended.

XXVII. And be it further enacted, That if any Person or Persons shall after any Right of Common shall be suspended or extinguished under or by virtue of the said recited Act, or of this Act, during such Suspension or Extinguishment thereof, and before the Execution of the said Award, stock or depasture with Sheep or other Stock, any Part of the said Lands or Grounds on which such Right of Common shall be directed to be suspended or extinguished as aforesaid, it shall be lawful for any Proprietor or Proprietors of the said Lands and Grounds, or any Person or Persons by the said Commissioners to be appointed, from Time to Time to distrain all such Cattle, Sheep, and other Stock then being, going or depasturing upon any of the said Lands or Grounds, after the said Right of Common shall be suspended or extinguished, and the same to impound, until the Person or Persons offending shall have paid to the Person or Persons so distraining the same, Two Shillings *per* Head for all Cattle and other Stock so distrained (except Sheep or Pigs), and One Shilling *per* Head for each and every Sheep or Pig so distrained; and in case the same be not paid within Five Days after such Distress, then the said Commissioners, or any Justice of the Peace for the said County of *Berks*, are and is hereby authorized and required on Proof upon Oath by One credible Witness, (which Oath the said Commissioners or any One of them, or such Justice, are and is hereby empowered to administer), of such Offence and the Non-payment of the Penalty hereby imposed, and so often as the same shall happen, by Warrant under the Hands and Seals of the said Commissioners, or under the Hand and Seal of any such Justice, and directed to the Constable of the said Parish of *Drayton*, (unless such Offender shall be the Constable of the said Parish, and then to the High Constable of the Hundred wherein such Lands shall

shall be situate), who is and are hereby required to execute every such Warrant, and to cause such and so many of such Cattle, Sheep, Pigs, and other Stock, to be sold, as shall be sufficient for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress and Sale, rendering the Overplus (if any) to the Owner or Owners of such Cattle or Sheep on Demand; which Warrant, and the Proceedings to be had thereon, shall be binding and conclusive on the Parties.

XXVIII. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the said Proprietors, in the Lands and Grounds to be divided and allotted by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively in lieu thereof, they the said Commissioners shall cause Notice to be given of some convenient Time and Place when and where the said Proprietors may be informed of such intended Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and as some Proprietors may upon Inspection of such Map be dissatisfied with the intended Allotments, the said Commissioners shall at such Time and Place as last aforesaid, or some other Time or Place to be appointed by them for that Purpose, receive Statements in Writing of the Complaints and Objections against such Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same; and the Determination of the said Commissioners respecting the Allotments, shall be final and conclusive on all Parties.

Allotments to be delineated upon the Plan, and shewn to the Proprietors.

XXIX. And be it further enacted, That the said Commissioners shall and may scour out, build, widen, and make all such ancient or new Ditches, Drains, Watercourses, Tunnels, Gates, and Bridges, as well in, through, and over the Lands and Grounds thereby intended to be allotted and divided, as also in, through, and over any ancient Inclosures within the said Parish of *Drayton*, making such Satisfaction to the Proprietors of such ancient Inclosures, for the Damage done thereby, as they shall think reasonable, (the Expence whereof to be raised and defrayed as the general Expences of obtaining and executing this Act are directed to be raised and defrayed), and of such Depth, Breadth, and Dimensions, and in such Directions as the said Commissioners shall think proper; and the said Commissioners shall and may and they are hereby directed and required, in and by their Award, to order and determine by whom and at whose Expence, and at what Time and in what Manner the said Ditches, Drains, Watercourses, Tunnels, Gates, and Bridges, shall be afterwards cleansed, scoured, and maintained; and also shall and may direct, order, and award all and any of the Streams, Springs, and Watercourses within the said Open and Common Fields, Lands, and Grounds thereby directed to be divided, allotted, and inclosed, to be carried, diverted, and turned in such Courses, and through, over, and across such Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, as they the said Commissioners shall in their Discretion judge proper for the watering the several Allotments to be made as aforesaid, or carrying off the Water therefrom; provided that such Streams, Springs, and Watercourses be not diverted or turned without the Consent of the respective Person or Persons out of whose Lands the same shall

Commissioners may make Drains.

[Loc. & Per.]

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be

be diverted or turned, and of the Person or Persons through or into whose Lands the same shall be turned.

Distinct Al-
lotments to
be for Lands
holden for
different
Estates.

XXX. And be it further enacted, That in case any Proprietor or Proprietors of any Lands or other Hereditaments hereby or by the said herein-before recited Act authorized to be divided, allotted, and exchanged, shall hold their respective Lands or Hereditaments for different Estates, or for different Lives, or by different Tenures, the said Commissioners shall ascertain and distinguish the Lands or other Hereditaments held for each of such Estates and Lives, and by each of such Tenures respectively, and shall also set out and 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 said Award, in Right of what Estates in particular such Allotments shall have been respectively made, and therein also separately to describe and ascertain the Situation of every such Allotment.

When Com-
missioners
shall not have
made distinct
Allotments
for Land
holden by
different Ti-
tles, they
may declare
the same by
Deed after
making their
Award.

XXXI. And be it further enacted, That when the Proprietor or Proprietors of any Land or other Hereditaments which shall be allotted, divided, or exchanged by virtue of this or the said Act so referred to, shall hold his, her, or their Lands and Hereditaments for different Estates or Lives or by different Tenures, and where, from the Want of 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 or Lives and by such Tenures, and the setting out and awarding the several and distinct Allotments for such respective Lands or other Hereditaments, as herein-before 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, her, or their Hand or Hands, to have such an 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 their Award had not been made; and when they shall have obtained what they shall think sufficient Information, they are hereby also authorized by any Deed under their Hands or Seals to distinguish and ascertain the Difference of such Estates and Tenures respectively, and accordingly to make such distinct and several Allotments in the same Manner as is hereby required, where such Discriminations shall be contained in the said Award; and every such separate Instrument shall be annexed to the said Award, and inrolled and deposited therewith, and Evidence thereof shall be given in the same Manner as by the said recited Act and this Act, or either of them, is directed, concerning the said Award; and all reasonable Expences incurred in or about 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, her, 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 Award, and

and a Duplicate thereof shall 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 properly belong.

XXXII. And be it further enacted, That all Lands and Hereditaments which shall be allotted or awarded in Exchange by virtue of this or the said recited Act, to any Person or Persons, shall be held by such Person or Persons under the same Rents, Customs, and Services as the Lands and Hereditaments in respect of which such Allotments or Exchanges shall be made or given, were respectively held and enjoyed by such Person or Persons as aforesaid before the passing of this Act, or would have been held and enjoyed in case this Act had not been passed; and the several Lands and Hereditaments which shall be allotted for Freehold Lands and Hereditaments, shall be deemed Freehold, and shall be held of the Lord or Lords of the Fee thereof, under the same Rents or other Payments (if any) as the Freehold Lands and Hereditaments for which they were allotted, were before that Time held; and the several Lands and Hereditaments which shall be allotted for Copyhold or Customary Land and Hereditaments, shall in like Manner be deemed Copyhold or Customary Lands and Hereditaments, and shall be held of the Lord or Lords of the Fee thereof under the same Rents and by the same Customs and Services as the Copyhold or Customary Lands and Hereditaments for which they were so allotted, were or ought to have been held, and shall pass by the like Surrenders as the Copyhold or Customary Lands or Hereditaments in respect whereof such Allotment shall be made now do; and the Lands or Hereditaments which shall be allotted for Leasehold Lands and Hereditaments shall in like Manner be deemed Leasehold Lands and Hereditaments, and shall be held under the same Rents and Covenants as the Lands and Hereditaments for which they were so allotted, were held, and the Reversion thereof shall be vested in the same Lessors respectively as the Reversion of such other Lands and Hereditaments were vested at the Time of making the said Award.

Allotments to be of the same Tenure as Lands allotted

XXXIII. And be it further enacted, That all and every Lease or Leases upon Rack-rent now subsisting, of all and every or any Part or Parts of the said Lands and Grounds hereby directed to be divided, allotted and inclosed, and of all and every the Messuages, Cottages, Tenements, Old Inclosures, Tythes and Hereditaments held therewith, and all Agreements for any Term or Terms at Rack-rent, or from Year to Year, or at Will, at such Time as the said Commissioners shall direct, shall cease and be void, the respective Owners and Proprietors, Lessor or Lessors of the said Lands and Grounds so directed to be divided, allotted, and inclosed, who have made or granted any such Lease or Leases, Agreement or Agreements, making such Satisfaction to the Lessee or Lessees, Tenant or Tenants thereof, as the said respective Owners or Proprietors, Lessor or Lessors, and their Lessee or Lessees, Tenant or Tenants shall agree upon, or as the said Commissioners shall ascertain, order, direct or appoint to be paid to such Lessee or Lessees, Tenant or Tenants on account thereof, or as an Equivalent for the Loss or Losses he or they shall respectively sustain on account of the Determination of the same; and in Default of Payment of any Sum or Sums of Money so ordered or appointed by the said Commissioners,

Leases at Rack Rent to be void.

to

to the Person or Persons entitled to receive the same; within Fourteen Days after Demand thereof, in Writing, under the Hand or Hands of the Person or Persons to whom the same shall be payable, it shall and may be lawful to and for the said Commissioners, and they are hereby required to raise and levy the same for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges and Expences of obtaining and executing this Act may be raised and recovered: Provided always, that if there should be any Lease of Lands, Part of which lie in the said Parish of *Drayton*, and Part in any adjoining Parish, all and every such Lease and Leases upon Rack-rent now subsisting may be vacated, but where any Land shall have been taken in Exchange, and which shall be under Lease, and wholly situate in any adjoining Parish, the Lease of such last mentioned Lands shall not be vacated.

Course of
Husbandry.

XXXIV. And be it further enacted, That from and after the passing of this Act, until such Divisions and Allotments shall be made as aforesaid, all the Tillage and other Lands lying in the said Common Fields and Premises to be divided, allotted and inclosed, or which shall be exchanged in pursuance of this and the said recited Act, shall be stocked with such Cattle, and planted or sown by the Owners or Occupiers thereof with such Corn, Grain, Grass Seeds and other Seeds, at such Times and in such Proportions and Manner, and shall be kept, ordered and continued in such Course of Husbandry, and subject to such Regulations as well with respect to the Management as to the quitting the same respectively, and the several Owners or Occupiers thereof shall pay or receive such pecuniary or other Compensation from such other Owners or Occupiers, on account of such Management, stocking, planting, sowing, or quitting, as the said Commissioners shall think just and equitable, and shall by any Writing or Writings under their Hands from Time to Time, or by their said Award, order, direct or appoint to be raised, levied or recovered, in such and the same Manner as the other Expences of this Act are herein or hereby or by the said recited Act ordered and directed to be raised, levied and recovered; and which Order or Orders of the said Commissioners shall be final, binding and conclusive on the Parties interested therein.

Lands to be
inclosed at
the Expence
of Owners.

XXXV. And be it further enacted, That the several Allotments to be made of the said Lands and Grounds by this Act directed to be divided, allotted and inclosed, shall within the Space of Twelve Calendar Months next after signing and sealing the said Award, or such other Time as the said Commissioners shall order and direct, be inclosed, hedged, ditched and fenced at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, or of such other Person or Persons interested in the said Division and Inclosure, in such Manner as the said Commissioners shall award, order and direct, except the said *Sir George Jerningham*, in respect of his Allotments to be made in lieu of Tythes, for the Term of Seven Years, and also except the said *Sir George Jerningham* for or in respect of any Leasehold or Copyhold Allotments, in which he as Lord of the Manor or Chief Landlord may be interested, in Reversion or Expectancy until the same shall fall into Possession, and also except the said Warden and Scholars for and in respect of any Leasehold or Copyhold Allotments, in which they as Lords of the said Manor of *West Drayton* or Chief Landlords, may be interested in Reversion or Expectancy until the same

same shall fall into Possession: Provided always, and with an Intent to save unnecessary Costs and Expences, that in case the said Commissioners shall think it advantageous to the Land Proprietors, and by their Award order and direct that the Whole or any Part of the Arable and Waste Grounds hereby directed to be allotted, (except the Allotments for Tythes as aforesaid), should be merely allotted and set out in Severalty; without being actually fenced and inclosed, then and in such Case the Person or Persons to whom such Land shall be allotted and awarded, shall not be compelled or obliged to fence and inclose the same, and the said Commissioners shall only direct and order the Proportion, Nature and Extent of any Fence or Inclosure, in case such Person or Persons to whom the same is allotted and awarded, or his, her, or their Heirs, Executors, Administrators or Assigns, shall thereafter determine and think it advantageous to make the same; and in all such Cases the said Commissioners shall take into their Consideration, in making each Allotment, the Proportion of Fencing only which such Person or Persons is compelled by their Award to make, in such Way as they shall determine reasonable and just.

XXXVI. Provided always, and be it further enacted, That in case through Necessity of Situation, or other Accident or Circumstance, it shall happen that one or more of the said Proprietors of the Lands hereby directed to be divided, allotted and inclosed, shall not have a proportionable Share of the Boundaries, Hedges, Ditches, Mounds or Fences allotted to him in the said intended Inclosure thereof, it shall be lawful for the said Commissioners to order, ascertain and appoint what Sum or Sums of Money such Proprietor or Proprietors shall respectively pay and contribute towards making the Mounds and Fences of the Allotments of such other of the said Proprietors, who shall or may have too great a Proportion of mounding or fencing allotted to him, her, or them by virtue of this Act, the same to be paid to such Persons and in such Manner as the said Commissioners shall by any Writing under their Hands order, direct or appoint; and the Money so ordered, directed or appointed to be paid, shall be raised, levied and recovered in such and the same Manner as the other Expences of this Act are herein or by the said recited Act, ordered and directed to be raised, levied and recovered; and such Order or Orders of the said Commissioners shall be final, binding and conclusive on all Parties interested or concerned therein.

Equalizing
the Share of
Fencing.

XXXVII. And be it further enacted, That all and every the Sum or Sums of Money herein-before provided for, and to be paid to the said Commissioners, and their Clerk or Clerks, together with the Costs, Charges, and Expences of passing this Act, and all Costs and Charges attending the same, together with the Costs and Charges of surveying, admeasuring, planning, dividing, and allotting the Lands and Grounds so intended to be divided, allotted and inclosed as aforesaid, and also surveying the Homesteads and ancient Inclosures, and of the forming and completing, and putting into good and sufficient Repair the publick and private Roads and Ways to be appointed and set out in pursuance of this or the said recited Act, and the Costs and Charges of preparing and enrolling the said Award, and all other necessary Expences about and concerning the Premises; (where the same are not herein or by the said recited Act otherwise directed), shall be borne and defrayed by all the Proprietors and Owners respectively, (except the said Sir George Jerningham, in respect of the

Proprietors
of Land to
pay Ex-
pences.

Allotments to be made to him in lieu of Tythes as aforesaid, and the said Sir *George Jerningham*, in respect of any Leasehold or Copyhold Estate held under him, while his Interest therein shall remain in Reversion or Expectancy), (and also except the said Warden and Scholars in respect of any Leasehold or Copyhold Estate held under them while their Interest shall continue in Reversion or Expectancy), in and by such Shares and Proportions, and at such Time or Times, as well before as after the completing the Division of the said Lands and Grounds, and the Execution of the Award of the said Commissioners, and to such Person and Persons as the said Commissioners shall by Writing under their Hands, or by their said Award, order or direct.

Powers for
Lessees for
Lives or
Years (not
vacated by
this Act) or
Copyholders
for Lives, to
borrow
Money.

XXXVIII. And whereas the several Owners and Proprietors of the Allotment or Allotments to be made by virtue of this Act, holding under any Lease or Leases for Lives or for Years determinable on One, Two, or Three Life or Lives, or by Copy of Court Roll for One, Two, or Three Life or Lives, under the said Sir *George Jerningham* as Lord of the said Manor of *Drayton*, or holding under any Lease or Leases for Lives or for Years determinable on One, Two, or Three Life or Lives, or by Copy of Court Roll for One, Two, or Three Life or Lives, under the said Warden and Scholars as Lords of the Manor of *West Drayton* as aforesaid, whether the same may be for his or their own Life or Lives, or for the Life or Lives of any other Person or Persons, but entitled to and in the Receipt and Enjoyment of the Rents and Profits of their respective Estates, may have Occasion to borrow Money to defray their Proportion of the Charges and Expences incident to and of obtaining and executing this Act, and of fencing their respective Allotments or the said Tythe Allotment or Allotments, or such Owner or Proprietors so respectively entitled as aforesaid will advance the necessary Sums for defraying their respective Proportions of the said Expences, without being able from the Nature of the Tenure of such Estates, or the Continuation of his, her, or their limited or determinable Estate or Interest therein, to renew, or take the fair and reasonable Advantage of the said Allotments and Inclosure to be made under or by virtue of this Act; for Remedy whereof, be it further enacted, That it shall and may be lawful to and for the said Commissioners, at the Request of any of such Owners or Proprietors of any Estate to whom any Allotment or Allotments shall be made, or who shall become interested in the said Inclosure by virtue of this Act, and holding of or under the said Sir *George Jerningham* the Lord of the said Manor of *Drayton*, or the said Warden and Scholars as Lords of the Manor of *West Drayton* as aforesaid, whether by Lease or Copy of Court Roll, or at the Request of any Guardian, Husband, Committee, Trustee, or Attorney of or for any Infant, Idiot, Feme Covert, Person beyond the Seas, or otherwise incapacitated to act for himself, herself, or themselves, and holding as aforesaid as Trustee or Trustees in any Settlement, or any Mortgagee or other Creditor in Possession or Receipt of the Rents and Profits of any of the Messuages or Tenements, Old Inclosures or new Allotments held as aforesaid, and affected by this Act, to charge the same Messuages or Tenements, old Inclosures or new Allotments or other Premises, which shall be so allotted or exchanged, and awarded to such Owners or Proprietors or other Person or Persons as aforesaid, or any Part or Parts thereof, with such Sum or Sums of Money, not exceeding Five Pounds an Acre, in Favour of any such Owners or Proprietors, by Lease or Copy of Court Roll, or other Person or Persons advancing the same by Way of Loan, as the said Commissioners by Writing under their
Hands

Hands shall consent to direct or appoint, together with the Expence of any such Charge or Mortgage; and the same Money so to be paid or advanced, (after deducting the Expence attending such Charge or Mortgage), shall be applied and disposed of for the Purpose of paying and defraying his, her, or their Proportion of the Costs, Charges, and Expences aforesaid, and the same shall carry Interest at the Rate of Five *per Centum per Annum*, to be paid and payable by the Person or Persons borrowing the same, or by the Owners or Proprietors, or Persons for the Time being in Possession and Receipt of the Rents and Profits of the said respective Estates so to be charged therewith, to the Person or Persons advancing or lending the same, by yearly Payments; and the Principal Money so to be charged or borrowed shall be paid off to the Person or Persons advancing the same, his or their Executors, Administrators or Assigns, by such Owners or Proprietors of the respective Estates charged therewith, or by the Person or Persons in Possession and Receipt of the Rents and Profits thereof, in Sixteen Years, commencing from the Time of paying or advancing the same, by Sixteen equal Instalments, of One Instalment in each Year, and the First of such Instalments shall accrue and become due and be paid and payable on that Day Twelve Months on which such Principal Money shall have been advanced, and so yearly with the Interest thereof, and the Interest of all such Instalments as shall be then remaining due and unpaid, to the Time of Payment of each respective Instalment, until the whole Principal Sum to be so charged as aforesaid, and all Interest in respect thereof, shall be paid off and discharged; and for better securing the Money to be charged as aforesaid with Interest thereof, the said Commissioners shall by Writing under their Hands and Seals certify the Name or respective Names of the Person or Persons advancing the same, and the Sums by him, her, or them respectively advanced, with a Description of the Property charged therewith; which Writing or Writings may be made in the Form, or in the Words or to the Effect following; (that is to say),

Commissioners to certify Names of Persons advancing Money.

BY virtue of an Act, passed in the Fifty-first Year of the Reign of His Majesty King *George* the Third, intituled, [*here set forth the Title of this Act*] We the Commissioners for putting the said Act into Execution, do certify that *A. B.* of _____ hath this Day paid the Sum of _____ as his [*or, her*] Proportion [*or, for and on the Behalf of C. D. of _____*] as his [*or, her*] Proportion of the Charges and Expences incident to, and of obtaining and executing the said Act, as the Owner or Proprietor or Mortgagee of the Allotment [*or, several Allotments*] of Land or Messuages, Closes, or old Inclosures herein-after mentioned, and which have been allotted [*or, exchanged*] and awarded to the said *A. B.* [*or, C. D. for and in lieu of his [*or, her*] Messuages, Closes, or Old Inclosures, Lands or Common Rights, held by Lease or Copy of Court Roll under the Lord of the Manor of *Drayton* aforesaid, or the Lords of the Manor of *West Drayton* aforesaid, for his or her own, or for One, Two, or Three Life or Lives, in being, or for a Term of _____ Years determinable with One, Two, or Three Life or Lives in being [*as the Case may be*]: And the said Commissioners in further pursuance of the said Act, do hereby at the Request of the said *A. B.* [*or, C. D.*] testified by his [*or, her*] signing and sealing hereof, charge the said Messuages, Closes, or Old Inclosures, and the said Allotment [*or, several Allotments*]*

so allotted and awarded to the said *A. B.* [or *C. D.*] that is to say,
 [here insert the Description of the Property charged] with the Payment
 of the said Sum of _____ to the said *A. B.* [or, *C. D.*]
 his Executors, Administrators, or Assigns, by Sixteen equal Instal-
 ments in Sixteen Years, from the Day of the Date hereof, on the
 _____ Day of _____ in each and every Year, with lawful
 Interest for the same at the Rate of Five Pounds *per Centum per Annum*,
 to be paid Yearly, the first Instalment of the said Sum of _____
 to accrue and become due and payable on the _____ Day of _____
 with Interest as afore-
 said, until the Whole of the said Sum of _____
 with Interest thereof at the Rate aforesaid, shall be paid off and dis-
 charged. Given under our Hands and Seals the
 _____ Day of _____ in the Year of our Lord

And such Writing or Writings shall be equivalent to a Mortgage or
 Mortgages of the said Premises respectively, and shall be good, valid,
 and effectual in the Law, for the Purposes thereby intended, and the
 Person or Persons respectively who shall advance such Monies, and his,
 her, or their respective Executors and Administrators may and shall
 have Power from Time to Time, in Default of Payment of any Instalment
 due to him, her, or them respectively, or of any Interest for the said
 Principal Money or any Part thereof, to levy and recover the same on
 the respective Lands charged therewith, by Distress and Sale of the Corn,
 Cattle, or Effects from Time to Time to be found thereon, in the same
 Manner as Landlords may by Law recover Rent due to them on Leases
 or Demises at Rack Rent, together with all the Costs and Charges of
 or attending every such Distress and Sale: Provided always, that no
 future Owner, Proprietor, or Lessee of the said Estates so to be charged
 as aforesaid, or the Lord or Lords of the said respective Manors under
 which the same are or may be held, (in case the same shall fall in before
 the Whole of such Principal Money and Interest shall be paid off and
 discharged as aforesaid), shall be burthened with more than One Year's In-
 terest of the respective Sum or Sums of Money charged and remaining
 thereon, which shall have accrued due in the Time of any former
 Owner, Proprietor, or Lessee, or with the Payment of any Instalment
 which shall have been neglected to be recovered by the Space of Three
 Months after the same shall have become payable.

Money ad-
 vanced to be
 repaid with
 Interest.

XXXIX. And be it further enacted, That all Monies which shall be
 advanced by any Person or Persons for the Purpose of defraying the Ex-
 pences of applying for and obtaining this Act, and also any Monies
 which may be advanced and paid to the said Commissioners, Surveyor,
 or otherwise in carrying this Act into Execution, previous to any Money
 being raised by a Rate on the Proprietors for defraying the Expences of
 obtaining and executing this Act, shall be repaid to the Person or Persons
 advancing the same, together with lawful Interest, out of the first Money
 which shall be raised by the said Rate.

Award to be
 deposited.

XL. And be it further enacted, That the Award to be made by the said
 Commissioners, when inrolled in the Manner directed by the said recited
 Act, shall be deposited in the Parish Church of *Drayton* aforesaid.

XXI. And be it further enacted, That Once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of passing thereof), the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act, and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before any Two or more of His Majesty's Justices of the Peace for the Time being for the said County of *Berks*, to be by them examined and balanced, and such Balance shall be by such Justices stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioners; and no Charge or Item in such Account shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justices.

Commissioners Accounts to be laid before Justices.

XLII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this or the said recited Act, then and in every such Case, (except in such Cases where the Orders and Determinations of the said Commissioners are by the said recited Act or this Act directed to be final, binding, and conclusive upon all Parties), he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be held for the said County of *Berks*, within Six Calendar Months next after the Cause of Complaint shall have arisen, and the Justices in their said Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and award such Costs as to them in their Discretion shall seem reasonable, and by their Order and Warrant to levy the Costs which shall be awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties who shall be ordered to pay the same, rendering the Overplus (if any) on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices shall be final and conclusive to and upon all Parties concerned, and shall not be removed or removable by *Certiorari* or any Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

Persons aggrieved may appeal to the Quarter Sessions.

XLIII. And be it further enacted, That nothing in this Act contained shall prejudice, lessen, or defeat the Right, Title, or Interest of the present or any future Lord or Lords of the said Manor or respective Manors within the Limits whereof respectively the Lands and Grounds hereby directed to be divided and inclosed are computed to be, of, in, and to the Seigniories or Royalties incident or belonging to the said Manors respectively, but that the said Lord or Lords of the said Manors respectively for the Time being shall and may from Time to Time, and at all Times hereafter, have, hold, receive, and enjoy all Rents, Services, Covenants, and Profits of Courts, and all other Rights, Royalties, and Privileges to the said Manor or Manors respectively incident, appending, and belonging or appertaining (other than those which are meant and intended to be barred by this Act), in as full, large, ample, and beneficial Manner, to all Intents and Purposes, as they might or ought to have held and enjoyed the same before the passing of this Act, or in case it had not been made.

Saving to the Lord of the Manor.

General Saving.

XLIV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politic, and Corporate, his and their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest, (other than such as are intended to be barred and destroyed by virtue of this Act), as he or they or any of them had and enjoyed, to or out of the said Open and Common Fields, Common Meadows, Common Pastures, and other Commonable and Waste Lands hereby intended to be divided, allotted, and inclosed, at any Time before the passing of this Act, or could or ought to have had in case this Act had not been made.

Evidence Clause.

XLV. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty; and a Copy thereof so printed, 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. 1811.