



ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

Cap. 95.

An Act for inclosing Lands in the Parishes of *Marden*,
Sutton Saint Michael, *Sutton Saint Nicholas*, and
Withington, and certain Chapelries, Townships, and
Parishes adjacent thereto, in the County of *Here-*
ford. [1st June 1808.]

WHEREAS there are within the several Parishes of *Marden*, *Sutton Saint Michael*, *Sutton Saint Nicholas* and *Withington*, and the several Chapelries or Townships of *Amberley* and *Preston Wynn* in the County of *Hereford*, certain Common Meadows, Common Arable Fields, Common Pastures, Commons and Waste Grounds, Part whereof are lying and being within the said Parishes, Chapelries, or Townships, and other Parts thereof, being Parcel of a certain Common Meadow called *Upper Lugg Meadow*, are within the several Parishes of *Holmer*, *Pencomb*, *Ullingswick*, *Pipe and Lyde*, *Felton* and *Ocle Pitchard*, and in the extra-parochial Place called *Livers Ocle*, or some of them, in the said County of *Hereford*: And whereas the Most Noble *Charles Duke of Norfolk* is Lord of the Manor of *Amberley*, *Charles Bailey Unett Esquire* is Lord of the Manor of *Marden*, and *Williams Allen Doctor in Divinity*, *Williams Allen* and *Henry Unett Esquires*, as Tenants in common, are Lords of the Manor of *Sutton Saint Michael*: And whereas *Thomas Gibbons an Infant*, by *Joseph White Gentleman his Guardian*, is Lord of the Manors or Lordships of *Sutton* and *Sutton Saint Nicholas* otherwise *Sutton Freene*, and is also Patron of the Rectory or Living of *Sutton Saint Nicholas* afore-

[Loc. & Per.] 20 I. said,

said, and *Edward Peole* Esquire, as Trustee for the Reverend *John Lilly*, is Lord of the Manor or Prebend of *Ewithington* as Lessee of the Reverend *James Bullock* Clerk, Prebendary of the Prebend of *Ewithington*, in the Cathedral Church of *Hereford*, and the said *Edward Poole*, as Trustee for the said *John Lilly*, is also Lord of the Manor or Prebend of *Church Withington*, as Lessee of the Reverend *Robert Wetherell* Clerk, Prebendary of the Prebend of *Church Withington*, in the said Cathedral Church of *Hereford*, and the Dean of the said Cathedral Church of *Hereford* for the Time being is Lord of the Manor of *Church Withington* and *Breinton*, and the Reverend *Job Walker Baugh* is Lord of the Manor or Prebend of *Nunington* as Prebendary of the Prebend of *Nunington*, in the said Cathedral Church of *Hereford*, and *Francis Glossop* Esquire, is Lord of the Manor of *Thinghill* in the said Parish of *Withington*, and the said *John Lilly* as Lessee of the Reverend *Thomas Powis* Doctor in Divinity, Prebendary of the Prebend of *Preston Wynn* in the said Cathedral Church of *Hereford*, is Lord of the Manor or Prebend of *Preston Wynn*; all of which said several Prebendal and other Manors, are situate within or extend over the said several Parishes of *Marden*, *Sutton Saint Michael*, *Sutton Saint Nicholas*, and *Withington*, and the said Chapelries or Townships of *Amberley* and *Preston Wynn* respectively, or some Part or Parts thereof; but the same Manors respectively are not in all Cases commensurate with the Parishes or Chapelries or Townships within which they are principally situate, and their Boundaries are uncertain and intermixed with each other: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said several Common Meadows, Common Arable Fields, Common Pastures, Commons, and Waste Grounds, are in their present State very inconveniently occupied, and are of much less Value than the same would be if they were to be divided and inclosed and specific Allotments made unto and amongst the several Persons interested therein, according to their respective Rights in, to, over, and upon the same; but as such Division, Allotment, and Inclosure cannot be effected without the 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 Imperial Parliament assembled, and by the Authority of the same, That the said Common Meadows, Common Arable Fields, Common Pastures, Commons, and Waste Grounds shall be set out, allotted, and divided, as soon as conveniently may be, by *John Harris*, of *Wickton* in the County of *Hereford* Gentleman, *John Edwards* of *Tarrington* in the said County Gentleman, and *Joseph Wainwright* of *King's Cople* in the same County Gentleman, and that they and their Successors to be elected in manner herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Common Meadows, Common Arable Fields, Common Pastures, Commons, and Waste Grounds, and for putting this Act into Execution, subject to the Provisions of the said recited Act, except in such Cases where the same are hereby varied or altered; and that all Acts, Matters, and Things authorized or necessary to be done and executed by the said Commissioners in pursuance of this and the said recited Act, may be done and executed by any Two of them, and the same shall be as good, valid,

Commissioners,

and effectual, and shall have the same Force and Effect as if such Acts, Matters, and Things had been done and executed by all the Commissioners herein named or to be appointed in manner herein-after mentioned.

II. And be it further enacted, That in case the said *John Harris, John Edwards, and Joseph Wainwright*, or any Commissioner or Commissioners to be appointed in their Stead as herein-after mentioned, shall die, or shall neglect or refuse, or become incapable for the Space of Two Calendar Months, to act, before the Powers and Authorities hereby vested in them shall be wholly and completely executed, then and in every such Case it shall be lawful for the major Part in Value of the Proprietors and Owners of the Lands and Grounds so intended to be divided, allotted, and inclosed, at a Meeting or Meetings from Time to Time to be appointed by any Two or more of the said Proprietors, by an Advertisement in the Newspaper called the *Hereford Journal*, or if such Newspaper shall not be then published, then in some other Newspaper circulated in the said County of *Hereford*, and by Notice on the several Church or Chapel Doors of *Marden, Sutton Saint Michael, Sutton Saint Nicholas, Withington, Holmer, and Preston Wynn*, at least Thirty Days before the Time appointed for holding any such Meeting, to appoint some other fit Person or Persons, not interested in the said Division and Inclosure, to be a Commissioner or Commissioners in the Place or Stead of such Commissioner or Commissioners so dying or refusing to act as aforesaid, and so from Time to Time as often as any Vacancy or Vacancies shall happen by such Death, Neglect, Refusal, or Incapacity; and every Person who shall be nominated and appointed a Commissioner as aforesaid, shall have the like Powers and Authorities for putting this and the said recited Act into Execution, as if he had been nominated and appointed a Commissioner in and by this Act.

For appoint-
ing new Com-
missioners.

III. And be it further enacted, That the said Commissioners shall and they are hereby required to cause public Notice to be given in the Parish Churches or Chapels of *Marden, Sutton Saint Michael, Sutton Saint Nicholas, Withington, and Preston Wynn*; and where the Object of any Meeting shall extend to the said Common Meadow called *Upper Lugg Meadow*, then also in the Parish Churches of *Holmer, Pencombe, Ullingswick, Pipe and Lyde, Felton, and Ocle Pitchard* aforesaid, upon some Sunday immediately after Divine Service, or by Writing to be affixed upon the principal Doors of the said Parish Churches or Chapels respectively, and by Advertisement in the *Hereford Journal*, or such other Newspaper as aforesaid, of the Time and Place of their first and every other Meeting for the Execution of this and the said recited Act, at least eight Days previous to every such Meeting (Meetings by Adjournment only excepted), and that such Meetings shall be held within the said Parish of *Marden*, or within Eight Miles thereof, and that such First Meeting shall be held within Thirty Days after the passing of this Act, or as soon after as conveniently may be, and the said Commissioners shall and may adjourn every or any such Meeting from Time to Time as they shall think proper.

Commission-
ers to give
Notice of
their Meet-
ings.

IV. And be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioners in pursuance of this Act or the said recited Act, shall be so made and given by Advertisement in the *Hereford Journal* or such other Newspaper as aforesaid.

Other Notices
how to be
given.

V. And

Commissioners' Allowance.

V. And be it further enacted, That each of the said Commissioners shall be respectively allowed the Sum of Two Pounds Twelve Shillings and Sixpence and no more, for his Trouble and Expences for each and every Day he shall act in the Execution of the Powers of this Act or the said recited Act, and at all such Meetings such Commissioner shall out of such Allowance pay and defray his own Charges and Expences.

Surveyors.

VI. And be it further enacted, That *David Pain* of *Lugwardine* in the said County of *Hereford*, Land Surveyor, shall be and is hereby appointed the Surveyor for the Purposes of this Act and of the said recited Act, as and with respect to so much of the Lands and Grounds hereby intended to be divided, allotted, and inclosed, not being in *Upper Lugg Meadow* aforesaid, as are situate within the said Parish of *Withington* and Chapelry of *Preston Wynn*; and that *Joseph Powell*, of *Sutton Saint Nicholas* aforesaid, Land Surveyor, shall be and is hereby appointed the Surveyor for the Purposes of this Act and the said recited Act, as and with respect to the said Common Meadow called *Upper Lugg Meadow*; and so much of the Lands and Grounds hereby intended to be divided, allotted, and inclosed, as are situate within the said several Parishes of *Marden*, *Sutton Saint Michael*, and *Sutton Saint Nicholas*, and the said Chapelry or Township of *Amberley* or elsewhere, not in *Withington* or *Preston Wynn* aforesaid; and in case of their respective Death, Neglect, Refusal, or Incapacity to act from Time to Time as often as there shall be Occasion, the said Commissioners may by Writing under their Hands nominate and appoint some other Person or Persons to be the Surveyor or Surveyors for the Purposes of this and the said recited Act, in the Place or Stead of such Surveyor or Surveyors who shall respectively so die, neglect, refuse, or become incapable of acting as aforesaid; and the said respective Surveyors shall be paid a full Recompence or Satisfaction for his or their Trouble, and for all his or their Expences and Charges whatsoever in surveying and measuring the said Lands and Grounds, and in planning and staking out the several Allotments intended to be made in pursuance of this and the said recited Act, and in making such Maps and Plans as may be required by virtue thereof, such Recompence and Satisfaction to be from Time to Time settled, allowed and certified by the said Commissioners by Writing under their Hands.

Proprietors to pay their own Expences.

VII. Provided always, and be it further enacted, That the said several Owners or Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioners at any of their Meetings to be held in pursuance of the said recited Act or this Act.

For determining Differences.

VIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said intended Division and Allotments, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have, of or in the same, or touching or concerning any other Matter or Thing relating to the said Division, Allotments, and Inclosure, it shall and may be lawful to and for the said Commissioners and they are hereby authorized and required to examine into, 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, Tenements, or Hereditaments whatsoever.

IX. And

IX. 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 and may be lawful to and for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid 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 to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall and may be lawful to and for the said Commissioners and they are hereby authorized and required, by Warrant under their Hands and Seals directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

For assessing
Costs.

X. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said Division, Allotments, and Inclosure, shall be dissatisfied with any Determination of the said Commissioners, touching or concerning any Right or Rights, Claim or Claims, in, to, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or of any Right of Common or other Rights or Interests in, to, over, or upon the same or any Part thereof, it shall be lawful for the Person or Persons so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next or at the following Assizes to be holden for the said County of *Hereford*, and for that Purpose the Person or Persons who shall be so dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioners; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to appoint an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties or their Attornies differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be binding on all the Parties thereto, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial or new Trials to be had, upon Cause shewn as in other Cases; and that after such Verdict or Verdicts obtained and not set aside by the Court, the said Commissioners shall, and they are hereby required to act in conformity thereto: Provided also that no such Action, Verdict, or new Trial shall impede or delay the said Commissioners in the Execution of the Powers hereby vested in them, but, the Division, Allotment, and Inclosure hereby directed to be made, shall

For allowing
Parties to try
their Rights
by an Issue at
Law.

[*Loc. & Per.*]

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be

be proceeded with in such and the same manner as if no such Action or Suit were pending.

If Parties die
Actions not to
abate

XI. And be it further enacted, That if any of the Parties in any Action to be brought in pursuance of this Act or the said recited 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.

Provision in
Cases of
Death of Par-
ties before
Actions
brought.

XII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic or Coporate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said 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 Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

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

XIII. 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 made within the Period of Twenty Years, as herein-after 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 or recovered from such Person or Persons by Ejectment or other due Course of Law.

Allotments
for Soil.

XIV. And be it further enacted, That the said Commissioners shall and do (after setting out the Public Roads and Ways which they are by the said recited Act directed to set out) assign, set out, and allot unto the Lord or Lords of the respective Prebendal and other Manors aforesaid, such Part or Parts of the said Commons and Waste Grounds as shall contain or be equivalent in Value to One full Sixteenth Part or Share of the said Commons and Waste Grounds, situate within their respective Manors, as a Compensation and Satisfaction for his or their respective Right and Interest in and to the Soil of the said Commons and Waste Grounds; and the said Commissioners are hereby authorized and empowered to determine within what Manors the said Commons or Waste Grounds or any Part thereof are situate; and that such full Sixteenth Part when so allotted and set out as aforesaid, shall be deemed and taken to be Part and Parcel of the respective Manors, to the Lord or Lords of which the same shall be so allotted.

XV. And

XV. And be it further enacted, That the said Commissioners shall in the next Place sell and dispose of, pursuant to the Directions of the said recited Act, such Part or Parts of the said Commons or Wastes, as in their Judgment will by Sale thereof raise a Sum of Money sufficient to pay and discharge such Proportion of the Charges and Expences of this Act, as in their Opinion ought to be borne by the Persons interested in the said Commons or Wastes; and that the Residue of such Charges and Expences shall be borne by the Proprietors of Lands and Persons interested in the said Common Meadows, Common Arable Fields, and Common Pastures, such Residue to be raised and paid in such Shares and Proportions, and by such Person or Persons, and within such Time as the said Commissioners shall direct or appoint; and the said Commissioners shall and they are hereby authorized (if required by the Purchaser or Purchasers of the Allotment or Allotments which shall be so sold and disposed of) upon Payment of the full Purchase Money for such Allotment or Allotments, by Deed or Deeds under their Hands and Seals, to grant, release, and convey the same to the Purchaser or Purchasers thereof, his, her, or their Heirs and Assigns, in Fee Simple, or to such Uses as he, she, or they shall direct or appoint: Provided always, that if there shall be any Overplus of the Money arising by such Sale, the same shall be applied in the Manner directed by the said recited Act with respect to Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments, to be settled to the same Uses.

Land to be
sold for de-
fraying Ex-
pences.

XVI. Provided always, and be it further enacted, That in case the Money arising by the Sale of such Allotment or Allotments as aforesaid, shall not be sufficient to defray such Part of the Costs, Charges, and Expences to be borne by the Persons interested in the said Commons or Wastes as aforesaid, then the Deficiency shall be made up by the several Persons interested in the said Commons or Wastes, and shall be paid in such Shares and Proportions, and within such Time, and to such Person or Persons as the said Commissioners shall direct, nominate, and appoint; or in case any Expences shall be incurred in the Execution of any of the Powers and Provisions of this Act or the said recited Act, which ought to be borne and defrayed by any particular Person or Persons, and not out of any Money to be raised for the general Purposes of this Act, then the same shall be paid in such Shares and Proportions, and by such Person or Persons, and within such Time, and to such Person or Persons as the said Commissioners shall direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Charges and Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion thereof, within the Time to be appointed as aforesaid, or at any Time after upon Demand, the same shall and may be levied and recovered in the Manner directed by the said recited Act.

Deficiency, if
any to be made
good by the
Proprietors.

XVII. Provided always, and be it further enacted, That in all Cases where any of the Persons, Bodies Politick or Corporate, interested in any Allotment or Allotments of each of the said Commons or Wastes, shall be minded and desirous of paying their respective Shares of the said Expences in Money, instead of sustaining a Loss of Land in their respective Allotments, and shall and do at the First or Second Meeting of the said

Allowing Pro-
prietors to pay
Expences in
Money instead
of having
Land de-
ducted.

Commissioners

Commissioners for receiving Claims of Right of Common, give Notice thereof in Writing to the said Commissioners of such their Mind and Desire, that then and in every such Case the Share or respective Shares of the Party or Parties so giving such Notice as aforesaid of and in all such Expences, shall be paid and defrayed in Money by such Party or Parties respectively, in such Manner and at such Time or Times, and to such Person or Persons as the said Commissioners shall by Writing under their Hands order, direct, and appoint; and in all Cases where any such Payment or Payments in Money shall be so made as aforesaid, the said Commissioners shall consider the same in setting out the Allotment or Allotments of the Party or Parties making such Payment or Payments respectively, and in ascertaining the Share and Proportion of each of the said Commons or Wastes so to be set out and allotted, to such Body or Bodies Politick or Corporate, and other Persons respectively.

Empowering
the Commis-
sioners to dis-
pose of Land
on the Side of
Highways not
necessary to
form Part
thereof.

XVIII. And whereas there are many small Pieces of Waste Lands which lie dispersed, and divers small Slangs, Plots, or Parcels of Ground by the Sides of Highways or Lanes and elsewhere, not necessary to form Part of such Highways or Lanes; be it further enacted, That the said Commissioners shall and may and they are hereby empowered to enquire and determine whether such Slangs, Plots, or Parcels of Ground respectively belong to the Owners of the adjacent Lands or any other Person, or are Part of the Waste Lands hereby directed to be inclosed; and where the same shall appear to be Part of the said Waste Lands, the said Commissioners shall and may either allot the same to such Person or Persons as they shall think proper, as Part of the Share or Shares of such Person or Persons, of the Waste Lands hereby intended to be inclosed; or sell and dispose of the same in Manner before mentioned, subject to the like Application of the Monies to arise from such Sale or Sales as is herein-before directed respecting the Monies to arise by the Sale of the Lands to be sold as aforesaid.

Respecting
Encroach-
ments.

XIX. And be it further enacted, That all Inclosures and Encroachments which have been made from the said Commons or Wastes (save and except such as have been peaceably and quietly enjoyed for the Space of Twenty Years last past or upwards without any Interruption or Payment of any Acknowledgment) shall be deemed Part and Parcel of the said Commons or Wastes; and in case any Difference or Dispute shall arise touching any such Inclosures or Encroachments being deemed Part or Parcel of the said Commons or Wastes, such Difference or Dispute shall be examined into and determined by the said Commissioners; provided that such Inclosures or Encroachments shall and may be allotted to the respective Persons who have made the same, as Part of their Shares of the said Commons or Waste Lands, if it can be done without Inconvenience to the adjoining Commons or Lands; and that where such Inclosures or Encroachments shall have been made before the passing this Act by poor or labouring Persons, and Houses or Cottages shall have been erected thereon for their Residence, and the said Commissioners shall be of Opinion that such Inclosures or Encroachments were made either by the express Consent of or were not interrupted or prohibited by the Lord or principal Inhabitants of the Manor wherein the same are situate, or that the Persons who made the same ought to be favourably considered, the said Commissioners are hereby empowered either to allot the same Inclosures or Encroachments
to

to such poor or labouring Persons in Fee or for the Term of their Lives or otherwise, where the same can be done without Inconvenience to the adjoining Lands, or to permit them to remove any Houses, Buildings, or Trees erected or planted thereon or to make them respectively any moderate or reasonable Compensation either by the Allotment to them of any other Part of such Commons or Wastes, or in Money to be paid out of the Produce of the Lands so directed to be sold, or by the Persons to whom the Residue of such Commons or Wastes within the same Manor shall be allotted, as to the Commissioners shall seem reasonable and expedient:

XX. And be it further enacted, That the said Commissioners shall and may if they shall think necessary, but not otherwise, after setting out the Roads and Ways in Manner directed by the said recited Act, allot and award unto the Surveyor of the Highways of each or any of the said several Parishes of *Marden*, *Sutton Saint Michael*, *Sutton Saint Nicholas*, *Withington*, and the Chapelries or Townships of *Amberley* and *Preston Wynn*, such Parcels of Land, Part of the Commons or Waste Grounds, Meadows, Pastures, or Arable Fields hereby intended to be divided and inclosed, as they the said Commissioners shall think most proper, for the digging for and getting of Stone, Gravel, and other Materials for the Repair of the Highways and public and private Roads within the said several Parishes and Chapelries or Townships, the Herbage or Produce of which Allotment shall be appropriated in such Manner as the said Commissioners shall in and by their Award direct and appoint. Allotment for Materials.

XXI. And be it further enacted, That the said Commissioners shall be and they are hereby authorized and required in the next place to assign, set out, and allot all the Residue and Remainder of the said Common Fields, Common Meadows, Commonable Lands and Waste Grounds, by this Act directed to be divided, allotted, and inclosed, unto the several Persons who are or shall or may be Owners or Proprietors thereof, whether Freeholders or Copyholders, and the Persons entitled to or having Rights of Common or other Rights or Interests therein and thereon, in such Shares, Quantities, and Proportions, and of such Tenures, whether Freehold or Copyhold, or otherwise, and in such Manner as the said Commissioners shall adjudge and determine to be a fair, just, and reasonable Compensation for their several and respective Shares, Properties, Rights of Common, and other Rights and Interests of, in, to, and over the same Lands and Grounds. Allotment of the Residue.

XXII. And be it further enacted, That it shall be lawful to and for the said Commissioners, with the Concurrence and Order of Two Justices of the Peace acting in and for the said County, subject to Appeal as in the said recited Act is mentioned, to divert, stop up, discontinue, alter, or change any old public Carriage or private Roads or Footways leading into, through, over, or upon the said Common Fields, Meadows, Commonable Lands, and Waste Grounds; and also the old Inclosures lying within the said Manors, Parishes, and Places respectively, as to them shall appear useless and unnecessary, and that such Public Carriage Roads as shall be so stopped up and discontinued shall be deemed Part of the Lands and Grounds to be sold, or divided, allotted, and inclosed pursuant to this Act. For stopping up Roads.

That in case
any Person
sells his
Common
Right, the
Allotment to
be made to
the Purchaser.

XXIII. And be it further enacted, That if any Person or Persons hath or have sold or contracted or agreed to sell, or shall, at any Time before the Execution of the said Award, sell or contract or agree to sell his, her, or their Right, Interest, and Property in the said Commonable Lands or Grounds or any Part thereof, or his, her, or their Allotment in respect thereof, to any other Person or Persons, then and in every such Case it shall be lawful for the said Commissioners and they are hereby authorized and required to make an Allotment of Land unto the Vendee or Purchaser, Vendees or Purchasers in every such Sale, Contract, or Agreement, or to his, her, or their Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold or contracted or agreed to be sold as aforesaid; or if such Allotment shall have been already made, to award the same to such Vendee or Purchaser, Vendees or Purchasers, his, her, or their Heirs or Assigns; and every such Vendee or Purchaser, Vendees or Purchasers, his, her, or their Heirs or Assigns, shall and may from and after the Execution of the said Award, hold and enjoy the Lands so to be allotted to him, her, or them as aforesaid, in the same Manner to all Intents and Purposes as the Vender or Venders in every such Sale, Contract, or Agreement, might, could, or ought to have held and enjoyed the same in case such Sale, Contract, or Agreement had not been made, or such Rights, Interests, or Property had been vested in such Vender or Venders at the Time of making and selling such Allotment as aforesaid.

Tenants to
give up
allotted Lands
on Satisfaction
being
made.

XXIV. And be it further enacted, That all Tenants and Occupiers under Leases or Agreements for any Terms of any Meadows, Fields, or Inclosures which shall be allotted or exchanged by virtue of this Act, shall immediately after the signing the Award of the said Commissioners, or within such further Time as the said Commissioners shall appoint (and whereof Notice in Writing shall be given for that Purpose) give and resign up the full and peaceable Possession thereof to the Person or Persons to or with whom the same shall be respectively allotted or exchanged; such respective Tenants and Occupiers receiving the Lands for which the same shall be so allotted or exchanged in lieu thereof; and such of the said Tenants and Occupiers as in the Judgement of the said Commissioners shall be prejudiced by such Exchange by reason of the different State of Cultivation of the respective Lands, shall receive from the respective Tenants and Occupiers of the Lands given in Exchange thereof, such Satisfaction in Money as the said Commissioners shall ascertain, order, direct, or appoint; as an Equivalent for such different State of Cultivation; and if the Money so to be ascertained as aforesaid shall not be paid to the Person or Persons entitled to receive the same, within Thirty Days after Demand made thereof, 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.

For vacating
Leases.

XXV. And be it further enacted, That all and every Lease and Leases of any Messuages, Lands, or Tenements, shall, as far as such Lease and Leases affect or concern any Allotment or Allotments to be made of any Part of the said Commonable Lands, Commons or Wastes, in respect of any Messuages, Lands, or Tenements comprised in such Lease or Leases be and the same is and are hereby declared to be null and void as to such Allotment

Allofment and Allotments; and such Allotment or Allotments shall be made and assigned unto the Landlord or Landlords and not to the Tenant or Tenants, Lessee or Lessees; and such Allotment and Allotments shall be freed and discharged from all the Right and Interest which may or otherwise might be claimed in or to the same by virtue of such Lease or Leases; and the Person or Persons to whom the Messuages, Lands, or Tenements comprised in such Lease or Leases shall belong as Landlord or Landlords, shall make such Compensation to the Person or Persons entitled to the same, under such Lease or Leases as the said Commissioners shall by Writing under their Hands direct, for the Right of Common or any other Rights or Interests in, over, or upon the said Commonable Lands, Commons, or Wastes, or any Part thereof appendant or appurtenant to such Messuages, Lands, or Tenements; and if any Person or Persons shall neglect or refuse to make any such Compensation to the Person or Persons entitled thereto on Demand, then and in such Case it shall and may be lawful to and for the said Commissioners and they are hereby authorized and 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 or any Part thereof can or may be raised or levied: Provided always, that if there shall be any Lease of Lands, Part of which shall lie in any of the before-mentioned Parishes, and part in any adjoining Manor or Parish, all and every such Lease or Leases upon Rack Rent now subsisting may be vacated, but where any Lands shall be taken in Exchange, which Lands shall be under Lease and wholly situate in an adjoining Manor or Parish, the Lease of such last-mentioned Lands shall not be vacated.

XXVI. And be it further enacted, That where any Parcels of Land or Lands to be allotted for any Right of depasturing Cattle or other Common Rights in any of the said Common Meadows, Pastures, Commons, or Wastes, shall be so small as the same cannot be conveniently or advantageously fenced off or separated, it shall be lawful to and for the said Commissioners to allot and set apart all such Pieces or Parcels of Land in the said respective Pastures, Meadows, Commons, or Wastes, in some One or more convenient Place or Places, to be held and enjoyed by the Owners thereof in common, and by their Award to direct and appoint by whom and under what Regulations and in what Manner the same shall from thenceforth be respectively held, occupied, and enjoyed.

Certain Lands
to be allotted
and held in
common.

XXVII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to assign, set out, and allot unto and amongst the several Persons who are or shall or may be Owners or Proprietors of Meadow or Pasture Lands in the said several Parishes of *Mar-den*, *Sutton Saint Michael*, *Sutton Saint Nicholas*, and *Withington*, and Townships of *Amberley* and *Preston Wynn*, on which the Proprietors of Lands in general in those Parishes, Chapelries, or Townships, have not Right of Common, but which are in effect Common amongst the immediate Proprietors thereof by their respective Cattle ranging over the whole of such Meadow or Pasture Lands, their Properties therein being intermixed and in some Cases changeable by Lot or otherwise, in such Proportions and Manner as the said Commissioners shall deem just and reasonable.

Certain inter-
mixed Lands
to be allotted
to Persons
having Right
therein.

XXVIII. And

For extinguishing or suspending Gates, Rights of Common, and Interests before the Award.

XXVIII. 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 the said Award, by Notice in Writing under their Hands to be affixed upon the Church or Chapel Doors of the respective Parishes, Chapelries, or Townships aforesaid, to order and direct all or any Part of the Gates, Rights of Common, and other Interests in, over, or upon the Commonable Lands and Wastes to be divided, allotted, and inclosed as aforesaid, or any Part or Parts thereof to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Writing; and that all such Gates, Rights, and Interests as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Time specified in such Notice cease, determine, and be extinguished, or the Exercise thereof be suspended accordingly; any Law, Usage, or Custom to the contrary thereof notwithstanding.

For fencing Glebe Allotments.

XXIX. And be it further enacted; That the Plot and Plots of Lands and Grounds which shall be set out and allotted in Right of the Glebe Lands within the said several Parishes, Chapelries, or Townships by virtue of this Act, shall be inclosed and fenced round with Ditches, Posts, and Rails, or other proper Mounds and Fences, and Quicksets or Hawthorns shall be planted in such Fences; and that the same shall be so made and done by or under the Direction of the said Commissioners, and the Expences thereof shall be borne and paid as the Expences of this Act are hereby directed to be paid; and the said Commissioners shall direct and appoint what Part of the said Ditches and Fences shall afterwards respectively belong to the Rector to whom the same shall be allotted for the Time being, and what Part to any other and which of the said Proprietors; and the said Ditches and Fences when properly made shall for ever thereafter be kept up, maintained and supported by and at the Expence of the Person or Persons whom the said Commissioners shall direct to do the same.

Allowing Exchanges to be made.

XXX. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to set out, allot, and award any of the Lands, Tenements, or Hereditaments whatsoever within the said Parishes, Chapelries, or Townships of *Marden, Sutton Saint Michael, Sutton Saint Nicholas, Withington, Holmer, Pencomb, Ullingswick, Pipe and Lyde, Felton, and Ocle Pitchard, Amberley, Preston Wynn*, and the extra-parochial Place called *Livers Ocle*, in lieu of and in Exchange for any other Lands, Tenements, and Hereditaments whatsoever within the said several Parishes, Chapelries, or Townships and Places, or within any adjoining Parish, Hamlet, or Township; 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, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall

shall be respectively Infants, Femies 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 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: Provided always, that all Costs, Charges and Expences attending the making 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 by their Award order and direct: Provided also, that the said Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioners at any of their Meetings to be holden in pursuance of this Act.

XXXI. And be it further enacted, That from and after the passing of this Act until the Execution of the said Award, all the Arable Lands hereby directed to be divided and allotted, shall be subject and liable to such Directions and Regulations as the said Commissioners shall from Time to Time by any Writing under their Hands appoint, with regard to the stocking, ploughing, tilling, sowing, and laying down the same; and it shall be lawful for the said Commissioners to order and direct such Sum or Sums of Money in respect thereof to be paid by any Person or Persons interested in the said Arable Lands or any Part thereof, or his, her, or their Tenant or Tenants, to any other Person or Persons in like Manner interested therein, or his, her, or their Tenant or Tenants, as the said Commissioners shall think reasonable, not exceeding Five Pounds *per* Acre; and in case any Person or Persons who shall be directed to pay any Sum or Sums of Money upon any of the Accounts aforesaid, shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required to raise and levy the same for the Use or Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Surplus Costs, Charges, and Expences of obtaining and executing this Act or any Part thereof can or may be raised and levied, in case the Land directed by this Act to be sold for the raising of Money to defray such Costs, Charges and Expences, shall not upon the Sale thereof have raised Money sufficient for that Purpose.

Commissioners to direct the Course of Husbandry.

XXXII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, by any Writing or Writings under their Hands, to ascertain, order, and appoint what Recompence and Satisfaction in Money shall be made to the Owner or Owners of any Crops growing upon the Lands and Grounds hereby intended to be divided, allotted, and inclosed, at the Time such Division, Allotment, or Inclosure shall be made, for the said Crops by the Person or Persons to whom the

Satisfaction to be made for growing Crops and tilling Land.

[Loc. & Per.]

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Lands

Lands and Grounds on which such Crops are growing shall be allotted, unless such Owner or Owners shall within the Time to be appointed by the said Commissioners for that Purpose, declare his, her, or their Intention to cut, reap, and carry away the same; and in case of Non-payment of such Recompence and Satisfaction for such Crops at the Time and in the Manner to be directed by the said Commissioners, or in case of such Election to reap and take away the same, then it shall be lawful for such Owner or Owners, and his and their Agents, Servants, and Workmen, with Horses, Carts, and Carriages, to enter into and upon the Lands and Grounds whereon such Crops shall be growing, and to cut, reap, and carry away the same for his, her, or their own Use; and the said Commissioners shall also and they are hereby authorized and required, by any Writing or Writings under their Hands, to ascertain, order, and appoint what Recompence and Satisfaction in Money shall be paid, and to whom, for the Standage of such Crops by the Owner or Owners electing to carry away the same as aforesaid, and also what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Tenants, Occupier or Occupiers of any Land within the said respective Parishes, Chapelries, and Townships, as well for ploughing, tilling, and manuring of any of the Lands and Grounds which shall be divided, allotted, or inclosed by virtue of this Act for the Benefit and Advantage accruing thereby to the Person or Persons to whom such Lands and Grounds shall be allotted, as for any Loss or Disadvantage which any such Tenant or Tenants, Occurrier or Occupiers shall or may sustain by the Loss of their following or way-going Crops upon the Lands and Grounds by this Act intended to be divided, allotted, and inclosed; and if in any or either of the said Cases the Money to be paid for such Recompence and Satisfaction shall not be paid at the Time and in the Manner to be appointed as aforesaid by the said Commissioners, it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required to raise and levy the same for the Use of the Person or Persons entitled thereto by such Ways and Means as the Costs, Charges, and Expences of obtaining this Act and of executing the same, and the said recited Act, are herein-after directed to be raised and levied.

That Wills
and Settlements shall
not be
affected.

XXXIII. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed, adjudged, deemed, or taken to revoke, make void, alter, or impeach any Settlement, Deed, or Will whatsoever, or to prejudice any Person or Persons having any Right, Title, Interest, Claim, Charge, or Incumbrance whatsoever in, to, out of, upon or affecting any Part or Parts of the Lands or Grounds to be allotted or exchanged by virtue of this Act, but that the respective Shares of the Lands or Grounds to be allotted or exchanged, shall immediately after such Allotments or Exchanges be, remain, and enure, and be held and enjoyed, and the several Persons to whom the same shall be allotted or given in Exchange, shall from thenceforth stand and be seised and possessed thereof respectively by such Tenure, for such Estates, upon such and the same Uses and Trusts, and with such and the same Powers, and subject to such and the same Wills, Limitations, Conditions, Settlements, Remainders, Reversions, Debts, Charges, and Incumbrances, as the several Messuages, Lands, Tenements, or Hereditaments, in respect whereof such Allotments or Exchanges shall be made, were held and stood severally limited or subject or liable to at the Time of making such Allotments or Exchanges.

XXXIV. And

XXXIV. And be it further enacted, That the Costs, Charges, and Expences of procuring and passing this Act, and of surveying, planning, measuring, dividing, and allotting the said Lands and Grounds hereby directed to be divided and inclosed, and of preparing and enrolling the Award of the said Commissioners, and making and repairing such Fences, Roads, Gates, Stiles, Drains, Bridges, and other Conveniencies as the said Commissioners shall think reasonable to be made, and all other necessary Charges and Expences incident to and attending the carrying this and the said recited Act into Execution, shall be defrayed and discharged by and out of the Money arising by the Sale of such Part or Parts of the said Commons or Wastes as shall be allotted for that Purpose, and the Monies to be raised as herein-before mentioned respectively.

For paying
the Expences
of the Act.

XXXV. And be it further enacted, That once at least in each and every Year during the Execution of this Act, 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 Justices of the Peace for the County of *Hereford*, 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 to lay their
Accounts before Two
Justices.

XXXVI. And be it further enacted, That if any Person shall advance any Sum or Sums of Money for the Purpose of defraying the Expences of obtaining and passing this Act, or of 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 received for defraying such Expences.

For paying
Interest on
Money
advanced.

XXXVII. And be it further enacted, That all Persons who shall think themselves aggrieved by any Thing which shall be done in pursuance of this Act or of the said recited Act (except in such Cases where the Orders and Determinations of the said Commissioners are herein or therein declared to be final, binding, and conclusive or where an Issue at Law shall be tried as herein-before mentioned, every such Person may appeal to the Justices of the Peace for the said County of *Hereford*, at the General Quarter Sessions to be held within Four Calendar Months next after the Cause of such Complaint shall have arisen, the Person or Persons so appealing first giving Fourteen Days Notice thereof in Writing to the Party or Parties appealed against, and entering into a Recognizance with Two sufficient Sureties before a Justice of the Peace for the same County conditioned to prosecute such Appeal with Effect, and to pay the Costs which shall be awarded by such Justices to be paid by such Appellants respectively; and the Justices in their said General Quarter Sessions are hereby authorized and required to hear and determine such Appeal, and to give such Costs to either Party as they shall think reasonable, and to make such Order therein as to them shall appear just, which Order shall be final and conclusive to all Parties, and shall not be removed or removable by any Writ of

Allowing an
Appeal to the
Quarter Sessions.

Certiorari

Certiorari into any of His Majesty's Courts of Record at *Westminster* or
elsewhere.

General
Saving.

XXXVIII. Saving always to the King's most Excellent Majesty, His
Heirs and Successors, and to all and every Person and Persons, Bodies
Politie and Corporate, his, her, and their Successors, Heirs, Executors, and
Administrators (other than and except the several Persons, Bodies Politie
and Corporate, to and amongst whom the said Commons or Waste Lands
shall be allotted and divided in pursuance of this Act) all such Right, Title,
and Interest (except such as are hereby intended to be barred and destroyed)
as they, every, or any of them had and enjoyed of, in, to, or out of
the said several Commonable or Waste Lands, at the Time of passing this
Act, or could or might have had or enjoyed in case this Act had not been
made.

Act to be
printed by
the King's
Printer.

XXXIX. 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. 1808.