



ANNO QUINQUAGESIMO

GEORGII III. REGIS.

Cap. 114.

An Act for inclosing Lands in the Liberty of *Berrick Prior*, and in the Manor and Parish of *Newington* in the County of *Oxford*. [18th May 1810.]

WHEREAS there are within the Parish of *Newington*, in the County of *Oxford*, the several Liberties of *Berrick Prior*, *Newington*, *Brockhampton* and *Holcombe*, and there are within the said Liberty of *Berrick Prior*, divers Open and Common Fields, Common Meadows, Commons and Waste Lands, containing in the whole Six Hundred and Thirty-six Acres or thereabouts; and there are within the several other Liberties aforesaid, divers other Lands, subject and liable to the Payment of Tythes in Kind, to the Rector of the Rectory and Church of *Newington*, aforesaid: And whereas Sir *Cecil Bishopp*, Baronet, is Lord of the Manor of *Newington*, with its Members and Appurtenances, in the said County of *Oxford*, and as such claims to be interested in the Soil of the Commons and Waste Lands within the said Manor and Parish; and the Most Reverend Father in God *Charles* Lord Archbishop of *Canterbury*, in right of his Archiepiscopal See is entitled to the Perpetual Advowson, Right of Patronage and Presentation of, in, and to the Church of *Newington* aforesaid, and the reverend *Phineas Pett*, Doctor in Divinity, is Rector of the Rectory and Church of *Newington* aforesaid, within the peculiar and immediate Jurisdiction of

[Loc. & Per.] 27 T the

41 Geo. 3.
c. 109.

Advantages
of Inclosure.

Commission-
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Appoint-
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Room of Mr.
Hopcraft.

the Cathedral and Metropolitcal Church of *Christ Canterbury*, and in right thereof is entitled to certain Glebe Lands, and all the Great and Small Tythes yearly arising and renewing within the said Parish: And whereas the said *Sir Cecil Bishopp*, Baronet, *James Musgrave*, and *George White*, Esquires, *Mary Franklin*, Widow, and several other Persons, are Owners and Proprietors of and interested in the Remainder of the Lands, Tenements and Hereditaments within the said Liberties, and in the said Parish of *Newington*: 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 Properties of the several Owners of the said Open and Common Fields, Common Meadows, Commons and Waste Lands, lie intermixed and dispersed in small Parcels, and are inconveniently situated for Occupation, but if the same were divided and inclosed, and specific Shares thereof allotted to the several Persons interested therein, according to their respective Estates, Rights and Interests, and if the same, and the said other Lands, were exonerated from the Payment of Tythes in Kind, it would be advantageous to the Proprietors thereof, and the Improvement thereof would be promoted: But as such Inclosure, Division, Allotment, and Exoneration cannot be made 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 *Thomas Hopcraft*, of *Crowton*, in the County of *Northampton*, *John Slade*, of *Aston Upthorpe*, in the Parish of *Blewbury*, in the County of *Berks*, and *Richard Davis*, of the *Grove*, in the Parish of *Aston Rowant*, in the County of *Oxford*, Gentlemen, and their Successors, to be elected in Manner hereinafter mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting and inclosing the said Open and Common Fields, Meadows, Commons, and Waste Lands, and for carrying this Act into Execution, subject to the Powers, Regulations and Provisions, in the said recited Act contained, or such of them as are not varied, or altered by, or repugnant to any of the Clauses or Provisions of this Act; and that all Acts, Matters and Things, authorized or directed to be done and executed by, or before the said Commissioners for effecting the Purposes aforesaid, may be done and executed, by, or before any Two of them, and the same shall be as valid and effectual, as if done and executed by or before all the said Commissioners.

II. And be it further enacted, That if the said *Thomas Hopcraft*, or any Person hereafter to be appointed in his Stead, shall die, or shall refuse, or become incapable to act as a Commissioner by virtue of this Act, before the same shall be fully carried into execution, then, and in such Case, the said *Sir Cecil Bishopp*, or the Person or Persons for the time being, entitled to his Estate within the said Parish of *Newington*, shall and may, by any Writing under his, her, or their Hand or Hands, within Twenty-one Days after such Death, Refusal or Incapacity shall be made known to him, her, or them, nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room or Stead of the said *Thomas Hopcraft*, or of such other Person in his Room or

Stead

Stead so dying, refusing, or becoming incapable to act as aforesaid; and if the said *John Slade*, or any Person hereafter to be appointed in his Stead, shall die, or refuse, or become incapable to act as a Commissioner by virtue of this Act, before the same shall be fully carried into Execution, then, and in such Case the Rector of the Rectory and Church of *Newington* aforesaid, for the time being, shall and may, by any Writing under his Hand, within Twenty-one Days after such last mentioned Death, Refusal, or Incapacity shall be made known to him, nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room and Stead of the said *John Slade*, or of such other Person appointed in his Room or Stead, so dying, refusing, or becoming incapable to act, and if the said *Richard Davis*, or any Person hereafter to be appointed in his Stead shall die, or refuse, or become incapable to act as a Commissioner by virtue of this Act, before the same shall be fully carried into Execution, then, and in such last-mentioned Case, the Majority in value of the Owners and Proprietors of Lands within the Liberties of *Berrick Prior* and *Newington* aforesaid, exclusively of the said *Sir Cecil Bishopp*, or the Person or Persons for the time being entitled to his Estate as aforesaid and of the said Rector, shall and may, by any Writing under their Hands, and within Twenty-one Days after such last-mentioned Death, Refusal or Incapacity shall be made known to them, appoint some proper Person (not interested in the said Division or Inclosure) to be a Commissioner in the Room and Stead of the said *Richard Davis*, or of the Person appointed in his Room or Stead, so dying, refusing, or becoming incapable to act as aforesaid, and every Commissioner so to be appointed as aforesaid shall, after taking the Oath prescribed in that Behalf, have such and the like Powers and Authorities for carrying this Act into Execution, as if he had been named and appointed a Commissioner in and by this Act.

III. Provided always, and be it further enacted, That if at any Time or Times it shall happen that the several Persons herein respectively authorized and empowered to appoint such new Commissioners shall not make such Appointment within the Time for that Purpose limited and in Manner aforesaid, then, and in every such Case, it shall and may be lawful to and for the surviving or remaining Commissioner or Commissioners, and he and they is and are hereby required, from time to time, within Twenty Days next after the Expiration of such Time allowed for appointing such new and succeeding Commissioner or Commissioners as aforesaid, by Writing under his or their Hand or Hands, to appoint some other fit and proper Person to be a Commissioner in the Room or Stead of every Commissioner dying, refusing or becoming incapable to act as aforesaid; and every such new Commissioner, so appointed, shall, after taking the Oath prescribed in that Behalf, have such and the like Powers and Authorities for carrying this Act into Execution, to all Intents and Purposes, as if he had been named and appointed a Commissioner in and by this Act; and every new Appointment so made by any of the Parties aforesaid shall be annexed to and enrolled with the Award of the Commissioners.

Proprietors
omitting to
appoint,
Commission-
ers may.

IV. Provided also, and be it further enacted, That if any of the said Commissioners shall refuse or neglect to attend at the First or Second Meeting appointed to be holden for putting this Act in Execution, and duly qualify himself by taking the Oath in that Behalf prescribed, or if any

Commission-
ers' Non-
attendance
deemed a
Refusal.

any One of the said Commissioners shall, at any Time after the said First or Second Meeting, wilfully absent himself from any Two succeeding Meetings appointed to be holden as aforesaid, (such Meetings being known to him by his being present at the Appointment thereof, or Notice thereof in Writing having been Eight Days previously given or left at his usual Place of Abode by the Clerk to the said Commissioners,) and such Commissioner not being prevented by Sickness or other reasonable Cause, to be allowed by the other Commissioners from attending at such subsequent appointed Meetings, or if any Commissioner, hereafter to be elected and appointed in Manner aforesaid shall not attend and qualify himself at the First or Second Meeting after his Election to be appointed by the surviving or remaining Commissioners for putting this Act in Execution, or shall thereafter absent himself in Manner aforesaid, (having first known of such Meeting, or after such Notice, and without such Cause as herein-before mentioned,) every such Absence or Non-attendance shall be deemed and taken to be a Refusal to act.

Appoint-
ment of Sur-
veyor.

V. And be it further enacted, That the Survey, Admeasurement and Plan to be made in pursuance of this Act, shall be made by *Thomas Hopcraft* the younger, of *Crowton* aforesaid, in the said County of *Northampton*, Land Surveyor, or by such other Person or Persons as the said Commissioners shall direct: Provided always, that it shall be lawful for the said Commissioners to adopt and make use of any Survey, Admeasurement and Plan already made of the Lands, Grounds and Hereditaments hereby directed to be inclosed or exonerated from Tythes, or any Part thereof, as authorized or allowed by the said recited Act.

Notice of
Meetings.

VI. And be it further enacted, That the said Commissioners shall, and they are hereby required to cause Notice in Writing of the Time and Place of their First and every other Meeting for the Execution of this Act to be inserted in *Jackson's Oxford Journal*, or in some other Newspaper circulated within the said County of *Oxford*, Eight Days at least before every such Meeting, (Meetings by Adjournment only excepted,) and if at any Meeting appointed to be holden by the said Commissioners only One of them shall attend, the One so attending may adjourn such Meeting to such Time and Place within the said Parish of *Newington*, or within Eight Miles of the Boundary of the said Parish, as shall be by him deemed most convenient.

Other
Notices.

VII. Provided always, and be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners, shall be made and given by Advertisements in the said *Oxford Journal*, or some other Newspaper circulated in the said County of *Oxford*.

Commission-
ers Quality
to be open to
Inspection.

VIII. Provided always, and be it further enacted, That the said Commissioners shall, at some convenient Time after the several Allotments hereinafter directed to be made shall have been set out, and before the same shall be confirmed, cause the Valuation and Appraisement to be made by them by virtue of the said recited Act, to be reduced into Writing and signed by them, which Valuation and Appraisement shall and may be inspected by all Persons interested therein at all and every of the subsequent Meetings of the said Commissioners, without Fee or Reward, and any Person or Persons so interested shall be entitled to a Copy of such

Valu-

Valuation and Appraisement, or any Part or Parts thereof, paying for the same at a reasonable Price to be ascertained by the said Commissioners.

IX. And be it further enacted, That all Encroachments which at any Time within Twenty Years now last past shall have been made upon the Commons and Waste Lands hereby directed to be allotted, shall be deemed Part thereof, and shall be divided and allotted accordingly; and in case any Dispute or Difference shall arise touching any such Encroachments, or the Extent thereof, such Dispute or Difference shall be finally determined by the said Commissioners.

Encroachments within Twenty Years to be deemed Part of Waste.

X. And be it further enacted, That in order to shorten the Boundary Fences between the Lands and Grounds by this Act directed to be divided and allotted, and the adjoining Parishes, it shall be lawful for the said Commissioners, with the Consent in Writing, under the Hands of the Lords or Ladies of the Manor or Manors, and of the Majority in Value (to be ascertained by the Assessment to the Poor Rate) of the Land Owners interested in any Commons or Waste Grounds adjoining to the said Parish of *Newington*, and also under the Hand of any Owner of any adjoining Land upon which any such Fence shall be intended to be made, to set out, ascertain and determine the Boundary Fences to be made between the Lands by this Act directed to be divided and allotted and the Lands adjoining thereto, as they shall judge proper for the Purposes aforesaid; and after such Boundary Fences shall be so set out, ascertained and determined, the same shall be fenced by such Persons, in such Manner and at such Times as the said Commissioners shall direct, and shall for ever thereafter be deemed and taken to be the Boundary between the said Parish of *Newington* and such adjoining Parish or Parishes; any Law, Usage, or Custom to the contrary thereof notwithstanding.

Power to shorten Boundary Fences.

XI. 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 Division, Allotment, and Exoneration, touching or concerning any Right or Interest, or any other Matter or Thing relating to such Division, Allotment or Exoneration, 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 Titles to any Messuages, Cottages, Tythes, Lands, or Hereditaments whatsoever.

Commissioners to settle Disputes.

XII. And be it further enacted, That in case the said Commissioners shall, upon the hearing and determining of any Claim or Claims, Objection or Objections to be delivered to them in pursuance of this 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 whole 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

and may award Costs.

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refuse

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.

Parties may
try Rights at
Law by
feigned
Issue.

XIII. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division, Allotment and Exoneration, shall be dissatisfied with any Determination of the said Commissioners, touching or concerning any Claim, Right or Interest in, over, or upon the Lands and Grounds hereby directed to be allotted and exonerated from Tythes, or any Part thereof, it shall and may be lawful to and 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 the following Assizes to be holden for the said County of *Oxford*; and for that Purpose the Person or Persons so dissatisfied 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, or they, is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues whereby such Claim or Claims, and the Right or Rights thereby insisted on may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same;) and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, Body and Bodies Politic, 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 therein, which it shall be lawful for the Court to do, in case the said Court shall think proper; and that 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.

Determina-
tion of the
Commission-
ers, not
objected to,

XIV. Provided always, and be it further enacted, That in case the Determination of the said Commissioners, touching any Claim or Claims of any Rights of Common or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted and inclosed, or any Part thereof, shall not be objected to, or being objected to, such Action or Actions at Law shall not be brought and proceeded in within the Time and in the Manner herein-before for that Purpose mentioned, such Determination shall be final, binding, and conclusive upon all Parties.

Suits respect-
ing Titles not

XV. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted, touching or concerning the Title, Right, or Interest

Interest of any Person or Persons, in, or to any Messuages, Cottages, Lands, Tenements or Hereditaments hereby directed to be allotted or exonerated from Tythes, or any Part thereof, such Suit or Suits, shall not impede, delay or hinder the said Commissioners from proceeding in the Execution of the Powers vested in them by this Act, but the said Allotment or Exoneration shall be proceeded in notwithstanding such Suit or Suits, and the Allotment or Allotments in dispute may be had and taken by the Person or Persons who, upon the Determination of such Suit or Suits, shall become entitled to the same.

to impede the Execution of this Act.

XVI. And be it further enacted, That if any of the Parties in any Action to be brought in pursuance of this Act shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

Death of Parties not to abate Actions.

XVII. 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 hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Bodies Politic or Corporate who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the Clerk of the said 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 therein 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, 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.

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

XVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties, except in Cases of Encroachment made within the Period of Twenty Years; but in case the said Commissioners shall be of Opinion against the Rights of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment or other due Course of Law.

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

XIX. And be it further enacted, That in setting out and appointing the several Carriage Roads and Highways in pursuance of this Act, the said Commissioners shall, and they are hereby authorized and empowered, if they shall think it necessary or proper, to continue such Carriage Roads and Highways, or any of them, through or over any of the old inclosed Lands or Grounds within the said Parish of *Newington*, and also to divert, turn or stop up any of the old Carriage Roads or Highways, passing or leading through or over any such old inclosed Lands or Grounds; provided,

Power to set out, &c. Roads across old Inclosures with Consent of the Owners.

vided, that no such Road or Highway be so set out, or appointed or diverted, turned or stopped up respectively, without the Consent of the Owners of the respective old inclosed Lands or Grounds, through or over which such Road or Highway doth or is intended to pass, such Consent to be testified by some Writing under the Hands of such Owners respectively, nor without the Concurrence and Order of Two Justices of the Peace acting for the said County of *Oxford*; and such Order so to be made by such Justices, shall be subject to an Appeal in Manner by the said recited Act directed.

Allotments
for Road
Materials.

XX. And be it further enacted, That the said Commissioners shall in the first Place, if they shall judge it expedient, but not otherwise, set out and allot unto the Surveyors of the Highways within the several Liberties in the said Parish of *Newington*, or any of them, for the time being, for ever, such Part of the Lands and Grounds hereby directed to be allotted, as the said Commissioners shall judge necessary, as and for Watering Places for Cattle, and as and for public Gravel, Stone and Clay Pits; and the same Allotment or Allotments, when set out, shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Lands and Tenements within the said several Liberties or any of them, and their Tenants for the time being, in such Manner, and under such Rules and Regulations as the said Commissioners shall by their Award direct or appoint.

Allotment to
the Lord of
the Manor
for Waste.

XXI. And be it further enacted, that the said Commissioners shall assign, set out, and allot unto, and for the Lord of the Manor aforesaid, such Part of the Commons and Waste Lands within the said Manor and Parish, as in the Judgment of the said Commissioners shall be equivalent to, and a full Compensation and Satisfaction for his Rights and Interests, in and to the Soil of the said Commons and Waste Lands.

Allotment to
Trustees for
the Poor of
Berrick.

XXII. And be it further enacted, that the said Commissioners shall, and they are hereby required to assign, set out, and allot unto the Lord of the Manor aforesaid, the Rector of the said Rectory, and such of the Churchwardens and Overseers of the Poor of the Parish of *Newington* aforesaid, as shall be resident within the Liberty of *Berrick Prior* aforesaid, such Plot or Plots of Ground, Part of the Common Furze Ground within the same Liberty, as in the Judgment of the said Commissioners shall be equivalent to, and a full Compensation and Satisfaction for the Right or Liberty in the poor Inhabitants of the said Liberty of *Berrick Prior*, to cut, take and use Furze from the said Common Furze, and such Plot or Plots of Ground shall, on the Execution of the Award of the said Commissioners, be vested in the Lord of the Manor aforesaid, the Rector of the said Rectory, and such of the said Churchwardens and Overseers of the Poor, as shall be resident within the said Liberty of *Berrick Prior*, for the time being, for ever, as Trustees for the Poor of the same Liberty; and the Furze arising from the Lands so to be allotted as aforesaid, shall be cut, taken and used by such poor Inhabitants of the same Liberty, in such Quantity, at such Time or Times in each Year, under such Orders, Rules and Regulations, and in such Manner as the said Trustees for the time being, or the major Part of them shall from Time to Time appoint; and the said Trustees, or the major part of them, are hereby empowered and required from Time to Time, as they in their Discretion shall think proper, either to let or set from Year to Year,

or otherwise by Writing under their Hands, to lease and demise the whole or such Part or Parts of the said Plot or Plots as they shall think proper, to any Person or Persons whomsoever, for any Term or Number of Years not exceeding Twenty-one Years, so that on every such letting, and in every such Lease there be reserved and made payable to the Trustees for the time being, or the major Part of them, by Two equal half-yearly Payments, the most improved yearly Rent or Rents that can be obtained for the same, without taking any Income, Fine, Premium, or Foregift, in consideration of such letting, or of granting such Lease or Leases; and that on every such letting, and in all such Leases respectively, there be contained the usual Covenants or Stipulations, and Security be given for the Performance of the same, if the said Trustees, or the major Part of them, shall think proper to require it; and the Rents and Profits arising from the said Plot or Plots shall, from time to time be laid out in purchasing Fuel, and such Fuel shall be distributed among the poor Inhabitants of the said Liberty of *Berrick Prior*, in such Proportions and Quantities, at such Times in every Year, and according to such Rules and Orders, as the Trustees for the time being, or the major Part of them, shall appoint and prescribe for that Purpose, and not otherwise.

XXIII. Provided always, and be it further enacted, That it shall and may be lawful for any of the said Trustees, for the time being, to act in the Execution of the Trusts hereby reposed in them, by their Agents or Proxies respectively, such Agents or Proxies being appointed by Writing under the Hand or Hands of the Person or Persons for whom such Agents or Proxies shall act, and producing such his or her Appointment, at the Time of his or their acting by virtue thereof.

Trustees
may act by
Proxy.

XXIV. And be it further enacted, That the said Commissioners shall, in the next Place assign, set out, and allot unto and for the Rector of the Rectory and Church of *Newington* aforesaid, such Plot or Plots, Part of the said Lands and Grounds hereby directed to be allotted or inclosed, as shall in their Judgment be a full Equivalent and Compensation for all the Glebe Lands, and Rights of Common thereto belonging, in, over, and upon the Lands and Grounds hereby directed to be allotted and inclosed.

Allotment
for Glebe.

XXV. And be it further enacted, That the said Commissioners shall, and they are hereby required, in the next Place, to set out, allot, and award unto and for the Rector of the Rectory and Church of *Newington* aforesaid, such Part or Parts of the Lands, Grounds and Hereditaments hereby directed to be allotted, as shall, in their Judgment, Quantity, Quality and Situation considered, be equal in value to One-fifth Part of all the Arable or Tillage Land, and Two-seventeenth Parts of all the Remainder of the Lands and Grounds within the said several Liberties and Parish, which are subject and liable to the Payment of Tythes in kind to the Rector of the Rectory and Church of *Newington* aforesaid, and which shall remain after the several publick and private Roads, the Allotments (if any) to the Surveyors of the Highways, the Allotment to the Trustees for the Poor, and the said Allotment to the said Rector for Glebe and Common Right, shall be taken and deducted; which last-mentioned

Allotments
for Tythes.

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Allotment or Allotments shall be set out and placed as near to the Parsonage House belonging to the said Rector as the said Commissioners can conveniently set out and place the same, and shall be in lieu and bar of and a full Compensation and Satisfaction for all Tythes both Great and Small, and all Payments in lieu of Tythes, and all other Ecclesiastical Dues whatsoever (Mortuaries, *Easter Offerings* and Surplice fees excepted) arising, growing, renewing, increasing, happening, or becoming payable, or to arise, grow, renew, increase, happen, or become payable, within, from, or in respect of all and every of the Lands and Grounds, Messuages, Cottages, Gardens, Orchards, and Hereditaments, intended to be affected hereby.

Proprietors
in Berrick and
Newington,
not having
Open Field
Land, to exo-
nerate their
Old Inclo-
sures from
Tythes, may
contribute in
Money.

XXVI. Provided always, and be it further enacted, That where the Owners and Proprietors of Messuages, Tenements, Gardens, Orchards, Homesteads, Home-closes, and Old Inclosures, within the Liberties of *Berrick Prior*, and *Newington* aforesaid, or either of them, shall not be entitled to Lands and Grounds in the Open or Common Lands, and Grounds by this Act directed to be allotted or inclosed sufficient to make a Compensation in Land for the Tythes thereof, then, and in every such Case, Compensation shall be made for such Deficiency of such Tythes by the Payment of a Sum or Sums of Money, and the Owners and Proprietors of such Messuages, Tenements, Gardens, Orchards, Homesteads, Home-closes, and Old Inclosures, shall pay or cause to be paid to the said Commissioners, or such Person or Persons, and at such Time or Times as they shall direct or appoint, such Sum or Sums of Money as they, the said Commissioners shall think equivalent to and a full Satisfaction and Compensation for such Tythes as aforesaid, of the said Messuages, Tenements, Gardens, Orchards, Homesteads, Home-closes, and Old Inclosures; which Sum and Sums of Money shall be applied towards Payment of the Charges and Expences of obtaining and passing this Act, and carrying the same into Execution; and the Receipt or Receipts of the said Commissioners shall be a full and sufficient Discharge for all and every Sum and Sums of Money so to be paid; and in case any Surplus shall remain after Payment of such Charges and Expences as aforesaid, such Surplus shall be paid into the Bank of *England* in the Manner directed by the said recited Act with respect to Money to be paid for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses; and in case of Non-payment of any such Sum or Sums of Money on demand, the same shall and may be recovered by such Ways and Means as the Costs, Charges, and Expences of obtaining and passing this Act, and of carrying the same into execution, can or may be raised and levied: Provided also, that if the Owners or Proprietors of any Old Inclosed Lands or Grounds within the aforesaid Liberties and Parish, or any of them, not being entitled to Lands and Grounds, in the Lands and Grounds hereby directed to be allotted or inclosed, sufficient to exonerate their Messuages, Tenements, Gardens, Orchards, Homesteads, Home-closes, and Old Inclosures, from the Payment of Tythes in kind as aforesaid, shall be desirous of having a Part of such Old Inclosures assigned or set apart to exonerate the same Messuages, Tenements, Gardens, Orchards, Homesteads, Home-closes, and Old Inclosures from the Payment of Tythes, it shall be lawful to and for the said Commissioners, and they are hereby authorized and empowered,

Proprietors
of Old Inclo-
sures may
give up Part
thereof for
the Tythes.

powered, with the Consent of the Proprietors or Owners in possession of such Old Inclosures, to deduct and set out so much and such Part or Parts of such Old Inclosures, as shall be equal in Value according to the Proportions aforesaid to the Tythes, both Great and Small, payable by the Owner or Owners of such Old Inclosures, in respect of his, her, or their respective Messuages, Tenements, Gardens, Orchards, Homesteads, Home-closes, and Old Inclosures within the aforesaid Liberties and Parish or any of them, which Part or Parts of such Old Inclosures, so deducted and set out, shall be considered as Part of the Lands and Grounds hereby directed to be allotted and inclosed, and shall be divided, allotted and inclosed accordingly; and such Deductions shall be for ever thereafter a full Satisfaction for and Discharge from the Payment of such Tythes: Provided always, that nothing in this Act or the said recited Act contained, except for effectuating Exchanges, and raising, levying, and paying the Expenses thereof, shall extend to, or affect, or be construed to extend to, or affect any of the Lands, Grounds, or Hereditaments within the said Liberties of *Brockhampton* and *Holcombe*, or either of them, or any Part thereof respectively, except such Part or Parts thereof respectively, the Owners and Proprietors, or Owner or Proprietor whereof respectively in possession for the time being, shall, jointly with the Lord Archbishop of *Canterbury*, and the Rector of the Rectory and Church of *Newington* aforesaid, for the time being, signify their Desire, in Writing under their Hands, that such Lands, Grounds, and Hereditaments, shall be included in the Operation of this Act, such Writing to be addressed and delivered to the said Commissioners, at some Meeting to be held by them within Five Calendar Months after the passing of this Act, which Desire and Writing, if so delivered, shall be annexed to and inrolled with the Award to be made by the said Commissioners: Provided also, that not any Owner or Proprietor of any Lands, Grounds, or Hereditaments within the Liberties of *Berrick Prior* and *Newington* aforesaid, or either of them, shall be obliged or compelled, without his, her, or their Consent in Writing under Hand and Seal, to furnish, or part with any of his, her, or their Lands, Grounds, or other Hereditaments, for the Exoneration from the Payment of Tythes of any of the Lands, Grounds, or Hereditaments of any Owner or Proprietor of any Lands, Grounds, or Hereditaments within the said Liberties of *Brockhampton* and *Holcombe* or either of them; nor shall any such Owner or Proprietor of Lands, Grounds, or Hereditaments, within the same Liberties of *Brockhampton* and *Holcombe*, or either of them, be obliged or compelled without such Consent as last aforesaid, to furnish or part with any of his, her, or their Lands, Grounds, or other Hereditaments for the Exoneration from the Payment of Tythes of any of the Lands, Grounds, or other Hereditaments of any other Owner or Proprietor: Provided also, that the Meadow commonly called *Hayward Mead*, within the said Parish of *Newington*, shall, for the Purposes of this Act, be deemed and taken to be within and belonging to the Liberty of *Brockhampton* aforesaid; any Usage or Custom to the contrary notwithstanding.

This Act not to extend to Brockhampton and Holcombe, without Consent of the Proprietors and Rector.

Lands in Berrick and Newington not to be taken to exonerate those in Brockhampton and Holcombe from Tythes, nor Lands in Brockhampton and Holcombe to exonerate those of other Proprietors.

Hayward Mead to be considered in Brockhampton Liberty.

XXVII. Provided always, and be it further enacted, That until the Execution of the Award to be made by the said Commissioners, or until such other previous Time as the said Commissioners shall, by Writing under their Hands direct or appoint, the Rector of the Rectory and Church of *Newington* aforesaid, for the time being, shall be entitled to, and shall have, receive, enjoy,

Tythes payable until Award made, or Commissioners otherwise direct.

enjoy, and recover all his Tythes in the same Manner as if this Act had not been made.

Allotment of
Residue.

XXVIII. And be it further enacted, That subject to the Restriction aforesaid, the said Commissioners shall, and they are hereby required, after the making such Allotments as aforesaid, to set out, allot and award all the Residue and Remainder of the Open and Common Fields, Common Meadows, Commons, and Waste Lands, and other Lands and Grounds, within the several Liberties, and in the Manor and Parish of *Newington* aforesaid, hereby directed to be allotted unto and amongst the several and respective Owners and Proprietors thereof, and Persons interested therein, in such Quantities, Shares and Proportions, as the said Commissioners shall judge and determine to be a just Compensation and Satisfaction for their several and respective Lands, Grounds, Rights of Common and other Rights and Interests therein.

Power to
divide and
allot ancient
Inclosures.

XXIX. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, by and with the Consent of the respective Owners of Old Inclosed Lands, Grounds, or Hereditaments, lying within the Liberties and Parish aforesaid, or any of them, to order and direct the same, or such Part or Parts thereof, as the Owners thereof respectively shall consent and desire, to be taken up and considered and allotted as Part and Parcel of the Lands hereby directed to be divided and inclosed, 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 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 Rules, Orders, and Directions herein contained.

New Estates
to remain to
the same Uses.

XXX. And be it further enacted, That the several Lands and Grounds to be allotted and awarded upon the said Division, Allotment, and Inclosure, to the several Persons interested in pursuance of this or the said recited Act, shall immediately after the making of such Allotments be, remain and enure, and the several Persons to whom the same shall be respectively allotted or awarded upon such Division, shall from thenceforth stand and be seised and possessed thereof, to such and the same Uses, Estates, Trusts and Purposes, and subject to such and the same Wills, Settlements, Limitations, Powers, Remainders, Leases, (except Leases at Rack Rent,) Charges and Incumbrances, as the several and respective Messuages, Lands, Tenements, Old Inclosures, New Allotments, or other Hereditaments, in lieu whereof such Allotments shall be respectively made as aforesaid, are now held under or subject to, or liable to be charged with, or affected by, or might or could have been held under or subject to, or liable to be charged with or affected by, in case this Act had not been made.

XXXI. And be it further enacted, That in case the Proprietor or Proprietors of any Lands, or other Hereditaments, by this or the said recited Act, authorised to be allotted, exchanged, or exonerated from Tythes, shall hold their respective Lands or Hereditaments for different Estates, or by different Tenures, or subject to different Trusts, Charges, or Incumbrances, the said Commissioners shall ascertain and distinguish the Lands or other Hereditaments so held, 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 so circumstanced; and the said Commissioners shall, and they are hereby authorized and empowered to set forth and declare in and by their said Award in right of what Lands or Hereditaments in particular such Allotments shall have been respectively made, and therein also separately describe and ascertain the Situation and Boundaries of every such Allotment; and when, for want of Information, or from any other Cause, the said Commissioners shall have omitted in their Award to distinguish and ascertain the Allotments in respect of Lands or other Hereditaments so circumstanced, and within Twelve Calendar Months after the making of such 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 Omission supplied by a separate Instrument, then, and in every such Case, the said Commissioners shall, and they 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 having obtained what they shall think sufficient Information, they are hereby also authorized, by any Deed, under their Hands and Seals, to make distinct and several Allotments in respect of the Lands and Hereditaments so circumstanced, in the same Manner as they might have done in their Award; and every such separate Instrument shall be enrolled in the same Place, and Evidence thereof given in the same Manner, as by the said recited Act or this Act or either of them are or is directed concerning the said Award; and all reasonable Expences which shall be incurred in or about such separate Instrument or Instruments 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 or Substance thereof had been inserted and contained in their said Award, and the same shall, after such Inrolment as aforesaid, be delivered to the Person or Persons upon whose Request any such Omission shall have been so supplied, or to the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title to the Premises in question shall, in the Opinion of the said Commissioners most properly belong.

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

Commissioners may ascertain and declare the same by Deed after their Award.

XXXII. And be it further enacted, That all and every subsisting Lease and Leases at Rack Rent, upon the making or renewing of which no Fine or Fines hath or have been paid, of any of the Lands or Grounds to be allotted or exonerated from Tythes by virtue of this Act or the Tythes thereof, or any Part thereof, either alone or jointly with any

Vacating Leases at Rack Rent.

[Loc. & Per.]

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other

Lessees to be
compensated.

other Lands, Tenements, Tythes, or Hereditaments, and all subsisting Agreements, for any Time or Term therein, as to the Whole of the Tenements comprised in such Lease or Leases, Agreement or Agreements, shall, on such Day as the said Commissioners shall, by Writing under their Hands for that Purpose limit or appoint, cease, determine, and be utterly void; and the respective Lessees, or Tenants thereof, shall thereupon be entitled to demand and receive of and from the respective Landlords, Owners, or Proprietors of the same Premises, such Allowance or Satisfaction in Money, and at such Time or Times as such Commissioners shall ascertain, order, and direct, as reasonable to be paid to such Lessees or Tenants on account thereof, or as an Equivalent for the same; and such Lessees, or Tenants respectively shall, upon the Determination of every such Lease or Agreement, be liable to pay the respective Landlords, Owners and Proprietors of the same Premises, such Rents or Sums of Money up to the Time of vacating such Leases or Agreements respectively, for the Use and Occupation thereof, as the said Commissioners shall in like Manner ascertain, order, and direct, as reasonable and proper in that Behalf: Provided always, That where any Land under Lease wholly situate in an adjoining Parish or Liberty shall be taken in exchange, the Lease thereof shall not be vacated: Provided also, That in ascertaining and settling the Sum or Sums of Money to be paid by or to such Lessee or Lessees as aforesaid, the said Commissioners shall have due Regard to the several Covenants and Stipulations of the Lease or Leases, Agreement or Agreements to be vacated, and shall make such Addition thereto, or Abatement therefrom, as they shall judge to be just in case any of such Covenants or Stipulations shall not have been fulfilled.

No Turves,
&c. to be cut
without
Consent of
the Com-
missioners.

XXXIII. And be it further enacted, That if any Person or Persons shall, after the passing of this Act, cut, dig, pare, or carry away, any Turves, Furze or Fuel, in, upon, or from the said Commons, or Waste Lands, or any Part thereof, without or contrary to the Licence of the said Commissioners first had and obtained in Writing for that Purpose, (which Licence the said Commissioners are hereby empowered to grant under such Orders, Rules, Regulations, and Restrictions, as they shall think just and proper to be inserted therein,) then, and in every such Case, the said Commissioners, upon due Proof made before them upon Oath, (which Oath any One of the said Commissioners is hereby authorized to administer,) shall, and they are hereby required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause any Sum of Money, not exceeding Ten Pounds, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending in the Premises, rendering the Overplus, (if any) upon demand, to the Person or Persons whose Goods and Chattels shall be so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale, and the Money so to be levied as aforesaid shall be applied towards the Payment of the Costs and Charges of obtaining and executing this Act.

Power to
suspend
Right of
Common.

XXXIV. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby empowered, at any Time or Times before the Execution of the said Award, by Notice in Writing under their Hands to be affixed upon the principal Door of the Parish

Parish Church of *Newington* aforesaid, to order and direct all or any Part of the Rights of Common, in, over, and upon the said Commons and Waste Lands, or any Part 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 Rights of Common 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 of affixing such Writing on the said Church Door, cease, determine, and be extinguished, or the Exercise thereof be suspended accordingly; any Law, Usage, or Custom to the contrary thereof notwithstanding.

XXXV. And be it further enacted, That from and after the passing of this Act, until the Execution of the Award of the said Commissioners, all the Open and Common Fields 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 Writing under their Hands appoint, as well with regard to the stocking as to the ploughing, folding, tilling, sowing, and laying down the same; and it shall and may be lawful to and for the said Commissioners to order and direct such Sum and Sums of Money, as well in respect thereof, as for any Seeds, Crop, Tillage, Manure, or Preparation for a Crop or Crops on any of the Lands and Grounds hereby directed to be allotted, to be paid by any Person or Persons interested therein, or his, her, or their Tenant or Tenants, and to such Person or Persons as they the said Commissioners shall think reasonable and direct; and in case any Person or Persons, who shall be directed to pay any Sum or Sums of Money on any of the Accounts aforesaid, shall neglect or refuse to pay the same accordingly, within the Space of Fourteen Days after the same shall have been ordered and demanded, then it shall be lawful for the said Commissioners, and they are hereby required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause the same to be levied by Distress and Sale of the Goods and Chattels of such Person or Persons so refusing or neglecting to pay such Sum or Sums of Money as aforesaid, rendering the Overplus, (if any,) upon demand to such Person or Persons respectively, after deducting the Costs and Charges of taking and making every such Distress and Sale: and in case such Distress cannot be taken as aforesaid, it shall be lawful for the said Commissioners, or any Person authorised by them for that Purpose, to enter into and upon such Lands as aforesaid, or any Part thereof respectively, and receive the Rents, Issues, and Profits thereof respectively, until thereby and therewith, or otherwise the full Amount of such Sum and Sums of Money as aforesaid, and all Costs, Charges, and Expences occasioned by or attending such Entry upon and receiving the Rents and Profits of the same Premises, shall be respectively fully paid and satisfied; which Sum or Sums of Money, so to be levied, received, or raised, shall, after discharging such Costs, Charges, and Expences as aforesaid, be applied in making such Recompence and Satisfaction, to the Person or Persons entitled thereto as aforesaid.

XXXVI. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and empowered

Commissioners to direct the Course of Husbandry.

Power to turn Water-courses in Old Inclosures.

empowered to direct, order, and award, all or any Part of the Streams, Springs, and Watercourses, within the said Parish of *Newington*, or which divide or run between the said Parish, and any adjoining Parish or Liberty, to be conveyed and turned in such Course, and through such Part or Parts of the Lands and Grounds hereby directed to be allotted or inclosed as they shall think most beneficial and convenient for watering the New Allotments, which shall be made in pursuance hereof, and for straightening Boundaries as herein-before directed: Provided always, That no such Stream, Spring, or Watercourse, shall be diverted or turned without the Consent of the Person or Persons, to or from whose Lands the same shall be so diverted or turned.

No Sheep,
&c. to be
kept in new
Allotments or
Roads within
a limited
Time

XXXVII. And be it further enacted, That no Cattle, Sheep, or Lambs, shall be kept in any of the Allotments to be made by virtue of this Act, out of the said Open and Common Fields, Commons and Waste Lands, or in or by the Side of any of the Roads to be set out in pursuance of this, or the said recited Act, during the Space of Seven Years next after the Execution of the said Award, unless the Person or Persons keeping the same, shall first, at his, her, or their own Expence, make and constantly maintain a Fence, sufficient to guard the Young Quick Fences adjoining such Allotments or Roads from being cropped, hurt, or damaged, by such Cattle, Sheep, or Lambs, whether such Quick Fences be planted or set by the Owners or Occupiers of such Allotments as aforesaid, or by the Owner or Occupier of the Allotment or Allotments adjoining thereto.

Persons
advancing
Money to be
repaid with
Interest.

XXXVIII. And be it further enacted, That the Person or Persons who shall advance and lend any Sum or Sums of Money for defraying the Expences of applying for and obtaining this Act, and of carrying the same into Execution, shall be repaid the same out of the first Monies which shall be raised and collected in pursuance hereof, with Interest at the Rate of Five Pounds *per Centum per Annum*, from the Time of advancing and paying the same respectively.

Allotments
to Surveyors
of the High-
ways, Trus-
tees for the
Poor and
Rector, to be
ring-fenced.

XXXIX. And be it further enacted, That the several Plots of Ground (if any) which shall or may be set out and allotted to the Surveyors of the Highways, the Allotment to the Trustees for the Poor, and the Allotment or Allotments to be made and set out to and for the Rector of the Rectory and Church of *Newington* aforesaid, for Glebe Lands and Common Rights thereto belonging and in lieu of Tythes, shall be inclosed round with Quickset Hedges and Ditches and substantial Posts and Rails on each Side thereof, or other proper Mounds or Fences according to the Custom of the Country, with good and substantial Gates and Stiles in the said Fences where necessary, and the same shall be thereafter supported and maintained for the Term of Seven Years, or until the Quicksets shall have become sufficient Fences of themselves, by or at the Expence of all or such of the other Proprietors of Lands, Grounds, and Hereditaments, which shall be exonerated from Tythes by virtue of this Act, in such Manner, and in such Shares and Proportions, as the said Commissioners shall by any Writing under their Hands, or by their Award order and direct, and such Proportions of the said Fences as the said Commissioners shall by their Award order and direct, shall be for ever thereafter maintained

and

and kept in repair by the Rector of the Rectory and Church of *Newington* aforesaid, for the time being; and the Fences of the Lands and Grounds to be allotted to the Surveyors of the Highways, and the Trustees for the Poor, shall afterwards be supported and maintained for ever, by such Person or Persons as the said Commissioners shall direct or appoint; and the said several other Allotments of the said Lands and Grounds after the Division thereof, shall, within Three Calendar Months, to be computed from the Execution of the said Award, be inclosed, hedged, ditched, and fenced, at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, in such Manner, Shares and Proportions, as the said Commissioners shall, in and by their said Award order and direct; and in case any such Person, who shall be made subject or liable by such Order and Direction of the said Commissioners to make or to repair, support or maintain any such Fence, shall neglect or refuse to make or to repair, support, or maintain the same according to such Direction of the said Commissioners, it shall be lawful for the Person or Persons interested in the Lands next adjoining the Lands allotted to the Person or Persons so neglecting or refusing; to exhibit a Complaint in Writing against such Person or Persons before any one of his Majesty's Justices of the Peace for the County of *Oxford*, (not being interested in the Lands and Grounds so to be fenced and inclosed as aforesaid;) who shall and may summon the Parties concerned, enquire into the Nature of the Complaint, and examine all proper Witnesses upon Oath, (which Oath such Justice shall and may and is hereby authorized to administer); and after such Summons, Enquiry, and Examination, shall and may, if he shall see cause, order, direct, and appoint, the Person or Persons exhibiting such Complaint, to make and raise or to repair such Fences of the Person or Persons so neglecting or refusing; and when the same shall be so made, and raised, or repaired, such Justice may ascertain the Costs and Charges of doing thereof, and also shall and may, by Warrant under his Hand and Seal, directed to the Person or Persons exhibiting such Complaint, cause the same Costs and Charges so ascertained (Demand thereof being first made before One credible Witness) 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 Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale, or otherwise shall and may, by Writing under his Hand and Seal, authorize and empower the Person or Persons exhibiting such Complaint, to enter into or upon the Premises so allotted to such Person or Persons refusing or neglecting to pay as aforesaid, and to receive and take the Rents and Profits thereof respectively, until, thereby, therewith, or otherwise, the Charges and Expences of making and maintaining or repairing such Fences, of the Person or Persons so neglecting, or refusing to pay as aforesaid; and also, all Costs, Charges, and Expences, occasioned by and attending such Entries upon and Perception of the Rents and Profits of the said Premises shall respectively be fully paid and satisfied.

Fencing
other Allot-
ments.

XL. Provided always, and be it further enacted, That convenient Gaps and Openings shall be left in all the Fences to be made by virtue of this Act, for the Space of Six Calendar Months next ensuing the Execution
[*Loc. & Per.*]

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Gaps to be
left open for
Six Months
after the
of Award exe-
cuted.

of the said Award, for the Passage of Cattle, Carts and Carriages in and through the same, unless the said Commissioners shall, by their Award or other Instrument in Writing under their Hands, order that the same be sooner fenced in and made up.

Power to borrow Money on Inclosures.

XLI. And be it further enacted, That it shall and may be lawful to and for the Husbands, Guardians, Trustees, Committees or Attornies of any of the Owners or Proprietors of any Old Inclosed Lands and Hereditaments within the said Manor or Parish, which shall be exonerated from Tythes by virtue of this Act, being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability, and for any of the said Owners or Proprietors being Tenants in Tail or for Life or Lives, or Years determinable on a Life or Lives, or on any other Contingency, or otherwise interested as aforesaid, (except the Rector of the Rectory and Church of *Newington* aforesaid,) to charge such Old Inclosures and Premises with such Sum or Sums of Money as the said Commissioners shall, by their Award or by Writing under their Hands, either before or after the Execution of such Award, adjudge necessary to pay and defray the Charges and Expences incident to and attending the obtaining this Act and carrying the same into execution, and of charging the said Old Inclosures as aforesaid, so that the same shall not exceed the sum of Five pounds for every Acre of such Old Inclosures; and to grant, mortgage, surrender, lease, or demise, or otherwise subject the Lands, Tenements and Hereditaments so to be charged unto such Person or Persons who shall advance and lend the same respectively, his, her or their Executors, Administrators and Assigns, for any Term or Number of Years; or in case any Person in possession, who shall or may be liable to and charged with a Share of the Expences as aforesaid, or enabled by this Act to charge such Old Inclosures with the same, shall choose to advance, pay and discharge such Sum or Sums of Money, then it shall be lawful for the said Commissioners, by any Deed or Writing under their Hands and Seals to be attested by Two or more credible Witnesses, in like Manner to grant, mortgage, surrender, lease, demise or otherwise subject the said Old Inclosures and Premises to such Person or Persons respectively paying and discharging the same, his, her or their Executors, Administrators and Assigns, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money, so advanced, paid and discharged by him, her or them, with lawful Interest for the same, to commence on the Termination of his, her or their Right and Interest in the Premises; so that every such Grant, Mortgage, Surrender, Lease or Demise be made with a Proviso or Condition to cease or be void, or with an express Trust to be surrendered or re-assigned, when such Sum or Sums of Money thereby to be secured shall be fully paid and satisfied; and also with a Covenant to pay and keep down the Interest, and a Proviso that no Person or Persons afterwards becoming possessed or entitled to any such Old Inclosures and Premises shall be liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced; and that every such Charge, Grant, Mortgage, Surrender, Lease or Demise shall be valid and effectual in the Law for the Purposes thereby intended.

XLII. And

XLII. And be it further enacted, That each of the Commissioners who shall act in execution of the Powers hereby vested in them and their Clerk, shall be paid the Sum of Three Pounds and Three Shillings for each Day they shall respectively actually attend or be from home for the Purpose of acting in the Execution of this Act, which shall be in full Satisfaction for the Trouble and Expences which they shall respectively be put to in the Execution of the Powers aforesaid, and each of the said Commissioners and Clerk shall at all Meetings pay his own Expences except the Money to be paid for the Use of Rooms; and the said Commissioners shall cause a Minute of each Day's Proceedings to be entered in a Book on the same Day, to be signed by them, and the said Sums, together with all the Costs, Charges and Expences incident to and attending the obtaining of this Act, and the surveying, measuring, planning, valuing, dividing and allotting the Lands, Grounds and Premises to be divided and allotted or exonerated from Tythes by virtue of this Act, and of preparing and inrolling the Award of the said Commissioners, and all Charges and Expences of the said Commissioners, their Clerk, Assistants and Servants, and other necessary Expences of the Persons to be employed by the said Commissioners in and about the Premises either before or after the Execution of the said Award, and all Expences of forming, completing and repairing the publick Carriage Roads and Highways to be set out and appointed by the said Commissioners, of ring-fencing the Allotment or Allotments (if any) to the Surveyors of the Highways, and the several Allotments to the Trustees for the Poor, and the said Rector for Glebe and Common Rights and Tythes, and all other Expences of carrying this Act into execution, shall be borne and defrayed by the several Persons to whom any Allotment or Allotments shall be made by virtue of this Act; and the Proprietors for the time being of the several Old Inclosures which shall be exonerated from Tythes by virtue of this Act (save and except the Rector of *Newington* aforesaid for or in respect of any Allotment or Allotments which shall be made to him for Glebe and Common Rights, or in lieu of Tythes, and save and except the Surveyors of the Highways within the said several Liberties, and the aforesaid Trustees for the Poor for the time being, for and in respect of the Allotments hereby authorized to be made to them respectively as aforesaid); which said Costs, Charges and Expences, together with the Proportions thereof to be paid by the several Persons hereby made liable to the Payment thereof, shall be settled and adjusted by the said Commissioners, and shall be paid at such Time and Place, and to such Person or Persons as the said Commissioners shall appoint; and in case any Person hereinbefore made subject to the Payment of any Money towards such Costs, Charges and Expences as aforesaid shall neglect or refuse to pay his or her Share or Proportion, or Shares or Proportions thereof, within the Time or Times to be appointed as aforesaid, or at any Time after upon Demand, the same, with Interest, shall and may be levied and recovered in the Manner directed by the said recited Act with respect to Monies payable by Persons to whom Allotments are made.

Commission-
er's Fees, and
Costs of the
Act.

XLIII. 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

Expences of
Exchanges,
&c. how to
be paid.

making such Exchanges or Partitions, in such Manner, and in such Proportions as the said Commissioners shall order and direct.

Commissioners to lay Account of their own Fees before Two Justices once a Year.

Proprietors &c. to pay their own Expences. Wills, &c. not to be affected.

XLIV. And be it further enacted, That once at least in every Year during the Execution of this Act, (to be computed from the Day of the 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 or Expences in the Execution of this Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by them laid before Two or more of His Majesty's Justices of the Peace for the said County of *Oxford*, 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 Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justices: Provided always, that the said Proprietors, their Attornies and Agents shall pay their own Expences when they or any of them shall attend the said Commissioners at any of their Meetings to be holden in pursuance of this Act: Provided always, That nothing in this Act contained shall extend, or be construed to extend, so as to revoke, make void, alter or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents or Incumbrances out of, upon or affecting any of the Messuages, Buildings, Lands, or Grounds, to be divided, allotted, inclosed, exchanged, or exonerated from Tythes as aforesaid, or any Part or Parts thereof respectively, but that the respective Persons to whom any Lands, Tenements or Hereditaments shall be given or allotted in exchange by virtue of this Act shall be seised thereof to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, Charges, Trusts, and Incumbrances, and no other, as the Messuages, Buildings, Lands, Tenements, and Hereditaments whereof such Persons were 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, charged with, or affected by, in case this Act had not been made.

Award where to be deposited.

XLV. And be it further enacted, That the Award to be made by the said Commissioners shall, after the same shall have been enrolled in manner directed by the said recited Act, be deposited in a Tin Box, and kept in the Parish Church of *Newington* aforesaid.

Appeal to the Quarter Sessions.

XLVI. 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 (other than and except such Orders and Determinations of the said Commissioners, as are herein or by the said recited Act directed to be final or conclusive, and, except in such Cases, wherein an Issue at Law shall be tried as herein-mentioned,) then, and in every such Case, he, she, or they, may appeal to the General Quarter

Quarter Sessions of the Peace, which shall be holden for the said County of *Oxford*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners, or any Two of them, and to the Party or Parties concerned, Ten Days Notice in Writing, of such Appeal and of the Matter thereof, and the Justices, (not interested in the Premises,) in their said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus, (if any,) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress and Sale, (or such Costs and Damages shall and may be recovered by Action of Debt, or otherwise, in any of His Majesty's Courts of Record at *Westminster*,) and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to them in their Discretion shall seem reasonable, and such Costs shall be levied in Manner aforesaid.

XLVII. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend to prejudice, alter, vary, affect, lessen, abridge, diminish, defeat, or determine, any of the Rights and Interests of the Lord of the said Manor for the time being, in, or to the Seigniories, Royalties, Rights, and Services, incident and belonging to the said Manor, but that such Lord of the said Manor for the time being, shall, and may from time to time, and at all Times hereafter, hold, exercise, and enjoy all Rents, Services, Courts, Perquisites, and Profits of Courts, Mines, Goods, and Chattels of Felons, Fugitives, Felons of themselves, Deodands, Waifs, Estrays, Forfeitures, and all other Royalties, Jurisdictions, Rights, and Pre-eminences whatsoever, to the said Manor, or to the Lord thereof for the time being, incident, appendant, appurtenant, or belonging, or in any-wise appertaining, (save and except such Right to the Soil of the said Commons and Waste Grounds, and such Rights of Common of Pasture and other Rights of Common and Interests, in, over, and upon, the said Commons and Waste Grounds, for which Satisfaction or Compensation shall have been made by virtue of this Act,) in as full, large, ample, and beneficial Manner, as they heretofore have been held, exercised and enjoyed, or might, or could have been held, exercised, or enjoyed in case this Act had not been made.

Saving of the
Rights of
Lords of
Manors.

XLVIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Person or Persons, Body or Bodies Politic, Corporate or Collegiate, his, her, and their Heirs, Successors, Executors and Administrators, all such Right, Title, and Interest,

General Saving.

[*Loc. & Per.*]

28 A

Interest,

Interest, save and except such as is and are hereby meant and intended to be barred, destroyed, and extinguished, as they, every or any of them, could, or ought to have had and enjoyed, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted and inclosed, in case this Act had not been made.

Evidence
Clause.

XLIX. 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. 1810.