



ANNO QUINQUAGESIMO QUARTO

# GEORGI II. REGIS.

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## Cap. 90.

An Act for incloſing Lands in the Pariſh of *Frickley cum Clayton*, otherwiſe *Clayton with Frickley*, in the Weſt Riding of the County of *York*.

[27th May 1814.]

**W**HEREAS there are within the Pariſh of *Frickley cum Clayton*, otherwiſe *Clayton with Frickley*, in the Weſt Riding of the County of *York*, ſeveral Open and Common Fields, Commons, Waſtes, and other Commonable Lands and Grounds, which contain together, by Eſtimation, Four hundred and forty Acres, or thereabouts; and alſo ſeveral incloſed Lands and Grounds: And whereas *Saint Andrew Warde* Eſquire is Lord of the Manor of *Hooton Pagnell*, otherwiſe *Hooton Pagnell with Clayton*, in the reſpective Pariſhes of *Hooton Pagnell* and *Frickley cum Clayton*, otherwiſe *Clayton with Frickley*, in the Weſt Riding of the County of *York*, and as ſuch is ſeiſed of or entitled to the Soil of the Commons and Waſtes within the ſaid Manor, and within the Pariſh of *Frickley cum Clayton*, otherwiſe *Clayton with Frickley* aforeſaid: And whereas *William Payne* Eſquire is Lord of the Manor of *Frickley*, within the Pariſh of *Frickley cum Clayton*; otherwiſe *Clayton with Frickley* aforeſaid: And whereas the ſaid *Saint Andrew Warde* is Patron of the Living or Perpetual Curacy of *Frickley cum Clayton*, otherwiſe *Clayton with Frickley* aforeſaid, and is alſo the Impropriator and Owner of all the Great or Rectorial Tythes yearly ariſing and renewing within the ſaid Pariſh: And whereas the Reverend *William Bawdwen* is Curate of the

[Loc. & Per.]

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Perpetual



Perpetual Curacy of the said Parish of *Frickley cum Clayton*, otherwise *Clayton with Frickley* aforesaid, and as such is entitled to all the Vicarial or Small Tythes annually arising and renewing within the said Parish: And whereas the said *Saint Andrew Warde*, *Michael Tasburgh* Esquire, *William Payne* Esquire, *Shepley Watson* Esquire, and divers other Persons respectively, are the Owners and Proprietors of Lands and Grounds in the Open and Common Fields and Meadows in the said Parish of *Frickley cum Clayton*, otherwise *Clayton with Frickley*; and they, and also divers other Persons, are Owners of Messuages, Cottages, Tofts and Toftsteads, Lands and Tenements in the said Parish, and in respect thereof, or otherwise, are or claim to be severally entitled to Rights of Common, and other Rights and Interests in and upon the Commons, Wastes, and other Commonable Lands and Grounds within the said Parish: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the several Lands of the respective Owners and Proprietors of and in the said Open Fields, lie much intermixed, and dispersed in small Parcels, and the same, and also the said Commons, Wastes, and other Commonable Lands and Grounds, are incapable of any very considerable Improvement, in their present State; and it would be advantageous to the several Owners and Proprietors interested therein, if the said several Open Fields, Commons, Wastes, and other Commonable Lands and Grounds, were divided and inclosed, and specific Shares thereof allotted to the several Owners and Proprietors thereof, and Persons interested therein respectively, in Proportion and according to their several and respective Rights and Interests therein; and also if all the Lands, as well open as inclosed, within the said Parish of *Frickley cum Clayton*, otherwise *Clayton with Frickley*, were exonerated from Tythes; and an adequate Compensation made for such Tythes; but such Division, Allotment, and Inclosure, and other beneficial Purposes, cannot be effected 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 Gee* of *Little Houghton*, in the Parish of *Darfield*, in the West Riding of the County of *York*, Gentleman, shall be and he is hereby appointed Commissioner for setting out, dividing, allotting, and inclosing all and singular the Open and Common Fields, Commons, Wastes, and other Commonable Lands and Grounds within the said Parish of *Frickley cum Clayton*, otherwise *Clayton with Frickley*, and for carrying all and every the Purposes of this Act and the said recited Act into Execution, and for executing all and every the Powers and Authorities herein and therein contained (except such Parts of the said recited Act as are hereby varied or altered), and under and subject to such of the Rules, Orders, Restrictions, Directions, Regulations, and Provisions contained in the said recited Act, as are not controlled by or repugnant to any of the Powers, Regulations, or Provisions of this Act.

Commissioner.  
er.  
  
Power to  
appoint new  
Commissioner.

II. And be it further enacted, That if the said *Thomas Gee* shall die, or refuse or become incapable to act, before all the Powers hereby and by the said recited Act vested in him as Commissioner, shall be fully executed, then



then it shall be lawful for the Lord of the said Manor of *Hooton Pagnell*, otherwise *Hooton Pagnell with Clayton* for the Time being, within Two Calendar Months next after such Death, Refusal, or Disability shall happen, by Writing under his or their Hand or Hands respectively, to appoint some other Person (not interested in the said Division, Aliotment, or Inclosure, or in the said Tythes) to be Commissioner for the Purposes of this Act, and the said recited Act, in the Place of the said *Thomas Gee*; and if any Person who shall be so appointed Commissioner in the Place of the said *Thomas Gee*, or any future Commissioner, for the Purposes of this Act shall afterwards die, or refuse or become incapable to act as aforesaid, then and in each and every such Case all and every such future Vacancies shall from Time to Time, in like Manner, be filled up, and some other Person (not interested as aforesaid) shall be appointed Commissioner for the Purposes of this Act and the said recited Act, by the Lord of the said Manor for the Time being; and if the Lord of the said Manor for the Time being shall at any Time or Times refuse or neglect to appoint a new Commissioner in the Place or Stead of any Commissioner who shall die, or refuse or become incapable to act as aforesaid, in pursuance of the Power hereinbefore contained for that Purpose, for the Space of Forty Days after such Death, Refusal, or Incapacity shall have been notified to him in Writing, signed by any Three or more of the Persons interested in the said Lands and Grounds, then and in every such Case it shall be lawful for the Majority in Value of the Proprietors of Common Right, Tenements, and Estates within the said Parish, (such Value to be ascertained by the Land Tax Assessment,) within Two Calendar Months next after the Expiration of the said Forty Days, to elect, nominate, and appoint, any Person (not interested as aforesaid) to be a Commissioner for the Purposes of this Act and the said recited Act, in the Place of the Commissioner so dying, refusing or neglecting to act as aforesaid, and so from Time to Time as Occasion shall be and require; and each and every Person who shall be so appointed Commissioner by the Lord of the said Manor, or the said Proprietors, shall, after taking the Oath prescribed by the said recited Act, be and is and are hereby declared to be invested with all and every the same Powers and Authorities for carrying this Act and the said recited Act into Execution, as the Commissioner hereby appointed is vested with, or as if such Person had been particularly named a Commissioner in this Act.

III. And be it further enacted, That all such Surveys, Admeasurements, Surveyor and Plans as shall be necessary to be made and taken for the Purposes of appointed. this Act or the said recited Act, shall be so made and taken by *Robert Moore of Doncaster*, in the said West Riding of the County of *York*, Land Surveyor; and in case of his Death, Refusal, or Incapacity to act, then such Surveys, Admeasurements, and Plans, shall be made and taken by such other Person or Persons (not interested in the said Division, Inclosure, or Tythes,) as the said Commissioner shall from Time to Time, by Writing under his Hand, nominate and appoint for that Purpose; and every such Surveyor shall be paid such Sum or Sums of Money, for his Trouble and Expences in and about the Execution of this Act and the said recited Act, as the said Commissioner shall direct and think reasonable: Provided always, that the said *Robert Moore*, or such other Person or Persons so to be appointed Surveyor as aforesaid, before he shall proceed to



to act as such Surveyor, shall take and subscribe an Oath in the following Words; (that is to say),

Oath.

**I** do swear, That I will faithfully, impartially, and honestly, do, execute, and perform the several Duties incumbent on me as a Surveyor, under and by virtue of an Act, passed in the Fifty-fourth Year of the Reign of King George the Third, intituled *An Act for inclosing Lands in the Parish of Frickley cum Clayton, otherwise Clayton with Frickley, in the West Riding of the County of York*, according to the best of my Skill and Judgement, and according to Equity and good Conscience, and without Partiality, Favour, or Affection, Prejudice or Malice, to any Person or Persons whomsoever.

‘ So help me GOD.’

Which Oath the said Commissioner is hereby empowered and required to administer; and the said Oath, so taken and subscribed by such Surveyor, shall be annexed to and deposited and enrolled with the Award of the said Commissioner, and a Copy of the Enrolment thereof shall be admitted as legal Evidence.

Notice to be given of Meetings.

IV. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby required to cause to be affixed on the principal Outer Door of the Parish Church of *Frickley cum Clayton*, otherwise *Clayton with Frickley* aforesaid, upon some *Sunday* during Divine Service, Notices in Writing under his Hand of the Time and Place of his First and Second Meetings for executing this Act, and to cause the like Notices to be inserted in the Newspaper called *The Doncaster Gazette*, or in some other Newspaper printed or circulated in the said West Riding, at least Fourteen Days before each such Meeting respectively; and of all other Meetings in pursuance of this Act, to cause Notices in Writing under his Hand to be affixed on the principal Outer Door of the same Parish Church, on some *Sunday* during Divine Service, and also upon some conspicuous Place in the Town of *Clayton* aforesaid, at least Eight Days before any such Meetings respectively; but the said Commissioner, at his First or Second Meeting, and at any subsequent Meeting or Meetings, shall have Power to continue any such Meeting or Meetings, by Adjournment, for the due Execution of this Act and the said recited Act, without giving any Public Notice of such continued or adjourned Meeting or Meetings; and all the Meetings of the said Commissioner for the Purposes of this Act or the said recited Act, shall be held at some Place within the said Parish, or within Eight Miles of the Boundary thereof.

Other Notices how to be given.

V. Provided always, and be it further enacted, That all other Notices necessary or requisite to be made or given by the said Commissioner in pursuance of this Act or the said recited Act, or either of them, shall be made and given, by Writing to be affixed upon the principal Outer Door of the said Parish Church, upon some *Sunday* during Divine Service, and by Advertisement to be inserted in the said Newspaper called *The Doncaster Gazette*, or in some other Newspaper printed or circulated in the said West Riding.

Commissioner may determine disputed Claims;

VI. 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, Allotment, and Inclosure, touching or concerning

cerning any Right or Interest which they or any of them shall have or claim to have in the same or any Part or Parts thereof, or touching or concerning any other Matter or Thing relating to the said Division, Allotment and Inclosure, it shall be lawful for the said Commissioner, and he is hereby authorized to examine into, hear, and determine the same respectively.

VII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to authorize or empower the said Commissioner to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any of such Parties, (except in Cases of Encroachments made within Twenty-five Years, as herein-after mentioned); but in case the said Commissioner shall be of opinion against the Right of any such Person or Persons, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law. but not to determine Titles, nor molest Possession:

VIII. And be it further enacted, That in case the said Commissioner shall upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this Act or the said recited Act, or of any Dispute or Difference between any of the said Parties interested or claiming to be interested in the said Division, Allotment, and Inclosure, see Cause to award any Costs, it shall be lawful for the said Commissioner to settle, assess, and award such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whose favour any Determination of the said Commissioner shall have been made; by the Person or Persons whose Claim or Claims, Objection or Objections; shall have been 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, upon Demand thereof made, then and in such Case it shall be lawful for the said Commissioner and he is hereby empowered by Warrant under his Hand, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale. And may award Costs.

IX. 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 and Inclosure, shall be dissatisfied with any Determination of the said Commissioner, touching or concerning any Right or Rights, Claim or Claims, in, over, or upon the said Commons and Wastes, or of any Right of Common, or other Rights or Interests, in, over, or upon the said Lands and Grounds hereby directed and intended to be divided, allotted, and inclosed, 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 Commissioner, at the then next, or at the Second following Assizes to be holden for the said County of York; and for that Purpose, the Person or Persons who shall be so dissatisfied with the Determination Parties to try their Rights by an Issue at Law.



termination of the said Commissioner, shall cause an Action to be brought upon a feigned Issue against the Person or Persons, Proprietor or Proprietors, in whose Favour such Determination shall have been made, within Six Calendar Months after such Determination of the said Commissioner; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to 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 or objected to, 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 if it shall appear that the Party claiming is entitled to any qualified or less Interest than was claimed, it shall be lawful for the Jury by whom such Issue or Issues shall be tried, to find and declare the same by their Verdict, which shall be indorsed on the Postea, in addition to the Verdict given on the Issue or Issues joined; but nevertheless the Costs of such Action shall abide and be determined by the Verdict given upon the Issue or Issues joined; and the Verdict or Verdicts which shall be given on such Action or Actions, shall be binding on all 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 Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials; and if any of the Parties in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened: Provided always, that all Determinations of the Commissioner, touching any such Claim or Claims as aforesaid, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and prosecuted as aforesaid, shall be final and conclusive upon all Parties.

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

X. 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, Bodies Politic, Corporate, or Collegiate, 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 to the said Commissioner 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 such 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.

XI. And



XI. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted, touching the Title of any Person or Persons, Body or Bodies Politic, Corporate or Collegiate, in or to any Manor, Messuages, Lands, Tenements, or Hereditaments, for or in respect of which any Right of Common or other Right or Interest, in, over, or upon the Lands and Grounds hereby directed and intended to be divided, allotted, and inclosed, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, hinder, or prevent the said Commissioner from proceeding in the Powers vested in him by this Act and the said recited Act, but the said Division, Allotment, and Inclosure shall be proceeded in notwithstanding such Suit or Suits; and the Allotment or Allotments in respect of such Rights and Interests, or any of them, may be had and taken by the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who upon the Determination of such Suit or Suits shall become entitled to the same.

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

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

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

XIII. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered, in all Cases where in his Judgment it shall appear to him to be requisite or proper, or for the more convenient Occupation of the Lands and Tenements within the said Parish, to divert and turn any old or accustomed Public Road, Way, or Path, passing or leading through or over any Part of the old Inclosures within the said Parish, or to stop up or discontinue such Public Roads, Ways, and Paths, as to the said Commissioner shall seem meet and proper; but no such Road, Way, or Path, shall be diverted, turned, or stopped up by virtue of this Act, without the Concurrence and Order of Two Justices of the Peace for the said West Riding, and subject to Appeal, and under such Regulations as are contained in the said recited Act respecting the stopping up of any old or accustomed Road.

Power to turn or abate the old Roads.

XIV. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered to widen, deepen, improve, change, or alter any ancient Ditches, Bridges, Causeways, Banks, Sluices, Drains, Watercourses, Cloughs, or Shuttles, Draining Mills, or other Engines, Gates, and Stiles; and also to set out, appoint and make and maintain such new Ditches, Bridges, Causeways, Banks, Sluices, Drains, Watercourses, Cloughs, Shuttles, Draining Mills, Engines, Gates, Stiles, and other Works and Requisites, as well in, through, over, and upon any of the Lands and Grounds hereby directed.

Power to set out Ditches, &c.



rected and intended to be divided, allotted, and inclosed, as also in, through, over, and upon any ancient inclosed or other Lands or Grounds within the said Parish, and of such Breadth, Width, Depth, and Height, as the said Commissioner shall adjudge to be proper and requisite for effectually draining all and every the Lands and Grounds within the said Parish; making a full Recompence and Satisfaction to any Person or Persons who shall sustain or suffer any Damage thereby, such Recompence and Satisfaction to be paid at such Time and in such Manner as the said Commissioner shall direct; and he is hereby authorized and required in and by his Award, and in the mean Time, if necessary, by any Writing under his Hand, to order, direct, and appoint by whom and in what Manner and at whose Expence, all and every or any of such Ditches, Bridges, Causeways, Banks, Sluices, Drains, Watercourses, Cloughs, Shuttles, Draining Mills, Engines, Gates, Stiles, and other Works and Requisites as aforesaid, shall be respectively made and provided, and for ever afterwards cleansed, supported, maintained, and kept in Repair: Provided always, that no ancient Brook or Stream of Water shall be diverted or turned by virtue of this Act, without the Consent in Writing of the Owners of the Lands from which or into which such Brook or Stream shall be diverted or turned; any Thing herein-before contained to the contrary notwithstanding.

Encroachments made within Twenty-five Years, to be deemed Commonable Lands.

XV. And be it further enacted, That all Encroachments which have been taken or made from any Part of the said Open and Common Fields, Commons, Wastes, and other Commonable Lands and Grounds, (save and except such as have been peaceably and quietly enjoyed for Twenty-five Years last past or upwards, without any Interruption given,) shall be deemed Part or Parcel of the Lands and Grounds hereby directed and intended to be divided, allotted, and inclosed.

Encroachments to be allotted to Persons in Possession thereof.

XVI. Provided always, and be it further enacted, That the said Commissioner shall and he is hereby required, in all Cases where the same can be done without Prejudice or Inconvenience to the Occupation of the adjoining Lands, to assign and allot unto any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, entitled to any Allotment by virtue of this Act, who are in the Possession of any such Encroachment or Encroachments, new Inclosure or Inclosures, as is or are herein-before directed to be deemed allottable Land, all and every the Lands and Grounds comprized therein, and all Edifices and Buildings erected thereon, for or in Part of the Allotment or Allotments which shall be made to them respectively by virtue of this Act, unless it shall happen that such respective Encroachments or new Inclosures shall be greater or more in Value (Quantity and Quality considered) than the Allotment or Allotments would amount unto, which such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in the Possession of such Encroachment or Encroachments, Inclosure or Inclosures respectively, would be entitled to, for and in respect of their ancient Estate; in which Case, a proportionable Part of such Encroachment or Encroachments, Inclosure or Inclosures, shall be deducted from the same respectively; and the said Commissioner is hereby directed and required, in his Valuation of such Encroachments and Inclosures for the Purposes aforesaid, to estimate the same according to their original Values in their open State, without any Regard to the Improvements made thereon, or to the Value of any Edifices and Buildings thereupon.

XVII. And



XVII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, in the First Place, to set out and appoint such Parcel or Parcels of the Lands and Grounds in any of the Open Fields or Commons and Wastes hereby directed and intended to be divided, allotted, and inclosed, as he shall think most convenient and proper for that Purpose, (not less than Two Acres, nor exceeding in the Whole Four Acres) to be used for the Purpose of getting Stone, Gravel, Clay, or other Materials for the Repairs of the Public and Private Roads and Ways within the said Parish; which Parcel or Parcels of Land shall be allotted to and vested in the Surveyor or Surveyors of the Highways in the said Parish for the Time being for the Purposes aforesaid; he the said Commissioner making and allotting an adequate Compensation from the said Commons and Wastes, to the Owners or Proprietors of the said Open Field Lands so to be taken for the Purposes aforesaid (if any), as he in his Judgment and Discretion shall think proper.

Allotments  
for Repairs  
of Roads.

XVIII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, in the next Place, to set out, allot, and award, unto the said *Saint Andrew Warde*, or unto such Person or Persons as shall for the Time being be Lord of the Manor of *Hooton Pagnell*, otherwise *Hooton Pagnell with Clayton* aforesaid, so much and such Part of the said Commons and Wastes directed and intended by this Act to be divided, allotted, and inclosed, as shall be equal in Value to One Eighteenth Part of the Whole of the said Commons and Wastes, (Quantity, Quality, and Situation considered) in lieu of and as a full Recompence and Satisfaction for the Right and Interest of the Lord of the said Manor in or to the Soil of the said Commons and Wastes as aforesaid, or any Part thereof, and all Mines and Minerals in and under the same in all Times to come, over and above any other Allotments to be made by virtue of this Act to the said *Saint Andrew Warde*, or to the Person or Persons who shall for the Time being be entitled in Possession to the Estates and Interest within the said Parish now of him the said *Saint Andrew Warde*.

Allotment to  
the Lord of  
the Manor in  
right of Soil.

XIX. And be it further enacted, That the said Commissioner shall and he is hereby required, in the next Place, fairly and impartially, and according to the best of his Skill and Judgment, to set out, allot and award, unto and for the said *Saint Andrew Warde*, or other the Person or Persons who shall for the Time being be entitled in Possession as Impropiator or Impropiators, Owner or Owners of the Great or Rectorial Tythes within the said Parish, such Part, Share, and Proportion, or Parts, Shares, and Proportions of the Open and Common Fields hereby directed and intended to be divided, allotted, and inclosed, (Quantity, Quality, and Situation considered) as shall be equal in Value to Two Eleventh Parts of the said Open and Common Fields, in lieu of and as a full Compensation for all and all Manner of Great or Rectorial Tythes and Dues, Duties and Payments in respect thereof arising or renewing, or which shall or may arise or renew and grow due and payable to the Owner or Owners of the Great or Rectorial Tythes within the said Parish, out of or from, or for or in respect of the said Open and Common Fields so directed and intended to be divided, allotted, and inclosed; and also that the said Commissioner shall so as aforesaid set out, allot, and award, unto and for the said *Saint Andrew Warde*, or other Person or Persons so entitled as aforesaid, (over and above and exclusive of the Allotment or Allotments herein-before

Allotments  
to the Im-  
propriator,  
for Great  
Tythes;

Two Ele-  
venth Parts  
of the Open  
Fields;

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directed



One Ninth  
Part of the  
ancient  
Inclosures:

One-Tenth  
Part of the  
Commons  
and Wastes.

Compensa-  
tion for  
Tythes of  
old Inclo-  
sures, where  
Proprietors  
have not suf-  
ficient Pro-  
perty in the  
Lands to be  
inclosed.

Allotments  
to the Curate.

directed to be made to and for him, her, or them, in lieu of the Great or Rectorial Tythes to arise from and out of the said Open and Common Fields hereby directed and intended to be divided, allotted, and inclosed as aforesaid, and separate and distinct therefrom,) such Part, Share, and Proportion of all the ancient or other inclosed Lands and Grounds within the said Parish, as shall be equal in Value (Quantity, Quality, and Situation considered) to One Ninth Part of the said ancient or other inclosed Lands and Grounds, in lieu of and as a full Recompence and Compensation for all and all Manner of Great or Rectorial Tythes and Dues, Duties and Payments in respect thereof arising or renewing, or which shall or may arise or renew and grow due and payable to the Owner or Owners of the Great or Rectorial Tythes within the said Parish, out of or from, or for or in respect of the said ancient or other inclosed Lands and Grounds; and likewise that the said Commissioner shall so as aforesaid set out, allot, and award, unto and for the said *Saint Andrew Warde*, or other the Person or Persons so entitled as aforesaid, such Part, Share, and Proportion of the Commons and Wastes hereby directed and intended to be divided, allotted, and inclosed (Quantity, Quality, and Situation considered,) as shall be equal in Value to One Tenth Part of the said Commons and Wastes, in lieu of and as a full Compensation for all and all Manner of Great or Rectorial Tythes and Dues, Duties and Payments in respect thereof arising or renewing, or which shall or may or might arise or renew and grow due and payable to the Owner or Owners of the Great or Rectorial Tythes within the said Parish, for or in respect of the said Commons and Wastes so directed and intended by this Act to be divided, allotted, and inclosed.

XX. And be it further enacted, That in case any Proprietor or Proprietors of Estates within the said Parish shall either have no Property in the said Open and Common Fields, Commons, Wastes, and other Commonable Lands hereby directed and intended to be divided, allotted, and inclosed, or having such, if the same shall not be of Value sufficient to make such Compensation in Land, in lieu of the Tythes thereof as aforesaid, to the Impropiator or Impropiators, or Owner or Owners of the Great or Rectorial Tythes arising out of the Lands and Grounds of, or due or payable by such Proprietor or Proprietors, or any of them, in respect of his, her, or their Lands and Grounds in the said Open and Common Fields, and also in respect of his, her, or their ancient or other inclosed Lands and Grounds, all or any of them, as the Case may be; then and in such Case it shall be lawful for the said Commissioner, and he is hereby authorized and required to set out, allot, and award, unto the said *Saint Andrew Warde*, as such Impropiator as aforesaid, or unto the Person or Persons who shall for the Time being be entitled in Possession as Owner or Owners of the said Great or Rectorial Tythes within the said Parish, so much and such Part or Parts of the said ancient or other inclosed Lands and Grounds belonging to such Proprietor or Proprietors respectively as last aforesaid, and to be held in Severalty, as will in point of Value (Quantity, Quality, and Situation considered) make up and complete a full Satisfaction and Compensation, according to the Terms before mentioned, for the said Great or Rectorial Tythes.

XXI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, in the next Place, to set out, allot, and



and award, unto the said *William Bawdwen* as such Curate as aforesaid, and his Successors, Curate for the Time being as aforesaid, in Right of the Perpetual Curacy of *Frickley cum Clayton*, otherwise *Clayton with Frickley* aforesaid, the Quantity of Five Acres of Land, part of the Open and Common Fields hereby directed and intended to be divided, allotted, and inclosed, equal in Value and in Proportion to the fair and just average Value of the Whole of the Lands in the same Open and Common Fields so directed and intended to be divided, allotted, and inclosed, in lieu of and as a full Compensation and Satisfaction for all Vicarial and Small Tythes, Moduses, Compositions, Ecclesiastical Dues, and other Payments (Surplice Fees and Mortuaries excepted) now due and payable, or which may or might become due and payable to such Curate as aforesaid, out of, or for or in respect of all every and singular the said Open and Common Fields so hereby directed and intended to be divided, allotted, and inclosed as aforesaid (except as aforesaid); and the said Commissioner shall in the next Place set out, allot, and award, unto the said *William Bawdwen* as such Curate as aforesaid, and his Successors as aforesaid, in Right of the said Perpetual Curacy (over and above and exclusive of the said Allotment last herein-before directed to be set out), the further Quantity of Five Acres of Land, Part of the Commons and Wastes hereby directed and intended to be divided, allotted, and inclosed, equal in Value and in Proportion to the fair and just average Value of the Whole of the Lands and Grounds in or upon the Commons and Wastes so directed and intended to be divided, allotted, and inclosed, in lieu of and as a full Compensation and Satisfaction for all Vicarial and Small Tythes, Moduses, Compositions, Ecclesiastical Dues, and other Payments, (Surplice Fees and Mortuaries excepted) now due and payable, or which may or might become due and payable to such Curate as aforesaid, out of or from, or in respect of all and singular the said Commons and Wastes so hereby directed and intended to be divided, allotted, and inclosed as aforesaid.

XXII. And be it further enacted, That in order to make a full Compensation and Satisfaction to and for the said *William Bawdwen* as such Curate as aforesaid, and his Successors, Curate as aforesaid, for his and their Vicarial or Small Tythes, Moduses, Compositions, Ecclesiastical Dues and other Payments issuing and payable out of or from, or for or in respect of the ancient or other inclosed Lands and Grounds within the said Parish, the said Commissioner shall and he is hereby directed, authorized, and required, in the next Place, to set a fair, just, and impartial Value upon all the ancient or other inclosed Lands and Grounds within the said Parish (save and except the ancient or other inclosed Lands or Grounds belonging to *William Payne* Esquire, lying within a certain Hamlet or District called *Frickley* within the said Parish, which said last-mentioned and excepted Lands and Grounds are claimed by the said *William Payne*, to be covered by and subject and liable to the Payment of certain annual Moduses or Customary Payments, amounting to the Sum of One Pound Ten Shillings and Eight pence only, to the Curate for the Time being of the aforesaid Perpetual Curacy, for and in lieu of all Vicarial and Small Tythes in respect thereof, and to ascertain and fix the full average Value, in Money, of Sixteen Acres of such ancient or other inclosed Lands (save and except as aforesaid) within the said Parish, upon a fair and just average Value of the Whole of such ancient or other inclosed Lands (save and except as aforesaid); and the said Commissioner shall in the next Place

For making Compensation for Vicarial Tythes of the old Inclosures by an Allotment from the Commons.

set



set out, allot, and award, unto and for the said *William Bawdwen* as such Curate as aforesaid, and his Successors, Curate for the Time being, so much and such Part or Parts of the said Commons and Wastes directed and intended by this Act to be divided, allotted, and inclosed, as will (Quantity, Quality, and Situation considered) be equal in point of Value to the aforesaid Sixteen Acres of ancient or other inclosed Lands and Grounds to be valued as aforesaid; and such Allotment shall be and is hereby declared to be in lieu of and as a full Compensation and Satisfaction for all Vicarial and Small Tythes, Moduses, Compositions, Ecclesiastical Dues and other Payments (Surplice Fees and Mortuaries excepted) now due and payable, or which may or might become due and payable to such Curate or his Successors as aforesaid, out of or from, or for or in respect of all and singular the said ancient or other inclosed Lands and Grounds within the said Parish (save and except the said ancient or other inclosed Lands and Grounds belonging to the said *William Payne*, lying within the aforesaid Hamlet or District called *Frickley*); and the said Commissioner shall set out the same Part or Parts of the said Commons and Wastes adjoining to the Five Acres of Land, Parcel of the said Commons and Wastes so herein-before directed and intended to be allotted and awarded to the said *William Bawdwen* and his Successors, as such Curate as aforesaid, in lieu of and as a full Compensation for the Vicarial or Small Tythes, Moduses, Compositions, Ecclesiastical Dues and other Payments for or in respect of the said Commons and Wastes.

If Owners are not entitled to an Allotment, the Value to be paid in Money.

XXIII. And be it further enacted, That in case any of the Owners or Proprietors of ancient or other inclosed Lands or Grounds within the said Parish, shall not be entitled to any Allotment under this Act, or being so entitled, the same shall not (after making Compensation for the Tythes, Dues, Duties, and Payments as aforesaid) be of a sufficient Amount or Value to make a full Compensation and Satisfaction to the said *William Bawdwen* as such Curate as aforesaid, for the Vicarial or Small Tythes, and other Payments in respect of such old Inclosures, then it shall be lawful for the said Commissioner to raise in Money the Amount or Value of the Deficiency, or of the Whole (as the Case may be) of the aforesaid Sixteen Acres of ancient or other inclosed Lands (save and except as aforesaid) so directed to be valued by the said Commissioner in Manner aforesaid; and for that Purpose the said Commissioner shall and he is hereby authorized and required to make a fair, just, and equal Pound Rate or Assessment upon such of the Owners and Proprietors, or Persons or Person interested in the ancient or other inclosed Lands and Grounds within the said Parish (save and except the said *William Payne*, for and in respect of his said ancient and other inclosed Lands and Grounds within the said Hamlet or District called *Frickley*) who shall have no Land, or not a sufficient Quantity of Land to make Compensation as aforesaid for Small Tythes, upon a fair Average Value of and in Proportion to their and each and every of their said ancient and other inclosed Lands and Grounds within the said Parish, and shall collect and receive the same Rate or Assessment, or cause the same to be collected and received by such Person or Persons, and at such Time or Times, and in such Manner, as the said Commissioner shall by Writing under his Hand direct or appoint, of and from such Owners or Proprietors, or Person or Persons liable to the Payment of Small or Vicarial Tythes, or other Dues last mentioned, for or in respect of such ancient or other inclosed Lands and Grounds, and having no Land, or not



not a sufficient Quantity of Land as aforesaid to make such Compensation ; and shall pay and apply all the Money to be raised by or under such Rate or Assessment so to be made as aforesaid, in and towards the defraying such Proportion of the Costs and Charges of and preparatory to the obtaining of this Act, and of the Division and Inclosure intended by this Act to be made, and all other Matters and Things incident or relating thereto, as ought to be paid by such Owners and Proprietors, or Persons interested in the said Inclosure, from whose Allotments any Deduction shall have been made in consequence of setting out such Proportion of the said Commons and Wastes, as a Compensation or Satisfaction for Small or Vicarial Tythes, and other Dues in respect of the old Inclosures as last mentioned, so far as the same will extend to pay and defray the same ; and in case any Surplus shall remain after Payment of such Expences, such Surplus shall be paid to the several Persons from whose Allotments any such Deduction shall have been so made, in case they shall be seised in Fee Simple of their respective Allotments, or otherwise such Surplus shall be applied and disposed of in 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 thereby directed to be paid into the Bank of *England*, and to be applied in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses ; and in case such Owners or Proprietors, Persons or Person who shall be liable to pay such Rate or Assessment as last aforesaid, shall neglect or refuse to pay their, or his, or her Quota or Proportion of the same, within Fourteen Days after Demand thereof shall have been made, then and in such Case it shall and may be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant under his Hand, directed to any Person or Persons whomsoever, to cause the Amount of such Rate or Assessment to be levied by Distress and Sale of the Goods and Chattels of such Owners or Proprietors, Persons or Person so neglecting or refusing to pay the same, rendering the Overplus, if any, upon Demand, to the respective Owners or Proprietors, Persons or Person, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

XXIV. Provided always, and be it further enacted, That the said Commissioner shall and he is hereby authorized and required, in the setting out of the aforesaid Five Acres of Land, which shall or may be allotted by him to or for the aforesaid Curate or his Successors, in right of the said Perpetual Curacy, for or in respect and in lieu of and as a full Compensation and Satisfaction for all Vicarial and Small Tythes, Moduses, Compositions, Ecclesiastical Dues, and other Payments (Surplice Fees and Mortuaries excepted), now due and payable to such Curate as aforesaid, out or for or in respect of all and singular the said Open and Common Fields ; and also in the setting out such Part or Parts of the Residue and Remainder of the said Open and Common Fields, as shall or may be set out and allotted by him to or for the aforesaid Curate or his Successors, for or in respect of his Glebe Lands lying in the same Open and Common Fields, or any of them, he shall so set out, allot, and award the same Land together in One Plot, in some one of the said Open and Common Fields, to and for the said Curate and his Successors for the Time being.

Allotments  
for Vicarial  
Tythes of  
Open Fields,  
and for Glebe  
Lands, to be  
laid together  
in One Plot.



Allotment of  
the Residue.

XXV. And be it further enacted, That after the several Allotments herein-before mentioned, or intended to be set out and made, shall have been set out and made, the said Commissioner shall and he is hereby authorized and required to divide, set out, and allot, all the Residue and Remainder of the said Open and Common Fields, Commons, and Wastes, and other Commonable Lands and Grounds hereby directed and intended to be divided, allotted, and inclosed, in the Manner following; that is to say, the Residue of the said Open and Common Fields, and other Commonable Lands and Grounds (except the said Commons and Wastes), shall be divided and allotted unto and between the several Owners or Proprietors thereof, or Persons interested therein respectively, according and in Proportion to the Values of their several and respective Property, Rights, and Interests therein respectively, for which no other Allotment or Compensation is herein-before specifically directed to be made; and the Residue of the said Commons and Wastes shall be divided into Two equal Parts, and one Moiety or Half Part thereof shall be divided and allotted unto and between all and every the Owners or Proprietors of Messuages, Cottages, Tofts, and Toftsteads within the said Parish, entitled in respect thereof to Rights of Common upon the said Commons or Wastes, in equal Shares and Proportions, according to the Number of such Common Right Tenements and Tofts, and without regard to the Value thereof respectively; and the other Moiety or Half Part of the said Commons and Wastes shall be divided and allotted unto and between the Owners and Proprietors of Open Field Land, and also of the Lands and Grounds already inclosed within the said Parish, according and in Proportion to the Values of such their Open Field Land, and the Lands and Grounds already inclosed respectively, such Value to be estimated and ascertained by the said Commissioner.

Compensation in lieu of  
Chief Rents,  
&c.

XXVI. And whereas there are several certain Chief, Fee Farm, and other Rents or annual Payments now paid or payable to the Lord of the Manor of *Hooton Pagnell* otherwise *Hooton Pagnell with Clayton* aforesaid, or otherwise, from several of the Proprietors of Estates and Hereditaments within the said Parish, for or in respect of such their respective Estates and Hereditaments there, or some Part or Parts thereof; be it therefore enacted, That the said Commissioner shall and he is hereby authorized and empowered, in case he shall be requested by the Lord of the said Manor for the Time being, and the said last-mentioned Proprietors, or any of them, by Writing under their respective Hands so to do, to set out, allot, and award, unto or for the Lord of the said Manor for the Time being, so much and such Part or Parts of the said Open and Common Fields, Commons and Wastes hereby directed and intended to be divided, allotted, and inclosed, which shall or may be set out and allotted by the said Commissioner, unto or for such Proprietors or Proprietor respectively, as will be equal in Value (Quantity, Quality, and Situation considered,) to Twenty-seven Years and One Half of a Year's Purchase upon the Amount of such respective Chief, Fee Farm, or other Rent or Rents, or annual Payments so paid or payable by such Proprietors or Proprietor respectively to the Lord of the said Manor, for or in respect of such their or his Estate and Hereditaments within the said Parish, as a Consideration to the Lord of the said Manor for such Rents and other Payments, and in full Satisfaction, Exoneration, and Discharge of such Estates and Hereditaments from the Payment thereof for ever thereafter.



XXVII. And be it further enacted, That the Allotment or Allotments which shall be set out and allotted to the Person or Persons for the Time being entitled in Possession as Impropriator or Impropriators, Owner or Owners of the Great or Rectorial Tythes within the said Parish, for and in lieu of the Great or Rectorial Tythes as aforesaid, and to the said *William Bawdwen* and his Successors, as such Curate as aforesaid, for or in lieu of the Small or Vicarial Tythes, Moduses, Compositions, Ecclesiastical Dues and other Payments, (Surplice Fees and Mortuaries only excepted,) and also his or their Glebe Lands now lying in the said Open and Common Fields, and likewise the Allotment to be set out and awarded for the Repairs of the Roads and Ways within the said Parish, shall be inclosed and fenced on all such Parts or Sides as shall not be directed by the said Commissioner to be made and maintained by any other Proprietor or Proprietors, with Ditches and Quickset Hedges, Gates and other proper Mounds and Fences, with proper Posts and double Rails or other Guard Fences, on One Side thereof only, to such new-made Hedges, by and at the Expence of such of the Proprietors of the Lands and Grounds hereby authorized to be divided and allotted, and of the other Lands and Tenements in the said Parish intended to be hereby exonerated from Tythes, and in such Shares and Proportions as the said Commissioner shall direct; and all the said Boundary Ditches, Hedges, Gates, and Fences, shall at all Times thereafter be maintained and repaired by and at the Expence of the Impropriator, Curate, and other Owners for the Time being of the Lands and Grounds to which they shall be respectively allotted or directed to belong; and the several other Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched, and fenced, at the Expence of the respective Proprietors to whom such Fences shall be allotted or directed to belong, with Quicksets, or in such other Manner, and within such Times as the said Commissioner shall by his Award, or any other Writing under his Hand, direct or appoint.

For fencing the Tythe Allotments to the Impropriator and Curate, &c. and other Allotments.

Fencing the other Allotments.

XXVIII. And be it further enacted, That it shall and may be lawful for any of the Persons entitled to Right of Common in and upon the said Commons and Wastes hereby directed and intended to be divided, allotted, and inclosed, to sell and dispose of his, her, and their Right, Share, and Interest in such Commons and Wastes, and the Allotment and Allotments in respect thereof, separate and detached from the Property to which such Right and Interest shall appertain or belong; and the said Commissioner shall award the Allotment and Allotments to be made in lieu of the Right of Common so sold and disposed of, to the Purchaser or Purchasers thereof respectively, upon Request being made to the said Commissioner so to do in Writing, signed by the Owners or Proprietors of such Right of Common, in the Presence of One or more credible Witness or Witnesses; and that such Purchaser or Purchasers, and his, her, and their Heirs, shall be seised thereof, and hold and enjoy the same to and for his, her, and their own Use and Uses.

Proprietors may sell Rights of Common detached from their ancient Estates; and Commissioner to award same accordingly.

XXIX. And be it further enacted, That the several Allotments which shall be made in pursuance of this Act, of the Lands and Grounds hereby directed and intended to be divided, allotted, and inclosed, shall be held by the same Tenures, and shall be subject to the same Rents, Reliefs, Fines, Dues, Duties, and Services, as the several and respective Messuages, Lands, Tenements, and Hereditaments, in respect of which the said

Allotments to be held by the same Tenures as Lands, in respect of which they are made.

several



several Allotments shall be made, are and have heretofore been holden respectively.

Separate  
Allotments  
for Estates  
held by dif-  
ferent Titles.

XXX. Provided always, and be it further enacted, That where the Proprietor or Proprietors of Lands or other Hereditaments which shall be allotted by virtue of this Act, shall hold their respective Lands or Hereditaments by different Tenures, or for different Estates, or under different Titles, the said Commissioner shall ascertain and distinguish the Lands or other Hereditaments held by or under such respective Tenures, Estates, or Titles, and shall accordingly in his Award set out and appoint distinct and separate Allotments for such respective Lands or other Hereditaments.

Exchanges  
may be  
made.

XXXI. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Parish, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments, within the said Parish, or within any adjoining Parish, Township, Hamlet, or Place; provided that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments, which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on a Life or Lives, or with the Consent of the Guardians, Trustees, or Feoffees for Charitable or other Uses, Husbards, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any 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 Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

Expences of  
Exchanges  
and Parti-  
tions, by  
whom to be  
paid.

XXXII. And be it further enacted, That the Costs, Charges, and Expences attending the making and completing of any Exchanges or Partitions to be made under or by virtue of the said recited Act or this Act, shall be paid, borne, and defrayed by the several Persons consenting to the making such Exchanges or Partitions, in such Manner and in such Shares and Proportions as the said Commissioner shall by his Award, or any other Writing under his Hand, order or direct.

Leases at  
Rack Rent  
vacated.

XXXIII. And be it further enacted, That all and every Lease and Leases, or Agreements for Leases, at Rack Rent, or from Year to Year, now subsisting, of all and every or any Part or Parts of the Lands and Grounds hereby directed and intended to be divided, allotted, and inclosed,  
or



or which shall be exonerated from Tythes, or exchanged by virtue of this Act, and of all Messuages, Homesteads, and old Inclosures which are let therewith respectively, shall, immediately from and after dividing, allotting, exonerating, and exchanging the same Lands and other Hereditaments respectively, or at such other Time or Times as the said Commissioner shall by any Writing or Writings under his Hand direct, cease, determine, and be void; and the respective Owners of such Lands and Hereditaments shall make such Satisfaction or Compensation to such Lessee or Lessees, Tenant or Tenants, for the Loss or Damage he, she, or they respectively shall thereby sustain, and in such Manner as such Owners and their Lessee or Lessees, Tenant or Tenants respectively shall agree upon; or in case they shall disagree, then as the said Commissioner shall order, direct, and appoint, to be paid to such Lessee or Lessees, Tenant or Tenants respectively, on account thereof; and in case the Money directed to be paid by the said Commissioner on the Account aforesaid, shall not be paid at the Time by him appointed, the same shall be recovered and recoverable, at the Suit of the Person or Persons respectively to whom the same shall be directed to be paid, by Action of Debt in any of His Majesty's Courts of Record at *Westminster*: Provided always, that in case there shall be any Lease of Lands, Part of which shall lie in the said Parish, and Part in any adjoining Parish, all and every such Lease and Leases may be vacated; but where any Lands shall be taken in Exchange, which Land shall be under Lease, and wholly situate in an adjoining Parish, the Lease of such last-mentioned Land shall not be vacated.

XXXIV. And be it further enacted, That nothing in this Act contained shall revoke, make void, alter, or annul any Will or Settlement of or concerning any of the Lands, Tenements, or Hereditaments which shall be allotted or exchanged by virtue of this Act, or prejudice any Person having any Claim or Interest in or to the same, but that the Lands, Tenements, and Hereditaments shall, upon the Allotment and Exchange thereof respectively, go and remain to the same Persons, for the same Estates and Interests, to the same Uses, upon the same Trusts, and for the same Intents and Purposes, and be under and subject to the same Powers, Provisoos, Limitations, Conditions, Covenants, Agreements, Debts, Charges, Incumbrances, and Provisions of every Kind, and in the same Manner as the Lands and Hereditaments in respect whereof the same shall be respectively allotted or exchanged, would be held or go, stand, or be limited, to or upon, or be subject to, if such Allotment or Exchange had not been made, or this Act had not passed; except as to such Leases or Agreements for Leases at Rack Rent or from Year to Year, as shall be determined by virtue of this Act where any of the Provisions of the said recited Act or of this Act shall be to the contrary; and also except such Charges and Incumbrances as shall be made thereon by virtue of this Act.

XXXV. And be it further enacted, That after the said several Allotments or Parcels of Land shall have been so set out and allotted unto or for the Use of the said *Saint Andrew Warde*, or the Person or Persons who shall for the Time being be entitled in Possession as Owner or Owners of the said Great or Rectorial Tythes, and unto or for the said *William Bawdwen* and his Successors, in Right of the said Perpetual Curacy as aforesaid, as such Curate as aforesaid, and accepted and taken by them respectively in full Satisfaction and Discharge of and for all and all Manner of

[*Loc. & Per.*]

18 D

Tythes,

Tythes to  
cease.



Tythes, both Great and Small, Dues, Duties, and Payments in respect thereof (save and except as aforesaid, and also except Surplice Fees and Mortuaries), which might otherwise arise, issue, or become payable to them or either of them respectively within the said Parish (except as aforesaid), all the Tythes, both Great and Small, Moduses, Compositions, Dues, Duties, and Payments in respect thereof (save and except as aforesaid) arising, issuing, and payable from and out of all and every the Estates and Property within the same Parish, as well open as inclosed, which are subject and liable to the Payment of such Tythes (except as aforesaid), shall cease, determine, and be for ever extinguished; and until the said Allotments in lieu of the said Tythes, both Great and Small, Dues, Duties, and Payments in respect thereof, shall have been set out and Possession thereof given to the said Tythe Owners respectively, they or each of them shall be entitled to, and shall receive and enjoy the same Tythes, Dues, Duties, and Payments in respect thereof, as they or either of them would, could, or might have done, if this Act had not been made.

Commissioner  
may direct  
the Course of  
Husbandry  
until the  
Inclosure.

XXXVI. And be it further enacted, That until the said Division and Allotments shall be completed, it shall be lawful for the said Commissioner, by any Writing or Writings under his Hand, to order and direct what Course of Husbandry shall be used in, upon, or over the Lands and Grounds hereby directed to be divided, allotted, and inclosed, as well with respect to the laying down, ploughing, sowing, fallowing, and tilling thereof, as to the stocking and eating of the Fallows or Stubbles; and to set and impose such Penalties on every Person not conforming to such Orders and Directions, and for doing or committing any Damage, Waste, or Detriment in or upon the said Lands and Grounds, as he shall think reasonable (but no such Penalties shall exceed the Sum of Five Pounds for any one Offence); and all such Orders of the said Commissioner shall be binding and conclusive upon all Parties interested, their Farmers, Tenants, and others concerned.

Satisfaction  
to be made  
for Standing  
Crops, &c.

XXXVII. And be it further enacted, That it shall be lawful for the said Commissioner, by any Writing or Writings under his Hand, to order and appoint a Recompence and Satisfaction in Money for any Crops which at the Time of the said Division, Allotment, and Inclosure, shall be growing upon any Lands in the said Parish, to be paid by the Person or Persons to whom the Lands on which such Crops are growing shall be allotted, unto the Owner or Owners of such Crops respectively, unless the Owner or Owners of such Crops shall elect to reap and take away the same; and in case of Non-payment of such Recompence and Satisfaction as aforesaid, according to the Order and Appointment of such Commissioner, or in case of such Election to reap and take away the same as aforesaid, then and in either of the said Cases it shall be lawful for the Owner and Owners of such Crops, and his, her, or their Tenants, Servants, Agents, or Workmen, to enter into and upon the Lands and Grounds whereon such Crops shall be growing, and to cut, reap, and carry away the same, and to dispose thereof to his, her, and their own Use and Uses; and it shall also be lawful for the said Commissioner, by any Writing or Writings under his Hand, to order and appoint a Recompence and Satisfaction for the Standage of Crops, to be paid to any Person or Persons to whom any Land whereon any Crops shall be growing or standing shall be allotted, by the Owner or Owners thereof electing to take away the same as aforesaid; and



and also to order and appoint a Recompence and Satisfaction in Money to be paid by any of the Owners or Proprietors of Allotments, to any Tenant or Tenants, Occupier or Occupiers, of Lands within the said Parish, as well for the Ploughing, Tilling and Manuring of any Lands which shall be allotted to such Owners or Proprietors respectively, for the Profit and Advantage they will obtain thereby, or for any Loss or Disadvantage which any such Tenant or Tenants, Occupier or Occupiers, will sustain by means of the said Division, Allotment, and Inclosure; and if in either of the said Cases last mentioned, such Recompence and Satisfaction for such Standage, Ploughing, Tilling, and Manuring, shall not be paid, according to the Order and Appointment of the said Commissioner, then the said Commissioner shall and may by Warrant or Warrants under his Hand, directed to any Person or Persons whomsoever (which Warrant or Warrants he is hereby authorized and directed to grant accordingly), cause the Amount of such Recompence or Satisfaction to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so required and neglecting to make such Recompence and Satisfaction as aforesaid, together with the Costs and Charges of such Distress and Sale, rendering the Overplus (if any), upon Demand, to the Owner or Owners of such Goods and Chattels.

XXXVIII. Provided always, and be it further enacted, That no old Greenswarth Land, Parcel of the Lands and Grounds directed and intended to be divided, allotted, and inclosed by this Act, and which hath not been ploughed or used in Tillage for the Space of Seven Years last before the passing of this Act, shall after the passing of this Act be ploughed or converted into Tillage, until such Division and Allotments shall be made, and Notice given by the Commissioner to the Proprietors to enter upon their respective Allotments.

Restriction  
from plough-  
ing old  
Swarth.

XXXIX. And be it further enacted, That no Person shall, during the Space of Ten Years from the Execution of the said Award, turn or cause to be turned any Horses, Cattle, Asses, Sheep, Lambs, or Swine, into any of the Allotments to be made in pursuance of this Act, (unless he shall first effectually and completely fence and guard the adjoining Allotment or Allotments belonging to any other Proprietor, from any Injury or Damage to their Quicksets or new-planted Fences); or wilfully turn or put or cause to be turned or put any Sheep, Lambs, Horses, Asses, or other Beasts, Cattle, or Swine, into any of the Ways, Lanes, or Roads, on either Side of which any new growing Fences shall be planted.

No Horses,  
Cattle, Asses,  
Sheep, or  
Lambs, &c.  
to be turned  
into new  
Allotments  
within Ten  
Years.

XL. And be it further enacted, That all Costs, Charges, and Expences preparatory to and attending the obtaining and passing this Act; and of surveying the Lands already inclosed, and surveying, planning, valuing, dividing, and allotting the Lands and Grounds within the said Parish, hereby directed and intended to be divided, allotted, and inclosed, and of setting out, making, and forming any Public Roads; Drains, Sewers; Bridges, Banks, Sluices, and other necessary Works, and for fencing any Allotment or Allotments required by this Act to be done, and of preparing and enrolling the Award of the said Commissioner, and the Charges and Expences of the said Commissioner, and of the Surveyor and Clerk to be employed by the said Commissioner, and all other proper and necessary Expences in the Execution of this Act and the said recited Act, which are

Expences to  
be raised by  
Rate.



not by this Act otherwise directed to be borne, paid, and defrayed, shall from Time to Time, as the same shall respectively accrue, be borne and paid by the several Owners and Proprietors of and Persons interested in the Lands and Grounds hereby directed and intended to be divided, allotted, and inclosed, and exonerated from Tythes respectively, in such Shares and Proportions as the said Commissioner shall appoint by any Rate or Rates to be made by him for that Purpose; and the said several Sums thereby rated shall be paid to such Person or Persons, in such Proportions and Manner, and at such Time or Times as the said Commissioner shall by Writing under his Hand direct or appoint; and in case any Person or Persons liable to the Payment of such Charges and Expences as aforesaid, shall refuse or neglect to pay his, her, or their Share or Proportion thereof, at the Times and in the Manner to be appointed by the said Commissioner, then the same shall be levied and recovered in the Manner prescribed or directed by the said recited Act: Provided nevertheless, that nothing herein contained shall extend or be construed to extend to charge the said Impropriator or Impropriators for the Time being of the Great or Rectorial Tythes within the said Parish, in respect of such Tythes; nor the said Curate or his Successors of the aforesaid Perpetual Curacy, in respect of the said Vicarial or Small Tythes, Moduses, Compositions, Ecclesiastical Dues and other Payments, (Surplice Fees and Mortuaries excepted), with any Part of such Quota or Proportion, nor with any other Costs, Charges, or Expences, either of Drainage or otherwise, incurred previously to the Execution of the said Award, any Thing in this Act to the contrary notwithstanding.

Proprietors  
or Agents to  
pay their  
own Ex-  
pences.

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

Money ad-  
vanced for  
passing this  
Act, to be re-  
paid with  
Interest.

XLII. And be it further enacted, That if any Person or Persons shall advance any Sum or Sums of Money for defraying the Expences of obtaining and passing this Act, or for carrying the same into Execution, such Person or Persons shall be repaid the same, with Interest at the Rate of Five Pounds for One hundred Pounds for a Year, out of the first Monies which shall be raised for defraying the Expences of obtaining and executing this Act; such Interest to be computed from the Time or respective Times of advancing or paying the same Sum or Sums of Money, to the Time or respective Times of the Repayment thereof.

Commission-  
er's Allow-  
ance.

XLIII. And be it further enacted, That the Commissioner acting in the Execution of this Act, shall be allowed and paid out of the Money to be raised for defraying the Expences of this Act, for each Day he shall travel or attend for the Purpose of acting in the Execution of this Act or the said recited Act, the Sum of Three Guineas, and no more, as a Recompence for his Time and all other Expences.

Commission-  
er to lay Ac-  
counts before  
One Justice.

XLIV. And be it further enacted, That the said Commissioner shall once at least in every Year during the Execution of this Act (such Year to be computed from the Day of the passing of this Act) make, and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him for his own  
Trouble



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 him laid before some Justice of the Peace for the said West Riding of the County of *York* (not interested in the said Inclosure), to be by him examined and balanced, and such Balance shall be by such Justice stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice.

XLV. And be it further enacted, That the Award to be made by the said Commissioner pursuant to the Directions of the said recited Act and this Act, together with such Plans, Appointments, and other Instruments, as may be annexed thereto, shall within the Space of Six Calendar Months next after the Execution thereof, be enrolled in the Register Office at *Wakefield*, appointed for registering and enrolling Conveyances and Assurances of Lands in the West Riding of the County of *York*; and the said Award, together with a Map or Plan thereto annexed, shall afterwards be lodged and deposited in the Parish Church of *Frickley cum Clayton*, otherwise *Clayton with Frickley* aforesaid, to the end that Recourse may be had thereto by any Person or Persons whomsoever.

XLVI. And be it further enacted, That the said Commissioner shall and may, upon the Request and at the Costs and Charges of any Person or Persons interested in the aforesaid Award, cause a true Copy or Copies of the Whole, or so much of the said intended Award as relates to the Allotment or Allotments, or Interest of the Party or Parties requesting the same, to be made out and taken from the said Award, and to be fairly written upon Parchment or Paper; and such Copy or Copies, being certified under the Hand of the said Commissioner, or his Successor, shall be admitted in all Courts whatsoever as legal Evidence concerning the Matters and Things therein contained.

Persons interested may have Copies of such Parts of the Award as relate to their own Allotments.

XLVII. And be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall think himself, herself, or themselves aggrieved by any Thing done or omitted to be done by virtue or in pursuance of this Act or of the said recited Act (other than and except such Claims, Matters, and Things, as are herein-before directed or authorized to be settled, tried, and determined, by the Verdict of a Jury, or where by any of the Provisions of the said recited Act, the Determinations, Acts, or Proceedings of the said Commissioner are directed to be final and conclusive), then and in every such Case, he, she, or they may appeal to any General Quarter Sessions of the Peace which shall be held for the said West Riding of the County of *York*, within Six Calendar Months next after the Cause of Complaint shall have arisen; and the Justices in their said General Quarter Sessions are hereby required to hear and determine the Matter of such Appeal, and to make such Order therein, and to award such Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs 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), on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination

Appeal to the Quarter Sessions.



termination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by Certiorari, or by any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

General  
Saving.

XLVIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Body and Bodies Politic, Corporate, and Collegiate, his, her, or their Heirs, Successors, Executors, Administrators, and Assigns, (other than and except the respective Persons, Bodies Politic, Corporate, and Collegiate, to whom any Allotment or Allotments of Land or other Compensation shall be made or provided by virtue of this Act, in respect of the Interest or Property for which such Allotment or Compensation shall be made, and except such other Rights and Interests as the Intents and Purposes of the Inclosure hereby authorized shall absolutely require to be barred, destroyed, or extinguished by this Act), all such Estates, Rights, and Interests, as they, every, or any of them had or enjoyed, of, in, to, or in respect of the Lands and Grounds hereby directed and intended to be divided, allotted, and inclosed, before the passing of this Act, or could or might have had or enjoyed if this Act had not been made.

Evidence  
Clause.

XLIX. And be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty, duly authorized to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them, shall be admitted as Evidence thereof, by all Judges, Justices, and others.

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LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1814.