



ANNO QUINQUAGESIMO PRIMO

# GEORGI II. REGIS.

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Cap. 189.

An Act for inclosing Lands in the Parish of *Kingston*,  
in the County of *Hereford*. [15th June 1811.]

**W**HEREAS there are within the Parish of *Kingston* otherwise *Kingston Forges*, in the County of *Hereford*, divers Lands and Grounds in certain Fields there, called *Kipperley Field*, *Christ* otherwise *Chrife Field*, *Barrow Field*, and *Brook Field*, lying dispersed and intermixed in small Parcels, containing in the whole Two hundred and seventy Acres or thereabouts: And whereas *William Croome* Esquire, the Reverend *George Gretton* Doctor in Divinity, as Dean of the Cathedral Church of *Hereford*, the Custos and Vicars of the College of Vicars in the Choir of the said Cathedral Church of *Hereford* (and their Lessees), the Reverend *Henry Wetherell* Clerk, as Vicar of the said Parish of *Kingston*, *John Moor Green* Esquire, and others, are Proprietors of the said Lands and Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in one Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas it would be very advantageous to the several Owners and Proprietors of the said Lands and Grounds if the same were divided and inclosed, and specific Allotments made to them thereof, according to their several and respective Lands and Right of Soil therein; but the same cannot be done without the Aid and Authority of Parliament; may it therefore please Your Majesty, That it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Henry Price*, of the City of *Hereford*, Gentleman, and his Successor Commissioner for the Time being, to be elected in Manner hereinafter mentioned, shall be, and he is hereby appointed Commissioner for dividing, allotting and

[*Loc. & Per.*]

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inclosing



inclosing the said Lands and Grounds, and for carrying this Act into Execution in the Manner and subject to the Rules, Orders and Directions herein contained, and also subject to the Regulations and Provisions of the said recited Act, except where the same are hereby altered or varied.

For appoint-  
ing a new  
Commis-  
sioner.

II. And be it further enacted, That if the said *Henry Price*, or his Successor for the Time being, to be appointed in Manner hereinafter mentioned, shall die or refuse to act, or become incapable of acting as a Commissioner for the Purposes of this Act, the Dean, and Custos and Vicars of the said Church of *Hereford* for the Time being, shall, within Two Calendar Months then next following, or as soon after as Occasion may require, by Writing under their Common Seal, nominate and appoint some other proper Person not interested in the said Division and Inclosure, to be a Commissioner, in the Room of every Commissioner who shall so die or refuse to act, or become incapable of acting as aforesaid; and every new Commissioner so to be appointed as aforesaid shall have the like Powers and Authorities for putting this Act in Execution in all Respects whatsoever, as the Commissioner in whose Place he shall have been appointed was invested with; which Appointment and Appointments shall be annexed to the Award of the said Commissioner to be made in pursuance of this and of the said recited Act, and be inrolled therewith.

Notice to be  
given of  
Meetings and  
Attendances.

III. And be it further enacted, That the said Commissioner shall and he is hereby required to give public Notice, by Writing under his Hand, to be affixed upon the Principal outer Door of the Parish Church of *Kingston* otherwise *Kingston Forges* aforesaid, upon some *Sunday* immediately preceding Divine Service, and also by Advertisement, to be inserted in some Newspaper printed and circulated in the County of *Hereford*, if any shall then be, of the Time and Place of his first and every other Meeting or Attendance for executing the Powers hereby vested in him, at least Ten Days before every such Meeting or Attendance shall be held, except Meetings or Attendances by Adjournment only; and if at the Time and Place appointed for such Meeting or Attendance, the Commissioner shall not attend, it shall be lawful for the Clerk to the said Commissioner to adjourn such Meeting or Attendance to such Time and Place as he shall think most convenient: Provided always, that all the Meetings and Attendances of the said Commissioner shall be held within the said Parish of *Kingston*, or within Eight Miles thereof.

Other No-  
tices how to  
be given.

IV. And be it further enacted, That all other Notices necessary to be given by the said Commissioner, shall be made and given by Advertisement, to be inserted in some Newspaper printed and circulated in the said County of *Hereford*.

Commission-  
er to deter-  
mine Dis-  
putes.

V. 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 Lands and Grounds to be divided, allotted and inclosed, in pursuance of this Act or any Part thereof, touching or concerning the several Rights and Interests which they or any of them shall have or claim to have, in, over, upon or out of the said Lands and Grounds, or any Part 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,



sioner, and he is hereby authorized to examine into, hear and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioner to determine the Title to any Messuage, Lands, Tenements or Hereditaments whatsoever.

VI. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioner to determine any Right between any Parties, contrary to the Possession of any of such Parties; but in case the said Commissioner shall be of Opinion against the Right of the Person or Persons so in Possession, 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.

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

VII. And be it further enacted, That in case the said Commissioner shall, on the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this or the said recited Act, or on the Hearing of any such Dispute or Difference as aforesaid, see Cause to award any Costs, it shall be lawful for him, and he is hereby empowered, on Application made to him for that Purpose, 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 be made by the Person or Persons against whom any such Determination shall be made; and in case the Person or Persons who shall be liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioner and he is hereby required and authorized, 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 on Demand the Overplus (if any), after deducting the Costs and Expences attending such Distress and Sale, to the Person or Persons whose Goods and Chattels have been so distrained and sold.

Commissioner may award Costs.

VIII. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioner, touching or concerning any Claim or Claims of any Right of Common, or other Rights or Interests, in, over, upon or out of the Lands and Grounds intended to be divided, allotted and inclosed in pursuance of this Act 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 First or Second Assizes to be holden for the said County of *Hereford* next after the Determination of the said Commissioner; and for that Purpose the Person or Persons who shall be dissatisfied with such Determination, 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 Six Calendar Months next after the 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 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 Rights thereby

Parties may try their Rights by an Issue at Law.

insisted



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 the Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do as is usual in other cases; and that after such Verdict or Verdicts shall be 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: Provided always, that if the Determination of the said Commissioner touching such Claim or Claims to such Rights of Common, or other Rights or Interest, over, upon or out of the said Lands and Grounds hereby directed to be divided, allotted and inclosed, or any Part thereof, shall not be objected to, or being so objected to, in case the Party or Parties objecting shall not cause such Action at Law to be brought and proceeded in within Six Calendar Months as aforesaid, then the Determination of the said Commissioner shall be binding, final and conclusive upon all Parties whomsoever.

Proceedings  
not to abate  
by Death of  
Parties.

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

In case of  
Death of Par-  
ties 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 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 or Clerks of 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 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.

What Lands  
shall be in-  
closed.

XI. And, for the better ascertaining what Lands shall be divided, allotted and inclosed, pursuant to this Act, be it further enacted, That all the Open and Uninclosed Lands in the said Fields, called *Kipperley Field*, *Christ* otherwise *Chrife Field*, *Barrow Field*, and *Brook Field*; and also all Inclosures therein, containing the Property of Two or more Persons within one Fence, shall be considered as the Land to be divided, allotted and inclosed, by virtue of this Act.



XII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to divide, set out and allot the said Fields and Lands by this Act intended to be divided, allotted and inclosed, unto and amongst the several Owners and Proprietors thereof, and Persons interested therein, in proportion and according to their several and respective Lands and Rights of Soil therein respectively. Allotments.

XIII. And be it further enacted, That the several Lands and Grounds which, upon the said Division and Inclosure, shall be assigned, allotted and awarded, to the several Parties interested in the said Premises; and also the several Messuages, Lands, Tenements, old Inclosures and new Allotments and other Hereditaments which shall be exchanged in pursuance of the said recited Act, shall, immediately after such Allotments and Exchanges shall be made as aforesaid, and the Execution of the said Award, be, remain and enure to the Persons to whom the same shall be respectively allotted or exchanged as aforesaid, who shall 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, Charges and Incumbrances, as the same respectively now are, or should or would be held under, or subject or liable to be charged with or affected by, in case this Act had not been made. Lands allotted and taken in Exchange, to remain to the same Uses, &c.

XIV. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot and award any Lands, Tenements or Hereditaments whatsoever, within the said Parish of *Kingston*, in lieu of and in exchange for any other Lands, Tenements or Hereditaments whatsoever, within the said Parish, or within any adjoining Parish, Hamlet, Township or Place; provided that all such Exchanges be ascertained, specified and declared in the Award of the said 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, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for 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 other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so to be made shall be good, valid and effectual in the Law to all Intents and Purposes whatsoever: Provided always, that no Exchange shall be made of any Lands, Tenements or Hereditaments, held in right of any Church, Chapel or other Ecclesiastical Benefice, without the Consent testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements or Hereditaments, so to be exchanged, shall lie or be situate. Exchanges to be made.

[*Loc. & Per.*]

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XV. And



Expence of Exchanges how to be paid.

XV. And be it further enacted, That all Costs, Charges and Expences attending the making of any Exchange or Partition to be made by virtue of the said recited Act or of this Act, shall be made, borne and defrayed by the Parties on whose Behalf the same shall be made, in such Proportions as the said Commissioner shall direct.

Allotments to be inclosed.

XVI. And be it further enacted, That the several Allotments to be made of the said Lands and Grounds by this Act directed to be divided, allotted and inclosed, shall, within the Space of Twelve Calendar Months next after signing and sealing the said Award, or such other Time as the said Commissioner shall therein order and direct, be inclosed, hedged, ditched and fenced, at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted,

This Act not to affect Tythes.

XVII. Provided always, and be it further enacted, That nothing in this Act or in the said recited Act contained, shall extend or be construed to extend to exonerate the Lands and Grounds intended to be hereby divided and inclosed, or any of them, or any other Hereditaments, from Tythes of any sort; but that all Tythes whatsoever, and all Moduses, Compositions and Payments for Tythes, within the Parish of *Kingston*, otherwise *Kingston Forges* aforesaid, shall continue payable in the same Manner, in all respects, as if this Act or the said recited Act had not been made.

Expences of Act, &c. by whom to be paid.

XVIII. And be it further enacted, That all and every the Sum or Sums of Money to be paid to the said Commissioner and his Clerk, together with the Costs, Charges and Expences of passing this Act, and all Costs and Charges attending the same, and the Costs and Charges of surveying, admeasuring, planning, dividing and allotting the Lands and Grounds so intended to be divided, allotted and inclosed as aforesaid, and inrolling the said Award, and all other necessary Expences about and concerning the said Premises, shall be borne and defrayed by the said *William Croome*.

Commissioner's Expences.

XIX. And be it further enacted, That the said Commissioner, or such other Commissioner to be appointed as aforesaid, who shall act in the Execution of the Powers and Authorities hereby vested in him, shall be paid the Sum of Three Guineas and no more, for each Day he shall be employed therein (Days of travelling to and from Home included), the same to be in full Satisfaction for all the Trouble and Expences which he shall be put to in executing the Powers and Authorities aforesaid; and the said Commissioner, and every Proprietor and other Person interested in the Execution of this Act, and their Solicitors and Agents, who shall attend upon any Occasion in pursuance of this Act, shall bear and pay his and their own Expences of such Attendance.

Commissioner to lay his Accounts before Two Justices, once in every Year.

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



when so made, together with the Vouchers relating thereto, shall be by him laid before any Two or more of His Majesty's Justices of the Peace for the Time being for the said County of *Hereford*, to be by them examined and balanced, and such Balance shall be by such Justices stated in the Book of Accounts, to be kept in the Office of the Clerk to the said 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 Justices.

XXI. And be it further enacted, That the Award to be made by the said Commissioner, when inrolled in the Manner directed by the said recited Act, shall be deposited in the Parish Church of *Kingston* otherwise *Kingston Forges* aforesaid.

Where the Award shall be deposited.

XXII. 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 Act (other than and except as to such Claims, Matters and Things as are hereinbefore directed or authorized to be tried, settled and determined by the Verdict of a Jury, or where any of the Clauses or Provisions of the said recited Act or of this Act, shall express that the same shall be final and conclusive), then, and in every such Case, he, she or they may appeal to the General Quarter Sessions of the Peace which shall be holden for the said County of *Hereford*, within Six Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner, and to the Party or Parties concerned, Fourteen Days' Notice in Writing of such Appeal, and of the Matter thereof; and the Justices (not interested in the Premises) at the said General Quarter Sessions are hereby required to hear and determine the Matters 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 Charges 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 Warrants, Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable 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 to be levied in Manner aforesaid.

Persons aggrieved may appeal to the Quarter Sessions.

XXIII. Saving always to the King's most Excellent Majesty, his Heirs and Successors, and to all and every other Person or Persons, Body or Bodies Politic, Corporate or Collegiate, his, her and their Heirs, Executors and Administrators (except such whose Rights are hereby intended to be barred, or who shall fail to give in their Claims, or against whom the said Commissioner shall determine), all such Right, Title and Interest, as they, every or any of them, had and enjoyed, of, in, to or out of the said Lands and Grounds, at the Time of passing this Act, or could or might have had or enjoyed in case this Act had not been made.

General Saving.

XXIV. And

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51<sup>o</sup> GEORGII III. *Cap.* 189.

Act to be  
Evidence.

XXIV. 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.

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LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1811.