ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 29.

An Act for incloſing Lands in the Manor and Townſhip of *Buglawton*, in the County of *Cheſter*.

[1ſt *April* 1813.]

WHEREAS there are within the Manor and Townſhip of *Buglawton*, in the Pariſh of *Aſtbury*, in the County of *Cheſter*, ſeveral Commons and Waſte Grounds called the *Cloud Hill*, *Rainow*, *Buglawton Green*, *Birch Moſs*, and other Waſte Lands: And whereas *Wilbraham Egerton* Eſquire is Lord of the ſaid Manor of *Buglawton*, and as ſuch is Owner of the Soil of the ſaid Commons and Waſte Grounds, and of all Mines and Minerals within and under the ſame: And whereas *John* Lord *Crewe* is Patron of the Rectory of the ſaid Pariſh, and *Offley Crewe* Clerk is Rector thereof: And whereas the ſaid *Wilbraham Egerton*, Sir *Thomas Stanley Maſſey Stanley* Baronet, Sir *Henry Parnell* Baronet, and ſeveral other Perſons, are Proprietors of, and intereſted in the ſaid Commons and Waſte Grounds: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty King *George* the Third, 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 of great Benefit and Advantage to the ſeveral Perſons who are Proprietors of, and intereſted in the ſaid Commons and Waſte Grounds, if the ſame were divided and incloſed, and ſpecific Parts and Shares thereof aſſigned and allotted unto the ſeveral Proprietors and Perſons intereſted, according and in Proportion to their ſeveral and reſpective Properties, Rights, and Intereſts therein; but ſuch Diviſion, Allotment, and Incloſure cannot be effectually made and eſtabliſhed, without the Aid and Authority of Parliament: May it therefore pleaſe

Proprietors.

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 *James Stelfox* of *High Leigh*, in the County of *Cheſter*, and *Matthew Weſton* of *Rudyard Hall*, in the County of *Stafford*, Gentlemen, and their Succeſſors, ſhall be and they are hereby appointed the Commiſſioners for ſetting out, dividing, and allotting the ſaid Commons and Waſte Grounds in Manner herein-after directed, and for carrying this Act and the ſaid recited Act into Execution; ſave and except ſuch Parts of the ſaid recited Act as are hereby altered or varied; and under and ſubject to ſuch of the Regulations and Reſtrictions contained in the ſaid recited Act as are not repugnant to the Proviſions of this Act.

Commiſſioners.

II. And be it further enacted, That if the ſaid *James Stelfox*, or any Commiſſioner to be hereafter appointed by the ſaid *Wilbraham Egerton* in Manner herein-after mentioned, or if the ſaid *Matthew Weſton*, or any Commiſſioner to be hereafter appointed by the ſaid Proprietors in Manner herein-after mentioned, ſhall, before the Execution of all the Powers and Authorities hereby and by the ſaid recited Act in them veſted, die, or become incapable of acting as Commiſſioners in Execution of this or the ſaid recited Act, (and if either of them ſhall, without ſome lawful Cauſe, neglect to attend a Meeting on Behalf of the Party or Parties ſo by them appointed for putting this Act or the ſaid recited Act into Execution, for the Space of Two Calendar Months after they or either of them ſhall have received Notice in Writing from any Perſon intereſted in the ſaid Incloſure of the paſſing of this Act, or requiring them to attend as Commiſſioners, ſuch Neglect ſhall be deemed a Refuſal to act as ſuch Commiſſioner) a new Commiſſioner ſhall be appointed or elected in Manner following; (that is to ſay), in caſe the ſaid *James Stelfox*, or any Perſon to be appointed in his Stead, ſhall die, neglect, or refuſe to act, then and in every ſuch Caſe it ſhall be lawful for the ſaid *Wilbraham Egerton*, or the Lord or Lords of the ſaid Manor for the Time being, by Writing under his or their Hand and Seal or Hands and Seals, to appoint ſome other Perſon (not intereſted in the ſaid Incloſure) to be a Commiſſioner in the Place of the ſaid *James Stelfox*, or in the Place of any other Perſon ſo appointed in his Stead; provided ſuch Appointment be made within Thirty Days after ſuch Death, Neglect, or Refuſal ſhall happen, or ſhall be made known to the ſaid *Wilbraham Egerton*, or ſuch Lord or Lords for the Time being of the ſaid Manor; and in caſe the ſaid *Matthew Weſton*, or any Perſon to be appointed in his Stead, ſhall die, neglect, or refuſe to act as ſuch Commiſſioner, then and in every ſuch Caſe the Proprietors or Perſons who for the Time being ſhall be intereſted in the ſaid Commons and Waſte Grounds ſo intended to be divided and incloſed as aforeſaid, or any Twelve or more of them, ſhall, within Thirty Days after ſuch Death, Neglect, or Refuſal, give Notice thereof, and of a Meeting to be held at ſome convenient Place either in *Buglawton* aforeſaid, or in *Congleton* in the ſaid County of *Cheſter*, within Twenty Days after ſuch Notice, for electing a new Commiſſioner (and which Notice ſhall be given by Advertiſement to be inſerted in the Newſpaper called *The Macclesfield Courier*, if then publiſhed, and if not, then in ſome other Newſpaper circulated in the County of *Cheſter*, and affixed on One of the principal outer Doors of the Pariſh Church of *Aſtbury* aforeſaid, at leaſt Ten Days before ſuch Meeting); and it ſhall be lawful for the ſaid Proprietors, or

For electing new Commiſſioners.

Perſons

Perſons intereſted in the ſaid Commons and Waſte Grounds (except the Lord or Lords for the Time being of the ſaid Manor) or the major Part in Value of ſuch of them as ſhall attend ſuch Meeting by themſelves or their Agents (ſuch Value to be aſcertained by the Land Tax Aſſeſſment), by Writing under their Hands, or the Hands of their Agents or Attornies, to nominate, elect, and appoint from Time to Time, ſome other fit and proper Perſon (not intereſted in the ſaid Diviſion and Incloſure) to be a Commiſſioner in the Place of the ſaid *Matthew Weſton*, or in the Place of any Perſon ſo appointed in his Stead; and every Perſon ſo appointed or elected in Manner as aforeſaid, ſhall, after taking the Oath preſcribed by the ſaid recited Act, have and be inveſted with the ſame Powers and Authorities, in all Reſpects, for carrying this and the ſaid recited Act into Execution, as if he had been originally named and appointed a Commiſſioner in and by this Act.

Appointment of Umpire.

III. And be it further enacted, That if any Difference ſhall ariſe between the ſaid Commiſſioners, touching or concerning any Matter or Thing to be done by them by virtue or in Execution of the ſaid recited Act or this Act, whereupon the ſaid Commiſſioners ſhall differ in Opinion, the ſaid Commiſſioners, from Time to Time, when and ſo often as ſuch Difference of Opinion ſhall ariſe, ſhall, and they are hereby required, by Writing under their Hands, to appoint ſome fit and proper Perſon (not being intereſted in the Premiſes, nor being the Attorney or Agent of any Perſon ſo intereſted) to be an Umpire between them; and the Matter upon which ſuch Difference of Opinion ſhall or may ariſe, ſhall be referred to and ſhall be ſettled and determined by ſuch Umpire; whoſe Determination ſhall be made in Writing, and ſhall be binding and concluſive upon the ſaid Commiſſioners, and ſhall be deemed and taken to be the Determination of the ſaid Commiſſioners; and the ſaid Commiſſioners ſhall and they are hereby required to act in conformity thereto; and for the Purpoſes aforeſaid, but not for any other Purpoſe, ſuch Umpire ſhall have, and he is hereby veſted with, the ſame Powers and Authorities as by the ſaid recited Act and this Act are given to or veſted in the ſaid Commiſſioners.

Umpire's Oath.

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

'I do ſwear, That I will faithfully, impartially, and honeſtly, according to the beſt of my Skill and Judgement, execute and perform the ſeveral Powers and Authorities veſted and repoſed in me as an Umpire, by virtue of an Act paſſed in the Fifty-third Year of the Reign of King *George* the Third, intituled *An Act for incloſing Lands in the Manor and Townſhip of* Buglawtown, *in the County of* Cheſter, 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 Commiſſioners or either of them are and is hereby empowered and required to adminiſter; and ſuch Oath, and alſo the Writing appointing ſuch Umpire, and alſo every ſuch Determination of ſuch Umpire, ſhall be annexed to the Award of the ſaid Commiſſioners.

V. And

Notice of Meetings.

V. And be it further enacted, That the ſaid Commiſſioners ſhall cauſe public Notice to be given upon ſome *Sunday* before Divine Service, by Writing to be affixed upon One of the principal outer Doors of the Pariſh Church of *Aſtbury* aforeſaid, and alſo by Advertiſement to be inſerted in the Newſpaper called *The Macclesfield Courier*, if then publiſhed, and if not, then in ſome other Newſpaper printed or circulated in the County of *Cheſter* aforeſaid, of the Time and Place of the Firſt and every ſubſequent Attendance for the Execution of this Act or the ſaid recited Act, Ten Days at leaſt before every ſuch Attendance ſhall be held (Attendances by Adjournment only excepted); and the ſaid Commiſſioners ſhall attend from Time to Time as they ſhall ſee Occaſion, at ſome Place within the Manor of *Buglawton* aforeſaid, or at ſome other Place within the Diſtance of Four Miles from the Boundary of the ſaid Manor and Townſhip of *Buglawton*; and all other Notices neceſſary or requiſite to be made or given by the ſaid Commiſſioners in the Execution of this Act or the ſaid recited Act, ſhall be made and given by Writing and Advertiſement in like Manner as herein-before is mentioned.

Commiſſioners to ſettle Diſputes.

VI. And be it further enacted, That if any Queſtion or Diſpute ſhall ariſe between any Perſon or Perſons intereſted in the ſaid Commons and Waſte Grounds before the ſetting out and allotting the ſame, or touching or concerning the reſpective Rights and Intereſts which they or any of them ſhall have, or claim to have, in, upon, or over the ſaid Commons and Waſte Grounds, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion, Allotment, or Incloſure, then it ſhall be lawful for the ſaid Commiſſioners or Umpire to examine into, hear, and determine the ſame.

Commiſſioners not to determine Titles, nor moleſt Poſſeſſion.

VII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioners or Umpire to determine the Title to any Meſſuages, Lands, Tenements, 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); but in caſe the ſaid Commiſſioners or Umpire ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, they ſhall forbear to make any Determination 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.

Power to aſſeſs Coſts.

VIII. And be it further enacted, That in caſe the ſaid Commiſſioners ſhall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections to be delivered to them in purſuance of this Act or the ſaid recited Act, ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby empowered upon Application made to them for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as they ſhall think reaſonable to be paid to the Party or Parties in whoſe Favour any Determination of the ſaid Commiſſioners ſhall be made, by the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, whoſe Claim or Claims, Objection or Objections, ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, who ſhall be liable to pay ſuch Coſts and Charges, ſhall neglect or refuſe to pay the ſame on Demand, then and in any ſuch Caſe it ſhall and may be

lawful for the ſaid Commiſſioners, and they are hereby authorized and required, by Warrant under their Hands directed to any Perſon whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, ſo neglecting or refuſing to pay the ſame, rendering the Surplus (if any), upon Demand to the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Allowing Parties to try Rights by an Iſſue at Law.

IX. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, intereſted in or claiming to be intereſted in the ſaid intended Diviſion and Allotments, ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners or Umpire, touching or concerning their reſpective Rights or Intereſts in, over, or upon the ſaid Commons and Waſte Grounds hereby directed to be divided, allotted, and incloſed, or any Part thereof, then and in every ſuch Caſe it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate ſo diſſatisfied, to proceed to a Trial at Law of the Matter ſo determined by the ſaid Commiſſioners, at the then next or at the following Aſſizes, to be holden for the ſaid County of *Cheſter*; and for that Purpoſe the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, who ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners or Umpire, ſhall cauſe an Action to be brought or commenced on a feigned Iſſue againſt the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, in whoſe Favour ſuch Determination ſhall have been made, within Three Calender Months next after ſuch Determination of the ſaid Commiſſioners ſhall have been made known to ſuch Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, and ſhall proceed to Trial thereon as aforeſaid; and the Defendant or Defendants in ſuch Action or Actions ſhall, and he, ſhe, or they is and are hereby required to name an Attorney or Attornies, who ſhall appear thereto, or file Common Bail, and accept one or more Iſſue or Iſſues, whereby ſuch Claim or Claims, and the Right or Rights thereby inſiſted on, may be tried and determined, ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be commenced, in caſe the Parties ſhall differ about the ſame; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions ſhall be final, binding, and concluſive, upon and to all and every Perſon and Perſons, Body and Bodies Politic, Corporate, or Collegiate whatſoever, 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 thereupon, which it ſhall be lawful for the Court to do as is uſual in other Caſes; and after ſuch Verdict or Verdicts ſhall be obtained and not ſet aſide by the Court, the ſaid Commiſſioners and Umpire ſhall and they are hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials: Provided always, that the Determination of the ſaid Commiſſioners or Umpire, touching ſuch Rights or Intereſts in, over, or upon the ſaid Commons and Waſte Grounds hereby directed to be divided, allotted, and incloſed, or any Part thereof 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 proceeded in as aforeſaid, ſhall be final and concluſive

Determination of Commiſſioners to be final, if not objected to or no Action brought.

clusive upon all and every Person and Persons, Body and Bodies Politic, Corporate, or Collegiate.

If any Parties die Proceedings not to abate.

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

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

XI. 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, Body or 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 of the said Commissioners with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Surveyors appointed.

XII. And be it further enacted, That all such Surveys, Admeasurements, and Plans as shall be requisite and necessary to be made and taken for the Purposes of carrying this Act or the said recited Act into Execution, shall be made and taken by *Joseph Dunn* of *Harford*, near *Northwich*, in the said County of *Chester*, and *Charles Heaton* of *Endon* in the Parish of *Leek*, in the County of *Stafford*, Land Surveyors, or by such other Person or Persons as the said Commissioners shall from Time to Time nominate and appoint, in case they shall think proper to discharge the said Surveyors hereby nominated, or either of them, or any future Surveyor; and such Surveyors shall be paid such Recompense and Compensation as the said Commissioners shall think fit.

Surveyors to take an Oath.

XIII. Provided always, and be it further enacted, That no Person shall be capable of acting as a Surveyor for the Purposes of this Act, until he shall have taken and subscribed the following Oath; (that is to say),

'I, do swear, That I will faithfully, honestly, and impartially, according to the best of my Skill and Ability, execute and perform the Duties incumbent on me as Surveyor, by virtue of an Act passed in the Fifty-third Year of the Reign of King *George* the Third, intituled *An Act for enclosing Lands in the Manor and Township of* Buglawton, *in the County of* Chester, 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

Which Oath the ſaid Commiſſioners or either of them are and is hereby empowered and required to adminiſter; and the ſaid Oath ſo taken and ſubſcribed by ſuch Surveyor or Surveyors, ſhall be annexed to and depoſited with the Award of the ſaid Commiſſioners.

No Turf, &c. to be cut without Leave of Commiſſioners.

XIV. And be it further enacted, That from and after the paſſing of this Act, until the Execution of the Award of the ſaid Commiſſioners, no Perſon or Perſons whomſoever ſhall cut, dig, pare, flay, get, or carry away any Turf, Clay, Soil, Stone, Gorſe or any Dung, in, upon, or from the ſaid Commons and Waſte Grounds, or any Part thereof, without the Leave and Licence of the ſaid Commiſſioners firſt had and obtained in Writing under their Hands, which Leave and Licence they the ſaid Commiſſioners are hereby empowered to grant, under ſuch Rules, Orders, Regulations, and Reſtrictions as they ſhall think proper; and if any Perſon ſhall, after the paſſing of this Act, cut, dig, pare, flay, get or carry away any Turf, Clay, Soil, Stone, Gor'e or Dung, in, upon, or from ſuch Commons and Waſte Grounds, or any Part thereof, wi hout ſuch Leave and Licence of the ſaid Commiſſioners, or having obtained ſuch Licence, ſhall act in any Manner contrary thereto, or to the Rules, Orders, Regulations, and Reſtrictions therein contained, then and in every ſuch Caſe every ſuch Perſon being convicted thereof, either by his or her own Confeſſion, or upon Oath of any credible Witneſs, before any of His Majeſty's Juſtices of the Peace for the ſaid County of *Cheſter*, (not being intereſted, and who are hereby empowered to ſummon the Parties concerned, and examine ſuch Witneſs upon Oath relating to the ſaid Complaint, and adminiſter ſuch Oath) ſhall for every ſuch Offence forfeit and pay ſuch Sum of Money as the ſaid Juſtice ſhall appoint, not exceeding the Sum of Five Pounds; which Penalty ſhall be recovered, paid, and applied towards the Diſcharge of the Coſts, Charges, and Expences of obtaining and executing this Act.

Encroachments made above Twenty Years.

XV. And be it further enacted, That all Encroachments which ſhall have been made upon, or from the ſaid Commons and Waſte Grounds for Twenty Years or upwards, without legal Interruption, before the Twenty-ſixth Day of *October* One thouſand eight hundred and nine, with the Cottages and Buildings thereon, and for which any Rents or Acknowledgment have or hath been paid to the Lord of the ſaid Manor within that Period, ſhall belong to, and be deemed to be the Property of the Lord of the ſaid Manor for the Time being, and that ſuch other Encroachments which ſhall have been made upon or from the ſaid Commons and Waſte Lands for Twenty Years or upwards, without legal Interruption, before the ſaid Twenty-ſixth Day of *October* One thouſand eight hundred and nine, and for which no Rents or Acknowledgments have been paid to the Lord of the ſaid Manor for the Time being, within that Period, ſhall, with the Cottages and Buildings thereon, belong to and be deemed to be the Property of the Perſon or Perſons in his, her, or their own Right, occupying by themſelves or Tenants the ſame; but no Perſon ſhall be entitled to any Allotment in reſpect of ſuch Encroachments.

Encroachments made within Twenty Years.

XVI. And be it further enacted, That all Encroachments which ſhall have been made upon, or from the ſaid Commons and Waſte Lands within Twenty Years next before the ſaid Twenty-ſixth Day of *October* One thouſand eight hundred and nine, ſhall be deemed Part thereof, but all ſuch

such last-mentioned Encroachments, with the Buildings thereon, shall be allotted to the Person or Persons who at the Time of making the Allotments under this Act, shall, in his, her, or their own Right, be in Possession of, or entitled to, or in Receipt of the Rents and Profits of such Encroachments, for his, her, or their Share or Proportion of the said Commons and Waste Grounds by virtue of this Act, or so far as the same will extend in Value, according to its original State when inclosed, or to the Value of the Waste Grounds adjoining; but in case any such last-mentioned Encroachments shall in the Judgment of the said Commissioners be of greater Value than the Share or Proportion of the said Commons and Waste Grounds which the Person or Persons so entitled ought to have by virtue of this Act, or in case it shall so happen that the Person or Persons who at the Time of making the said Allotments under this Act, shall, in his, her, or their own Right, be in the Possession or Receipt of, or entitled to the Rents and Profits of any such last-mentioned Encroachment, and shall not be entitled to any Allotment from the said Commons and Waste Grounds, under or by virtue of this or the said recited Act, then and in either of the said Cases the said Commissioners are hereby authorized to allot such Encroachments, and the Residue and Remainder of such Encroachments or Parts of Encroachments as may appear over and above the Share and Proportion of the said Commons and Waste Grounds, which the Person or Persons so entitled ought to have by virtue of this Act, to such Person or Persons who, if he, she, or they was or were entitled to a sufficient Allotment from the said Commons and Waste Grounds, would be entitled to have the same allotted as aforesaid, at such Sum or Sums of Money as they shall adjudge the same to be worth in its present State, and the same shall be paid to the said Commissioners, and when received by them shall be applied towards defraying the Costs, Charges, and Expences of obtaining and executing this Act; and if any such last-mentioned Persons shall refuse or neglect to pay such Sum or Sums of Money as the said Commissioners shall so adjudge, at the Time fixed by them for that Purpose, then such Encroachments which shall not be paid for as aforesaid, shall be allotted as Common and Waste Land, and the said Commissioners are hereby required to allot such surplus Part of such last-mentioned Encroachments unto such other Person or Persons so entitled, as they shall think proper, in Part or in full of his, her, or their Allotment or Allotments, as the Case may be, but according to the improved State: Provided always, that in case any such last-mentioned Encroachments, or any Part or Parts thereof, shall in the Judgment of the said Commissioners be thought proper or more convenient to be laid to the Lands of any other Person entitled to an Allotment or Allotments from the said Commons and Waste Grounds, then and in such Case the said Commissioners are hereby required to allot such last-mentioned Encroachments, or such Part thereof as they shall think proper, according to the present improved State, unto such other Person or Persons so entitled, in Part or in full of his, her, or their Allotment or Allotments, as the Case may be, and shall be at Liberty to order and direct such Allowance or Compensation, (if any) to be made by the Person to whom the same shall be so allotted, to the Person or Persons from whom such Encroachments shall be taken, as to the said Commissioners shall seem reasonable.

Power for Commissioners to sell

XVII. Provided always, and be it further enacted, That in case any Person or Persons shall at the Time of the passing of this Act, be in

Poſſeſſion of, or in his, her, or their own Right, in receipt of or entitled to the Rents and Profits of any of ſuch laſt-mentioned Encroachments or Buildings, who ſhall not be entitled to any Allotment from the ſaid Commons and Waſte Grounds under or by virtue of this Act or the ſaid recited Act, then and in any ſuch Caſe the ſaid Commiſſioners are hereby authorized to fix ſuch Price on ſuch Encroachments and Buildings, or ſuch Part or Parts thereof that they may think proper to be ſold, as they ſhall conſider a full and fair Value for the ſame in the preſent State; and in caſe ſuch Perſon or Perſons ſo in Poſſeſſion or entitled as aforeſaid, ſhall pay the Purchaſe Money or Price ſo fixed for the ſame to the ſaid Commiſſioners, at the Time they ſhall appoint to receive the ſame, then and in ſuch Caſe every ſuch Encroachment, with the Buildings thereon, for which the full Purchaſe Money ſhall be ſo paid, ſhall immediately thereupon be abſolutely diſcharged of and from the Common and other Rights thereon or therein, (other than ſuch as are hereby reſerved to the Lord of the ſaid Manor aforeſaid), and be veſted in Fee Simple in, and thenceforth held in Severalty by, ſuch Purchaſer or Purchaſers thereof reſpectively as his, her, or their own Property, and ſhall be allotted accordingly by the ſaid Commiſſioners; and the ſaid Purchaſe Money ſhall be applied by the ſaid Commiſſioners towards defraying the Charges and Expences of this Act, and carrying the ſame and the ſaid recited Act into Execution; and if any ſuch laſt-mentioned Perſon or Perſons ſhall refuſe or neglect to pay ſuch Price as the ſaid Commiſſioners ſhall ſo fix, at the Time appointed by them for that Purpoſe, then ſuch Encroachments, with the Buildings thereon (if any) which ſhall not be ſo paid for as aforeſaid, ſhall be allotted as Common and Waſte Grounds: Provided always, that in caſe any ſuch laſt-mentioned Encroachments, or any Part or Parts thereof, ſhall in the Judgement of the ſaid Commiſſioners be thought proper or more convenient to be laid to the Lands of any Perſon entitled to an Allotment or Allotments from the ſaid Commons and Waſte Grounds, then and in ſuch Caſe the ſaid Commiſſioners are hereby required to allot ſuch laſt-mentioned Encroachments, or ſuch Part thereof as they ſhall think proper, according to the preſent improved State, unto ſuch other Perſon or Perſons ſo entitled, in part or in full of his, her, or their Allotment or Allotments, as the Caſe may be.

Encroachments and Cottages as do not interfere with Proprietors, as they ſhall think proper, at a full and fair Valuation.

XVIII. Provided always, and be it enacted, That in caſe the Sum or Sums of Money ſo received by the ſaid Commiſſioners from the Sale of ſuch Encroachments, ſhall be more than ſufficient for the Purpoſe of defraying the Coſts, Charges, and Expences of obtaining and executing this Act, then and in ſuch Caſe ſuch Surplus Money ſhall be divided and apportioned between the ſeveral Proprietors of, and Perſons intereſted in, the Lands hereby directed to be divided and incloſed, in ſuch Shares as ſhall be in Proportion to their reſpective Property, Rights, and Intereſts; and the reſpective Shares of ſuch of them as ſhall be Tenants in Fee Simple of their reſpective Allotments, ſhall be paid to them reſpectively; and the Shares of ſuch other Proprietors or Perſons of and in ſuch Surplus Money ſhall be applied and diſpoſed of in Manner directed by the ſaid recited Act, in Caſes where Money to be paid for the Purchaſe or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, ought to be laid out in the Purchaſe of

Application of Surplus produced by Sales of Encroachments.

other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes.

Commiſſioners may divert Roads.

XIX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required, in all Caſes where in their Judgement it ſhall appear to be requiſite or proper, or more convenient for the Occupation of the Lands and Tenements within the ſaid Manor, to divert and turn any old or accuſtomed public Road or Way, or Path, paſſing or leading through or over any Part of the old Incloſures within the ſaid Manor, or to ſtop up or diſcontinue ſuch Roads, Ways, and Paſſages as to the ſaid Commiſſioners ſhall ſeem meet and proper: Provided always, that no ſuch Road, Way, or Path ſhall be diverted, turned, ſtopped up, or diſcontinued, without ſuch Concurrence and Order, and ſubject to ſuch Appeal as is mentioned and contained in the ſaid recited Act.

Allotments for getting Stone, &c.

XX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and empowered, after they ſhall have ſet out and appointed the neceſſary public Carriage Roads and Highways through and over the ſaid Commons and Waſte Grounds hereby directed to be divided and incloſed, to aſſign, ſet out, and allot Three Acres of the Plots and Parcels of the ſaid Commons and Waſte Grounds where they ſhall think proper and neceſſary, to be uſed for the Purpoſe of digging and getting Stone, Gravel, and other Materials for the making or repairing the Bridges, Highways, and Roads within the ſaid Manor, and for the Uſe of the Proprietors of Eſtates within the ſame Manor, and their Tenants for the Time being, for and in reſpect of their Eſtates within the ſame; and that the Herbage growing and renewing in and upon the Land ſo to be ſet out as aforeſaid, ſhall be veſted in ſuch Perſon or Perſons, and applied to ſuch Uſes, as the ſaid Commiſſioners ſhall by their Award direct.

Allotment to Truſtees for the Benefit of the Poor of Buglawton.

XXI. And be it further enacted, That the ſeveral Cottages in the reſpective Poſſeſſion or Occupation of *William Waſhington* of *Birch Moſs*, *William Waſhington* of *Timbers Brook*, *Mary Hulme* Widow, *Samuel Skellorn*, *Samuel Bailey*, and *Elizabeth Corbiſhley* Widow, which have been lately erected upon Part of the ſaid Commons and Waſte Grounds, and alſo ſeveral Pieces of Ground (containing about Twenty Perches of Land each) incloſed with each Cottage, ſhall be excepted out of the general Incloſure; and that the ſaid Commiſſioners ſhall and they are hereby authorized and required to aſſign, ſet out, and allot the ſaid Cottages, with the ſaid Twenty Perches of Ground to each Cottage, unto Three or more Perſons, being Freeholders reſident in or near *Buglawton* aforeſaid, and their Heirs, as Truſtees for the ſame; and the ſaid Cottages, and the Twenty Perches of Ground incloſed with each Cottage, ſhall be veſted in the ſaid Truſtees and their Heirs for ever, upon Truſt, that they do and ſhall grant Leaſes of the ſame Cottages, together with the ſaid Twenty Perches of Land to each Cottage, to them the ſaid *William Waſhington* of *Birch Moſs*, *William Waſhington* of *Timbers Brook*, *Mary Hulme* Widow, *Samuel Skellorn*, *Samuel Bailey*, and *Elizabeth Corbiſhley* Widow, for the Term of Three Lives, and the Survivor of them, to be named by each of them reſpectively, at the reſpective yearly Rents to

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be appointed by the ſaid Commiſſioners, and to be paid by the reſpective Leſſees and thoſe deriving Title under them, to the Overſeers of the Poor of the Townſhip of *Buglawton* aforeſaid for the Time being, to be by them applied in aid of the Poor's Rates of the ſame Townſhip, as a Recompence for their having encloſed the aforeſaid Pieces of Waſte Ground, and erected thereon the before-mentioned Cottages, (the Expences of ſuch Leaſes being borne by them reſpectively); and on the Death of the ſurviving Life to be named in each of ſuch Leaſes reſpectively, the ſaid Cottages, together with the ſaid Twenty Perches of Land to each Cottage, ſhall become and is and are hereby declared to be veſted in the Overſeers of the Poor of the ſaid Townſhip of *Buglawton* and their Succeſſors for ever thereafter, in Truſt, that they the ſaid Overſeers and their Succeſſors do and ſhall from Time to Time, and at all Times thereafter, put and place therein any fit and proper poor Perſon or Perſons belonging to the ſaid Townſhip of *Buglawton*, who may then happen to be chargeable to the Inhabitants thereof, to be occupied by them, him, or her, as the Caſe may be, as a Majority of the Inhabitants of the ſaid Townſhip of *Buglawton*, at a Meeting to be called by the Overſeers of the Poor for the Time being, giving Twenty Days Notice in Writing prior to ſuch intended Meeting, to be fixed in ſome public Place in the ſame Townſhip of the Time and Place of ſuch Meeting, ſhall order and direct, as to the poor Perſon or Perſons to be put therein by the Overſeers of the Poor for the Time being; with Power and Authority for the ſaid Overſeers, in the Manner before-mentioned to give Notice to the poor Perſon or Perſons ſo occupying the ſame, to remove them therefrom in a proper and convenient Time after ſuch Notice ſhall be given, to the Intent that the Poſſeſſion thereof may be regained by the Overſeers of the Poor of the ſaid Townſhip of *Buglawton* for the Time being, and other poor Perſons placed therein, as ſhall from Time to Time and at all Times for ever thereafter, by a Majority of the Inhabitants at a Meeting or Meetings to be called in the Manner before-mentioned, be ordered and directed; to the End and Intent that the Poor's Levies for the ſaid Townſhip of *Buglawton*, for the Relief and Support of the poor Inhabitants thereof, may be thereby reduced as much as poſſible.

Allotment to the Lord of the Manor.

XXII. And be it further enacted, That the ſaid Commiſſioners, after they ſhall have ſet out the public Roads and Highways, and the ſaid Allotments for getting Stone and for other public Uſes, as directed by the ſaid recited Act or this Act, and the ſaid Allotment to the ſaid Truſtees of the ſaid Cottages, and the Twenty Perches of Land encloſed with each Cottage as aforeſaid, do and ſhall ſet out and allot unto and for the Lord of the ſaid Manor of *Buglawton* for the Time being, ſo much and ſuch Part or Parts of the then Reſidue of the ſaid Commons and Waſte Grounds as ſhall, in the Judgement of the ſaid Commiſſioners, be equal in Value to One full Fifteenth Part or Share of ſuch Reſidue of the ſaid Commons and Waſte Grounds, in full Satisfaction for his Right and Intereſt in and to the Soil, as Lord of the ſaid Manor of the ſaid Commons and Waſte Grounds which ſhall be incloſed by virtue of this Act, and the Stone, Slate, Gravel, Clay, and Sand within and under the ſame; and that Three-fourth Parts or Shares of ſuch Fifteenth Part or Share of the ſaid Commons and Waſte Lands which is to be allotted to the Lord of the ſaid Manor of *Buglawton* for the Time being,

being, ſhall begin at the *Cloud* End, on the Level ranging with the Foot of the Rock on the Weſterly Side of the Hill, and extending acroſs the *Cloud*, from the Foot of the Rock on the Weſterly Side, to the Townſhip of *Ruſhton Spencer* in the County of *Stafford*, on the Eaſterly Side, in a direct Line; and that he ſhall alſo have Allotments of Forty Yards wide, where he ſhall appoint, at Three different Places, in a direct Line from the Highway running at the Bottom of the Hill, to the Parts or Places where his Allotment or Allotments, in reſpect of the firſt-mentioned Three-fourths or Shares, extend to, in the loweſt Parts near the ſaid Highway; and alſo a Right of Road of Six Yards Width to his ſaid Allotment or Allotments, from the ſaid Highway, up *Catſtone* Hill, in common with any other Proprietor by whoſe Allotment the ſame ſhall lead, ſuch Road not being intended to form Part of the Lord's Proportion or Share, in the Line to be appointed by the ſaid Commiſſioners; and alſo to have the Choice of having any Stone Quarries he may chooſe, to form Part of his Allotment or Allotments; and that the ſaid Commiſſioners do and ſhall ſet out and allot unto and for the Lord of the Manor of *Buglawton* for the Time being, the remaining One-fourth Part or Share of ſuch Fifteenth Part or Share of the ſaid Commons and Waſte Lands to which the ſaid *Wilbraham Egerton* is hereby declared to be entitled as Lord of the ſaid Manor of *Buglawton*, on ſuch other Part or Parts of the ſaid Commons and Waſte Lands as they the ſaid Commiſſioners in their Judgement ſhall think proper to order and direct.

Allotment of the Reſidue.

XXIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required and authorized, in the next Place, to divide, ſet out, and allot all the Reſidue of the ſaid Commons and Waſte Grounds hereby intended to be divided and incloſed, unto, between, and amongſt the ſaid *Wilbraham Egerton* (as a Proprietor) and the ſeveral other Proprietors and Perſons, who at the Time of making ſuch Diviſion and Allotment ſhall be entitled to the Right of Common thereon, or otherwiſe intereſted therein, in Proportion to their ſeveral and reſpective Shares, Eſtates, Rights, Properties, and Intereſts.

Allotments to be fenced at the Expence of the Proprietors.

XXIV. And be it further enacted, That the ſeveral Allotments to be made by virtue of this Act, ſhall be well and ſufficiently encloſed, walled, hedged, ditched, and fenced, at the Expence of the reſpective Proprietors to whom ſuch Fence ſhall be directed to belong, within ſuch Time and in ſuch Manner as the ſaid Commiſſioners ſhall by their ſaid Award, or any other Writing under their Hands, direct or appoint.

Commiſſioners to deliver Poſſeſſion of Allotments.

XXV. And be it further enacted, That the ſaid Commiſſioners ſhall and may from Time to Time, as they ſhall think proper, deliver to the ſeveral Perſons intereſted in the ſeveral Diviſions and Allotments to be ſet out under this Act, Poſſeſſion of their reſpective Allotments hereby directed to be made and ſet out, notwithſtanding the Award of the ſaid Commiſſioners ſhall not then be made and executed: Provided always, that it ſhall be lawful for the ſaid Commiſſioners, at any Time before the executing their ſaid Award, to make ſuch Alteration in all or any of the Allotments and Fences which they may have ſet out, and Poſſeſſion ordered or delivered, and alſo in every private Road or Roads made over

any ſuch Allotment or Allotments, as they ſhall think right and expedient; and in caſe any Perſon or Perſons ſhall be injured by any ſuch Alterations, on account of any Expences he, ſhe, or they may have incurred, then and in every ſuch Caſe the ſaid Commiſſioners ſhall aſcertain and determine what Recompence ſhall be made to him, her, or them; and ſhall direct by whom and in what Manner ſuch Recompence ſhall be made, and ſuch Recompence is hereby directed to be made accordingly.

In caſe any Perſon ſhall ſell his Common Right, the Allotment to be made to the Purchaſer.

XXVI. And be it further enacted, That if any Perſon or Perſons hath or have ſold, or ſhall at any Time before the Execution of the Award of the ſaid Commiſſioners, ſell his, her, or their Right, Intereſt, or Property in, over, or upon the ſaid Commons and Waſte Grounds, or any Part thereof, to any other Perſon or Perſons, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required to make an Allotment of Land to the Purchaſer or Purchaſers in ſuch Sale, or to his, her, or their Heirs and Aſſigns, for or in reſpect of ſuch Right, Intereſt, or Property ſo ſold; and every ſuch Purchaſer or Purchaſers, his, her, or their Heirs or Aſſigns, ſhall and may, from and after the Execution of the ſaid Award, hold and enjoy the Land ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner, to all Intents and Purpoſes, as the Vendor or Vendors in every ſuch Sale might, could, or ought to have held and enjoyed the ſame, in caſe ſuch Sale had not been made.

Exchanges may be made.

XXVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to ſet out, allot, and award any Lands, Tenements, or Hereditaments within the ſaid Manor and Townſhip of *Buglawton*, in Lieu of and in Exchange for any other Lands, Tenements, and Hereditaments within the ſaid Manor, and Townſhip, and Pariſh, or within any adjoining Pariſh, Hamlet, Townſhip, or Place; provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the Award of the ſaid Commiſſioners, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, 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 Uſe or Uſes, Huſbands, 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, Femes Covert, Lunatics, or under any other legal Diſability, or who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf, ſuch Conſent to be teſtified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange and Exchanges ſo to be made ſhall be good, valid, and effectual in the Law, to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Eccleſiaſtical Benefice, without the Conſent teſtified as aforeſaid of the Patron thereof, and of the Biſhop of the Dioceſe in which ſuch

Lands, Tenements, or Hereditaments ſo to be exchanged ſhall lie and be ſituate.

Expences of Exchanges and Partitions, how to be borne.

XXVIII. Provided always, and be it further enacted, That the Coſts, Charges, and Expences attending the making of any Exchange or Exchanges, Partition or Partitions, Sale or Sales to be made by virtue of this or the ſaid recited Act, ſhall be borne, paid, and defrayed by the ſeveral Perſons making ſuch Exchanges, Partitions, or Purchaſes (ſave and except the Sales hereby directed for raiſing Money for defraying the Expences of this and the ſaid recited Act, and for carrying the ſame into Execution), in ſuch Shares and Proportions as the ſaid Commiſſioners ſhall in and by their Award order and direct.

Leaſes.

XXIX. And be it further enacted, That the ſaid Commiſſioners may and they are hereby directed and authorized (on Application made to them for that Purpoſe in Writing by any of the Parties intereſted) to declare void any Leaſe or Leaſes at Rack Rent now ſubſiſting, granted for any Term not exceeding Twenty-one Years, which may affect any of the Lands to be incloſed, exchanged, or divided, within the ſaid Manor, by virtue of this Act or the ſaid recited Act, (and the ſame ſhall accordingly ceaſe at ſuch Time or Times as the ſaid Commiſſioners ſhall by Writing under their Hands order and appoint); and the ſaid Commiſſioners are hereby empowered to adjudge and determine what Recompence and Satisfaction ſhall be made to the Leſſee or Leſſees of every ſuch Leaſe or Leaſes, and by whom and at what Time ſuch Recompence and Satisfaction ſhall be made; and in caſe ſuch Recompence and Satisfaction ſhall not be made accordingly, then it ſhall be lawful to and for ſuch Leſſee or Leſſees to ſue for and recover the ſame in any of His Majeſty's Courts of Record at *Weſtminſter*, by Action of Debt or on the Caſe: Provided always, that if there ſhall be any ſuch Leaſe of Lands as aforeſaid, Part of which ſhall lie in the ſaid Manor and Part in any adjoining Manor, Pariſh, or Townſhip, all and every ſuch Leaſe and Leaſes may be vacated; but where any Lands ſhall be taken in Exchange, which Lands ſhall be under Leaſe and wholly ſituate in any adjoining Manor, Pariſh, or Townſhip, ſuch laſt-mentioned Leaſe ſhall not be vacated.

Exonerating Quit or other Rents.

XXX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, at the Requeſt and with the Conſent in Writing of the Parties intereſted, to be ſignified by Writing under their reſpective Hands, to aſſign and ſet out unto ſuch Perſon or Perſons as are entitled to any Fee Farm Rents, Chief Rents, Quit Rents, or other dry and unimproveable Rents ariſing or payable from or out of any Lands or Hereditaments belonging to any of the Proprietors of or Perſons intereſted in the ſaid Commons and Waſte Grounds hereby intended to be incloſed, ſuch Portion or Portions of the Allotment or Allotments to be made from off the ſaid Commons and Waſte Grounds, to ſuch Perſon or Perſons reſpectively who ſhall be deſirous of being exonerated from any ſuch Rents as aforeſaid, as ſhall in the Judgement of the ſaid Commiſſioners be equivalent to the Fee Simple and Inheritance of ſuch Rents, and in Lieu of and in full Compenſation for all the Fee Farm Rents, Chief Rents, Quit Rents, or other dry and unimprovable Rents ariſing or due or payable, or which could or might ariſe or become due or payable from or out of any

any Lands or Hereditaments belonging to any of the Proprietors of or Perſons intereſted in the ſaid Commons and Waſte Grounds hereby intended to be incloſed; and that ſuch Rents to be reſpectively compenſated for as aforeſaid, and the Lands to be allotted in Lieu thereof, ſhall be ſpecified in the Award of the ſaid Commiſſioners: Provided nevertheleſs that no Allotment or Allotments ſhall be made from off the ſaid Commons and Waſte Grounds hereby intended to be divided and incloſed for or in Lieu of any Fee Farm Rents, Chief Rents, Quit Rents, or other dry and unimprovable Rents held in Right of any Church, Chapel, or other Eccleſiaſtical Benefice, without the Conſent (ſignified as aforeſaid) of the Patron thereof, and of the Biſhop of the Dioceſe in which the Lands, Tenements, or Hereditaments out of which ſuch Rents ſhall ariſe or be payable, ſhall lie and be ſituate.

Wills, Settlements, &c.

XXXI. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend, or be conſtrued to extend, to revoke, make void, alter, or annul any Will, Settlement, or other Deed, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Portion, Eſtates, Debts, Rents, or Incumbrances, out of, upon, or affecting any of the Lands and Hereditaments to be divided, allotted, and incloſed, or which ſhall be exchanged or partitioned by virtue of this Act or the ſaid recited Act, or any Part or Parts thereof reſpectively; but that the reſpective Perſons to whom any Lands or Hereditaments ſhall be ſo allotted or partitioned, or given in Exchange, ſhall be ſeiſed thereof to ſuch and the ſame Uſes, and for ſuch and the ſame Eſtates, and under and ſubject to ſuch and the ſame Settlements, Limitations, Remainders, Jointures, Rents, Charges, and Incumbrances, and under ſuch and the ſame Reſtrictions, Covenants, and Agreements as the ſeveral Meſſuages, Lands, Tenements, or Hereditaments, whereof ſuch Perſon was ſeiſed or poſſeſſed at or immediately before the Execution of the Award to be made by the ſaid Commiſſioners, or for which or in lieu of or in reſpect whereof ſuch Allotment, Exchange, or Partition ſhall be made as aforeſaid, would have been ſubject to, charged with, or affected by, in caſe this Act had not been made.

Allotments to be free from Rectorial Tithes for Seven Years.

XXXII. And be it further enacted, That all and every Allotment or Allotments which ſhall be made from off the ſaid Commons and Waſte Grounds hereby intended to be divided and incloſed, to be ſet out for and in reſpect of any Meſſuages, Lands, and Hereditaments in purſuance of this Act as aforeſaid, ſhall be and the ſame are hereby freed, exonerated, and diſcharged of and from all and all Manner of Rectorial Tithes and Dues whatſoever ariſing or accruing therefrom, or in reſpect thereof, for and during the Term of Seven Years, to commence and to be computed from the Time the Poſſeſſion of the Allotments reſpectively ſhall be delivered to the reſpective Parties entitled thereto by the ſaid Commiſſioners; and that from and after the Expiration of the ſaid Term of Seven Years, all and all Manner of Rectorial Tithes and Dues whatſoever yearly iſſuing, ariſing, and renewing or happening from or out of or in reſpect of all ſuch Part or Parts of the ſaid Commons and Waſte Grounds ſo allotted in Manner aforeſaid, ſhall, as well as the Meſſuages, Lands, or Hereditaments in reſpect of which the ſame ſhall be ſo ſet out, be taken and enjoyed by the Rector of the Pariſh of *Aſtbury*, in the ſaid County of *Cheſter*, or his Tenants for the Time being, in as full,

ample, and beneficial a Manner as the ſame would have been received, taken, or enjoyed, in caſe this Act had not been made.

No Sheep to be kept in Allotments for the Space of Seven Years, without guarding the Quick Fences.

XXXIII. And be it further enacted, That no Sheep or Lambs ſhall be depaſtured or kept in any of the Allotments to be made by virtue of this Act, where Quick Fences ſhall be planted, during the Space of Seven Years next after the Execution of the ſaid Award, unleſs the Perſon or Perſons ſo keeping the ſame ſhall firſt, at his, her, or their own Expence, make and maintain a Fence ſufficient to guard the young Quick Fences round ſuch Allotments from being cropped, hurt, or damaged by ſuch Sheep or Lambs, whether ſuch Quick Fences be planted or ſet by or belong to the Owner or Occupier, or Owners or Occupiers of ſuch Allotment or Allotments as aforeſaid, or the Owner or Occupier, Owners or Occupiers of the Allotment or Allotments adjoining thereto, unleſs the Perſons reſpectively ſo depaſturing, or keeping or turning ſuch Sheep or Lambs into any of the ſaid Allotments, ſhall firſt well and ſufficiently guard all ſuch Quick Fences as aforeſaid from being cropped, hurt, or damaged; and in caſe of Complaint of any ſuch Offence, no Perſon ſhall be deemed incompetent to give Evidence of any ſuch Matter or Damage, by reaſon of his being an Owner or Occupier of any ſuch Allotment, or otherwiſe intereſted in the Cauſe of Complaint.

Expences of Act, &c. to be raiſed by Rate, &c.

XXXIV. And be it further enacted, That the Coſts, Charges, and Expences incident to and attending the obtaining this Act, and the preparing a Draft of a certain intended Deed of Incloſure reſpecting the ſaid Commons and Waſte Grounds, and of ſurveying, meaſuring, planning, and valuing the old incloſed Lands and Grounds within the ſaid Manor, and alſo of admeaſuring, planning, ſurveying, and valuing, dividing, and allotting the Commons and Waſte Grounds to be divided and allotted by virtue of this Act or the ſaid recited Act, and of preparing and enrolling the Award of the ſaid Commiſſioners, and all the Charges and Expences of the ſaid Commiſſioners, their Aſſiſtants, Surveyors, and Servants, and all other neceſſary Expences of the ſeveral Perſons to be employed by the ſaid Commiſſioners in and about the Premiſes, either before or after the Execution of their Award, and all Expences of forming, completing, and repairing the public Carriage Roads and Highways to be ſet out and appointed by the ſaid Commiſſioners, and all other Expences of carrying this Act into Execution (ſave and except the Expences of Exchanges, Partitions, or Compenſations by Allotment in lieu of Rents, and the aſcertaining and meaſuring the Encroachments in and to which Rights have been gained, which are by this Act mentioned and directed to be otherwiſe borne and paid), ſhall be borne and defrayed by the ſeveral Perſons being Proprietors of Lands or Grounds, to whom any Allotment or Allotments ſhall be made by virtue of this Act, which ſaid Coſts, Charges, and Expences, together with the Proportions thereof to be paid by the ſeveral Perſons hereby made liable to the Payment thereof, ſhall be adjuſted and ſettled by the ſaid Commiſſioners; and the ſaid Commiſſioners are hereby authorized and empowered from Time to Time to make and form Eſtimates of all ſuch Coſts, Charges, and Expences, and to raiſe the Amount of ſuch Eſtimates by a Rate or Rates, from Time to Time as they ſhall deem neceſſary and proper, in Manner directed in and by the ſaid recited Act.

XXXV. Provided

Proprietors and Agents to pay their own Expences.

XXXV. 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 Commiſſioners at any Meeting to be holden in purſuance of this Act.

Commiſſioners may ſell part Allotments of Tenants for Life, &c. for Expences.

XXXVI. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, in caſe they ſhall be requeſted by Writing under the Hand or Hands of any Perſon or Perſons being Tenant for Life or in Tail, or other Perſon being in Poſſeſſion of but not having the abſolute Eſtate or Intereſt in any Meſſuages, Lands, Tenements, or Hereditaments within the ſaid Manor, to ſell and diſpoſe of ſo much of the reſpective Allotment or Allotments to be made to ſuch Perſon or Perſons in reſpect of ſuch Meſſuages, Lands, Tenements, or Hereditaments, as ſhall in the Judgment of the ſaid Commiſſioners be equal in Value to the reſpective Proportions of the Expences of obtaining and carrying into Execution this Act and the ſaid recited Act, which ſuch Perſon or Perſons may be charged with, and the Expences of fencing, ditching, and incloſing the Allotment or Allotments of ſuch Perſon or Perſons; and the ſaid Commiſſioners ſhall aſſign, allot, and award the ſaid Lands to be ſold to ſuch Perſon or Perſons as they ſhall think propet, upon Payment of the Value thereof by ſuch Perſon or Perſons to the ſaid Commiſſioners; and ſuch Money ſhall be applied by the ſaid Commiſſioners in or towards the Payment of ſuch Expences, and in fencing, ditching, and incloſing the ſaid Allotment or Allotments reſpectively.

Application of Surplus Money.

XXXVII. And be it further enacted, That in caſe any Surplus ſhall remain after Payment of ſuch Expences as aforeſaid, ſuch Surplus ſhall be paid to the Perſon or Perſons entitled thereto, if ſeiſed in Fee of ſuch Lands; or otherwiſe ſuch Surplus ſhall be paid into the Bank of *England* in the Manner directed by the ſaid recited Act with reſpect to Money to be paid for the Purchaſe or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes.

Not to deduct and borrow alſo, unleſs Land deducted is leſs than 5l.

XXXVIII. Provided always, and be it further enacted, That it ſhall not be lawful to raiſe by ſuch Sale or Sales as aforeſaid, any further or greater Sum of Money than the Perſon or Perſons (Part of whoſe Allotment ſhall be ſo ſold as aforeſaid) would have been empowered or authorized to borrow or charge upon his, her, or their Eſtate or Eſtates, under or by virtue of the ſaid recited Act; nor ſhall it be lawful for the Perſon or Perſons from whoſe Allotment Land ſhall be deducted as aforeſaid, to charge his, her, or their Lands, Tenements, or Hereditaments, by virtue of the ſaid recited Act or this Act, with any Money towards Payment of ſuch Expences, unleſs the Money to ariſe by ſuch Sale ſhall be leſs than the Sum of Five Pounds *per* Acre; and then and in ſuch Caſe it ſhall be lawful for ſuch Perſon or Perſons to charge his, her, or their Eſtate or Eſtates, or to raiſe by Mortgage thereof, or other Ways and Means as mentioned in the ſaid recited Act or this Act, the Remainder of ſuch Money for Payment of the Expences of obtaining and executing this Act.

For allowing Intereſt on Money advanced.

XXXIX. And be it further enacted, That in caſe any Perſon or Perſons ſhall advance any Sum or Sums of Money for the Purpoſe of defraying the

the Expences of obtaining and paſſing this Act, or carrying the ſame into Execution, every ſuch Perſon ſhall be repaid the ſame, together with lawful Intereſt from the Time of advancing thereof, out of the Monies that ſhall be raiſed for defraying ſuch Expences; which Sum or Sums of Money ſo to be advanced as aforeſaid, and the Intereſt thereof, ſhall be a Charge upon the ſaid Commons and Waſte Grounds hereby intended to be divided and incloſed, until the ſame ſhall be raiſed and repaid.

Allowances to Commiſſioners.

XL. And be it further enacted, That the ſaid Commiſſioners and Umpire ſhall be allowed the Sum of Two Pounds Twelve Shillings and Sixpence for their Trouble and Expences for each Day they ſhall neceſſarily attend in the Execution of the Powers of this Act or the ſaid recited Act, and that out of ſuch Allowance they ſhall pay and defray their own Charges and Expences.

Commiſſioners to lay their Accounts annually before Juſtices.

XLI. And be it further enacted, That once at leaſt in each and every Year during the Execution of this Act (ſuch Year to be computed from the Day of the paſſing of this Act) the ſaid Commiſſioners ſhall and they are hereby required to make a true and juſt Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act; and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before any One or more of His Majeſty's Juſtices of the Peace acting in and for the ſaid County of *Cheſter*, and not intereſted in the Premiſes, to be by them examined and balanced, and ſuch Balance ſhall be by ſuch Juſtices ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioners; and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtices.

Award.

XLII. And be it further enacted, That the Award to be made by the ſaid Commiſſioners, when enrolled in Manner directed by the ſaid recited Act ſhall, together with a Map or Plan annexed, be depoſited and kept within the Pariſh Church of *Aſthury* aforeſaid, to the End that Recourſe may be had thereto by any Perſon or Perſons intereſted in the ſaid Incloſure.

Appeal to the Quarter Seſſions.

XLIII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done or omitted to be done in purſuance of this Act or the ſaid recited Act, (other than and except ſuch Orders and Determinations of the ſaid Commiſſioners as are by the ſaid recited Act or this Act declared to be final or concluſive, and except in ſuch Caſes wherein an Iſſue at Law ſhall be tried as hereinbefore mentioned) then and in every ſuch Caſe he, ſhe, or they may appeal to any General Quarter Seſſion of the Peace which ſhall be holden for the ſaid County of *Cheſter*, within Three Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving Twenty-one Days Notice in Writing of ſuch Appeal and of the Matter thereof to the ſaid Commiſſioners, and to the Party or Parties concerned; and the Juſtices at ſuch General Quarter Seſſions are hereby empowered and required to hear and determine the Matter of ſuch Appeal, and to make ſuch Orders therein, and award ſuch Coſts as to them in their Diſcretion ſhall ſeem reaſonable,

and

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 Surplus (if any) to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale; and the Determination of ſuch Juſtices therein ſhall be final and concluſive upon 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*; but in caſe ſuch Appeal ſhall appear to ſuch Juſtices to be frivolous, vexatious, or without Foundation, then and in ſuch Caſe the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants as to them in their Diſcretion ſhall ſeem reaſonable, and ſuch Coſts ſhall be levied in Manner laſt-mentioned.

Saving to the Lord of the Manor.

XLIV. Provided always, and be it further enacted, That nothing in this Act contained ſhall prejudice, leſſen, or defeat the Right, Title, or Intereſt of the ſaid *Wilbraham Egerton*, as Lord of the ſaid Manor of *Buglawton*, or any future Lord or Lords thereof, in or to any of the Royalties or Seigniories incident or belonging to the ſaid Manor, but that he the ſaid *Wilbraham Egerton*, as Lord of the ſaid Manor, and all other ſucceeding Lords of the ſaid Manor for the Time being, ſhall and may at all Times for ever hereafter hold and enjoy all Chief or Quit Rents, Services, Courts, Perquiſites and Profits of Courts, Goods and Chattels of Felons and Fugitives, Felons of themſelves and put in exigent, Deodands, Waifs, Eſtrays and Forfeitures; and that nothing in this Act contained ſhall be conſtrued to prejudice, leſſen, or defeat the Right, Title, or Intereſt of the ſaid *Wilbraham Egerton*, as Lord of the ſaid Manor of *Buglawton*, to the Mines, Beds, Veins, and Seams of Coals, Cannel, Slack, Ironſtone, Limeſtone, or other Mines or Minerals in or under the ſaid Commons and Waſte Grounds hereby intended to be incloſed (ſave and except all other Stones, Slate, Gravel, Clay and Sand) the ſame being hereby reſerved to him the ſaid *Wilbraham Egerton*, as Lord of the ſaid Manor, with full and free Liberty, Power, and Authority for him and them, from Time to Time and at all Times hereafter, to have hold, win, work, and enjoy all Mines, Beds, Veins and Seams of Coal, Cannel, Slack, Ironſtone, Limeſtone, and other Mines and Minerals, of what Nature or Kind ſoever (ſave and except as aforeſaid) within and under the ſaid Commons and Waſte Grounds hereby intended to be incloſed, together with all convenient and neceſſary Roads, Ways, and Paſſages, and Liberty of laying, making, and repairing Waggon Ways and other Ways in, over, and upon the ſame, or any Part thereof, and of ſearching for, winning, and working the ſaid Mines and Minerals, and leading and carrying away the Coal, Cannel, Slack, Ironſtone, Limeſtone, or other Produce thereof, except as aforeſaid, and ſinking, digging, and making Pits, Shafts, Pit Rooms, Heap Rooms, Stand Yards, Air Pits, Drifts, Levels, Ways and Watercourſes (except ſuch as ſupply *Colley* Mill), and of erecting and uſing Fire Engines and other Engines, and of altering, changing, pulling down, and carrying away the ſame, or any of the Materials thereof, and to have and uſe any Stone got in the ſinking Pits or Shafts, or working or getting the ſaid Minerals ſo reſerved as aforeſaid, for the Uſes and Purpoſes of the ſaid Works, but not for Sale, at his or their own free Will and Pleaſure; and to employ, uſe, do, and exerciſe all ſuch other Machines, Acts, and Things either now in uſe, or

hereafter to be invented, as may be neceſſary and proper for the full and complete Enjoyment thereof, in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as he or they could or might have done, in caſe this Act had not been made; he and they making and allowing to the ſeveral Owners or Occupiers of ſuch Allotments reſpectively reaſonable and adequate Recompence and Satisfaction for all ſuch Damages as ſhall from Time to Time be done thereto, or to any Erections or Buildings that may, at the Time of working or getting the ſaid Mines and Minerals or exerciſing the Privileges aforeſaid, be erected or built thereon, by or in the Uſe or Exerciſe of any ſuch Right, Title, Intereſt, Liberty, Power, or Authority, in Proportion to the Loſs thereby ſuſtained by them reſpectively.

Power to view Mines once a Day.

XLV. Provided always, and be it further enacted, That it ſhall be lawful for the ſeveral Owners or Occupiers of ſuch Allotments reſpectively, or their Servants or Workmen, at any Time or Times during the working of the ſaid Mines or any of them, by the Ropes, Hooks, or other Engines uſed in any Pit or Pits that may be ſunk in any of the ſaid Lands to be divided, allotted, and incloſed, to ride and go down any ſuch Pit or Pits, Shaft or Shafts, once in any one Day into the ſaid Mines, to view and ſee the Works within and under the ſame, and by the ſaid Ways or Means to aſcend or be drawn up the ſaid Pit or Pits, by the Workmen or Servants of the Perſon or Perſons working or getting the ſaid Coals, Cannel, Slack, Ironſtone, Limeſtone, or other Mines or Minerals (if required) or by any other Perſon or Perſons brought by any ſuch Owners or Occupiers.

General Saving.

XLVI. Saving always to the King's moſt Excellent Majeſty, his Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politic and Corporate, his, her, and their Heirs, Succeſſors, Executors, and Adminiſtrators, all ſuch Eſtate, Right, Title, and Intereſt, (other than and except ſuch as are meant and intended to be compenſated for, barred, or deſtroyed by this Act) of, in, to, or in reſpect of the Commons and Waſte Grounds and Hereditaments to be divided, allotted, or incloſed by virtue of this Act or the ſaid recited Act, as he, ſhe, they, or any of them might or could have had or enjoyed, in caſe this Act had not been made.

Act may be given in Evidence.

XLVII. 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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