ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 130.

An Act for incloſing Lands in the Pariſh of *Caerwys*, in the County of *Flint*. [27th *May* 1809.]

WHEREAS there are, within the Pariſh of *Caerwys*, in the County of *Flint*, certain Commons, Heaths, and Waſte Lands, containing in the Whole, by Computation, One Thouſand Two Hundred Acres or thereabouts: And whereas the King's moſt Excellent Majeſty, in Right of his Crown, is Owner of the Soil of the ſaid Commons, Heaths, and Waſte Lands (except as herein-after mentioned): And whereas the Right Honourable *Other Archer* Earl of *Plymouth*, is Lord of the Vill of *Caerwys*, within the ſaid Pariſh of *Caerwys*, and Owner of the Soils, Mines, and Minerals in, over and under ſo much of the ſaid Commons, Heaths, and Waſte Land, as lie ſituate within the ſaid Vill of *Caerwys*: And whereas the Reverend *John Lloyd* is Rector of the Pariſh of *Caerwys* aforeſaid, and as ſuch is entitled to certain Glebe Lands within the ſame Pariſh, and in reſpect thereof to a Right of Common upon the Commons, Heaths, and Waſte Lands hereby intended to be incloſed, and is alſo entitled to the Tithes, great and ſmall, ariſing, growing, and renewing within the ſaid Pariſh of *Caerwys*: And whereas the ſaid *Other Archer* Earl of *Plymouth*, Sir *Thomas Moſtyn* Baronet, and *Samuel Moſtyn* Eſquire, and divers other Perſons are Proprietors of Meſſuages, Lands, and Tenements within the ſaid Pariſh of *Caerwys*, and are entitled in reſpect thereof, to a Right of Common in, over, and upon all and every the Commons, Heaths, and Waſte Lands hereby intended to be incloſed, in Proportion to their ſeveral and reſpective Eſtates, Rights, and Intereſts within the ſame Pariſh: And whereas the ſaid Commons, Heaths, and Waſte Lands are in their preſent State of little Value, but if the ſame were

Utility of Incloſure.

were divided and incloſed, and ſpecific Parts thereof allotted to the ſeveral Perſons entitled thereto, or intereſted therein, a manifeſt Advantage would reſult, not only to ſuch Perſons, but ſuch Incloſure would otherwiſe be of great public Utility; yet as the ſame cannot be effected and carried into Execution without the Authority of Parliament, May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That *John Calveley*, of *Stapleford*, in the County Palatine of *Cheſter* Gentleman, ſhall be and he is hereby appointed Commiſſioner for ſetting out, dividing, and allotting the ſaid Commons, Heaths, and Waſte Lands within the ſaid Pariſh of *Caerwys*, and for putting this Act into Execution, in ſuch Manner, with ſuch Powers and ſubject to ſuch Regulations and Directions as are hereinafter contained; and with ſuch of the Powers, and ſubject to ſuch of the Rules, Directions, Regulations, Reſtrictions, and Proviſions contained in an Act made 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*, as are not repugnant to, or altered, or otherwiſe provided for, by any of the Clauſes, Regulations, and Proviſions in this Act.

Appointment of Commiſſioner.

II. And be it further enacted, That at a General Meeting of the Proprietors of Lands within the ſaid Pariſh of *Caerwys*, to be held at *Caerwys* aforeſaid, within the Space of Two Calendar Months after the paſſing of this Act, it ſhall and may be lawful to and for the major Part in Value (ſuch Value to be aſcertained by the Land-Tax Aſſeſſments of the ſame Pariſh) of the ſaid Proprietors, or their known or reputed Agents or Attornies, who ſhall be preſent at ſuch Meeting, by Writing under their reſpective Hands, to appoint One or more Surveyor or Surveyors not intereſted in the ſaid Incloſure, to act in the Execution of this and the ſaid recited Act.

Appointment of Surveyor.

III. And be it further enacted, That if the ſaid *John Calverley*, and the Surveyor or Surveyors ſo to be appointed as aforeſaid, or either of them, or any of their reſpective Succeſſors to be appointed as herein-after mentioned, ſhall die or become incapable, by Sickneſs or otherwiſe, of acting, or ſhall refuſe to act as Commiſſioner, or Surveyor or Surveyors as aforeſaid, for the Space of One Calendar Month before all the Powers veſted in them by this and the ſaid recited Act are completely executed, then and from Time to Time, as often as Occaſion may require, it ſhall and may be lawful for the major Part in Value (ſuch Value to be aſcertained by the Land-Tax Aſſeſſments as aforeſaid) of the Proprietors for the Time being, of Lands within the ſaid Pariſh of *Caerwys*, or their known or reputed Agents or Attornies, who ſhall be preſent at a Public Meeting to be held for that Purpoſe, in purſuance of Notice in Writing, ſigned by Two or more Proprietors, to be affixed upon the principal outer Door of the Pariſh Church of *Caerwys* aforeſaid, and inſerted in the *Cheſter* and *Bangor* Newſpapers, or ſome or one of them, at leaſt Fourteen Days before ſuch Meeting, by Writing under their reſpective Hands, to appoint a new Commiſſioner, and Surveyor or Surveyors, not intereſted in the ſaid Incloſure, in the room of the ſaid *John Calveley*; and ſuch

For appointing a new Commiſſioner and Surveyor in caſe of Death, &c.

Surveyor

Surveyor or Surveyors so to be appointed as aforesaid, or such of them or their respective Successors as shall die, become incapable, refuse or neglect to act as aforesaid; and every Commissioner, and Surveyor or Surveyors so to be appointed, shall have the like Power and Authority, and shall be subject to the same Power of Removal and Restrictions as the Person or Persons in whose Place he or they shall be appointed was or were vested with and subject to by virtue of this Act.

Commissioner to give Notice of Sittings.

IV. And be it further enacted, That the said Commissioner shall, and he is hereby required to cause Notice to be given to the Surveyor General of His Majesty's Land Revenue for the Time being, and a like Notice to be affixed upon some *Sunday* during or immediately after Divine Service, on the principal outer Door of the Parish Church of *Caerwys* aforesaid, and also by Advertisement to be inserted in the *Chester* and *Bangor* Newspapers, or some or one of them, or if the same shall not be then published, then in some other Newspaper usually circulated in the said County of *Flint*, of the Time and Place of holding his first and every other Sitting for the Execution of this and the said recited Act, at least Fourteen Days before any such Sitting shall be held (Sittings by Adjournment only excepted), and every such Notice shall express the Purpose for which such Sitting is to be held; and that the said Commissioner may, and he is hereby authorised to adjourn any such Sitting from Time to Time as he shall see Occasion; and every Adjournment shall be made known to Four Proprietors at least before the Business of such Adjournment shall be proceeded in; and in case the said Commissioner shall not meet at the Time and Place appointed for any such Sitting, or to which any such Sitting shall be adjourned, it shall and may be lawful for the Clerk to the said Commissioner to adjourn such Sitting to any future Day, not exceeding Twenty-eight Days from the Day of Adjournment, to be holden at the same Place, and so from Time to Time until the said Commissioners shall meet; and such Clerk is hereby required to give Notice of such Adjournment to the said Commissioner; and every Sitting or Meeting of the said Commissioner for putting this and the said recited Act into Execution, whether by Adjournment or otherwise, shall be holden at *Caerwys* and not elsewhere, and shall continue open from Eleven of the Clock in the Forenoon until Six of the Clock in the Afternoon of each Day such Sittings or Meetings shall be respectively held.

Other Notices how to be given.

V. Provided always, and be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioner, in pursuance of this or the said recited Act, shall be made and given by Advertisement to be inserted in the *Chester* and *Bangor* Newspapers, or some or one of them; or if the same shall not be then published, then in some other Newspaper usually circulated in the said County of *Flint*; and the said Surveyor General shall have at least Fourteen clear Days Notice of all Meetings and Adjournments when any Proceeding is to be carried on wherein His Majesty, His Heirs and Successors, shall be interested.

Power for the Commissioner to survey the inclosed Lands at the Expence of the Proprietors.

VI. Provided always, and be it further enacted, That if the said Commissioner upon the Production of any Map or Survey of any of the ancient inclosed Lands, within the said Parish, shall be dissatisfied therewith, it shall and may be lawful for the said Commissioner, or such Person or Persons

Perſons as he may think proper to appoint, at the Expence of any Proprietor or Proprietors, ſo producing any ſuch Map or Survey, to examine, ſurvey, admeaſure and plan, ſuch Part or Parts of any ſuch ancient incloſed Lands, for the better Satisfaction of the ſaid Commiſſioner; and alſo, that if the ſaid Proprietors, or any of them, ſhall neglect or omit to deliver to the ſaid Commiſſioner when called upon for that Purpoſe, a Map, Survey, and Admeaſurement of the ancient incloſed Lands, in reſpect of which they reſpectively claim or are entitled to a Right of Common upon the Commons and Waſte Lands hereby intended to be incloſed, it ſhall and may be lawful for the ſaid Commiſſioner, or the Perſon or Perſons to be appointed by him at any Time or Times whatſoever, to make a proper Survey, Admeaſurement, and Plan of all and every of any ſuch ancient incloſed Lands; and that the Coſts and Charges attending the ſame ſhall be paid, borne, and diſcharged by ſuch Proprietor or Proprietors reſpectively, in ſuch Manner as the ſaid Commiſſioner ſhall direct or appoint.

Commiſſioner to inquire into Encroachments made above Sixty Years, which are to have Allotments.

VII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authorized and required, by Examination of Witneſſes on Oath, to be adminiſted by ſuch Commiſſioner, and by ſuch other legal Ways and Means as he ſhall think proper, to inquire into and determine what Incloſures have been taken from and made upon the ſaid Commons, Heaths, and Waſte Lands hereby intended to be incloſed, for upwards of Sixty Years laſt paſt; and all Incloſures which ſhall be proved to the Satisfaction of the ſaid Commiſſioner to have been taken in and incloſed before or for the Period of Sixty Years, ſhall be deemed old Incloſures, and the Proprietors thereof be entitled to have Allotments from off the ſaid Commons and Waſte Grounds (in like Manner as the ancient Incloſures), although they were formerly Part of ſuch Commons and Waſte Grounds.

Commiſſioner to ſettle Diſputes, &c.

VIII. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted or claiming to be intereſted in the ſaid Diviſion and Incloſure intended to be made in purſuance of this Act, or touching or concerning the Share, Right, or Intereſt, or reſpective Shares, Rights, and Intereſts which any of them ſhall claim in or upon the ſaid Commons and Waſte Lands, or any of them, or touching or concerning any Share or Shares, Proportion or Proportions, which they, or any of them, ought to have, or ſhall claim to have, in lieu of their Rights of Common, or other Rights or Intereſts upon or ariſing from the ſaid Commons and Waſte Lands ſo to be divided and incloſed, or any of them, on the ſaid intended Diviſion and Incloſure, or touching or concerning improper Claims made by any Perſon or Perſons not entitled to any Allotment or Allotments, it ſhall and may be lawful for the ſaid Commiſſioner, and he is hereby authorized and required, upon Examination of any Witneſs or Witneſſes, or upon any other ſufficient Evidence, to examine into, hear, and determine the ſame: Provided always, that nothing in this Act contained ſhall authorize the ſaid Commiſſioner to hear and determine any Difference or Diſpute which may ariſe touching or concerning the Title of any Perſon or Perſons to any Meſſuages, Cottages, Lands, Tenements, or Hereditaments whatſoever.

but not to determine Titles.

IX. And

Power to award Costs.

IX. And be it further enacted, That in case the said Commissioner shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of the said recited Act, or of this Act, see cause to award any Costs, it shall and may be lawful to and for the said Commissioner, and he is hereby empowered, upon 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 whose Claim or Claims, Objection or Objections shall be thereby disallowed or over-ruled: And in case the Person or Persons who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall and may be lawful to and for the said Commissioner, and he is hereby authorized and required, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Parties may try their Rights by an Issue at Law.

X. Provided always nevertheless, and be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, making any Claim or Claims to the Soil of the said Commons, Heaths, and Waste Lands herein-before mentioned, or of any Rights of Common, or other Rights or Interests, in, over, or upon the same or any Part thereof, or objecting to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioner, and shall be desirous of having such Claim or Claims, Rights or Interests respectively, tried at Law, and shall by himself, or herself, or themselves respectively, or his, her, or their Agent or Agents, Attorney or Attornies respectively, give Notice in Writing to the said Commissioner, within Fourteen Days next after such Determination shall have been so made by the said Commissioner (of which Notice the said Commissioner is hereby required to give immediate Information, by Writing under his Hand, to the adverse Party or Parties, or his, her, or their Agent or Agents, Attorney or Attornies, respectively, to be delivered to or left at the usual Place of Abode of such Party or Parties, or his, her, or their Agent or Agents, Attorney or Attornies, respectively, and to make an Entry of such Notice in the Book of Proceedings by him kept under the Authority of this Act), then, but not otherwise, it shall and may be lawful for the Person or Persons giving such Notice within such Time as aforesaid, his, her, or their Heirs or Assigns respectively, to proceed to a Trial at Law of the Matter or Matters in question, at the next or second Assizes to be holden for the County of *Salop*, or for the County of *Chester*, after the Expiration of Three Calendar Months from the Time of such Notice being given as aforesaid, in a feigned Action or Actions, Issue or Issues, to be commenced for such Purpose in one of His Majesty's Courts of Record at *Westminster*, by the Person or Persons giving such Notice as aforesaid, his, her, or their Heirs or Assigns respectively, against the adverse Party or Parties making such Claim or Claims, Objection or Objections as aforesaid, and the Defendant or Defendants, in such Action or Actions, shall forthwith name an Attorney or Attornies, who shall appear or file

Common Bail, and accept one or more Iſſue or Iſſues, whereby ſuch Claim or Claims, Right or Rights, Intereſt or Intereſts, may be properly tried and determined (ſuch Iſſue or Iſſues to be ſettled by the proper Officer or Officers of the Court wherein ſuch Action or Actions ſhall be commenced, if the Parties differ about the ſame), and the Verdict or Verdicts which ſhall be given in the ſaid Action or Actions, ſhall be final and concluſive upon all and every Perſon and Perſons whomſoever, Body or Bodies Politick, Corporate, or Collegiate; and the Coſts of ſuch Action or Actions ſhall follow ſuch Verdict or Verdicts, and be taxed and recovered in ſuch Manner as Coſts in other Actions in the ſame Court; and after any Verdict or Verdicts ſhall have been ſo obtained (if not ſet aſide by the Court in which ſuch Action was commenced, which it ſhall be lawful for ſuch Court to do in caſe ſuch Court ſhall ſo think proper,) the ſaid Commiſſioner ſhall, and he is hereby authorized and 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 alſo, that all ſuch Determinations of the ſaid Commiſſioner as ſhall not be objected to, or being objected to, if the diſſatisfied Party or Parties reſpectively ſhall not give ſuch Notice within ſuch Time as aforeſaid, or giving ſuch Notice, ſhall not cauſe ſuch Action or Actions to be brought and proceeded in, conformably to the Directions of this Act, ſhall be binding, final, and concluſive upon all Parties whatſoever.

Parties dying not to hinder the Commiſſioner proceeding, nor to abate any Action.

XI. And be it further enacted, That if any Perſon or Perſons, by or for whom any Claim or Claims of Right of Common ſhall be made, ſhall happen to die before the ſaid intended Diviſion and Incloſure ſhall be made and perfected, and before the ſaid Commiſſioner ſhall have made his Award touching the ſame, then and in ſuch Caſe, the Powers and Authorities hereby given to the ſaid Commiſſioner, ſhall not be anyways determined, ſuſpended, or affected by ſuch Death or Deaths; but that the ſaid Commiſſioner ſhall and may proceed in, and execute the ſaid Powers and Authorities, and every of them, in ſuch and the like Manner as he could or might have done if ſuch Perſon or Perſons had not died; and if any of the Parties in any Action to be brought in purſuance of this Act ſhall die pending the ſame, ſuch Action ſhall not abate by Reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened.

Proviſion in Caſe of Deaths of Parties before Actions brought.

XII. Provided always, and be it further enacted, That if any Perſon or Perſons, in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politick or Corporate, who might have brought ſuch Action or Actions, againſt the Perſon or Perſons ſo dying, to bring the ſame within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid 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

such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead; and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

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

XIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioner to determine any Right between any Parties contrary to the Possession of any of such Parties, except in Cases of Encroachments made within the Period of Twenty Years, as herein-after mentioned; but in case the said 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 or recovered from such Person or Persons by Ejectment or other due Course of Law.

Power for the Crown to appoint Assistant Commissioner.

XIV. And be it further enacted, That the Surveyor General of His Majesty's Land Revenue for the Time being may from Time to Time, by Writing under his Hand, nominate and appoint an Assistant Commissioner to carry this Act into Execution, as far as relates to His Majesty's Rights and Interests to and in the said Commons and Waste Lands, and such Assistant Commissioner, before he proceeds to the Execution hereof, shall take the same Oath as the Commissioner hereby appointed, or hereafter to be appointed, is required to take, and such Assistant Commissioner shall be paid at the Rate of Two Pounds and Two Shillings for every Day that he shall be actually employed in the Execution of the Duty hereby in him reposed, including the Days of travelling to and from his Place of Abode, in full Satisfaction for his Trouble and Expences, and shall bear and pay his own Expences during the Time he shall be so employed.

Allotment for getting Materials, &c.

XV. And be it further enacted, That the said Commissioner shall, and he is hereby authorized and required to set out, allot and award unto and for the Surveyor or Surveyors of the Highways in the said Parish of *Caerwys*, for the Time being, such Plot or Plots of the said Commons, Heaths and Waste Lands in such Parish, not exceeding in the whole Six Statute Acres, in such Places as he shall judge most expedient, with convenient Roads to and from the same, to be used and enjoyed for ever thereafter by the respective Proprietors of Lands and Hereditaments, and their respective Tenants within the said Parish of *Caerwys* for the Time being, in common for the Purpose of getting Lime Stone, Building Stone, Gravel and Sand for the Use, Benefit, or Improvement of such Lands or Hereditaments, and of the Allotment or Allotments to be set out under the Authority of this Act, and also for the Repairs of the Highways, Private Roads and Paths within the same Parish, and shall be vested in the Surveyor or Surveyors of the Highways of the said Parish, for the Time being for ever, in Trust for the Purposes aforesaid; and the getting and raising such Stone, Gravel and Sand, and the Labourers or Persons to be employed therein, and the Grass and Herbage of the said Plots respectively, shall be and are hereby declared to be subject to such Regulations and Restrictions as the said Commissioner shall by his general Award make, order, direct, or appoint, or shall, consistently with such Regulations,

tions, Orders, and Reſtrictions, be made by Order of Veſtry of the ſaid Pariſh of *Caerwys* for that Purpoſe, firſt legally convened, ſhall, from Time to Time direct and appoint; and ſuch Plots and Roads reſpectively ſhall be properly fenced off, and the Expence of ſuch Fences ſhall be raiſed and paid in the ſame Manner as the Expences of paſſing and carrying this Act into Execution: Provided always, that ſuch Stone, Gravel and Sand, or any or either of them ſhall not directly or indirectly be ſold or diſpoſed of to any Perſon or Perſons whomſoever, or conveyed out of the ſaid Pariſh of *Caerwys*, under any Pretence whatſoever, under the Penalty of Twenty Shillings for every Cart Load ſo ſold or conveyed out of the ſaid Pariſh of *Caerwys*, and ſo proportionably for any greater or leſs Quantity, to be paid by ſuch Perſon or Perſons by whom or for whoſe Uſe ſuch Stone, Gravel, or Sand ſhall be dug up, cut, or got, to the Churchwardens or Overſeers of the Poor of the ſaid Pariſh of *Caerwys* for the Time being, and to be by them accounted for and applied in aid of the Rates to be made for the Relief of the Poor within the ſaid Pariſh of *Caerwys*; and the ſaid Commiſſioner may, where Occaſion ſhall require, ſet out and appoint Springs and Pools, and other watering Places for Cattle and Beaſts within the ſaid Pariſh of *Caerwys*, upon the ſaid Commons, Heaths, and Waſte Lands aforeſaid, for the common Uſe and Benefit of all Owners and Occupiers of Meſſuages, Tenements, Lands or Hereditaments, within the ſaid Pariſh of *Caerwys*.

Not to alter Watercourſes, &c.

XVI. Provided always nevertheleſs, and be it further enacted, That it ſhall not be lawful for the ſaid Commiſſioner to alter or change the Courſe of any Watercouſe or Land Drain for the Purpoſes aforeſaid, or for any other Purpoſe or Purpoſes whatſoever, without the Conſent in Writing of the Proprietor or Proprietors of ſuch Lands and Hereditaments into whoſe Land ſuch Water ſhall be conveyed, or who ſhall or may be deprived of or prejudiced in the Uſe or Benefit to be derived from the Water or Drainage which otherwiſe might have paſſed through his, her, or their Lands, if the Direction of ſuch Watercourſe or Land Drain had not been changed or altered, but that the ſame ſhall be and remain, as the ſame hath heretofore uſually been; any Thing in this or the ſaid recited Act contained to the contrary notwithſtanding.

Allotment for a School.

XVII. And be it further enacted, That the ſaid Commiſſioner ſhall ſet out, allot, and award unto and for the Miniſter, Churchwardens, and Overſeers of the Poor of the ſaid Pariſh of *Caerwys*, and their Succeſſors reſpectively, in Truſt for the Purpoſes herein-after mentioned, ſo much and ſuch Part of the ſaid Commons, Heaths, and Waſte Lands (the Expences of fencing and incloſing the ſame to be paid out of the Money to be raiſed for the General Purpoſes of this Act), as ſhall in the Judgement of he ſaid Commiſſioner be of the annual Value of Forty Shillings; which with the increaſed annual Rents thereof, ſhall from Time to Time be received by the ſaid Miniſter, Churchwardens, and Overſeers, and their Succeſſors reſpectively, and by them paid to and for the Uſe, Benefit, and Advantage of a Schoolmaſter for the ſaid Pariſh of *Caerwys*, or otherwiſe diſpoſed and applied in ſuch Manner, and ſubject to ſuch Regulations, Orders, and Reſtrictions, as the ſaid Miniſter, Churchwardens and Overſeers, and their Succeſſors reſpectively, or the major Part of them, ſhall from Time to Time direct or appoint.

Expences of this Act how to be paid.

XVIII. And be it further enacted, That all and every the Costs, Charges and Expences, incident to and attending the obtaining and passing this Act, and of the Surveys, Admeasurements and Plans of the said Commons, Heaths and Waste Lands, hereby directed to be inclosed, and of all other Surveys, Plans, and Admeasurements which shall be made by the Order of the said Commissioner, and also of valuing, dividing, setting out, and allotting the said Commons, Heaths and Waste Lands, or any Part thereof, and of forming, making, and completing the Public Roads, Ways and Watering Places, which shall be set out and appointed by virtue of this or the said recited Act, and of preparing, and inrolling, and depositing the said Award, and making a Copy thereof, and all other the Costs, Charges and Expences of the said Commissioner, and of the several Persons employed and consulted by the said Commissioner, in carrying the several Powers of this and the said recited Act into Execution, or in any Ways concerning the same, either before or after the Execution of the said Award, shall be paid, borne, and defrayed by the several Owners and Proprietors of, and the Persons interested in the said Commons, Heaths, and Waste Lands, (other than and except His said Majesty, His Heirs and Successors, the Surveyor or Surveyors of the Highways, and the Minister, Churchwardens, and Overseers, in respect of the several Allotments to be given to them upon Trust, for the Purposes aforesaid), in such Shares, Parts, and Proportions, and shall be paid to such Person or Persons, and at such Time or Times, Place or Places, and in such Manner as the said Commissioner shall in and by his said Award, or by any other Writing or Writings under his Hand, either previous to or after the Execution of his said Award, order, direct, and appoint, according to the Value of their respective Allotments in the said Commons, Heaths, and Waste Lands; and the said Commissioner is hereby authorised and required, from Time to Time, and at any Time or Times hereafter, as often as he shall deem it necessary and proper, 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 accordingly, and shall in every such Rate express the Purpose to which the same is to be applied; and in case any such Proprietor or Proprietors, shall refuse or neglect to pay his, her, or their Share, Part, or Proportion, Shares, Parts, or Proportions, of such Costs, Charges and Expences, according to such Order, Direction, and Appointment as aforesaid, then and in such Case the same shall and may be levied and recovered in Manner directed by the said recited Act.

Commissioner may raise the Arrears of Rates after the Execution of the Award.

XIX. Provided, and be it further enacted and declared, That if at the Time of the Execution of the Award of the said Commissioner, there shall remain due from any Person or Persons, Body or Bodies Politic or Corporate, any Sum or Sums of Money which shall have been ordered, directed, or appointed to be paid by virtue of this Act, it shall and may be lawful to and for the said Commissioner, and he is hereby authorized and required to levy and raise the same in like Manner as he might and could have done before the Execution of his Award.

Allotments to His Majesty, and Lord of the Vill in Right of the Soil.

XX. And be it further enacted, That the said Commissioner shall (after the Boundaries directed to be set out by the said recited Act shall have been ascertained and fully determined, and after setting out the Roads and Ways which by the said recited Act he is authorized to set out, and the several Allotments for getting Materials for Watering Places, and

for a School Master as herein-before mentioned, and before any other Allotment whatsoever shall be set out) assign, set out, and allot unto and for the Use of the King's most Excellent Majesty, His Heirs and Successors, with the Concurrence and Approbation in Writing of the said Assistant Commissioner, and not otherwise, so much and such Part or Parts of all the said Commons, Heaths, and Waste Lands hereby directed to be inclosed, as do not lie within the said Vill of *Caerwys*, as shall be equal to One full Twentieth Part or Share in Value thereof respectively; and also shall assign, set out and allot unto and for the Use of the said *Other Archer* Earl of *Plymouth*, as Lord of the said Vill of *Caerwys*, and his Heirs, so much and such Part or Parts of the said Commons, Heaths, and Waste Lands, lying within the said Vill of *Caerwys*, which is situate in the said Parish of *Caerwys*, as shall be equal to one full Twentieth Part or Share, in Value thereof respectively, for and in Lieu, Satisfaction, and Extinction of the Rights and Interests of His said Majesty, His Heirs and Successors, and of the said *Other Archer* Earl of *Plymouth*, his Heirs and Assigns respectively, in, over, and upon the Soil of the said Commons, Heaths, and Waste Lands, so directed to be divided and inclosed as aforesaid, and for their Consent to the Division and Inclosure thereof.

Allotments of the Residue to the several Proprietors of Lands within the Parish.

XXI. And be it further enacted, That the said Commissioner shall, in the next Place assign, set out and allot in Severalty, the Residue of the said Commons, Heaths and Waste Lands hereby directed to be inclosed, unto and amongst the said *Other Archer* Earl of *Plymouth*, Sir *Thomas Mostyn*, *Samuel Mostyn*, and the several other Persons Owners and Proprietors of Lands and Hereditaments within the said Parish of *Caerwys*, (save and except such Person or Persons who may claim any Allotment or Allotments, in right or by virtue of any Inclosures or Encroachments, which have been taken from and made upon the said Commons, Heaths, and Waste Lands, at any Time within Sixty Years last past, before the passing of this Act), rateably and in due Proportion to the true and real Value of their respective Messuages, Tenements, Lands and Hereditaments, in respect whereof they are severally entitled to such Right of Common as aforesaid; such Value to be ascertained and fixed by the said Commissioner, who shall not upon any Account, or under any Pretence give any undue Preference to any of the Parties interested in the said Division, in their or any of their Allotments or Shares of the said Commons, Heaths and Waste Lands aforesaid; but the said Commissioner, in making the Division and Allotment thereof, shall have due regard to the Quality, Situation, and Convenience, as well as Quantity of the Land to be allotted, and shall and is hereby required where the same can be done, to set out and allot the Share or Shares of every Person respectively, in one or more Parcel or Parcels, and contiguous to every Person's principal Farm, Homestead, and Estate respectively.

Extract of so much of the Award as relates to the King's Allotment to be sent to the Surveyor General.

XXII. And be it further enacted, That the said Commissioner shall, and he is hereby required to make an Extract on Parchment, under his Hand and Seal, of so much of his Award as shall contain an accurate Description of the Allotment or Allotments to be made to His said Majesty, together with such Regulations or Provisions relative to such Allotment or Allotments, or to any other Rights or Interests of His Majesty, as may be contained in such Award; and also a Map or Plan of such Allotment

or Allotments, and transmit the same to the Surveyor General of His Majesty's Land Revenue for the Time being, within One Calendar Month next after the making and executing the said Award, to be by him filed and kept among the Muniments of his Office, and to be produced and admitted in Evidence on all Occasions where any Question, Doubt or Controversy may arise relating to or affecting the Rights or Interests of His Majesty, His Heirs and Successors.

First Two Crops to be exempt from Tithes.

XXIII. And be it further enacted, That for the Encouragement of Agriculture, the first Two Crops of Corn or other Produce obtained by Tillage, in all and every the said Allotments (except such Parts thereof as have already paid Tithe, or have been actually tilled before the passing of this Act) shall be exempt from the Payment of Tithe, provided such Crops be raised within Three Years next after the Execution of the said Award; and that from and after the taking of such Two Crops as aforesaid, or if the same should be taken before, and notwithstanding the Non-execution of such Award, the future Crops shall be liable to Tithe in the same Manner as other inclosed Lands in the said Parish of *Caerwys*, and such Encroachments as have already yielded Tithes, or have been actually tilled before the passing of this Act, shall continue to do so notwithstanding the above Exemption.

Allotments to Tenants for Life and in Fee Simple.

XXIV. Provided always, and be it further enacted, That in case it shall happen that the same Person or Persons is or are seized of Messuages, Lands, or Hereditaments for Life only, and of the Fee Simple and Inheritance of other Messuages, Lands, or Hereditaments within the said Parish of *Caerwys*, and any other Person or Persons having or claiming to have Rights or Interests in the Lands and Grounds hereby directed to be divided and inclosed, and shall be entitled or claim to be entitled to Right of Common in respect of both such Estates, then and in such Case the Commissioner, upon the Request in Writing of such Person or Persons, or of his, her, or their Agent or Attorney, shall set out and allot the Share or Proportion of such Person or Persons, in respect of his, her, or their different Estates, in distinct and separate Parcels from each other, so that the Proportion of common Land awarded in respect of the Messuages, Lands, or Hereditaments, held for Life or settled Estate, be no way intermixed with, but kept separate from the Portion awarded in respect of the unsettled Estate.

Quality of the Land to be published.

XXV. And, for the more just and regular Division, Allotment, and Distribution of the said Commons, Heaths, and Waste Lands, by this Act directed to be divided, allotted, and inclosed, be it further enacted, That the said Commissioner shall, and he is hereby required, as soon as conveniently may be after the passing of this Act, to value all the Lands and Grounds by this Act directed to be divided, allotted and inclosed, and also all the ancient inclosed Lands and Grounds having Right of Common over the same, which Valuation and the Particulars thereof shall be reduced into Writing, and signed by the said Commissioner, and shall be lodged with such Person resident in the Town of *Caerwys*, as the said Commissioner shall appoint for the Inspection of the several Proprietors or their Agents; and any Person or Persons so interested, shall be entitled to a Copy of such Valuation on Demand, paying for such Copy a reasonable Price, to be ascertained by the said Commissioner; and the said Commissioner shall give or cause to be given, Fourteen Days Notice to be affixed

affixed upon the principal outer Door of the Parish Church of *Caerwys* aforesaid, upon some *Sunday* immediatelyafter Divine Service, of the Time and Place by him appointed for receiving and hearing any Objections that may be made to such Valuation or Quality, and the said Commissioner shall hear and determine all such Objections.

Respecting Encroachments.

XXVI. And be it further enacted, That all Encroachments, exclusive of the Cottages and other Erections thereon, taken from the said Commons, Heaths, and Waste Lands, herein-before described, within the Space of Twenty Years before the passing of this Act, or that have been laid open within the said Space of Twenty Years, shall be deemed Part and Parcel of the same Commons, Heaths, and Waste Lands hereby directed to be divided and inclosed; and the same shall be set out and allotted to the Person or Persons in Possession thereof, if such Person or Persons shall be entitled to any Share or Allotment upon the said intended Division and Inclosure, and shall have been in Possession of such Encroachment or Encroachments before the First Day of *November* One thousand eight hundred and eight, and shall request the same by Writing under his, her, or their Hand or Hands, or under the Hand of his, her, or their Attorney or Agent, at or before the Third Sitting of the said Commissioner, so that such Encroachment or Encroachments, with the additional Road leading thereto from any general Road, which the said Commissioner is to value as Common or Waste Land, without considering the Erections and Improvements made thereon, do not exceed in Value the Allotment or Allotments to which such Person or Persons shall be entitled, in lieu of his, her, or their Right of Common; and if the same shall so exceed such Allotment or Allotments, the Surplus shall be severed and fenced out at the Expence of the Person or Persons so having encroached, and shall be allotted to some other Person or Persons entitled to an Allotment or Allotments; and when it shall happen that such Encroachments or Erections have been made by Persons not entitled to any Right of Common, in such Case the said Commissioner shall set a Value on all such Erections, and the same shall pass, with the Lands in which they shall happen to stand, to the Person or Persons to whom the said Commissioner shall allot such Land, he, she, or they paying to the Person or Persons at whose Expence such Erections were made, such Sum of Money as the said Commissioner shall have valued such Erections at, and if such Person to whom such Land shall be allotted, shall refuse to pay such Valuation, then the Person at whose Expence such Erections shall have been made, shall have and enjoy such Cottages and Erections for such Time, and at such Ground Rent or Acknowledgement payable to the Person to whom the said Land shall be allotted, and in such Manner as the said Commissioner shall direct and appoint.

Notice for perusing Schedule, and Map of intended Allotments to be given.

XXVII. And be it further enacted, That when and as soon as the said Commissioner shall have ascertained the respective Shares, Rights and Interest, of the said Proprietors in the said Commons, Heaths, and Waste Lands, to be inclosed by virtue of this Act, and also the respective Shares and Proportions by him proposed to be allotted to such Proprietors respectively in lieu thereof, the said Commissioner shall give Notice in Manner aforesaid, of some convenient Time and Place when and where all Proprietors and Persons interested may peruse a Schedule of such intended Allotments, and a Map or Plan whereon the same shall be set out and delineated; and may have and receive at their Expence, a Copy of

of such Schedule, as far as the same relates to such Proprietors respectively; and a Copy of such Map or Plan, and Schedule, as far as relates to the Allotments to be made to His Majesty, shall, by the said Commissioners, Fourteen Days at the least previously to the Time of Meeting for the Perusal of such Schedule, Map, or Plan, be transmitted to the Surveyor General of His Majesty's Land Revenue.

Commissioner may make any Alterations in the Allotments, before the Execution of the Award.

XXVIII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioner, at any Time not exceeding Twelve Calendar Months next after the said Allotments shall be set out, to make such Alterations in the Allotments and Fences which he may have set out and ordered, as he shall think right and expedient; and in case any Person or Persons shall happen to be injured by such Alterations, or on Account of any Expences he, she, or they might have been at, the said Commissioner 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.

Award to be deposited.

XXIX. And be it further enacted, That the Award to be made by the said Commissioner, when enrolled in Manner directed by the said recited Act, shall be deposited in a Tin Box, and kept for public Inspection in the Office of the Clerk of the Peace for the County of *Flint*, and a true Copy thereof shall be written on Parchment, and lodged in the Parish Church of *Caerwys* aforesaid, for the Perusal of all Persons interested therein.

The King's Allotments may be sold before the Execution of the Award.

XXX. And be it further enacted, That it shall be lawful for the said Surveyor General of His Majesty's Land Revenue, at any Time before the Execution of the said Award, to contract and agree with any Person or Persons, or any Bodies Politic or Corporate, for the Sale of all or any Allotments or Allotment to be made to His Majesty, His Heirs and Successors, by virtue of this Act, for the best Prices or Consideration in Money, which the said Surveyor General shall be able to procure for the same; and the Purchase Money arising from such Sale shall be paid into the Bank of *England*, to the Account of the Commissioners of His Majesty's Treasury, in like Manner as the Monies arising from the Sales of certain Parts of the Property of the Crown authorized by the Act passed in the Forty-eighth Year of His present Majesty, intituled, *An Act to improve the Land Revenue of the Crown in* England, *and also of His Majesty's Duchy of* Lancaster, are directed to be paid; and the Sale of such Allotments or Allotment shall be made in the same Manner and Form, and under the like Rules, Regulations, and Provisions, and shall be to all Intents and Purposes, as valid and effectual, as if the same were made under the said last recited Act, and after the Execution of the said Award; and it shall be lawful for the said Commissioners, and they are hereby authorized and required, to assign, set out, and allot such Allotments or Allotment to the Purchasers or Purchaser thereof, or other Persons or Person who shall be entitled thereto, by virtue of such Sale; and he, she, or they shall immediately after the Execution of the said Award as aforesaid, have, hold, use, and enjoy such Allotments or Allotment, and shall use and exercise any Act of Ownership in and upon the same, in as full, large, ample and beneficial a Manner, to all Intents and Purposes, as His Majesty, His Heirs or Successors, or His or Their Lessees or Grantees, could or might.

might have done, in caſe ſuch Sale had not been made; but ſubject nevertheleſs to the Right or Intereſt in or to any Mines, Ores, Minerals, Coal, Lime Stone, or other Stone, or Matters whatſoever, in or under the ſame, as herein-after ſaved and reſerved to His Majeſty, His Heirs and Succeſſors.

If Perſons ſell before the Award is executed the Allotment to be made to the Purchaſers.

XXXI. Provided always, and be it further enacted, That if any Perſon hath ſold or contracted, or agreed to ſell, or ſhall at any Time before the Execution of the ſaid Award, ſell or contract, or agree to ſell his or her Right, Intereſt, or Property in, over, or upon the Lands and Grounds hereby intended to be divided, allotted and incloſed, or any Part thereof, to any other Perſon, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required to make an Allotment of Land unto the Vendee or Purchaſer, or to his or her Heirs and Aſſigns, for and in reſpect of ſuch Right, Intereſt and Property ſo ſold.

Wills and Settlements not to be affected.

XXXII. And be it further enacted, That nothing in this or the ſaid recited Act contained ſhall extend or be conſtrued to extend, to revoke, make void, alter or annul any Will, Deed, or Settlement, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances out of, upon, or affecting any of the Lands, Grounds and Hereditaments to be divided and allotted, or which ſhall be exchanged or aſſigned, in Compenſation for any other Eſtate or Right, by virtue of this or the ſaid recited Act, or any Part or Parts thereof reſpectively; but as well the Lands allotted, as the Tenements and other Hereditaments which ſhall be aſſigned in Exchange, or in Compenſation for any other Eſtate or Right, ſhall, immediately after ſuch Allotment, Exchange or Aſſignment ſhall be made, be veſted, remain and enure; and the ſeveral Perſons to whom the ſame ſhall be allotted, aſſigned, or given in Exchange as aforeſaid, ſhall thenceforth ſtand and be ſeized and poſſeſſed thereof reſpectively, and ſubject and liable to ſuch and the ſame Wills, Deeds, Settlements, Dowers, Jointures, Portions, Debts, Rents or Incumbrances as the Meſſuages, Tenements, Lands, Grounds, and Hereditaments, in reſpect whereof ſuch Allotments, Aſſignments, and Exchanges ſhall be made, would have been ſubject to be charged with or affected by, in caſe this Act had not been paſſed.

Tenants for Life, &c. may charge Allotments with the Expences.

XXXIII. And whereas ſome of the Owners and Proprietors of Lands and Grounds within the ſaid Pariſh of *Caerwys*, may have Occaſion to borrow Money to defray their reſpective Shares of the Coſts, Charges and Expences of obtaining and carrying this Act into Execution, be it therefore further enacted, That it ſhall and may be lawful to and for the Huſbands, Guardians, Truſtees, Committees or Attornies of any of the Owners or Proprietors of any of the Lands and Grounds to be divided and allotted by virtue of the ſaid recited Act and this Act, being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Diſability; and for any of the ſaid Owners or Proprietors, being Tenants in Tail or for Life or Lives, or Years determinable on any Life or Lives, or on any other Contingency, or Tenants by the Courteſy of *England*, or otherwiſe intereſted in ſuch Lands and Grounds, to charge ſuch Lands and Grounds with ſuch Sum or Sums of Money, as the ſaid Commiſſioner ſhall, by his ſaid Award, or by Writing under his Hand, either before or after the Execution of ſuch Award, adjudge neceſſary to pay and defray the Coſts, Charges

Charges and Expences incident to and attending the obtaining of this Act, and of ditching, draining, and fencing their reſpective Allotments, and other the Coſts, Charges, and Expences of carrying the ſame into Execution, and of charging ſuch Lands and Grounds as aforeſaid, ſo that the Sum or Sums of Money ſo to be charged ſhall not exceed the Sum of Five Pounds for every Acre of ſuch Lands and Grounds; and to grant, mortgage, leaſe or demiſe, or otherwiſe ſubject the Lands, Tenements and Hereditaments, ſo to be charged, to ſuch Perſon or Perſons who ſhall advance and lend the ſame reſpectively, his, her, or their Executors, Adminiſtrators and Aſſigns, for any Term or Number of Years; or in caſe any Perſon in Poſſeſſion, who ſhall or may be liable to and charged with a Share of the Expences as aforeſaid, or enabled by this Act to charge ſuch Lands and Grounds with the ſame, ſhall chooſe to advance, pay and diſcharge ſuch Sum or Sums of Money, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner, by any Deed or Writing under his Hand and Seal, to be atteſted by Two or more credible Witneſſes, in like Manner to grant, mortgage, leaſe, or demiſe, or otherwiſe ſubject ſuch Lands and Grounds, to ſuch Perſon or Perſons reſpectively paying and diſcharging ſuch Sum or Sums of Money, his, her, or their Executors, Adminiſtrators and Aſſigns, for any Term or Number of Years, to and for the Payment of ſuch Sum or Sums of Money ſo advanced, paid and diſcharged by him, her, or them, with lawful Intereſt for the ſame, to commence on the Termination of his, her, or their Right in the Premiſes; ſo that every ſuch Grant, Mortgage, Leaſe or Demiſe, be made with a Proviſo or Condition to ceaſe and be void, or with an expreſs Truſt to be ſurrendered or re-aſſigned, when ſuch Sum or Sums of Money thereby to be ſecured, ſhall be fully paid and ſatisfied; and alſo with a Covenant to pay and keep down the Intereſt, ſo that no Perſon or Perſons afterwards becoming poſſeſſed or entitled to any ſuch Lands and Grounds, ſhall be liable to pay any further or larger Arrear of Intereſt, than for Twelve Calendar Months preceding the Time when the Title to ſuch Poſſeſſion ſhall have commenced; and that every ſuch Charge, Grant, Morgage, Leaſe, or Demiſe ſhall be good, valid and effectual in the Law, for the Purpoſes thereby intended.

For allowing Exchanges, &c. to be made.

XXXIV. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner to ſet out, allot, and award any Lands, Tenements, or Hereditaments whatſoever, within the ſaid Pariſh of *Caerwys*, in lieu of and in Exchange for any other Lands, Tenements, and Hereditaments whatſoever, within the ſaid Pariſh, or within any adjoining Pariſh, Hamlet, or Townſhip; 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 any Life or Lives, or with the Conſent of the Guardians, Truſtees, Feoffees for charitable or other Uſes, Huſbands, Committees, or Attornies of, or acting for any ſuch Proprietors or Owners as aforeſaid, who at the Time of making ſuch Exchange or Exchanges ſhall be reſpectively Infants, Femes Covert, Lunatics, or under any legal Diſability, or who ſhall be beyond

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the Seas, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf; ſuch Conſent to be teſtified in Writing, under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange and Exchanges ſo to be made, ſhall be good, valid, and effectual in the Law to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Eccleſiaſtical Benefice, without the Conſent teſtified as aforeſaid of the Patron thereof, and of the Lord Biſhop of the Dioceſe, in which ſuch Lands, Tenements, or Hereditaments ſo to be exchanged ſhall lie and be ſituate: Provided always, that all Coſts, Charges, and Expences attending the making any Exchanges and Partitions, ſhall be paid and borne by the ſeveral Perſons making ſuch Exchanges or Partitions in ſuch Manner, and in ſuch Proportions, as the ſaid Commiſſioner ſhall by his ſaid Award order and direct.

Commiſſioner's Allowances.

XXXV. And be it further enacted, That the ſaid Commiſſioner ſhall be allowed the Sum of Two Pounds and Two Shillings for every Day that he ſhall be actually employed in any Buſineſs required of him as Commiſſioner, by the ſaid recited Act or this Act, including Days of neceſſary travelling as well as others, in full Satisfaction for his Time, Trouble, and Expences reſpecting ſuch Buſineſs.

For repaying Money advanced and Intereſt thereon.

XXXVI. Provided always, and be it further enacted, That the Money which ſhall be advanced by any Perſon or Perſons, for the Purpoſe of defraying the Charges and Expences incident to and attending the ſoliciting, obtaining, and paſſing this Act, or which after the paſſing of this Act, ſhall be advanced or lent to the ſaid Commiſſioner, for carrying the ſame into Execution, ſhall be repaid with lawful Intereſt from the Time ſuch Money ſhall have been actually advanced, to the Perſon or Perſons who ſhall have advanced the ſame, his, her, or their Executors or Adminiſtrators, out of the firſt Monies to be raiſed under and by virtue of this Act, for defraying the Expences of obtaining and executing the ſame.

Commiſſioner to lay his Accounts before Two Juſtices.

XXXVII. 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 thereof) the ſaid Commiſſioner ſhall, and he is hereby required to make a true and juſt Statement or Account of all and every Sum or Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this and the ſaid recited Act; and ſuch Statement or Account, 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 ſaid County of *Flint* (not intereſted in the ſaid intended Diviſion and Incloſure) 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 in Writing by ſuch Juſtices.

Perſons aggrieved may appeal to the Quarter Seſſions.

XXXVIII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf or themſelves aggrieved by any Thing done in purſuance of this or the ſaid recited Act (other than and except ſuch Determinations

terminations of the Commissioner as are hereby, or by the said recited Act, declared to be final, binding, or conclusive, and except in such Cases where an Issue at Law may be tried as herein-before is mentioned, then and in every such Case, he, she, or they may appeal to the General Quarter Sessions of the Peace to be holden in and for the said County of *Flint*, next after Four Calendar Months from the Time when the Cause of Complaint shall have arisen, on giving to the said Commissioner, and to the Party or Parties concerned, Notice in Writing of such Appeal, and of the Matter thereof, within Twenty-eight Days after the Cause of Complaint shall have arisen, and Fourteen Days at the least before such General Quarter Sessions, and the Justices not interested in the Premises in such Sessions assembled, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and award such Damages and Costs as to them in their Discretion shall seem reasonable; and by their Order or Warrant to levy such Damages and Costs by Distress and Sale of the Goods and Chattels of the Party or Parties made liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress and Sale; and every Order and Determination of the said Justices upon every such Appeal, shall be final and conclusive to all Parties concerned, and shall not be removed or removable 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, 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 aforesaid.

Saving the Rights of His Majesty, and Other Archer Earl of Plymouth, etc.

XXXIX. Provided always, and be it further enacted, That nothing in this Act contained shall prejudice or defeat the Right or Interest of His Majesty, His Heirs or Successors, or of the said *Other Archer* Earl of *Plymouth*, his Heirs or Assigns, or any Person or Persons claiming or to claim by, from or under, or in Trust for him, them, or any of them, or any of the Ancestors of the said *Other Archer* Earl of *Plymouth*, in and to all Mines, Ores, Minerals, and Coals, of what Nature or Kind soever, in or under the said Commons, Heaths, and Waste Lands, but His said Majesty, His Heirs and Successors, and the said *Other Archer* Earl of *Plymouth*, his Heirs and Assigns, and such other Person and Persons as aforesaid, and their Lessee or Lessees, Agents, Servants, Colliers, Miners, and other Workmen, shall and may, from Time to Time, and at all Times hereafter enter into, have, hold, enjoy, search and work all Mines and Mine Works, Pits, Holes, Beds, Veins, and other Bearings of Mines, Ore, Minerals and Coal whatsoever, as fully and effectually, to all Intents and Purposes, as they could have had, held, and enjoyed the same before the passing of this Act; and for that Purpose shall and may use all Pits, Shafts, Levels, Soughs, and Tunnels, already open and sunk in any of the said Commons, Heaths, and Waste Lands, and all Machines, Engines and Buildings thereon erected or standing, together with full and free Liberty, Power, and Authority, to and for His said Majesty, His Heirs and Successors, and the said *Other Archer* Earl of *Plymouth*, His Heirs and Assigns, and all other Persons who shall hereafter for the Time being, be entitled to the Mines and Minerals therein, and his and their Lessee and Lessees, and their and every of their Agents, Servants, Miners, Colliers, and other Workmen, to sink, dig, delve, drive, and work all and every, or any

Number of Pits, Shafts, Levels, Soughs, and Tunnels which they ſhall think neceſſary for diſcovering, ſearching for, raiſing or getting any Mines, Ores, Minerals, and Coals whatſoever, in or under the ſaid Commons, Heaths, and Waſte Lands, and to dig and raiſe Clay for making and burning of Bricks, Tiles, Gutters, and Ridges, in and upon any Part or Parts of the ſaid Commons, Heaths, and Waſte Lands, as well before as after the ſame ſhall have been incloſed for the Uſe of any Colliery or Collieries now open or hereafter to be opened therein, and for repairing any old, or erecting any new Buildings which may be neceſſary for carrying on or working any Mine or Mines whatſoever; and alſo to erect any Number of Steam and other Engines, Machine and Machines, of what Nature or Kind ſoever, which they ſhall think neceſſary for the Uſe, Convenience, or Advantage of any Mine or Mines whatſoever, in or upon the ſaid Premiſes, or any Part thereof; and to place, ſtack up, and lay all Lead, Copper, Iron, and other Ores, Coals, and other Minerals and Matters which ſhall be gotten and raiſed, and all Rubbiſh, Earth, and Soil, upon the ſaid Commons, Heaths, and Waſte Lands; and to make, burn, or convert Coal and Culm into Charcoal or Coke, and alſo to have, make, and uſe all convenient Ways, Roads, and Railways, in, upon and over the ſaid Commons, Heaths, and Waſte Lands, when incloſed for the Uſe of any Colliery or Mines ſunk or made, or which may be ſunk or made in any Part or Parts thereof; and for working and carrying, and with Carts, Waggons, and other Carriages, to fetch, take, and carry away the Lead, Copper and Iron Ores, and Coal, and all other Mines and Minerals whatſoever, there to be found and raiſed as aforeſaid; and to do all other reaſonable and neceſſary Acts and Things, in and upon the ſaid Commons, Heaths, and Waſte Lands and Grounds when incloſed, for the diſcovering, getting, working, converting, removing, carrying away, ſelling, and diſpoſing of all Mines, Coal and other Minerals whatſoever without any Moleſtation or Interruption whatſoever, in ſuch and the like Manner as if this Act had not been made.

Saving the Rights of Earl Groſvenor his Heirs and Aſſigns, to the Mines of Lead and Lead Ore in the Lands to be incloſed.

XL. Provided always, and be it further enacted, That nothing in this Act contained ſhall prejudice or defeat the Right or Intereſt of *Robert* Earl *Groſvenor*, his Heirs or Aſſigns, or any Perſon or Perſons claiming or to claim by, from, or under, or in Truſt for him, them, or any of them, or any of the Anceſtors of the ſaid *Robert* Earl *Groſvenor*, in and to all Mines of Lead and Lead Ore, in or under the ſaid Commons, Heaths, and Waſte Lands, but the ſaid *Robert* Earl *Groſvenor*, his Heirs and Aſſigns, and ſuch other Perſon and Perſons as aforeſaid; and their Leſſee or Leſſees, Agents, Servants, Miners, and other Workmen, ſhall and may from Time to Time, and at all Times hereafter enter into, have, hold, enjoy, ſearch and work all Mines of Lead and Lead Ore and Mine Works, Pits, Holes, Beds, Veins, and other Bearings of Mines of Lead and Lead Ore whatſoever, as fully and effectually to all Intents and Purpoſes, as they could have had, held, and enjoyed the ſame before the paſſing of this Act; and for that Purpoſe ſhall and may uſe all Pits, Shafts, Levels, Soughs and Tunnels already open and ſunk in any of the ſaid Commons, Heaths, and Waſte Lands, and all Machines, Engines, and Buildings thereon erected or ſtanding, together with full and free Liberty, Power and Authority to and for the ſaid *Robert* Earl *Groſvenor*, his Heirs and Aſſigns, and all other Perſons who ſhall hereafter for the Time being be entitled to the Mines of Lead and Lead Ore therein, and his and their Leſſee and Leſſees, and their

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and every of their Agents, Servants, Miners, and other Workmen, to ſink, dig, delve, drive, and work all and every or any Number of Pits, Shafts, Levels, Soughs and Tunnels, which they ſhall think neceſſary for diſcovering, ſearching for, raiſing or getting any Mines of Lead and Lead Ore, whatſoever, in or under the ſaid Commons, Heaths, and Waſte Lands, and for repairing any old, or erecting any new Buildings which may be neceſſary for carrying on or working any Mine or Mines of Lead and Lead Ore whatſoever; and alſo to erect any Number of Steam or other Engines, Machine and Machines, of what Nature or Kind ſoever, which they ſhall think neceſſary for the Uſe, Convenience, or Advantage of any Mine or Mines of Lead and Lead Ore whatſoever, in or upon the ſaid Premiſes or any Part thereof; and to place, ſtack up, and lay all Lead and Lead Ore which ſhall be gotten and raiſed, and all Rubbiſh, Earth, and Soil upon the ſaid Commons, Heaths, and Waſte Lands, and to have, make, and uſe all convenient Ways, Roads, and Railways in, upon, and over the ſaid Commons, Heaths, and Waſte Lands, when incloſed for the Uſe of any Mines of Lead and Lead Ore, ſunk or made, or which may be ſunk or made in any Part or Parts thereof; and for working and carrying, and with Carts, Waggons, and other Carriages, to fetch, take, and carry away the Lead and Lead Ore whatſoever, there to be found and raiſed as aforeſaid; and to do all other reaſonable and neceſſary Acts and Things, in and upon the ſaid Commons, Heaths, and Waſte Lands and Grounds when incloſed, for the diſcovering, getting, working, converting, removing, carrying away, ſelling, and diſpoſing of all Mines of Lead and Lead Ore whatſoever, without any Moleſtation or Interruption whatſoever, in ſuch and the like Manner as if this Act had not been made.

Saving to His Majeſty and Lord of the Manor their Rights of Juriſdiction, &c.

XLI. Provided always, and be it further enacted, That nothing herein contained, ſhall extend, or be conſtrued to extend, to defeat, leſſen, or prejudice the Right, Title, or Intereſt of His Majeſty, His Heirs or Succeſſors, or of the ſaid *Other Archer* Earl of *Plymouth* as Lord of the Vill of *Cearwys*, or of their or either of their Leſſee or Leſſees, Steward or Stewards, or other Officers for the Time being, of, in, or to the Seignories and Royalties incident and belonging to the ſame, but that His Majeſty, His Heirs and Succeſſors, and the ſaid *Other Archer* Earl of *Plymouth*, his Heirs and Aſſigns, and their Leſſee or Leſſees, Steward or Stewards, or other Officers thereof for the Time being, ſhall and may from Time to Time, and at all Times hereafter, hold and enjoy all the Rents, Services, Courts, Perquiſites and Profits of Courts, Deodands, Waifs, Eſtrays, Forfeitures and all other Royalties, Privileges, Pre-eminences, Manerial Juriſdictions and Appurtenances whatſoever, to the ſame or to the Stewards or other Officers thereof incident or appendant, belonging or appertaining, except Rights of Common, or of Soil and Quarries, Springs and other Matters not being Mines or Minerals, which Quarries, Springs, and other Matters not being Mines or Minerals, ſhall belong to the ſeveral Perſons, Bodies Politic or Corporate, to whom any Allotment ſhall be made by virtue of this Act, and which ſaid Mines or Minerals ſhall continue to belong to ſuch Perſon or Perſons, Body or Bodies Corporate or Politic, as was or were lawfully entitled to the ſame before the paſſing of this Act.

General Saving of Rights.

XLII. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every Perſon and Perſons, Bodies Corporate and Politic, his, her, and their Heirs, Succeſſors, Executors, and Adminiſtrators, all ſuch Right, Title, Eſtate, and Intereſt (other than thoſe

meant and intended to be barred and deſtroyed by this Act), as they, every, or any of them had and enjoyed, of, in, to, or out of the Commons, Heaths, and Waſte Lands aforeſaid, or any Part thereof, before the paſſing of this Act, or could or might have had or enjoyed before the paſſing of this Act, or in caſe this Act had not been made.

Act to be printed by the King's Printer.

XLIII. And be it further enacted, That this Act ſhall be printed by the Printer to the King's moſt Excellent Majeſty, and a Copy thereof ſo printed, ſhall be admitted as Evidence thereof, by all Judges, Juſtices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1809.