ANNO SEPTIMO

GULIELMI IV. REGIS.

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Cap. 9.

An Act for inclosing Lands in the Honor or Lordship and Forest of *Clun* in the County of *Salop*.

[8th *June* 1837.]

WHEREAS there is a Tract of uninclosed Common Land in the Honor or Lordship and Forest of *Clun* in the County of *Salop*, and there are certain small detached Pieces or Parcels of Waste Land within the same Honor or Lordship, all of which are situate within the Townships of *Newcastle*, *Whitcot-Keyset*, *Shadwal*, *Knuck-Shadwal*, *Mainston*, *Edenhope*, and *Kevencalonog*, and within the Parishes of *Clun*, *Mainston*, and *Bettus*, and contain in the whole about Eight thousand six hundred Acres: And whereas the Right Honourable *Edward* Earl of *Powis* claims to be Lord of the said Honor or Lordship, and Owner of the Soil of the said Common and Waste Lands: And whereas the said *Edward* Earl of *Powis*, *William Botfield* Esquire, *William Jones* Esquire, and others, claim to be Proprietors of certain Messuages, Tenements, and Hereditaments within the said Honor or Lordship, and in respect thereof or otherwise have or claim to have severally a Right of Common or other Right in, over, and upon the said Common and Waste Lands: And whereas an Act was passed in the Forty-first Year of the Reign of King *George* the Third, intituled *An Act for consolidating in One* 41G.3.c.109.
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:

Acts: And whereas another Act was passed in the First and Second Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: And whereas the said Common and Waste Lands in the said Townships are of little Value in their present State, and it would be of great Benefit to the Persons interested therein if the same were divided and allotted in Severalty unto and among them respectively; but inasmuch as such Division and Allotment cannot be effected 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 Parliament assembled, and by the Authority of the same, That the said recited Act passed in the Forty-first Year of the Reign of King *George* the Third, and all the Powers, Provisions, Penalties, Forfeitures, Payments, Exemptions, Remedies, Matters, and Things therein contained, (save and except such Parts thereof as are varied, altered, or repealed by the said recited Act passed in the First and Second Years of the Reign of King *George* the Fourth,) and also the said recited Act passed in the First and Second Years of the Reign of King *George* the Fourth, and all and every the Powers and Provisions therein contained, shall, so far as the same respectively are not varied, altered, or repealed, or otherwise provided for, be as valid and effectual for carrying into execution this Act as if the same had been respectively repeated and re-enacted in the Body of this Act.

1 & 2 G. 4. c. 23.

Application of Powers of recited Acts to this Act.

Commissioner appointed.

II. And be it further enacted, That *William Eyton* of *Gonsall* in the County of *Salop*, Land Valuer, and his Successor for the Time being, to be elected in manner herein-after mentioned, shall be and is hereby appointed Commissioner for carrying this Act and the said recited Acts into execution.

Appointment of Commissioner on Vacancies.

III. And be it further enacted, That if the said *William Eyton* shall not hold his first Sitting for the Purposes of this Act, and make and subscribe the Declaration herein-after appointed to be made and subscribed, within Two Calendar Months after the passing of this Act, or if the said *William Eyton* shall, before the Execution of all the Powers and Authorities hereby vested in him, die, or refuse or neglect to act as such Commissioner for the Space of Three Calendar Months, or shall become incapable of acting, then and in such Case, in order to appoint a Second Commissioner as his Successor, the Lord of the said Honor or Lordship for the Time being shall, within One Calendar Month next thereafter, or within One Calendar Month after Notice thereof in Writing shall have been given to him by any Person interested in the said Inclosure, name Three practising Land Valuers (not interested in the said Inclosure, and not the Agents of any Person so interested,) each of whom shall then have been an acting Commissioner in some former Inclosure of Common or Waste Lands, and thereupon a public Meeting of the several Persons who for the Time being shall respectively be interested in the said Inclosure (exclusively of the Lord for the Time being) shall be called by any Two or more of such Persons, and be held within One Calendar Month next after Notice in Writing of such Nomination shall have been given to the Clerk for the Time being of the said Commissioner, or if no such Clerk, then to the Surveyor for the Time being, of which Meeting at least Ten Days Notice shall be given by Two or more of the Persons interested in

the said Incloure, upon some *Sunday* before Divine Service, by Writing to be affixed on one of the outer Doors of the Parish Church of *Clun*, and also by Advertisement to be inserted in some One or more Newspaper or Newspapers usually circulated in the said County of *Salop*; and the Persons then and there assembled, or the major Part of them in Value (such Value to be ascertained by the then last Poor Rate), or their respective Agents duly authorized by Writing under the Hand of such respective Persons, shall and may elect One of the said Three Persons so nominated by the Lord for the Time being as aforesaid to succeed the said Commissioner; and in case the said Commissioner so to be lastly elected shall refuse to act or shall die before having made and subscribed the Declaration hereinafter mentioned, then the Lord for the Time being shall again name Three such Land Valuers as last aforesaid, not interested as aforesaid, of whom the said other Parties shall again choose One in manner aforesaid, and so until the said Declaration shall be made by a Commissioner so elected as last aforesaid; and if the said Second Commissioner shall, after having made the said Declaration, but before the Execution of all the Powers and Authorities hereby vested in him, die, or refuse or neglect to act for the Space of Three Calendar Months, or shall become incapable of acting, then and in such Event, in order to appoint a Third Commissioner, a public Meeting of the several Persons who for the Time being shall respectively be interested in the said Common and Waste Lands hereby authorized to be inclosed, divided, and allotted (exclusively of the Lord for the Time being) shall be called by any Two or more of such Persons, and be held within One Calendar Month next after such Vacancy shall occur (of which Meeting at least Ten Days previous Notice shall be given in the Manner herein-before directed); and the Persons then and there assembled, or the major Part of them in Value (to be ascertained as aforesaid), or their respective Agents duly authorized as aforesaid, shall nominate Three such Land Valuers as last aforesaid, not interested as aforesaid, of whom the Lord for the Time being shall, within Fourteen Days after receiving such Notice in Writing of such Nomination as aforesaid, choose One to be the Third Commissioner, and shall signify such his Choice in Writing to the Clerk of the Commissioner for the Time being, or if there shall not be any such Clerk, then to the Surveyor for the Time being; and in case the said Commissioner so to be lastly elected as aforesaid shall refuse to act or shall die before having made and subscribed the Declaration herein-after mentioned, then another such public Meeting as last aforesaid shall be called and held in manner aforesaid, at which Meeting Three such Land Valuers as aforesaid, not interested as aforesaid, shall again be nominated as last aforesaid, of whom the Lord for the Time being shall again choose One in manner aforesaid, and so as often as the Case shall require until the said Declaration shall have been made and subscribed as last aforesaid; and all subsequent Appointments of Commissioner shall be made alternately in the Manner in which the Second and Third Commissioners are hereby directed to be appointed; and every Person so appointed shall have the same Powers and Authorities in all respects for carrying this Act and the said recited Acts into execution, and shall be subject to the same Regulations and Restrictions, as if he had been originally named a Commissioner in this Act; and every such Appointment shall be enrolled and deposited with the Award of the said Commissioner in manner herein-after directed with respect to such Award.

IV. And

What shall be a Refusal to act.

IV. And be it further enacted, That if the said Commissioner shall neglect to attend at One of the first Two Meetings appointed to be held for putting this Act into execution, and to qualify himself by making and subscribing the Declaration in that Behalf prescribed, or if the said Commissioner shall, at any Time after having qualified himself as aforesaid, absent himself from any Two successive Meetings appointed to be held as aforesaid, he having first known of such Meetings by his Presence at the Appointment thereof, or having Notice thereof in Writing given him or left at his usual Place of Abode under the Hand of the Clerk of the said Commissioner, and such Commissioner not being prevented by Sickness or other reasonable Cause, or if any Commissioner to be nominated and appointed as aforesaid shall not attend and qualify himself at One of the first Two Meetings after his becoming a Commissioner, or shall, after having qualified himself as aforesaid, wilfully absent himself from any Two successive Meetings, (having first known thereof, or after such Notice and without such Cause as last aforesaid,) every such Absence or Non-attendance shall be deemed and taken to be a Refusal to act.

Commissioner to make a Declaration.

V. And be it further enacted, That no Person shall be capable of acting as Commissioner in the Execution of this Act until he shall have made and subscribed the Declaration following before One of His Majesty's Justices of the Peace for the County of *Salop*, which Declaration the said Justice is hereby empowered to receive or administer; (that is to say,)

'I *A.B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as Commissioner by virtue of an Act passed in the Year of the Reign of King *William* the Fourth, intituled [*here insert the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person whomsoever.'

And such Declaration shall be in lieu of and as a Substitution for the Oath or Affirmation required by the said first-recited Act to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands; and such Declaration, when duly made and subscribed, shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

Clerk or Clerks to be appointed.

VI. And be it further enacted, That the Commissioner shall have a Clerk or Clerks to assist him in the Execution of this Act, and *Edmund Edye* and *John Yorke Jefferson* of *Montgomery*, Gentleman, jointly during both their Lives, and the Survivor of them, are and is hereby appointed such Clerk or Clerks, and are to be remunerated as One Person only; and in case of the Deaths, Incapacity, Refusal to act, or Neglect of Duty of both of them during their joint Lives, or of the Survivor of them, or of any succeeding Clerk, the Commissioner shall without Delay appoint another proper and sufficient Person to be such Clerk in their or his Room.

Allowance to Commissioner and Clerk.

VII. And be it further enacted, That out of the Money which shall be raised for defraying the Expences of obtaining and executing this Act the

the Commissioner and Clerk acting in the Execution of this Act shall respectively be paid for each Day they shall travel or be engaged in any Business relating to the Execution of this Act, or of any of the Powers hereby vested in them, during the first Four Years next after the passing of this Act, as follows; (that is to say,) the said Commissioner shall be paid the Sum of Three Guineas, and no more, and the said Clerk shall be paid the Sum of Two Guineas and a Half, and no more; and after the Expiration of the said Four Years, until the Powers granted by this Act shall be fully executed, the said Commissioner and Clerk shall each of them be paid the Sum of Two Guineas, and no more, in satisfaction for their Time and Trouble and for the Expences which they may incur during their Journeys and Attendances in the Execution of this Act, other than any Expences not exceeding Five Shillings *per* Day for the Use of the Room in which the Sitting shall be held for carrying this Act into execution, and the Costs and Expences of Notices and Advertisements, and of drawing, copying, engrossing, and enrolling the Award and Awards of the said Commissioner, or in any Manner attendant thereupon or connected therewith, or preparatory or incidental thereto.

For regulating the Duration of Sittings of Commissioner and Clerk.

VIII. And for regulating the Duration of all Sittings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March;* and any Sitting to be held for the Purposes of this Act of less Duration than Eight Hours or Six Hours (as the Case may be) shall be charged as only Half a Day, and the said Commissioner and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioner or Clerk in which shall be entered the several Days on which the said Commissioner and the said Clerk shall hold their respective Sittings, and the Hour at which the said Commissioner and Clerk respectively shall commence and conclude such Sittings; and such Book shall be signed by such Commissioner or Clerk at the Termination of each Sitting, and shall be open to the Inspection of all Persons interested in the said Inclosure, or their Agents, during all the Sittings to be held in pursuance of this Act, and all such Persons may take Copies of or Extracts from such Book without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioner to retain or to pay himself or such Clerk, out of any Monies to be received by him or over which he may have any Control by virtue of this Act, any Monies on account of the Allowance herein-before directed to be made to such Commissioner and Clerk respectively beyond One Half of the Allowances to which they shall be entitled as aforesaid, until after the Expiration of Six Calendar Months from the Day of depositing the Award herein-after directed to be made by the Commissioner in manner by this Act directed, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Death of the said Commissioner or of the said Clerk before the Execution of the said Award herein-after directed to be made, the Commissioner for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made, pay to the Executors

or Administrators of such deceased Commissioner or Clerk such Sum as shall appear by the said Accounts to be due thereon.

Directing Mode of giving Notice of Sittings of Commissioner.

IX. And be it further enacted, That the said Commissioner shall cause Notice of the Time and Place of his first and every subsequent Sitting for the Execution of this Act to be inserted in some One or more Newspaper or Newspapers usually circulated in the County of *Salop* at least Ten Days before any such Sitting (Sittings by Adjournment only excepted), and the said Commissioner may from Time to Time adjourn such Sittings as he may think proper.

Directing Mode of giving other Notices.

X. Provided always, and be it further enacted, That all other Notices necessary to be given by the said Commissioner (the Mode of giving which is not hereby particularly directed) shall be given by Advertisement in some one or other of the aforesaid Newspapers Ten Days at least before the Period for transacting the Business to which such Notice shall relate, and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate; any thing in the said first-recited Act contained to the contrary notwithstanding.

Sittings to be held within Eight Miles of the Town.

XI. And be it further enacted, That all Sittings of the said Commissioner in the Execution of this Act at which the Presence of any of the Persons interested in the Inclosure hereby authorized shall be requisite shall be held within the Towns of *Clun* or *Bishop's Castle*, or within Eight Miles of the said Common and Waste Lands.

Proprietors to pay their own Expences at Sittings.

XII. And be it further enacted, That the several Persons interested in the Inclosure hereby authorized, and their respective Agents, shall pay their own Expences whenever they shall attend the said Commissioner at any of his Sittings to be held in pursuance of this Act.

Surveyor.

XIII. And be it further enacted, That the Commissioner shall also have a Surveyor to make Surveys, Admeasurements, and Plans for the Purposes of this Act, and to do all other Matters usually done by Surveyors in Inclosures of Common and Waste Lands, except making Valuations, which shall always be done by the said Commissioner; and *Charles Mickleburgh* of *Montgomery* aforesaid, Land Surveyor, is hereby appointed such Surveyor; and in case of the Death, Refusal, or Incapacity to act of the said Surveyor, then from Time to Time, as often as such Event shall happen, the said Commissioner shall and he is hereby required by Writing under his Hand to nominate and appoint some other fit and proper Person, not interested in the said Inclosure, to succeed to such Office in the Room or Stead of every such Surveyor so dying, neglecting, refusing, or becoming incapacitated to act as aforesaid, and out of the Money to be raised for carrying this Act into execution as herein-after mentioned to allow such Surveyor for his Time and Trouble any Sum not exceeding One Shilling *per* Acre for surveying, measuring, mapping, or planning the said Common or Waste Lands, or any of the Lands heretofore inclosed, which shall be necessary for the Purposes of this Act, and any Sum not exceeding Two Pounds and Two Shillings for each Day he shall be actually and wholly employed either in surveying,

measuring, mapping, or planning, or otherwise in the Business of the said Inclosure; which Sum of One Shilling *per* Acre and Two Pounds and Two Shillings *per* Day shall be in full Satisfaction for such his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by such Surveyor in and about the Execution of this Act.

Surveyor to make a Declaration.

XIV. Provided always, and be it further enacted, That no Person shall be capable of acting as a Surveyor in the Execution of this Act until he shall have made and subscribed the Declaration following; (that is to say,)

'I *A. B.* do solemnly and sincerely declare, That I will faithfully, impar-
'tially, and honestly, according to the best of my Skill and Ability,
'execute and perform the several Duties incumbent upon me as Surveyor
'by virtue of an Act passed in the Sixth Year of the Reign of King
'*William* the Fourth, intituled [*here set forth the Title of this Act*],
'according to Equity and good Conscience, and without Partiality,
'Favour, or Affection, Prejudice or Malice, to any Person or Persons
'whomsoever.'

Which Declaration the Commissioner for the Time being, or any Justice of the Peace for the said County of *Salop*, is hereby empowered and required to administer or receive, and the said Declaration so made and subscribed by any such Surveyor shall be annexed to and deposited with the Award of the said Commissioner.

Penalty on making false Declaration.

XV. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, shall be subject to the like Pains and Penalties to which Persons guilty of wilful and corrupt Perjury are or may be liable.

Existing Surveys may be used.

XVI. Provided always, and be it further enacted, That it shall be lawful for the said Commissioner to adopt and make use of any Survey, Admeasurement, or Plan already made of the Common and Waste Lands hereby authorized to be divided, allotted, and inclosed, or of the Inclosures heretofore made within the said Honor or Lordship, or of any Part thereof respectively, without causing a new Survey, Admeasurement, or Plan to be made thereof: Provided also, that nothing in the said first-recited Act or in this Act contained shall extend to require the said Commissioner to make or cause to be made any Survey, Admeasurement, Plan, or Valuation of any of the Messuages, Cottages, Gardens, and Inclosures in the said Lordship, unless the said Commissioner shall deem such Survey, Admeasurement, Plan, or Valuation expedient for the Purposes of this Act.

Claims to be made within a limited Time.

XVII. And be it further enacted, That all Persons claiming or having any Right in or upon the said Common and Waste Lands shall and they are hereby required, by themselves or their Agents respectively, at such Sitting or Sittings as the said Commissioner shall appoint, to give and deliver to the said Commissioner in Writing under their Hands an Account of their Claims, specifying in what respects they severally claim such Rights as aforesaid; and every Person so neglecting to give or deliver

or

or cause to be given or delivered such Claims, with a full Description and Particular thereof, shall be and is hereby excluded of and from all Right or Title of, in, or to the said Common and Waste Lands, and from any Allotment thereof, unless the said Commissioner shall see good Cause to prolong the Time for producing such Claims.

Objections to Claims.

XVIII. And be it further enacted, That if any of the Parties interested in the said Common and Waste Lands shall have any Objection to any of the Accounts or Claims which shall be delivered to the said Commissioner by virtue of this Act, such Objection shall be reduced into Writing, and Two Parts thereof shall be signed by the Party making the same, or by some Person on his Behalf; and one Part thereof shall be served in the Manner by this Act directed upon the Party whose Claim or Account shall be objected to, at such Time as the said Commissioner shall appoint for that Purpose, and the other Part shall be delivered to the said Commissioner.

Commissioner empowered to settle disputed Claims.

XIX. And be it further enacted, That if any Dispute shall arise between any of the Parties claiming to be interested in the said Common and Waste Lands hereby authorized to be divided, allotted, and inclosed, touching or concerning the respective Proportions which they may claim to have therein, or touching or concerning any other Claims, or any Objections, Rights, or Interests affecting or relating to the said Division, Allotment, and Inclosure, it shall be lawful for the said Commissioner and he is hereby required, by proper and sufficient Evidence, with the Assistance of an Assessor as herein-after provided for, to examine into, hear, and determine the same: Provided always, that nothing in this Act contained shall empower the said Commissioner to determine the Title to any Lands, or to determine any Right between any Parties contrary to the Possession of any of such Parties; but in case the said Commissioner shall be of opinion against the Right of the Party so in Possession he shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or have been recovered from such Party by due Course of Law.

Power to award Costs.

XX. And be it further enacted, That in case the said Commissioner shall, upon the hearing or determining of any Claim or Objection to be delivered to him in pursuance of the said first-recited Act or of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, and with the Assistance of the Assessor as herein-after mentioned, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party in whose Favour any Determination of the said Commissioner shall be made by the Party whose Claim or Objection shall be thereby disallowed or overruled; and in case the Person who shall be liable to pay such Costs or Charges shall refuse or neglect to pay the same on Demand, then it shall be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant under his Hand and Seal 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 so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the

the Costs and Charges attending such Distress and Sale; and if there shall not be any Goods or Chattels whereon to levy the same, or in case the Party ordered to pay such Costs be a Corporation, then and in either of the said Cases it shall be lawful for the Party in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Commissioner to have an Assessor.

XXI. And be it further enacted, That the said Commissioner, upon the hearing and determining of any contested Claim or Objection, or upon awarding any such Costs as aforesaid, shall be assisted by an Assessor, who shall be a Barrister at Law of Five Years standing at the least, and the Determinations of the said Commissioner, as to all such contested Claims, Objections, and Costs, shall be made pursuant to and in conformity with the Decisions of such Assessor: Provided nevertheless, that such Assessor shall not interfere further in the Execution of this Act than in settling what contested Claims shall be allowed or disallowed, and what Costs (if any) shall be allowed to or paid by any Parties making or objecting to such Claims.

First and succeeding Assessors.

XXII. And be it further enacted, That *William Whateley* of the *Inner Temple*, *London*, Esquire, Barrister at Law, shall be and he is hereby appointed the first Assessor to the Commissioner for the Time being; and if the said *William Whateley*, or any Person elected in his Stead as herein-after provided, shall die, or at any Time before the Execution of the Powers hereby invested in him decline to act, or for the Space of Two Calendar Months after Notice in Writing given to him by the said Commissioner be incapable or neglect to proceed in the Execution of such Powers, a public Meeting of the several Persons who for the Time being shall respectively be interested in the said Common and Waste Lands (including the Lord for the Time being as a Freeholder, as is herein-after mentioned,) shall be called by the Lord and any Two or more of such Persons (of which Meeting at least Ten Days Notice shall be given), and the Persons then and there assembled (or their respective Agents duly authorized as by this Act directed), or the major Part of them in Value (to be ascertained as aforesaid), shall elect a practising Barrister at Law of at least Five Years standing, to supply such Vacancy.

Parties dissatisfied authorized to try their Rights at Law.

XXIII. Provided always, and be it further enacted, That if any Party claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the said Commissioner touching any Claim, Right, or Interest in, over, or upon the said Common or Waste Lands, or touching any Objection to any such Claim, it shall be lawful for such Party to bring an Action upon a feigned Issue against the Party in whose Favour such Determination shall have been made within Three Calendar Months next after the Determination of the said Commissioner shall have been notified in Writing to the Party against whom such Determination shall have been made, or to his known Agent, and thereupon the Party so dissatisfied may proceed to Trial at Law at the then next Assizes, or at the Assizes immediately following such next Assizes, which may be held for the said County of *Salop* after such Action shall have been commenced; and

and the Defendant in such Action is hereby required to name an Attorney, who shall appear thereto, and accept One or more Issue or Issues (such Issues to be settled by the proper Officers of the Court in which such Action shall be commenced in case the Parties shall differ about the same), whereby such Claims and the Rights thereby insisted on or objected to may be tried and determined; and the Verdict which shall be given in such Action shall be binding and conclusive upon all the Parties thereto, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had thereon, which it shall be lawful for the Court to do as in other Cases; and after such Verdict shall have been obtained (unless the same shall be subsequently set aside by the Court) the said Commissioner shall act in conformity thereto, and allow or disallow the Claims thereby determined, according to the Event of such Trial: Provided always, that the Determination of the said Commissioner touching any such Claim or other Right or Interest as aforesaid which shall not be objected to in due Time, or as to which being objected to the Party objecting shall not cause such Action to be brought within the Time herein-before limited, or to be proceeded with as aforesaid, shall be final and conclusive upon all Parties: Provided also, that no Difference, Action, or Proceeding as aforesaid, nor any Difference touching the Title to any Lands, shall impede or delay the Commissioner in the Execution of this Act; but the Inclosure by this Act authorized shall be proceeded in notwithstanding any such Difference, Action, or Proceeding, and the Allotments in respect of any disputed Property shall be taken and held by the Party or Parties who upon the Determination of such Difference, Action, or Proceeding shall become entitled thereto.

Actions not to abate by the Death of any of the Parties.

XXIV. And be it further enacted, That if any of the Parties, Plaintiffs or Defendants, in any Action to be brought in pursuance of this Act shall die pending the same, such Action shall not be defeated or abate by reason thereof, but may be proceeded in as if no such Event had taken place; and if any Party in whose Favour any such Determination as aforesaid shall have been made, and against whom such Action might have been brought if living, shall die before such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Party who might have brought such Action to bring the same within the Time so limited as aforesaid against such Party as if actually living, and to serve the Clerk of the said Commissioner with Process for commencing such Action, in the same Manner as the Party might have been served therewith if living; and it shall thereupon be incumbent on the Heir of the Party so dead, or other the Party who shall claim the Benefit of such Determination, to appear and defend such Action in the Name of the Party so dead, and Proceedings shall be had therein in the same Manner as if such Party had been living, and the Rights of all Parties to the said Action shall be equally concluded by the Event of such Action.

Act not to be impeded by Death of Parties to Actions.

XXV. Provided also, and be it further enacted, That if any of the Parties interested in the said Inclosure shall die before the same shall be completed the Powers and Duties hereby vested in the said Commissioner shall not be thereby determined or delayed, but the said Commissioner shall proceed in the Execution of the Powers and Duties so vested in him in such Manner as he might or ought to have done in case such Parties had

had not died, and the Shares of the Parties so dying shall be allotted to the Parties who by Law shall become entitled to the same, and shall be accepted by such Parties accordingly.

Commissioner empowered to straighten Boundaries.

XXVI. And be it further enacted, That for the Purpose of rendering straight any Boundary Fence between the said Commons and Waste Lands and the Lands in any adjoining Manor, Township, Parish, or Place, it shall be lawful for the said Commissioner (with the Consent of the Lord or Lords of the Manor or Manors and of the Owner or Owners of the Lands or Grounds liable to be affected thereby, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate,) to set out and ascertain the Boundaries between the said Commons and Waste Lands and the Lands lying in such adjoining Manor, Township, Parish, or Place respectively, in such Manner as he shall judge proper for the Purposes aforesaid; and after such Boundaries shall have been set out and ascertained as aforesaid the same shall be fenced, ditched, or embanked by such Person, in such Manner, and at or during such Times as the said Commissioner shall direct, and shall for ever thereafter be deemed the Boundaries between the said Common and Waste Lands and such adjoining Manor or Township, Parish or Place respectively; any Law, Usage, or Custom to the contrary thereof notwithstanding.

Commissioner empowered to improve Drains.

XXVII. And be it further enacted, That it shall be lawful for the said Commissioner to scour out, widen, deepen, and enlarge or alter the Course of and improve any of the ancient Drains, Watercourses, Banks, and Bridges within the said Townships or any adjoining Township, and also to set out and make such new Drains, Watercourses, Embankments, and Bridges of such Size, Extent, and Form, and in such Situations as the said Commissioner shall deem necessary, in, through, over, and upon the said Common and Waste Lands, the Expence of executing such Drainage and other Works as aforesaid to be charged upon and defrayed by the Proprietors of the Lands benefited thereby in such Proportions as the said Commissioner shall direct; and the said Commissioner is hereby required in and by his Award to order and direct by whom, at whose Expence, at what Time, and in what Manner such Drains and other Works aforesaid shall be thereafter cleansed, repaired, and maintained: Provided, that where any such new Drain, Watercourse, Embankment, or Bridge shall be set out or made in, through, over, and upon any Inclosure, the said Commissioner shall make full Compensation to the Proprietor thereof for the Value of the Land to be taken for any of the Purposes aforesaid, and also for the Damage done thereby, either by an increased Allotment of Land, or by and out of the Money to be raised under the Authority of this Act for Payment of the Expences thereof.

Commissioner may discontinue or alter Roads.

XXVIII. And be it further enacted, That it shall be lawful for the said Commissioner, if he shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter, any of the Carriage Roads, Highways, Bridle Roads, or Footways (other than and except Turnpike Roads), passing or leading through or over any of the said Common or Waste Lands, or passing or leading through or over any of the Lands in the said Townships; and the Soil of the Roads and Ways so to be discontinued and

and stopped up, and which may pass through or over any of the said Common or Waste Lands, but not otherwise, shall be deemed and taken to be Part of the Lands to be divided, allotted, and inclosed by virtue of this Act; and the Soil of the Roads and Ways so to be discontinued or stopped up, and which may pass through or over any of the old inclosed Lands within the said Townships, shall vest in the Owners of the Lands adjoining thereto in the following Proportions; that is to say, One Moiety thereof in the Owner of the Lands on the one Side thereof, and the Remainder in the Owner of the Lands on the other Side thereof.

Power to widen Roads, making Compensation to the Owners.

XXIX. And be it further enacted, That it shall be lawful for the said Commissioner, where he shall see it necessary, to widen any of the Highways within the said Townships, and for that Purpose to take a sufficient Quantity of the inclosed Lands adjoining to such Highways, (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House,) and to make a full Compensation for the Value of the Land so to be taken for the widening of such Highways by a Payment in Money, or by allotting and awarding unto the Person from whom any such ancient inclosed Land shall be so taken an adequate Part of the said Common and Waste Lands, at the Option of the Person whose Land shall be so taken, and also to make good and substantial Fences on each Side of all such widened Highways for and in lieu of the Fences which shall be injured or destroyed by means of such widening.

Proceedings previously to diverting and stopping up Highways.

XXX. Provided always, and be it further enacted, That before any Highway shall be discontinued, stopped up, diverted, or altered by the said Commissioner, the said Commissioner shall cause to be affixed at each End of the said Highway so proposed to be discontinued, stopped up, diverted, or altered a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered (as the Case may be) by the said Commissioner; and the said Commissioner shall also cause the same Notice to be inserted in some One or more Newspaper or Newspapers usually circulated within the said County of *Salop* for Four successive Weeks, and shall also cause a like Notice to be affixed on the principal outer Doors of the Parish Church of *Clun* aforesaid on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid the said Highways shall be and shall be deemed to be discontinued, stopped up, diverted, or altered (as the Case may be), subject however to such Appeal to the Court of General Quarter Sessions for the said County of *Salop* as is herein-after mentioned.

Persons aggrieved by any Road being diverted, &c. may appeal.

XXXI. Provided always, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Highway shall be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to the Justices at any General or Quarter Sessions of the Peace to be holden for the said County of *Salop* within Four Calendar Months next after the Date of such Notice, giving to the said Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have

have been so given as aforesaid, nor on any Hearing of Appeal to give into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of Appeal, Jury at Sessions to determine whether old Highway may be discontinued.

XXXII. And be it further enacted, That in case of such Appeal the Justices at the said Quarter Sessions shall, for the Purpose of determining whether the Highway so discontinued, stopped up, diverted, or altered, or intended to be discontinued, stopped up, diverted, or altered, shall remain, or shall be discontinued, stopped up, diverted, or altered (as the Case may be), or whether the Party appealing would be injured or aggrieved thereby, impannel a Jury of Twelve indifferent Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the Highway so discontinued, stopped up, diverted, or altered, or intended so to be, is wholly unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved thereby, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid to the said Commissioner by the Party appealing, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said first-recited Act; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up, or intended so to be, is not unnecessary, or that the said Highway so diverted or altered, or intended so to be, could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court of Quarter Sessions shall allow such Appeal, and the said Highway shall not be discontinued, stopped up, diverted, or altered; or in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring the same to its original State; and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party appealing such Costs and Expences as shall be incurred in prosecuting such Appeal; and such Costs and Expences shall be paid by the said Commissioner, and shall be raised by him in such and the same Manner as he is hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

On Dismissal of Appeal, Order of Commissioner for discontinuing to be final.

XXXIII. Provided always, and be it further enacted, That from and after the Dismissal of any such Appeal as aforesaid the Order or Award of the said Commissioner for discontinuing, stopping up, diverting, or altering any such Highway shall be final and conclusive, and be of full Force and Effect, any thing in this Act contained to the contrary notwithstanding.

Expences of discontinuing or widening Roads.

XXXIV. And be it further enacted, That the Charges and Expences attending the discontinuing, stopping up, diverting, altering, or widening of such Roads or Highways, and the making of such Fences as aforesaid, shall be raised and paid in such and the like Manner as the Expences of passing and executing this Act are hereby directed to be raised and paid.

Public Carriage Road from Newcastle Bridge to Croes-y-Sarney.

XXXV. And be it further enacted, That the Commissioner shall set out and make a public Carriage Road of not less than Thirty Feet in Width from a Point at or near *Newcastle Bridge* up the Vale through which the River *Clun* flows, passing near the *Garn*, *Great Dyffrin*, the *Lawn Farm*, *Sunny Bank*, the *Hall of the Forest*, *Weale's Messuage*, and *Fos-y-Rhês*, and thence to the Confines of the Forest at or near *Croes-y-Sarney;* and that there be proper Roads communicating with it (in addition to all such other Roads as the Commissioner shall think fit); and that the said Commissioner shall have Power to take a sufficient Quantity of the Lands heretofore inclosed necessary for the better making of the said principal Carriage Road and the Roads communicating therewith, (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House,) and to make a full Compensation for the Value of the Land so to be taken by a Payment in Money, or by allotting and awarding unto the Person from whom any such inclosed Land shall be so taken an adequate Part of the said Common and Waste Lands hereby directed to be divided, allotted, and inclosed, at the Option of the Person whose Land shall be so taken, and also to make good and substantial Fences on each Side of the said Roads for and in lieu of the Fences which shall be injured or destroyed by the making of the same Roads.

Justices empowered to declare any of the Carriage Roads completed.

XXXVI. And be it further enacted, That when and so soon as Two or more of His Majesty's Justices of the Peace for the said County of *Salop* at any special Sessions shall find, and shall under their Hands and Seals certify any of the public Carriage Roads to be set out in pursuance of the said first-recited Act or of this Act, or any Part of such Roads, to be fully and sufficiently formed and completed, such Road or Roads, or so much thereof as shall in any such Certificate be described or specified, shall thenceforth be supported and kept in repair by such Persons and in such Manner as the public Roads within the said Township are or ought by Law to be amended and kept in repair; and every such Certificate shall, at the General Quarter Sessions of the Peace to be held for the said County next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County.

Allotments for Watering Places.

XXXVII. And be it further enacted, That the said Commissioner shall, in the first place, if he shall think it for the public Benefit to do so, but not otherwise, set out and allot unto the Surveyors of the Highways within the said several Townships such Parts and Parcels of the Common and Waste Lands by this Act authorized to be divided, allotted, and inclosed, as the said Commissioner shall think proper, as and for public Watering Places for Cattle.

Allotment to be set out for Gravel, &c. for Repair of Highways, &c.

XXXVIII. And be it further enacted, That the said Commissioner shall, in the next place, set out, assign, and appoint One or more Piece or Parcel, Pieces or Parcels of Ground, Part of the Common or Waste Lands by this Act authorized to be divided, allotted, and inclosed, if there shall be any within the said several Townships proper for such Purposes, for the Purpose of getting Stone, Gravel, and other Materials, as well for the making, forming, repairing, and sustaining the public and private Roads, Ways, Walls, Bridges, and Drains, and other Works to be made by virtue of this Act, as also for the repairing and sustaining all other ancient public

and

and private Highways, Bridges, or Roads within the said Townships; which said Allotment so to be made and set out for the Purposes aforesaid, and also all Allotments which shall be set out by the said Commissioner as and for Watering Places for Cattle as herein-before mentioned, shall, from and after the Execution of the Award of the said Commissioner, be vested in the Survey or or Surveyors of the Highways respectively within the said Townships for the Time being in Trust for the Purposes aforesaid, and the Grass and Herbage of such Allotments shall belong to such Persons as the Commissioner shall by his Award direct; and if the said Commissioner shall make no such Direction, then such Surveyors shall from Time to Time let the Herbage for the most Money that can be obtained for the same, and shall apply the Rents and Profits arising from the same towards the Repairs of the public Roads or Highways within the said Townships; and the said Surveyors shall account for such Rents and Profits in the same Manner as they are by Law accountable for other Money which may come to their Hands in the Capacity of Surveyors of the Highways, and shall be under and subject to the like Penalties for Default therein.

Allotment for Turbaries.

XXXIX. And be it further enacted, That the said Commissioner shall set out and allot to the Lord of the said Honor or Lordship such Parts of the said Common and Waste Lands as shall contain Peat or Turf of the Depth of Three Feet, and in sufficient Quantities to be permanently used for Fuel by the Inhabitant Householders of the District commonly called the Five Towns, *videlicet*, *Newcastle*, *Whitcot-Keyset*, *Shadwal* and *Knuck-Shadwal*, *Bicton* and *Weston*, and *Kevencalonog*, and of the Townships of *Reilth*, *Mainston*, and *Edenhope*; and that all such Allotments so set out for Turbaries shall for ever thereafter be used as Turbaries by the Inhabitant Householders aforesaid, and shall be holden by the Lord of the said Honor or Lordship for the Time being for their Use accordingly: Provided always, that if any Person not being such an Inhabitant Householder of the Five Towns, or of *Reilth*, *Mainston*, or *Edenhope* aforesaid, shall cut any Peat or Turf in any of the said Turbaries so to be set out by the Commissioner as last aforesaid, or shall take and carry away any Peat or Turf cut by any such Inhabitant Householder as aforesaid, then and in every or either of the Cases aforesaid, any of His Majesty's Justices of the Peace for the said County of *Salop*, upon due Proof thereof made before him upon Oath (which Oath the said Justice is hereby empowered and authorized to administer), shall and he is hereby required, by Warrant under his Hand and Seal directed to any Person whomsoever, to cause any Sum of Money not exceeding Five Pounds to be levied by Distress and Sale of the Goods and Chattels of every Person so offending in the Premises, rendering the Overplus (if any), upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied and recovered as aforesaid shall be applied in the Manner directed by an Act passed in the Seventh and Eighth Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for consolidating and amending the Laws in* England *relative to malicious Injuries to Property*, in Cases of Penalties for Offences not otherwise therein specifically provided for; and for Want of such Distress it shall be lawful for such Justice by Warrant under his Hand and Seal to commit such Offender to some Common Gaol or House of Correction of the said County, there to remain without Bail or Mainprize for any Time not exceeding Two Calendar Months,

7&8G.4.c.30.

Months, unless such Offender shall sooner pay such Penalty and all Costs attending the same.

Allotment to be set out for Recreation for the Poor.

XL. And be it further enacted, That the said Commissioner shall and he is hereby required to set out and allot to the Lord of the said Honor or Lordship so much and such Parts of the said Common and Waste Lands as in the Judgment of the said Commissioner shall be sufficient and convenient for a Place of Exercise and Recreation for the Inhabitants of the several Towns adjoining to or in the Neighbourhood of such Common or Waste Lands, and such Allotment shall be holden by the Lord for the Time being of the said Honor or Lordship for the Purposes aforesaid.

Encroachments of above Twenty Years Duration not to be allotted.

XLI. And be it further enacted, That all Cottages, Erections, Encroachments, and Inclosures which have been erected and made upon or taken out of the said Common and Waste Lands by any Freeholder or Freeholders, or his, her, or their Tenant or Tenants, in respect of or laid unto and occupied with his, her, or their Messuages, Lands, or Tenements respectively within the said Honor or Lordship for the Space of Twenty Years or upwards before the passing of this Act, and for which no Rent or Amerciament hath been paid nor Attornment made to the Lord for the Time being of the said Honor or Lordship, shall not be allottable under this Act, but shall be deemed to be the Property of such Freeholders respectively; and all other Cottages, Erections, Encroachments, and Inclosures which shall have been erected and made upon or taken out of the said Common and Waste Lands for the Space of Twenty Years or upwards before the passing of this Act, and for which any Tenancy from Year to Year or at Will hath been acknowledged to the Lord for the Time being of the said Honor or Lordship, and that the Inclosures on *Kevencalonog Bank*, the *Riddings*, and *Cefn Brith* otherwise called the *Rail Ground*, as now fenced off and occupied by the said Lord or his Tenants, shall not be allottable under this Act, but shall be deemed to be the Property of the Lord of the said Honor or Lordship, or such Person or Persons as shall claim the same by Conveyance from him or his Predecessors, or shall otherwise have a lawful Title thereto; but no Allotment shall be made for or in lieu of any Common Right which shall be claimed in respect of any such Cottages, Erections, Encroachments, and Inclosures.

Encroachments within Twenty Years to be allotted.

XLII. And be it further enacted, That all Encroachments and Inclosures made upon or taken out of the said Common and Waste Lands within Twenty Years next before the passing of this Act shall be deemed Part or Parcel of the said Common and Waste Lands, and shall be allotted as such, but such of them as have been made by any Freeholder or his Tenants in respect of or laid unto and occupied with his Freehold shall be set out and allotted unto such Freeholder as shall be so in the Possession thereof respectively in part or in full of the Allotments herein-after directed to be made to him, in case the same shall not, in the Judgment of the said Commissioner, be more than equivalent thereto (but if it shall be so, then only a competent Part shall be so set out and allotted); and that all other Inclosures and Encroachments so made as aforesaid within the said Term of Twenty Years shall be allotted unto the Lord in part of his said Allotment; but in the Valuation of such Inclosures or Encroachments (to whomsoever allotted) the Buildings or

Erections thereon shall not be included, nor shall the Lands be estimated at any higher Rate than the same would have been valued at if they were in their original uninclosed and unimproved State.

Commissioner empowered to extinguish or suspend Rights of Common, &c.

XLIII. And be it further enacted, That it shall be lawful for the said Commissioner at any Time or Times when he shall think proper, by Notice for that Purpose in Writing under his Hand to be affixed to some principal Door of each of the Parish Churches of *Clun*, *Mainston*, and *Bettus*, on some *Sunday* previous to Divine Service, to order the Rights of Common or other Rights in, over, or upon the Common and Waste Lands hereby authorized to be divided, allotted, and inclosed, or any Part thereof, to be extinguished either in whole or in part, or to be suspended; and from and after the Time mentioned in such Notice all such Rights as shall thereby be directed to be extinguished or suspended shall be extinguished or suspended accordingly; and if after such Extinguishment, or during such Suspension of such Rights of Common, any of the said Proprietors or Occupiers, or Claimants of Pasturage or Common Rights, shall permit his Cattle or Sheep to go, depasture, or feed on any of the Land so exonerated or discharged from Rights of Common, it shall be lawful for any other of the said Proprietors or Occupiers to distrain such Cattle or Sheep being upon such Lands contrary to such Notice, and to impound the same until the Person or Persons so offending shall pay to the Person or Persons so distraining any Sum not exceeding Ten Shillings for each Head of Cattle and Five Shillings for each Sheep so distrained, to be determined by the said Commissioner; and in case the same, together with all Costs and Charges, to be determined as aforesaid, shall not be paid before the next Sitting of the said Commissioner after such distraining or impounding, the said Commissioner is hereby empowered, upon Proof of such Offence having been committed, and Nonpayment of the Penalty hereby imposed, to cause the Cattle or Sheep so distrained, or such Part of them as he shall think fit, or other the Goods and Chattels of the Person so offending (which the said Commissioner is hereby authorized to distrain in case of any Rescue or Pound-breach), to be sold for raising and paying the Penalty aforesaid, together with the Costs and Charges attending every such Distress and Sale, rendering the Overplus (if any), upon Demand, to the Owner or Owners of such Cattle and Sheep.

Penalty on Persons cutting Turves, &c.

XLIV. And be it further enacted, That if any Person or Persons shall, after the passing of this Act, cut, dig, pare, grave, flay, or carry away any Turf (otherwise than as herein-before provided), Stone, Whins, Furze, Gorse, or Ferne, in, upon, or from the said Common or Waste Lands, or any Part thereof, without the Licence of the said Commissioner first had and obtained in Writing for that Purpose, (which Licence the said Commissioner is hereby empowered to grant under such Rules, Orders, Regulations, and Restrictions as he shall think proper to insert therein,) then and in every such Case any of His Majesty's Justices of the Peace for the said County of *Salop*, upon due Proof thereof made before him upon Oath (which Oath the said Justice is hereby empowered and authorized to administer), shall and he is hereby required, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause any Sum of Money not exceeding Ten Pounds to be levied by Distress and Sale of the Goods and Chattels of every Person so offending in the Premises, rendering the Overplus

Overplus (if any), upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied and recovered as aforesaid shall be applied towards defraying the Costs and Charges of obtaining and executing this Act; and for Want of such Distress it shall be lawful for such Justice by Warrant under his Hand and Seal to commit such Offender or Offenders to some Common Gaol or House of Correction of the said County, there to remain without Bail or Mainprize for any Time not exceeding Three Calendar Months, unless such Offender or Offenders shall sooner pay such Penalty and all Costs attending the same.

Allotments to the Lord of the Lordship.

XLV. And be it further enacted, That the said Commissioner shall set out and allot unto and for the Lord of the said Honor or Lordship of *Clun* so much and such Part or Parts of the Common and Waste Lands by this Act authorized to be divided, allotted, and inclosed as shall in the Judgment of the said Commissioner be equal in Value (Quality and Situation considered) to One Twelfth Part of the whole of the Common and Waste Lands which are subject to the Operation of this Act, in lieu of and as a full Compensation and Satisfaction for the Rights and Interests of the Lord of the said Honor or Lordship in and to the Soil of the said Common and Waste Lands, and other his Rights and Interests in respect of Common or Forest Right in, over, or upon the same Common and Waste Lands, but not to exclude him from receiving or taking any other Allotment or Allotments to which he may be entitled under the Provisions herein-after contained.

Commissioner empowered to sell Land for defraying the Expences of the Act.

XLVI. And be it further enacted, That for the Purpose of raising Money for the Payment of all the Costs, Charges, and Expences incident to and attending the obtaining of this Act, and of surveying, admeasuring, planning, valuing, dividing, and allotting the Lands hereby directed to be divided, allotted, and inclosed, and of preparing and enrolling the Award or Awards of the said Commissioner, and of the Copies thereof, and all Charges and Expences of the said Commissioner, his Assessor, Clerk, Assistants, and Servants, and all other necessary Expences of the several Persons to be employed by the said Commissioner in and about the Premises either before or after the Execution of the said Award, and all the Expences of forming, completing, and repairing the public Carriage Roads and Highways to be set out and appointed by the said Commissioner, and the Costs and Charges that the said Commissioner shall be put unto in respect of any Appeal against his Decision, and of any Suit at Law or in Equity that may be instituted by or against such Commissioner either before or after the Execution of his Award, and all other Costs, Charges, and Expences necessarily incurred in carrying this Act into execution, it shall be lawful for the said Commissioner and he is hereby empowered, after setting out the several Roads and the several Allotments hereinbefore mentioned, to mark and set out in Lots from Time to Time as he may think necessary such other Parts of the said Common or Waste Lands by this Act authorized to be divided, allotted, and inclosed as will by the Sale thereof, in the Judgment of the said Commissioner, raise sufficient Money for the several Purposes aforesaid; and it shall be lawful for the said Commissioner, after he shall have so marked and set out such Part and Parts of the said Common and Waste Lands for Sale for

the Purposes aforesaid, absolutely to sell and dispose of such Part and Parcels of the said Common and Waste Lands to any Persons whomsoever by public Auction in manner by the said first-recited Act mentioned; and all such Lands to be so sold by virtue of this Act shall, on the Payment of the full Purchase Money for the same into the Hands of the said Commissioner, or of any other Person to be by him appointed to receive the same, be conveyed as Freehold of Inheritance in Fee Simple unto or in Trust for the Purchaser or Purchasers thereof respectively, or otherwise as he or they shall direct; and a Conveyance or Conveyances of the same by Lease and Release or Feoffment shall be made and executed by the said Commissioner, and shall be valid and effectual in the Law to vest the same in such Purchaser or Purchasers, and his, her, or their respective Heirs, Appointees, and Assigns, absolutely for ever, subject and liable to such Orders, Directions, and Restrictions as shall be prescribed and appointed by the said Commissioner in and by his Award to be made by virtue of this Act, but without such respective Purchasers being bound to see to the Application of their respective Purchase Monies, or being liable or accountable for the Misapplication or Nonapplication of the same; and the said Commissioner shall, after Payment of the Costs, Charges, and Expences attending such Sale and Sales, or in anywise relating thereto, apply the Residue of the Monies arising therefrom for the Purposes above mentioned.

Application of surplus Money arising from Sale of Land.

XLVII. And be it further enacted, That in case any Surplus shall remain of the Money raised by the Sale of the Land as aforesaid after all such Costs, Charges, and Expences as aforesaid shall have been fully paid and satisfied, such surplus Money shall be divided and apportioned between the several Proprietors of and Persons interested in the Common and Waste Lands hereby authorized to be divided, allotted, and inclosed, in proportion to their respective Rights and Interests therein, or, as the Case may require, shall be paid into the Bank of *England*, to be laid out and disposed of in manner by this Act directed.

If Money arising from Sale prove insufficient, Deficiency to be raised by Rate.

XLVIII. Provided also, and be it further enacted, That if the Money arising from any such Sale or Sales of Lands herein-before mentioned shall prove insufficient for defraying all the Costs, Charges, and Expences herein-before mentioned, such Costs, Charges, and Expences shall be borne and paid by all the Proprietors of, and Bodies Politic, Corporate, and Collegiate, and Persons interested in the said Common and Waste Lands hereby authorized to be divided, allotted, and inclosed (except the Owners of Lands held in right or in respect of any Church or Chapel), in proportion (or as near as may be) to their respective Rights and Interests therein; and the Shares and Proportions of the said Costs, Charges, and Expences to be borne by the said respective Proprietors and Parties interested as aforesaid shall be settled and ascertained by the said Commissioner either before or after the Execution of his Award, and shall be paid to such Person or Persons and at such Time or Times as the said Commissioner shall from Time to Time direct or appoint; and in case any Person or Persons shall refuse to pay his, her, or their Share or Proportion or respective Shares or Proportions of the said Costs, Charges, and Expences, according to such Direction and Appointment as aforesaid, the said Commissioner shall and may, for recovering and compelling Payment thereof, use all or any of the Powers, Remedies, Ways, and Means which

which by the said first-recited Act are given in Cases in which it may be provided by Acts of Inclosure that the Expences of obtaining and carrying the same into execution shall be paid in proportion by the Proprietors of Lands or Grounds to whom Allotments shall be made.

Monies may be recovered after Execution of Award.

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

Allotment for a Chapel in Newcastle.

L. And be it further enacted, That the said Commissioner shall, in the next place, set out and allot unto the Lord of the said Lordship of *Clun*, his Heirs and Assigns, Five Statute Acres of the said Common and Waste Lands, situate in the most proper and convenient Spot within the said Township of *Newcastle* in the Parish of *Clun* in the County of *Salop*, for erecting a Parochial Chapel thereon, to be duly consecrated for the Service of the United Church of *England* and *Ireland*, and to be erected with the Consent of the Ordinary of the Diocese of *Hereford*, together with a Mansion House thereon for the Residence of the Curate or Minister of the said Chapel when erected, and his Successors.

Allotment for a Glebe in Mainston.

LI. And be it further enacted, That the said Commissioner shall, in the next place, set out and allot unto the said Lord of the said Lordship, his Heirs and Assigns, Five Statute Acres of the said Common and Waste Lands, situate in the most proper and convenient Spot within the Parish of *Mainston*, for a Glebe for the Rector of the said Parish, or his Successors, to erect a Mansion House, or make other Conveniences for the Residence of such Rector and his Successors.

The Lord to convey the Allotments at Newcastle and Glebe at Mainston. 43G.3.c.108.

LII. And be it further enacted, That when the said Allotments for such Chapel and Mansion House and Glebe as aforesaid shall have been respectively set out, the said Lord, his Heirs or Assigns, shall convey the same to such respective Vicar and Rector according to the Provisions of an Act of Parliament passed in the Forty-third Year of the Reign of King *George* the Third, intituled *An Act to promote the building, repairing, or otherwise providing of Churches and Chapels, and of Houses for the Residence of Ministers, and the providing of Churchyards and Glebes*, and of another Act passed in the Fifty-first Year of that Reign for amending the said former Act, or of One of the said Acts, or of any other Statute or Law enabling him so to do; and that the Charges and Expences of and attending the preparing, perfecting, and enrolling such Conveyances shall be deemed Part of the Expences of carrying this Act into execution, and shall be borne and defrayed accordingly by and out of the Money to be raised for the Purposes of this Act.

Allotments for Schools in Newcastle, Whitcot-Keyset, and Mainston.

LIII. And be it further enacted, That the said Commissioner shall, in the next place, set out and allot to the said Lord, his Heirs and Assigns, One Half of a Statute Acre of the said Common and Waste Lands lying within the said Township of *Newcastle* for the Site of a School intended to be erected for the Education of poor Children, and for a House also intended to

to be erected (if necessary) for the Master or Mistress of such School in the said Township, and also a like Quantity of the said Lands lying within the said Township of *Whitcot-Keyset* in the said Parish, for the like Purpose of a School and Schoolhouse thereon to be erected, and also a like Quantity of the said Lands lying within the said Parish of *Mainston* for the like Purpose of a School and Schoolhouse to be erected thereon.

The Lord to convey Allotments for the Schoolhouses.

LIV. And be it further enacted, That when the Allotments for any of the said Schools shall have been set out the Lord of the said Lordship shall convey the same to the Incumbent and Churchwardens of the said respective Parishes of *Clun* and *Mainston*, according to the Provisions of an Act of Parliament passed in the Sixth and Seventh Years of the Reign of His present Majesty, intituled *An Act to facilitate the Conveyance of Sites for Schoolrooms*, or of any other Statute or Law enabling him so to do; and that the Charges and Expences of and attending the preparing, perfecting, and enrolling such Conveyances shall be deemed Part of the Expences of carrying this Act into execution, and shall be borne and defrayed accordingly by and out of the Money to be raised for the Purposes of this Act.

6 & 7 W. 4. c. 70.

Power of exchanging Allotments set out for Incumbents.

LV. And whereas it may be impossible to set out Allotments of the said Common and Waste Lands to be used as Sites for Chapels, Mansion Houses, Schoolhouses, and Glebe Lands, which shall be as conveniently situated for the Purposes for which they were intended as if inclosed Lands were set out and used for those Purposes, and it is therefore desirable to give a Power of exchanging any such Allotments for other Lands more conveniently situated; for which Purpose be it further enacted, That it shall be lawful for the said Commissioner, at any Time before such Conveyances shall have been made by the said Lord as are hereinbefore directed, to allot and award any inclosed Lands within the said Parishes or Townships of *Newcastle*, *Whitcot-Keyset*, and *Mainston* respectively, which in his Judgment shall be of equal Value and more suitable or more conveniently situated for the Purposes aforesaid or any of them, in lieu of or in exchange for any Allotments of the said Common or Waste Lands which shall be originally set out for the Purposes aforesaid; provided that all such Exchanges be specified and declared in the Award of the said Commissioner, and be made with the Consent of the Lord and the respective Owners or Proprietors of the Lands, Tenements, or Hereditaments which shall be so given in Exchange for the Lands so originally allotted for the Purposes aforesaid, whether such Lord for the Time being and such Owners or Proprietors shall be Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, 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, by and with the Consent of the Lessors of Lands, Tenements, or Hereditaments held for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Lord, Owners, or Proprietors who at the Time of making such 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, such Consents to be testified in Writing under the Common

mon Seals of the respective Bodies Politic and under the Hands of the other consenting Parties respectively; and every such Exchange so made shall be valid in the Law to all Intents and Purposes: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments now held in right of any Ecclesiastical Benefice without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which the Lands, Tenements, or Hereditaments so to be exchanged shall be situate.

Directions as to defraying Expences of Exchanges.

LVI. Provided also, and be it further enacted, That all Costs, Charges, and Expences attending the making of any such Exchanges as last aforesaid shall be deemed Part of the Expences of carrying this Act into execution, and shall be borne and defrayed accordingly, namely, out of the Monies to be raised for the Purposes of this Act.

Allotment of the Residue of the Lands among the Proprietors.

LVII. And be it further enacted, That the said Commissioner shall, in the next place, divide, set out, and allot all the Residue of the said Common and Waste Lands by this Act authorized to be divided, allotted, and inclosed unto and amongst the several Owners and Proprietors for the Time being of Messuages, Tenements, and Hereditaments within or adjoining to the said Honor or Lordship or elsewhere, and entitled in respect thereof to any Common Right upon the said Common and Waste Lands or any Part thereof, and unto and amongst the several Persons entitled to Common in gross thereon or any Part thereof, including the Lord of the said Honor or Lordship, so far only as regards his Claims as a Freeholder in respect of his Freehold Messuages, Meese Places, and Lands in the Five Towns aforesaid (except *Upper* and *Lower Weston*), and in the said Townships of *Mainston* and *Edenhope*, and in respect of any Right or Title to Common in gross which he may have upon the said Common and Waste Lands or any Part thereof, and in respect also of the Two following outlying Farms only, namely, the *Leasows* Farm and the ancient *Colestey* Farm, in such Quantities, Parts, Shares, and Proportions as the Commissioner shall determine to be a full and just Compensation, Equivalent, and Satisfaction for their several and respective Lands and Grounds, Rights of Common, and other Rights and Interests therein: Provided always, that the Claim of the said Lord to an Allotment in respect of any Right of Common in gross, or the said outlying Farms called the *Leasows* and *Colesty*, shall not be deemed to be hereby admitted, but shall be open to Objection, and may be supported by Proofs, in the same Manner as if such Right of Common in gross or Farms belonged to any other Person than the said Lord.

Commissioner to give Notice of Allotments being set out.

LVIII. And be it further enacted, That the said Commissioner, after he shall have ascertained the respective Rights and Interests of the several Proprietors in the Lands to be divided, allotted, and inclosed, and also the Shares or Proportions respectively in lieu thereof, shall cause Notice to be given of some convenient Time and Place within the said Lordship when and where the said Proprietors may be informed of such intended Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and as some Proprietors may, upon the Inspection of such Map or Plan, be dissatisfied with the intended Allotments, the said Commissioner shall, at such Time and Place as last aforesaid, or at some other Time or Place to be appointed by him for that

that Purpose, on receiving Statements in Writing of Complaints and Objections against such Allotments, forthwith, or as soon after as conveniently may be, determine the same; and the Determination of the said Commissioner respecting the Allotments shall be final and conclusive on all Parties who shall not, within One Calendar Month from the Time of such Determination, give Notice in Writing to the said Commissioner of their Dissatisfaction with such Determination, and who shall not also give such Notice of Appeal as is herein-after required to be given in Cases of Persons thinking themselves aggrieved by any Order, Act, or Determination of the said Commissioner.

General Allotments to be fenced.

LIX. And be it further enacted, That the several Allotments to be made in pursuance of this Act shall be inclosed, drained, and fenced by such Persons, within such Time, and in such Manner as the said Commissioner shall direct and appoint; and the several Inclosures, Drains, and Fences which shall be made as aforesaid shall be made and for ever afterwards repaired and maintained by such Persons as the said Commissioner shall direct and appoint: Provided always, that every Lessee of any of the Common and Waste Lands hereby authorized to be divided, allotted, and inclosed, held under a beneficial Lease, shall be at the sole Expence of inclosing, draining, and fencing the Allotment to be made in respect of the Lands so held.

As to fencing between different Allotments.

LX. Provided always, and be it further enacted, That when such Fences so directed to be made by the Commissioner do not adjoin any public or Occupation Road, or any other public or private Easement requiring (in the Judgment of the Commissioner) the Protection of a Fence, the Owners of any adjoining Allotments may, by Writing signed by all Parties interested, or their respective Agents, request the said Commissioner, at any Sitting prior to that to be holden for the making of his Award, to declare that the making of any such Fences shall be postponed for any Term of Years to be agreed on; and in every such Case the said Commissioner may direct that Mounds, Bound-stones, or other sufficient Marks be substituted for Fences during such Term, at the Expence of the Parties originally intended to be charged with the making of such Fences: Provided also, that at the End of such Term the Obligation to fence such Allotments shall revive as against the Parties who would have been obliged to fence the same if such Suspension had not taken place.

Money to be contributed by Persons not having to bear full Proportion of Fencing, &c.

LXI. Provided always, and be it further enacted, That if from Situation or from any other Circumstance it shall happen that any of the Proprietors of the Common and Waste Lands hereby authorized to be divided, allotted, and inclosed, shall not have a full proportionable Share of the Boundary Fences assigned to him or her to make by virtue of this Act, it shall be lawful for the said Commissioner to ascertain and appoint what Sum of Money shall be paid and contributed by such Proprietor towards making the Boundary Fences of the Allotments of such other of the said Proprietors as shall have too great a Proportion thereof to make; and such Money shall be paid to such Persons and in such Manner as the said Commissioner shall by any Writing under his Hand direct, and the same shall and may be raised and recovered by all or any of the Ways and Means which by the said first-recited Act are given or provided

provided for raising and recovering the Expences of obtaining and executing Acts of Inclosure in Cases where such Expences are directed to be paid in proportion by the Proprietors of Lands to whom any Allotment shall be made.

Rector's and Vicar's Allotments to be fenced at Expence of general Proprietors.

LXII. And be it further enacted, That any Allotment or Allotments (if any such there be) to be made to any Rector or Vicar in respect of Glebe Lands belonging to any Rectory or Vicarage, and also the said Allotments to be made to the said Lord, his Heirs and Assigns, in respect of the said Chapel, Mansion House, Glebe, and Schools as aforesaid, shall be well and sufficiently inclosed and fenced on all such Parts and Sides as shall not be directed to be fenced by any other Proprietor, or shall not adjoin any inclosed Land, or be bounded by any sufficient Watercourse or other sufficient Fence, in the Judgment of the said Commissioner; and the whole Costs and Expences attending the inclosing and fencing the same shall be deemed Part of the Expences of carrying this Act into execution, and shall be borne and defrayed accordingly by and out of the Money to be raised for the Purposes of this Act; and all such Inclosures and Fences when made shall for ever thereafter be kept in repair by any such Rector or Vicar, or by the Person or Persons for the Time being entitled in Possession to the Allotment or Allotments so set out to such Lord, Rector, or Vicar as aforesaid.

Empowering Rector or Vicar to lease his Allotment.

LXIII. And be it further enacted, That it shall be lawful for any such Rector or Vicar for the Time being by Indenture under his Hand and Seal, with the Consent and Approbation of the Bishop of the Diocese, and of the Patron of any such Rectory or Vicarage, to lease or demise all or any Part or Parts of any Allotment to be set out and allotted to such Rector or Vicar in right of such Rectory or Vicarage respectively by virtue of this Act, to any Person whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the passing of this Act, so that the Rent or Rents for the same be reserved to such Rector or Vicar for the Time being by equal quarterly Payments in every Year, and so that there be also reserved and made payable to such respective Rector or Vicar the best and most improved Rent that can reasonably be obtained for the same, without taking any Premium, Sum of Money, or other Consideration for the making or granting any such Lease or Demise, and so that no Lessee by any such Lease or Demise be made dispunishable for Waste by any express Words to be therein contained, and so that there be inserted in every such Lease Power of Re-entry on Nonpayment of the Rent thereby reserved within a reasonable Time, to be therein limited, not exceeding Forty Days, after the same shall become due, and so that a Counterpart of such Lease be duly executed by the Lessee to whom such Lease shall be made as aforesaid: Provided always, that whenever any Lease to be so granted shall by any means become forfeited or void, or be surrendered or alienated, without the Consent of such Rector or Vicar for the Time being respectively first had in Writing, before the Expiration by Effluxion of Time of the Term thereby granted, then and in such Case and as often as the same shall happen it shall be lawful for such Rector or Vicar for the Time being, by and with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron of such Rectory or Vicarage, to grant a new Lease of the Land so demised for such Term of Years as shall at the Time of such Avoidance

be then to come and unexpired of the original Term granted by such original Lease, subject nevertheless to the Provisions and Conditions contained in such original Lease, and then remaining unperformed and capable of having effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act, or any Law or Usage, to the contrary notwithstanding.

Power to Parties to sell Rights and Allotments before Execution of the Award.

LXIV. And be it further enacted, That it shall be lawful for any Person who shall be entitled to any Allotment by virtue of this Act to grant, bargain, sell, assign, convey, and assure the same for all or any Part of his Estate or Interest therein or Right thereto at any Time before the Execution of the Award of the said Commissioner; and every such Grant, Bargain, Sale, Assignment, Conveyance, and Assurance shall be of the same Force and Validity as if made after the Execution of such Award; and it shall be lawful for any Person who shall be entitled to any Right in, over, or upon the Common or Waste Lands by this Act authorized to be divided, allotted, and inclosed, at any Time before the Execution of the Award of the said Commissioner, to sell, convey, and dispose of his Right, Share, or Interest in such Lands or Property which he now hath, or in any Allotment to be made in respect thereof, separate and detached from the Property to which the same may be appurtenant; and upon Production to the said Commissioner of the Conveyance thereof the said Commissioner shall award and allot the same to the Purchaser thereof in such Situation as to the said Commissioner shall seem meet.

Lands held by different Tenures by the same Proprietors to be distinguished.

LXV. And be it further enacted, That in case any Person interested in the Common and Waste Lands hereby authorized to be divided, allotted, and inclosed shall hold his Lands by different Tenures, or for, by, or under different Estates or Titles, the said Commissioner shall, upon the Request in Writing of such Proprietor, inquire into, ascertain, and determine the Lands held by such different Tenures, or for, by, or under such different Estates or Titles respectively, and shall set out distinct Allotments of the Lands hereby authorized to be divided, allotted, and inclosed in respect of the Lands held by such different Tenures, or for, by, or under such different Estates or Titles respectively.

Lands held by different Tenures omitted to be distinguished by the Award may be afterwards distinguished by a separate Instrument.

LXVI. And be it further enacted, That where from the Want of necessary Information before the said Commissioner, or from any other Cause, the Award of the said Commissioner shall have omitted to distinguish the Lands held by such different Tenures, or for, by, or under such different Estates or Titles as herein-before mentioned, it shall be lawful for the said Commissioner, at any Time within Twelve Calendar Months after the Execution of his general Award, upon Request in Writing to him made by any Proprietor of any such Allotments or Lands, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and in every other respect to proceed and act as if his general Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish and set out the Allotments and Lands held by different Tenures, or for, by, or under different Estates or Titles respectively, in the same Manner as he is by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by his general Award; and every such separate Instrument shall have the same Force and Effect as if it

it were contained in the said general Award; and such Instrument shall be deposited and Evidence thereof shall be given in the same Manner as by the said first-recited Act is directed with respect to Awards made by Commissioners under Acts of Inclosure; and all the Expences which shall be reasonably incurred in or about such subsequent Inquiry and separate Instrument as aforesaid shall be paid by the Party who shall have requested the said Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

Allotments to be subject to the same Tenures as Hereditaments in respect of which they are made.

LXVII. And be it further enacted, That all such Lands as shall be allotted by virtue of this Act shall be held by the Person or Persons to whom they are allotted under the same Tenures, Rents, Customs, and Services as the Lands in respect of which such Lands are allotted would have been held in case this Act had not been passed; and the Lands allotted in respect of Freeholds shall be deemed Freehold, and the Lands allotted in respect of Leasehold Lands shall be deemed Leasehold Lands, and shall be held under the same Rents and Covenants as the Lands in respect of which they may be allotted were held, and the Remainder or Reversion thereof shall be and remain vested in the same Lessors respectively as the Reversion or Remainder of such other Lands was vested before the passing of this Act, except where otherwise particularly directed by this Act, any Law or Usage to the contrary notwithstanding.

Power to make Exchanges.

LXVIII. And be it further enacted, That it shall be lawful for the said Commissioner to allot and award any Lands within any of the aforesaid Parishes, Townships, or Places in lieu of or in exchange for any other Lands within the same Parishes, Townships, or Places, or within any adjoining Parish, Township, or Place, provided that all such Exchanges be specified and declared in the Award of the said Commissioner, and be made with the Consent of the respective Owners or Proprietors of the Lands which shall be so exchanged, whether such Owners or Proprietors shall be Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, 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, by and with the Consent of the Lessors of Lands held for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors who at the Time of making such 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; such Consents to be testified in Writing under the Common Seals of the respective Bodies Politic and under the Hands of the other consenting Parties respectively; and every such Exchange so made shall be valid in the Law to all Intents and Purposes: Provided nevertheless, that no Exchange shall be made of any Lands held in right of any Ecclesiastical Benefice without the Consent, testified as aforesaid, of the Patron thereof and of the Bishop of the Diocese in which the Lands so to be exchanged shall be situate.

Expences of Exchanges.

LXIX. Provided also, and be it further enacted, That all Costs, Charges, and Expences attending the making of any such Exchanges shall be borne and paid by the several Parties making such Exchanges, in such Manner and

and in such Proportions as the said Commissioner shall by his Award or by any other Writing under his Hand direct, and in case of Nonpayment thereof shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

For vacating Leases at Rack Rent.

LXX. And be it further enacted, That all Leases at Rack Rent now subsisting of the Lands by this Act authorized to be divided, allotted, and inclosed, or exchanged, and either with or without any Messuages or Tenements, old Inclosures or Homesteads, within any of the aforesaid Townships, and all Agreements for Terms of Years at Rack Rent, or from Year to Year, or at Will, shall cease and be void at such Times as the said Commissioner shall by Writing under his Hand order and direct; provided that such Order and Direction shall be made at the Request of the Lessors and Lessees of such Premises respectively, to be signified to the said Commissioner by Writing under their Hands; and the respective Owners or Proprietors of the Lands so let shall make such Satisfaction in Money to the respective Lessees or Tenants, as the respective Owners or Proprietors and their Lessees or Tenants shall agree upon, or upon Application made in Writing by either Party to the said Commissioner, then as the said Commissioner shall ascertain and direct to be paid to such Lessees or Tenants as an Equivalent or Satisfaction for the Loss which they shall suffer by reason of the Determination of such Leases or Agreements, proper Allowances being made for such Covenants or Conditions therein as shall not have been fulfilled by the Lessees or Tenants; and if the Money so to be paid as aforesaid shall not be paid to the Persons entitled to receive the same within One Calendar Month after Demand made in Writing under the Hands or Common Seals (as the Case may require) of the Parties to whom the same shall be payable, the said Commissioner is hereby required to raise and levy the same for the Use and Benefit of the Parties entitled thereto by such Ways and Means as such Proportion of the Costs, Charges, and Expences of obtaining and executing this Act as is not raised by Sale of Lands may be raised and recovered: Provided always, that if the greater Part of any such Premises now under any such Lease or Agreement as aforesaid shall be comprised in such Lease or Agreement, together with other Premises of similar Rents, Term, or Holding, situate in any adjoining Township, Parish, or Place, the whole of such Lease or Agreement shall be vacated in manner aforesaid; but where any Land shall have been taken in Exchange, which Land shall be under Lease or Agreement, of such Rents, Term, or Holdings as aforesaid, and shall be wholly situate in any adjoining Township, Parish, or Place, the Lease or Agreement of such last-mentioned Land shall not be vacated by virtue of this Act.

Beneficial Leases not to be made void.

LXXI. Provided always, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease of any Lands within the said Townships, but the Persons entitled to such beneficial Lease shall and may hold and enjoy their respective Allotments to be made in respect of such Lands for such Terms and under such Rents and Covenants as may be specified in their respective Leases.

Wills and Settlements not to be affected.

LXXII. And be it further enacted, That nothing in this Act contained shall extend to annul, revoke, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim to Jointure, Dower, Portion, Rent, Debt, Charge, or Incumbrance out of, upon, or affecting any of the Lands

Lands by this Act authorized to be inclosed, or any Lands which may be divided, allotted, and inclosed, or exchanged by virtue of this Act; but as well the Lands allotted as the Lands which shall be so exchanged by virtue of this Act shall immediately upon such Allotment or Exchange remain and enure to, and the several Parties to whom the same shall be so allotted or given in Exchange shall be seised and possessed thereof to, for, and upon such and the same Estates, Uses, and Trusts, and subject to such and the same Incumbrances, Wills, Settlements, Limitations, Remainders, Conditions, and Charges, as the several Lands in respect whereof such Allotments and Exchanges shall have been made should or would have stood severally limited, settled, vested, and been subject or liable to, or been held by, in case the same had not been allotted or exchanged respectively as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as may be made by virtue of this Act.

Empowering Commissioner upon Application to sell Part of Allotments to defray Expences.

LXXIII. And be it further enacted, That it shall be lawful for the said Commissioner, on Application made to him in Writing by any of the Proprietors of Allotments to be made by virtue of this Act, or by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any of such Proprietors being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies, or by any of the said Proprietors being Tenants in Tail, or for Life or Lives, or on any other Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, to sell any Part (not exceeding the Proportion of Five Pounds for every Acre allotted) of any Allotment to be made by virtue of this Act to the Person or Persons by whom or on whose Behalf any such Application shall be made, for the Purpose of raising a Sum of Money sufficient to defray the proportionable Part of the Costs, Charges, and Expences of obtaining and carrying into execution this Act and the said recited Acts, and of fencing and inclosing and subdividing their respective Allotments, which shall in and by the Rates or Assessments herein-before authorized to be imposed, in the event of any Deficiency in the Amount of Money raised by Sale of Lands, be charged upon such Parties, and of the Costs, Charges, and Expences of making and completing such Sale; and such Sale shall be made by the said Commissioner in such and the same Manner, and subject to such and the same Rules and Regulations as are mentioned and prescribed in and by the said first-recited Act in respect of the Sale of Lands towards defraying the Expences of obtaining and carrying into execution any Act for dividing, allotting, and inclosing any Lands or Grounds; and every such Allotment for which the full Purchase Money shall be paid shall be vested in the said Commissioner, and be conveyed by Lease and Release executed by such Commissioner to the Purchaser thereof, at the Expence of such Purchaser, unto and to the Use of or in Trust for such Purchaser and his Heirs, or as he shall appoint, and shall be inclosed and held by such Purchaser in Severalty; and the Receipt of the said Commissioner shall be a good and sufficient Discharge to the Purchaser for the Purchase Money; and such Purchase Money shall be applied by the said Commissioner in or towards defraying such Costs, Charges, and Expences; and if any Surplus shall remain in the Hands of the said Commissioner, such surplus Money shall be paid to the Parties from whose Allotment such Sales shall be so made respectively, and the Shares of such of them as shall be Tenants in Fee

Simple shall be paid to them respectively, and the Shares of the other Proprietors of such surplus Money shall be applied and disposed of in manner herein-after directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of Timber or Wood growing thereon.

Tenants for Life, &c. may borrow Money for the Purposes of this Act, and charge their Allotments therewith.

LXXIV. And be it further enacted, That it shall be lawful for the respective Proprietors of Allotments to be made by virtue of this Act, being Tenants for Life or in Tail, or for any other Estate of Freehold or Inheritance, and also for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the said Proprietors being under Coverture, Minors, Lunatics, Idiots, or beyond the Seas, or otherwise incapable of acting for themselves, and for the Trustees or Feoffees for charitable, parochial, or other Uses, or a competent Number of them, in respect of any Lands held by them in Trust for any charitable, parochial, or other Uses (by and with the Consent of the said Commissioner), in Writing under their respective Hands and Seals, to charge their Allotments with any Money not exceeding Five Pounds for every Acre of such Lands for and towards their respective Proportions of the Costs, Charges, and Expences of obtaining and carrying into execution this Act, and for securing the Repayment of such Money, with Interest, to grant, mortgage, lease, demise, or otherwise subject the said Allotments unto or in Trust for any Person who shall advance such Money, for any Term or Number of Years, but so that every such Grant, Mortgage, Lease, or Demise shall be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby to be secured, with all Interest thereon, shall have been fully paid and satisfied; and every such Grant, Mortgage, Lease, or Demise shall be valid in the Law for the Purposes thereby intended.

Tenants for Life, &c. not to raise more Money by Sale than they may charge on their Allotments.

LXXV. Provided always, and be it further enacted, That it shall not be lawful to raise by any such Sale and Mortgage or Charge as herein-before mentioned, or either of those Means, any greater Sum of Money for the Purpose aforesaid than such Owners or Proprietors might have borrowed or charged upon their Allotment for such Purposes, reckoning Five Pounds for each and every Acre thereof under or by virtue of the said first-recited Act: Provided also, that in all Cases where the Money so raised by any such Sale shall not be equal to the Money which might be borrowed or charged on such Allotment as aforesaid, it shall be lawful for the Owners or Proprietors, Part of whose Lands shall be sold as aforesaid, to charge their Allotments with any Sum not exceeding the Difference.

Tenants for Life, &c. to keep down the Interest of the Money borrowed.

LXXVI. And be it further enacted, That every such Tenant for Life or in Tail, and every other Person, who shall be entitled to any such mortgaged Premises, shall pay and keep down the Interest of the Principal Money to be borrowed as aforesaid, so that no Person afterwards becoming entitled to the said Premises shall be liable, upon becoming possessed thereof, to the Payment of any larger Arrear of Interest than for Six Calendar Months preceding the Time when his Title to the Possession of such mortgaged Premises shall have commenced.

Money advanced for the Expences

LXXVII. And be it further enacted, That all Money which shall be advanced for the Purpose of defraying the Expences of obtaining this Act, or

of the Act to be repaid with Interest.

or for carrying the same into execution, shall be repaid, with lawful Interest, to the Person or Persons advancing the same, his or their Executors, Administrators, or Assigns, out of the first Monies to be raised for defraying such Expences by virtue of this Act.

Application of Compensation Money belonging to Persons under legal Incapacity when amounting to 200*l.*

LXXVIII. And be it further enacted, That whenever any Money is under the Provisions of the said first-recited Act or of this Act directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person whose Lands are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands to be settled to the same Uses, it shall be lawful for the said Commissioner out of such Money to defray the Proportion (if any) of the Expence of obtaining this Act, and of carrying the same and the said recited Acts into execution, which shall be charged upon any Lands of the respective Parties in Possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioner be proper to be made, and shall be made under his Direction, upon any Lands to be by virtue of this Act allotted to such Parties; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes,* and the General Orders of the said Court, without Fee or Reward, and shall when so paid in there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Parties who would have been entitled to the Rents and Profits of the said Lands, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Discharge of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands standing settled therewith, or to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court shall authorize to be purchased, redeemed, or discharged, or such Parts thereof as shall be necessary; or until the same shall upon the like Application be laid out in a summary Way, by Order of the said Court, in the Purchase of other Lands, which shall be conveyed, limited, or settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the aforesaid Lands stood limited or settled, or such of them as at the Time of making such Conveyance and Settlement shall be existing or capable of taking effect; and in the meantime and until such Order can be made the said Monies may, by

1 G. 4. c. 35.

Order

Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or of Government or Real Securities; and in the meantime, and until the said Annuities or Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interest and annual Produce of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, and settled.

Where less than 200*l.*

LXXIX. And be it further enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or of their Guardians or Committees in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Commissioner, to be signified in Writing under his Hand, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees to be nominated by the Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the said Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties; and the Monies so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England* in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

Where less than 20*l.*

LXXX. And be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Monies shall be paid to their Guardians, Committees, or Trustees, to and for the Use and Benefit of the Parties respectively entitled thereto.

Alterations may be made in the Allotments before the Award.

LXXXI. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time before the Execution of his final Award, to make any such Alterations in the Allotments or in the Fences which he may have set out and ordered, or in any of the Orders and Directions relating thereto which he may have made in pursuance of this Act or the said recited Acts, as he may think right and expedient; and in case any Person shall be injured by any such Alteration on account of any Expences he may have incurred, or otherwise, the said Commissioner shall ascertain and determine what Recompence shall be made to him for such Injury, and shall either pay the Amount thereof out of the Monies to come to his Hands in the Execution of this Act, or shall order and direct by whom

and

and in what Manner such Recompence shall be made; the same to be levied and recovered, in case of Nonpayment, in the same Manner as the Costs and Charges of obtaining and executing this Act may be levied and recovered by virtue of the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, in case the same are raised by a Rate upon the Proprietors.

Where Allotments are omitted to be distinguished by the Award, the Defect may be remedied by a separate Instrument.

LXXXII. And be it further enacted, That if from Want of Information or other Cause the said Commissioner shall have omitted to distinguish in his Award the several Tenures under which any of the said Lands or other Hereditaments are or shall be holden, or the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same are or shall be subject, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments as is hereby required, it shall be lawful for the said Commissioner and he is hereby authorized, at any Time within Twelve Calendar Months after the Date and Execution of his Award, upon Request in Writing to him made by the respective Proprietors of any such Allotments, Lands, or other Hereditaments, or other Persons interested therein or their Agents, to do all such Acts as shall be necessary for supplying such Omission, and for that Purpose to examine Witnesses and proceed as if his Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish, ascertain, and set out the Allotments, Lands, and Hereditaments held by different Tenures, and the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same respectively are subject, and also the Allotments, Lands, and Hereditaments held by, for, or under different Estates or Titles respectively, in the same Manner as he is hereby authorized to do in his Award; and every such separate Instrument shall be enrolled and deposited with the Award of the said Commissioner, and shall thenceforth be deemed and taken to be Part thereof to all Intents and Purposes whatsoever; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Person or Persons who shall have requested the said Commissioner to make and execute the same, or by his, her, or their Heirs, Executors, and Administrators.

Commissioner to account.

LXXXIII. And be it further enacted, That the said Commissioner shall not at any Time permit any just Claim or Demand upon him as such Commissioner to remain unpaid for a longer Period than Three Calendar Months, except such Sums as may from Time to Time be due to himself and his Clerk for Sittings or Attendances in pursuance of this Act, and once at least in every Twelve Months during the Execution of this Act (the first of such Periods to be computed from the Day of the passing hereof) the said Commissioner shall make a true and accurate Account of all Sums of Money received and expended by him or due to him for his Trouble and Expences in the Execution of this Act, and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid and disbursed; and such Account when so made, together with the Vouchers relating thereto, shall be by the said Commissioner laid before some One or more of His Majesty's Justices of the Peace for the said County of *Salop* (not interested in the Premises), to be by him examined and balanced, and such Balance shall

be by such Justice stated in the Book of Accounts to be kept by the said Commissioner; and an Abstract of such Accounts so examined and balanced shall be, within Fourteen Days after the same shall have been so examined and balanced, inserted in some One or more Newspaper or Newspapers circulated within the said County of *Salop;* and no Charge or Item in any such Account shall be binding on the Parties concerned or be valid in the Law unless the same shall be duly allowed by the said Justice, and until such Account or the Abstract thereof shall have been published in such Newspaper or Newspapers as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Award to be enrolled.

LXXXIV. And be it further enacted, That the said Commissioner shall and he is hereby required to form and draw up or cause to be formed and drawn up, pursuant to the Directions of the said first-recited Act, an Award; which said Award, together with a Map or Plan explanatory thereof annexed thereto, shall within Ten Days thereafter be deposited with the Clerk of the Peace for the said County of *Salop* or his Deputy, to the end that Recourse may be had thereto by any Person or Persons whomsoever; and for the Reception of such Award and Plan the Sum of One Pound One Shilling shall be paid, and for every Inspection and Perusal of such Award and Plan the Sum of One Shilling, and no more, shall be paid to the said Clerk of the Peace; and Two Copies of the said Award, examined and attested by the said Commissioner to be true Copies of the same Award, shall within Twelve Calendar Months next after the signing of the said Award be made, one of which shall be delivered to the Lord of the said Honor or Lordship of *Clun* for the Time being, and the other shall be deposited in a Box to be kept in the Parish Church of *Clun*.

Appeal may be made to General or Quarter Sessions.

LXXXV. And be it further enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of the said recited Acts or of this Act, (except in Cases in which the Orders, Acts, or Determinations of the said Commissioner are declared to be final and conclusive, and except also in Cases in which an Issue at Law may be tried as herein-before mentioned,) such Person may appeal to any General or Quarter Sessions of the Peace which shall be held for the said County of *Salop* within Four Calendar Months next after the Cause of Complaint shall have arisen, giving to the said Commissioner and to the Parties concerned Notice in Writing of such Appeal and of the Matter thereof Ten Days at least before such Sessions (except with respect to the Accounts of the said Commissioner, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the said Award in manner by this Act directed by the said Commissioner, on giving to the said Commissioner such Notice as last aforesaid); 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 to award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the respective Parties liable to pay the same, rendering the Overplus (if any), on Demand, to the respective Owners of such Goods and Chattels, after deducting the reasonable

reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices upon every such Appeal shall be conclusive upon all Parties concerned, and shall not be removeable by Certiorari, or by any Writ or other Process, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without sufficient Foundation, the said Justices shall award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner herein-before mentioned.

Saving Manorial Rights.

LXXXVI. Provided always, and be it further enacted, That nothing in this Act contained shall extend to defeat, lessen, prejudice, or affect the Rights, Royalties, Privileges, or Interests of the Lord of the said Honor or Lordship of *Clun* in, to, over, or upon the Common and Waste Lands by this Act authorized to be divided, allotted, and inclosed, other than and except such Common Right as could or might be claimed by him as Owner of the Soil of the said Common or Waste Lands, and except any Rents or Services heretofore paid or of right due to the said Lord in respect of Common of Pasture or other Common or Forest Right only exercised upon the same Common or Waste Lands.

Saving Rights of Lord of Manor to all Mines.

LXXXVII. Provided always, and be it further enacted, That nothing in this Act contained shall be construed to alter, defeat, or impeach the Right or Title of the Lord of the said Honor or Lordship to the Mines and Minerals lying under the said Common and Waste Lands by this Act authorized to be divided, allotted, and inclosed, but that the said Lord of the said Honor or Lordship shall and may from Time to Time and at all Times hereafter have, hold, win, work, and enjoy all Mines of Coal and Iron, and other Mines and Minerals of whatever Nature or Kind soever, within and under the said Common and Waste Lands respectively, and shall and may have and use all convenient and necessary Ways and Wayleaves, Roads, and Passages already made and hereafter to be made, and full Liberty of laying, making, and repairing Railways or Waggonways and other new Ways in, over, and along the same Common and Waste Lands or any of them, or any Part thereof, and of searching for, winning, and working the said Mines and Minerals, and of loading and carrying away the Coal, Iron, Lead, and other Minerals, and of making Pits, Shafts, Pit-rooms, and Heap-rooms, Drifts, Levels, Ways, and Watercourses, 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, at his own free Will and Pleasure, and also full Power to do all such other Works, Acts, and Things either now in use or hereafter to be invented as may be necessary or convenient for the full and complete Enjoyments of the Rights hereby reserved in the most full, ample, and beneficial Manner to all Intents and Purposes: Provided always, that it shall not be lawful for the Lord of the said Honor or Lordship for the Time being to sink or search in the Lands of other Persons for Limestone only; but in case, in the searching for or getting of Coal, Ironstone, Lead, or any other Minerals save Limestone, in or under the said Common or Waste Lands, any Vein or Veins, Bed or Beds of Limestone shall be opened thereby, or found and discovered therein or thereunder, then and in that Case it shall be lawful for him to get and carry away the same; and to continue to work all the Limestone which may be found and discovered,

covered, and to have such and the same full and complete Powers for the working and getting thereof as are herein-before given to him with respect to the said Mines of Coal, Iron, and Lead.

Satisfaction to be made for Damage in working Mines.

LXXXVIII. Provided also, and be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall suffer or sustain any Loss or Damage in his, her, or their respective Allotments, or any Buildings to be erected, made, or constructed thereon, or any Part thereof, by the sinking, searching for, winning, working of any Mines of Coal, Iron, Lead, or other Minerals therein, or the laying or repairing Waggon-ways or other Ways, or by loading or carrying away the Coal, Iron, Lead, or other Minerals to be gotten thereout, or making Drifts, Levels, or Watercourses, erecting or using Fire or other Engines, Pit-rooms, or other the Liberties and Powers hereby given and reserved to the Lord of the said Honor or Lordship for the Time being, then and in every such Case the Lord of the said Honor or Lordship, his Heirs, Executors, Administrators, or Assigns, shall pay full Satisfaction for all such Damage, Spoil of Ground, and other Loss to be occasioned thereby, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who for the Time being shall be in Possession of such Grounds or Allotments at the Time of doing such Damage, Spoil, or Loss.

Directing Service of Notices, &c.

LXXXIX. And be it further enacted, That in all Cases in which it may be necessary to serve any Summons or Demand, or any Notice, or any Suit or other Proceeding at Law or in Equity, or otherwise, upon the said Commissioner or upon his Clerk, or upon any other Person, or upon any Corporation, under the Provisions of this Act, personal Service thereof upon such Commissioner or Clerk or other Person, or upon some Member, or upon the Clerk, Treasurer, or other Officer of such Corporation, or delivering the same to some Inmate of the last or usual known Place of Abode of such Commissioner, Clerk, or other Person, or of such Member, Clerk, Treasurer, or other Officer of such Corporation, or at the Office of such Clerk, Treasurer, or Officer, shall be deemed a good and sufficient Service of the same respectively upon such Commissioner, Clerk, Person, or Corporation (as the Case may be), except in Cases in which any other Mode of Service is by this Act particularly directed.

General Saving of Rights.

XC. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Person and Persons, Body and Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, and all Persons claiming under or in Remainder after them, all such Right, Title, Estate, and Interest (other than and except such as are intended to be compensated for, barred, and destroyed by this Act,) as they, every or any of them could or ought to have had or enjoyed of, in, to, or out of the Lands by this Act authorized to be divided, allotted, and inclosed, in case this Act had not been passed.

Rule for Construction of certain Expressions used in the Act.

XCI. And be it further enacted, That wherever in this Act or in the said recited Acts any Word or Words is or are used importing the Singular Number or the Masculine Gender only, such Word or Words shall extend to and shall be construed to include several Persons as well as one Person, and Females as well as Males, and a Body or Bodies Politic, Corporate,

porate, or Collegiate, Corporation or Corporations Aggregate or Sole, as well as Individuals; and wherever in such Act or Acts the Word "Lands" is used the same shall extend to and shall be construed to include every Species of Land, Tenement, and Hereditament; unless in the before-mentioned Cases respectively it be otherwise specially directed or provided for, or there be something in the Subject or Context repugnant to such Construction.

Act to be printed by the King's Printers.

XCII. 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.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1837.