ANNO PRIMO

VICTORIÆ REGINÆ.

****

Cap. 1.

An Act for dividing, allotting, and inclosing a certain Tract of uninclosed Common or Waste Land called *Ogley Hay*, in the County of *Stafford*.

[30th *March* 1838.]

WHEREAS there is within the County of *Stafford* a certain Tract of uninclosed Common or Waste Land, being extra-parochial, and called or known as *Ogley* otherwise *Oggeley Hay:* And whereas *Charles Forster Cotterill* of *Walsall* in the County of *Stafford*, Esquire, is or claims to be Lord of the Manor of *Ogley Hay* with its Members in the said County of *Stafford*, and is or claims to be the Owner of the Soil and Minerals of and in the said Common or Waste Lands: And whereas divers Persons claim to be entitled to Rights of Common of Pasture and other Rights in, over, and upon the said Common or Waste Lands; but such Rights are uncertain and undefined in their Nature and Extent: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George* the Third, intituled *An Act for con-* 41 G.3.c.109
solidating in One Act certain Provisions usually inserted in Acts of Inclosure; and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts: And whereas another Act was passed in the First and Second Years of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Law respecting the inclosing of* 1 & 2 G. 4.
Open c. 23.

Open Fields, Pastures, Moors, Commons, and Waste Lands, in England: And whereas it would be advantageous to the Persons interested in the said Common or Waste Lands called *Ogley Hay* if the same were divided and allotted unto and amongst them according to their respective Rights and Interests therein, and inclosed and held in Severalty; but the several Purposes aforesaid 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 Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Peter Potter* of *Walsall* in the County of *Stafford*, Gentleman, and his Successor, to be appointed in manner herein-after mentioned, shall be and he is hereby appointed sole Commissioner for dividing, allotting, and inclosing the said Common or Waste Lands, and for carrying this Act into execution, subject to the Rules, Orders, and Regulations in this Act contained, and also subject to the Rules, Orders, and Directions contained in the said recited Acts, except such as are inconsistent with the Provisions of this Act, or are by this Act varied or altered.

Appointment of Commissioner.

Rules for the Interpretation of this Act.

II. And be further enacted, That in the Construction of this Act every Word importing the Singular Number or Masculine Gender only shall be understood to include several Matters as well as One Matter, several Persons as well as One Person, and Females as well as Males; and every Word importing the Plural Number shall extend and be applied to One Person or Matter as well as several Persons or Matters; and where the Word "Corporation" shall be used, the same shall be understood to mean any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; and where the Words "said Commissioner" shall be used, the same shall be held to mean the Commissioner for the Time being acting in the Execution of this and the said recited Acts; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Commissioner to make a Declaration.

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

Form of Declaration.

'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 a Commissioner by virtue of an Act passed in the Year of the Reign of Queen *Victoria*, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.'

And such Declaration shall be in lieu of and as a Substitution for the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds; 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.

IV. And

Appointment of new Commissioner.

IV. And be it further enacted, That in case the said *Peter Potter* shall not hold his First Meeting for the Purposes of this Act, and make and subscribe the Declaration herein-before appointed to be made and subscribed, within Two Months after the passing this Act, or if the said *Peter Potter*, or any Person hereafter to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, or Inclosure, die, neglect or refuse or become incapable to act as a Commissioner in the Execution of this Act, then and in every such Case it shall be lawful for the Majority in Number of the Proprietors or Persons interested in the Lands by this Act directed to be divided, allotted, and inclosed, or their respective Agents or Attornies, duly authorized by Writing under their Hands, (in determining which Majority the Signature of the Lord of the Manor of *Ogley Hay* for the Time being to such Writing shall be considered as equal to the Signatures of One Fifth in Number of the other Proprietors or Persons interested as aforesaid,) to nominate and appoint, or in default thereof for the Space of One Calendar Month, or in case of Dispute as to the Interest of the Parties claiming to be such Proprietors, then for the Lord of the Manor for the Time being, by Writing under his Hand, to nominate and appoint from Time to Time some proper Person (not interested in the said Division, Allotment, and Inclosure) to be a Commissioner in the Room and Stead of the said *Peter Potter*, or of such Person appointed in his Stead, so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and every new Commissioner so nominated and appointed shall, from and immediately after his Appointment and making the Declaration prescribed in that Behalf, have such and the like Powers and Authorities for carrying this Act and the said recited Acts into execution, and shall be deemed and taken to be the Commissioner referred to by this Act, to all Intents and Purposes, as if he had been herein named and appointed such Commissioner.

What shall be a Refusal to act.

V. And be it further enacted, That if the said *Peter Potter* shall neglect to attend at One of the first Two Meetings appointed to be held for putting this Act in execution, and to qualify himself by making the Declaration in that Behalf prescribed, or 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 his Clerk for the Time being, to be appointed as herein-after mentioned, and 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 such 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 Nonattendance shall be deemed and taken to be a Refusal to act.

Surveyor.

VI. And be it further enacted, That it shall be lawful for the said Commissioner from Time to Time, by Writing under his Hand, and with the Consent and Approval of the Lord of the Manor for the Time being, to appoint One or more fit and proper Person or Persons, not interested in the Premises, to be Surveyor or Surveyors for the Purposes of this

Act during the Will and Pleasure of the said Commissioner, and on every Vacancy in like Manner, and with the like Consent and Approval, to appoint some other Surveyor or Surveyors as often as there shall be Occasion; and it shall also be lawful for the said Commissioner to allow the Surveyor or Surveyors for the Time being acting under this Act for his and their Time and Trouble any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, or planning the said Lands, and also any Sum not exceeding Two Guineas for each and every Day he or they shall be actually and wholly employed in the Business of the said dividing, allotting, and inclosing, exclusive of the Survey aforesaid; which said several Allowances shall be in full Satisfaction for his or their Time and Trouble, and for all travelling and other Expences of every Description to be incurred by such Surveyor or Surveyors in and about the Execution of this Act.

Surveyor to make a Declaration.

VII. 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,)

Surveyor's Declaration.

'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 Duties incumbent on me as Surveyor by virtue of an Act passed in the Year of the Reign of Queen *Victoria*, 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 *Stafford*, is hereby empowered and required to administer and 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.

VIII. And be further enacted, That any Person making and subscribing a Declaration under the Authority and Direction of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, knowing the same to be untrue in any material Particular, shall be deemed guilty of a Misdemeanor.

Appointment of Clerk.

IX. And be it further enacted, That the said Commissioner shall have Power and he is hereby authorized to appoint some fit and proper Person to be Clerk to assist him to carry this Act and the said recited Acts into execution, and from Time to Time to remove such Clerk, and appoint another in his Stead, as to such Commissioner shall seem meet; and such Clerk so to be appointed shall be paid or allowed, out of the Money to be raised for putting this Act into execution, such Sum or Sums of Money as herein-after mentioned for his Time, Trouble, and Expences in the Assistance to be given by him as aforesaid.

Allowance to Commissioner and Clerk.

X. And it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same and the said recited Acts, the said Commissioner, and the Clerk to be appointed by him as herein-before directed, shall respectively

tively be paid for each and every Day they shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts during the first Two Years next after the passing of this Act the Sum of Three Guineas, and no more; and after the Expiration of the said Two Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Guineas, and no more, for each and every Day they may be respectively employed as aforesaid, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall be put unto during their several Journies and Attendances in the Execution of this Act or the said recited Acts, other than and accept the Expences for the Use of Rooms in which the Meetings shall be holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of drawing, preparing, copying, ingrossing, and enrolling the Award of the said Commissioner, and of Notices and Advertisements.

Regulating the Duration of Meetings.

XI. And for regulating the Duration of all Meetings to be holden for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held 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 Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours (as the Case may be) shall be charged only as 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 his Clerk, in which shall be entered the several Days on which the said Commissioner shall hold the said Meetings, and at what Hour the said Commissioner was present thereat, and what Hour he left or adjourned the same, and such Book shall be signed by the said Commissioner at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the said Inclosure, their Agents or Attornies, during the several Meetings to be held in pursuance of this Act; and all such Persons shall and 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 pay himself or such Clerk, out of any Monies to be received by him, or over which he may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance hereinbefore directed to be made to such Commissioner and Clerk respectively beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award to be made in pursuance of this Act, 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 Decease of the said Commissioner or of the said Clerk, previous to the Execution of the said Award, the Commissioner for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner, or of such deceased Clerk, such Sum of Money as shall appear by the said Accounts to be due thereon.

Proprietors to pay their own Ex-

XII. Provided always, and be it further enacted, That all Proprietors and Persons interested in the said Inclosure, their Attornies and Agents, shall

pences at Meetings.

shall pay their own Expences when they or any of them shall attend at any of the Meetings to be held in pursuance of this Act.

Orders and Proceedings to be entered in a Book.

XIII. And be it further enacted, That all Orders, Proceedings, and Determinations of the said Commissioner at any of his Meetings to be holden in pursuance of this Act shall be entered in a Book or Books to be provided for that Purpose, and kept by the Clerk to the said Commissioner; and such Orders, Proceedings, and Determinations, when so entered and signed, shall be deemed and taken as Originals, and the same, or Copies thereof, certified under the Hand of the said Commissioner, may be read as Evidence of such Orders, Proceedings, and Determinations, in all Courts, and before all Judges, Justices, and others.

Notice and Place of Meetings.

XIV. And be it further enacted, That the said Commissioner shall and he is hereby required to cause Notice to be given in the Newspaper called "The *Staffordshire* Advertiser," or in some other Newspaper circulated in the said County of *Stafford*, and also by a Notice affixed upon or near to the principal outer Door of the Parish Church of each of the several Parishes of *Shenstone*, *Norton*, and *Saint Michael Lichfield*, in the said County of *Stafford*, on some *Sunday* before Divine Service, of the Time and Place of his first and every subsequent Meeting for executing the Powers hereby and by the said recited Acts vested in him, at least Seven Days before every such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioner shall and may adjourn such Meetings from Time to Time as he shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings for executing this Act shall be held in some convenient Place within Five Miles from *Ogley Hay* aforesaid.

How other Notices are to be given.

XV. Provided always, and be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioner, except in Cases where such Notices are directed to be given otherwise in and by this Act, shall be given by Advertisement to be inserted in the said Newspaper called "The *Staffordshire* Advertiser," or in some other Newspaper circulated in the said County of *Stafford*, and also by affixing such Notices on or near to the principal outer Door of the Parish Church of each of the Parishes of *Shenstone*, *Norton*, and *Saint Michael Lichfield* aforesaid.

Commissioner to settle Disputes.

XVI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties who now are, or before the Execution of the Award of the said Commissioner may be or claim to be interested in the said intended Division, Allotment, and Inclosure, touching their respective Rights and Interests in the said Lands to be divided and allotted by virtue of this Act, or the Value or Extent of such Rights or Interests, or any other Matter or Thing relating to the said intended Division or Allotment, it shall be lawful for the said Commissioner and he is hereby required, upon Examination of Witnesses on Oath, which Oath the said Commissioner is hereby authorized to administer, or of any other proper Evidence, to inquire into, hear, and determine the same, which Determination shall be binding and conclusive upon all Parties interested, save and except as herein-after mentioned: Provided always, that nothing herein contained shall authorize or empower the said

said Commissioner to determine the Title to any Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any of the Parties contrary to the Possession of such Parties, except in Cases of Encroachment as herein-after mentioned; 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 thereupon until the Possession shall have been given up by such Party, or recovered from such Party by Ejectment or other due Course of Law.

Objection to Claims.

XVII. And be 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; and if the Party or Parties making any such Objection shall neglect to proceed therein within such Time as the said Commissioner shall appoint, such Objection shall be deemed to have been abandoned, and the Party or Parties making the same shall be liable to the Payment of any Costs or Expences occasioned thereby.

Power to award Costs.

XVIII. 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, or in consequence of the Neglect of the Party making such Claim or Objection to proceed therein, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application to be made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party 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, or who may have neglected to proceed therein; and in case the Person or Corporation 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 or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Corporation so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person or Corporation whose Goods and Chattels shall have been so distrained and sold, after deducting 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.

Allowing Parties to try their Rights at Law.

XIX. Provided always, and be it further enacted, That in case any Person or Corporation, interested or claiming to be interested in the said Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioner for the Time being, touching or concerning any Claim of Right of Common, or other Rights and Interests in, over, and upon or out of the Lands hereby directed to be divided, allotted, and inclosed, or any Part thereof, or touching or concerning any Matter or Thing whatsoever relating to the Division, Allotment, or Inclosure by this Act directed (except where the Determination of the said Commissioner is hereby declared to be final), it shall be lawful for the Person or Corporation so dissatisfied with any such Determination to cause an Action to be brought in One of Her Majesty's Courts of Record at *Westminster*, upon a feigned Issue, against the Person or Corporation 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 Person or Corporation against whom such Determination shall have been made, or to his or their known Agent or Attorney; and the Person or Corporation so dissatisfied as aforesaid shall proceed to a Trial at Law of the Matter so determined by the said Commissioner at the next or the Second Assizes to be holden for the said County of *Stafford* after such Action shall have been so commenced; and the Defendant to such Action shall and is hereby required to name an Attorney who shall appear thereto or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Objection, and the Rights thereby insisted on, may be tried and determined (such Issue to be settled by the proper Officer of the Court in which such Action shall be commenced, in case the Parties shall differ about the same); and the Verdict which shall be given in such Action shall be final, binding, and conclusive upon all and every Persons and Corporations whomsoever, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had therein, and which it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict shall be obtained, and not set aside by the Court, the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim, Rights, or Interests thereby determined, according to the Event of such Trial: Provided always, that if no such Action at Law as aforesaid shall be commenced within the Time herein-before limited, or if any such Action shall be commenced, and the Plaintiff therein shall not proceed to Trial within the Time and in manner herein-before mentioned, then the Determination of the said Commissioner shall be final, binding, and conclusive to all Intents and Purposes whatsoever: 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 or Right shall be taken and held by the Party or Parties who, upon the Determination of such Difference, Action, or Proceeding, shall become entitled thereto.

XX. Pro-

Deaths of Parties not to abate Actions.

XX. Provided also, and be it further enacted, That if any of the Parties Plaintiff or Defendant in any Action to be brought in pursuance of this Act shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any 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 Person or Corporation who might have brought such Action against the Person so dying to bring the same, within the Time so limited as aforesaid, against such Person 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 so dying might have been served therewith if living; and it shall be incumbent on the Heir or other Person who shall claim the Benefit of such Determination as aforesaid, after such Process shall have been served on such Heir or other Person by the Clerk, who is hereby required to serve the same on such Heir or other Person as soon as he shall be discovered by or made known to the said Clerk, or by any Person to be authorized by the said Clerk, to appear and defend such Action in the Name of the Person so dead; and Proceedings shall be had therein in the same Manner as if such Person had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of every such Action.

Deaths of Parties not to delay the Execution of this Act.

XXI. And be it further enacted, That if any of the Parties interested in the said Division, Allotment, and Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioner shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers given to him by this Act and the said recited Acts in such Manner as he might have done in case such Party or Parties were still living; and the Shares of the Persons so dying shall be allotted to the Persons who shall by Law become entitled to the same, and shall be accepted and taken by them according to the Directions of this Act and the said recited Acts, and they shall be liable to the Charges and Expences, and the several Provisions of this Act and of the said recited Acts.

Extinguishment of Rights of Common.

XXII. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time or Times when he shall think it convenient or proper, by Notice for that Purpose under his Hand, to be affixed on or near the principal outer Door of the Parish Church of each of the several Parishes of *Shenstone*, *Norton*, and *Saint Michael Lichfield* aforesaid, on some *Sunday* before Divine Service, to order the Rights of Common in, upon, and over the Lands hereby directed to be divided, allotted, and inclosed, or any Part thereof, to be extinguished or suspended, either in the Whole or in Part; and from and after the Time to be mentioned in and fixed by any such Notice all such Rights of Common as shall be thereby directed to be extinguished or suspended shall cease and be extinguished or shall be suspended accordingly; any Law, Usage, or Custom to the contrary notwithstanding.

XXIII. And

Power to shorten Boundary Fences.

XXIII. And be it further enacted, That for the Purpose of shortening or rendering straight the Boundary Fences between the Lands by this Act directed to be divided and allotted and the old inclosed Lands adjoining thereto, or between such Allotments and inclosed Lands, or any of them, and the Lands in any adjoining Manor, it shall be lawful for the said Commissioner, with the Consent of the Lord of the Manor in which the Lands are respectively situate, and the Owners of the Lands adjoining to such Boundary Fences, testified by Writing under their respective Hands, or under the Common Seal of any of them, being a Corporation Aggregate, to alter and straighten or shorten the same Boundary Fences or any of them, or any Part or Parts thereof, and to set out, ascertain, and determine such Boundaries as the said Commissioner shall think proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, and determined the same shall be made, fenced, ditched, or mounded by such Person or Corporation, in such Manner and at such Time or Times as the said Commissioner shall order and direct, and such Boundaries shall for ever thereafter be deemed and taken to be the Boundaries between the said Allotments and inclosed Lands respectively, or (as the Case may be) between the said Manor and extra-parochial Place of *Ogley Hay*, and any adjoining Manor; any Law, Usage, or Custom to the contrary notwithstanding.

Commissioner to set out Drains and to enlarge and turn Watercourses.

XXIV. And be it further enacted, That the said Commissioner shall and may set out, appoint, and make such Common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges in, through, over, and upon the Lands hereby directed to be divided, allotted, and inclosed, and also shall and may enlarge, widen, alter, turn, scour, and cleanse all or any of the present Drains, Ditches, Streams, or Watercourses, as well in, through, and over the same Lands as in, through, and over any ancient Inclosures or other Lands within the Manor or extra-parochial Place of *Ogley Hay* as to him the said Commissioner shall seem proper and necessary, making such Satisfaction to the Proprietors of such ancient Inclosures or other Lands for the Damage done thereby as the said Commissioner shall think fair and reasonable; and the Costs and Expences of making, enlarging, widening, altering, turning, scouring, and cleansing of such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, shall be raised and levied by the said Commissioner in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution; but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, scoured, and maintained by such Person or Corporation and in such Manner as the said Commissioner shall in and by his said Award order and direct; provided that no Stream or Watercourse be diverted or turned without the Consent in Writing of the Person or Persons from whose Lands the same may be diverted, and of the Person or Persons into whose Lands the same may be turned, or in such Manner as prejudicially to affect the Use thereof by the several Persons who may be respectively interested therein.

Power to stop up Roads.

XXV. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footways, in pursuance of this Act or the said first-recited Act, the said Commissioner

sioner shall and he is hereby authorized and empowered, if he shall think it necessary or proper, with the Consent and Approbation of Two Justices of the Peace acting for the County of *Stafford*, as is required by the said first-recited Act, to continue or discontinue, stop up, divert, turn, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footways passing or leading through or over the Lands intended to be divided, allotted, and inclosed by virtue of this Act, and the Soil of the Roads and Ways so to be discontinued and stopped up shall be deemed and taken to be Part of the Lands to be divided, allotted, and inclosed by virtue of this Act, except where such Roads or Ways so to be stopped up shall pass through any ancient Inclosures, in which Case the Soil of such Roads or Ways shall become the Property of the Owners of such ancient Inclosures adjoining the same on either Side thereof in equal Moieties: Provided always, that nothing herein contained shall authorize the diverting or allotting of any of the Turnpike Roads leading through the said Lands intended to be hereby divided, allotted, and inclosed, unless the Consent of the Majority of the Trustees of such Turnpike Roads assembled at a public Meeting called for that Purpose on Ten Days Notice shall have been first had and obtained.

Proceedings previously to diverting and stopping up Highways

XXVI. Provided always, and be it further enacted, That before any public Carriage Road, Highway, Bridle Road, or Footway 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 such public Carriage Road, Highway, Bridle Road, or Footway is intended to be discontinued, stopped up, diverted, or altered, (as the Case may be,) by the Commissioner acting under or by virtue of this Act; and the said Commissioner shall also cause Notice to the same Effect to be inserted in One Newspaper published or generally circulated in the said County of *Stafford* for Four successive Weeks, and shall also cause a like Notice to be affixed on or near to the principal outer Door of the Parish Church of the said several Parishes of *Shenstone*, *Norton*, and *Saint Michael*, *Lichfield*, 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 public Carriage Road, Highway, Bridle Road, or Footway 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 County of *Stafford* as is herein-after mentioned.

Persons who may think themselves aggrieved if such Highway should be ordered to be stopped up or diverted may appeal.

XXVII. Provided also, 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 Carriage Road, Highway, Bridle Road, or Footway should be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon 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 been so given as aforesaid, nor on any Hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

chased by the said Lord of the Manor within Ten Days after such last-mentioned Offer shall have been made, then the said Commissioner shall and he is hereby authorized and empowered to sell and dispose of the said Land so neglected or refused to be taken or purchased as last aforesaid by public Auction or private Contract, either to the Lord of the said Manor or to any other Person or Persons willing to become the Purchaser or Purchasers thereof, or of any Part or Parts thereof, in such Manner as he shall think proper, pursuant to the Authority for that Purpose herein-before contained.

Purchasers to be subject to the Orders of the Commissioner.

XXXIX. And be it further enacted, That the several Persons who shall become the Purchasers of the said Lands, or of any other Lands or Hereditaments by this Act authorized and directed to be sold and disposed of by the said Commissioner, and their respective Heirs and Assigns, shall be subject and liable to the making and keeping in repair of such and so much of the several Fences thereof as shall be directed by the said Commissioner, and also to the Observance and Performance of all such Orders, Regulations, and Directions as shall be made, laid down, directed, or appointed by him in and by his Award, or any other Writing under his Hand, in like Manner as if such Premises respectively had been allotted to such respective Purchasers for or in respect of any Right or Interest in, over, or upon the said Lands by this Act directed to be divided, allotted, and inclosed, except only that such Purchasers shall not after the Payment of their Purchase Money be liable to the Payment of any of the Charges or Expences of obtaining this Act, or of carrying the same or the said recited Acts into execution, other than the Charges of making and keeping in repair such Fences as aforesaid.

Allotment of the Residue.

XL. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to apportion, divide, set out, and allot the Residue and Remainder of the said Lands by this Act directed to be divided, allotted, and inclosed unto and amongst the several Persons and Corporations who at the Time of making such Allotments shall be entitled to any Estate, Right, Title, or Interest therein, in such Quantities, Shares, Proportions, and Situations as by the said Commissioner shall be adjudged and determined to be a just and equitable Compensation and Satisfaction for their several and respective Lands, Rights of Common, and Interests therein; and the said Allotments shall be fenced in, and the several and respective Mounds and Fences for dividing and inclosing the same shall be made and for ever thereafter maintained and supported, in such Manner as the said Commissioner shall in and by his Award order and direct.

Where Allotments under 30*l.* in Value.

XLI. And whereas the Expence of fencing and inclosing small Portions of Land may in some Cases bear an undue Proportion to the Value thereof; be it therefore enacted, That where the Estate, Right, Title, or Interest of any Person or Corporation in or upon the Lands by this Act directed to be divided, allotted, and inclosed shall not exceed in Value the Sum of Thirty Pounds (such Value to be ascertained by the said Commissioner), it shall be lawful for the said Commissioner, by and with the Consent in Writing of the Lord of the Manor of *Ogley Hay* for the Time being, and of such Person or Corporation, to order and direct that such Value in Money shall be paid to such Person or Corporation by the Lord of the said

said Manor, and upon Payment thereof to the said Commissioner the said Commissioner is hereby authorized and required to set out, allot, and award unto and for the Lord of the said Manor such Part and so much of the said Lands hereby directed to be inclosed as in his Judgment shall be equal to the ascertained Value of such Estate or Interest as aforesaid; and the Receipt of the said Commissioner shall be a good and sufficient Discharge to the Person paying such Purchase Money, and such Person shall not be in any Manner liable to see to the Application or be answerable for the Misapplication thereof; and such Purchase Money, or the Residue thereof, after deducting the rateable Proportion of any Costs, Charges, and Expences which may be payable in respect of any such Allotment, shall be paid by the said Commissioner to the Party in respect of whose Estate or Interest such Payment shall have been made, or, in the event of such Person being under Disability, then in such Manner as is herein-after directed with respect to Money to be paid into the Bank of *England* for the Purchase of Lands, Tenements, or Hereditaments.

Allotments of old Inclosures with Consent of Proprietors.

XLII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioner, by and with the Consent in Writing and at the Request of the respective Owners or Proprietors of any Homesteads, Gardens, Orchards, and old inclosed Lands within the said Manor of *Ogley Hay*, whether such Owners and Proprietors shall be 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 Lessor of any such Homestead, Garden, Orchard, and old inclosed Land holden for Years determinable as aforesaid, and not otherwise, and 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 as aforesaid, who shall be 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 Consent to be respectively testified by Writing under the Hands of such consenting Parties respectively, to consider such Homesteads, Gardens, Orchards, and old inclosed Lands as allottable Lands, and Part and Parcel of the Lands hereby authorized to be divided, allotted, and inclosed, and to divide and allot the same accordingly; and such Allowance shall be made to the respective Owners and Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands, on account of the Situation or the beneficial Circumstances thereof, as the said Commissioner shall adjudge to be just and reasonable; and the said Commissioner shall and he is hereby authorized and required to set out, allot, and award, unto and for the respective Owners or Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands, in lieu thereof, so much and such Part or Parts of the Lands hereby directed to be divided, allotted, and inclosed as he shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said recited Acts mentioned.

Power of Exchange.

XLIII. And be it further enacted, That it shall and may be lawful to and for the said Commissioner to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Manor of *Ogley Hay*, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Manor, or any adjoining Manor, Parish, Township, or Place, provided that all such Exchanges be ascertained, specified, and declared

declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple or in Fee Tail, General or Special, or for Life, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor or Lessors thereof, but 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 as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every Exchanges and Exchange so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchanges shall be made of any Lands, Tenements, or Hereditaments held in right of any Church or Chapel or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall be situate: Provided also, that all the Costs, Charges, and Expences attending the making of any Exchanges shall be paid, borne, and defrayed by the several Persons making such Exchanges in such Shares and Proportions, and at such Time, and to such Person or Persons, as the said Commissioner shall by any Writing under his Hand direct or appoint.

If Lands sold be insufficient to defray Expences, the Deficiency, or the Whole, if deemed expedient, may be raised by a Rate.

XLIV. And be it further enacted, That in case the Money to be produced by the Sale or Sales herein-before directed to be made for that Purpose shall not be sufficient to pay all the Costs, Charges, and Expences herein-before mentioned or referred to, or in case the said Commissioner shall deem it inexpedient to raise the Whole or any Portion of the Money to be required for the Purposes aforesaid by an Allotment and Sale of Land as aforesaid, then all and every such Costs, Charges, and Expences, or the Deficiency thereof, (as the Case may be,) shall be borne and defrayed by the several Persons interested in the said Lands to be divided, allotted, and inclosed, in proportion to their several and respective Rights and Interests therein; and the Amount of such Costs, Charges, and Expences, as well as the Proportion thereof to be borne and defrayed by the several Persons aforesaid, shall be ascertained and settled by the said Commissioner, and such Amount shall be paid, in the Proportions to be settled as aforesaid, at such Times and Places and to such Person or Persons as the said Commissioner, by Writing under his Hand, to be affixed upon or near the principal Door of the said several Parish Churches of *Shenstone*, *Norton*, and *Saint Michael*, *Lichfield*, or delivered to the Person or Persons liable to pay the same, at least Twenty-one Days before the Time of Payment, shall order and direct, and the said Commissioner is hereby authorized and required accordingly, at any Time either before or after the making of his Award, to make One or more Rates or Assessments thereof respectively under his Hand; and in case any Person shall refuse or neglect to pay his Proportion of any such Rate or Assessment as aforesaid within such Time

and

and to such Person and at such Place as the said Commissioner shall appoint, then and in such Case the said Commissioner shall and may, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, cause the same, together with lawful Interest thereon, to be computed from the Day on which the same ought to have been paid as aforesaid, 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 Owner of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress or Sale; or it shall and may be lawful to and for the said Commissioner, or any Person authorized by him, immediately after such Neglect or Refusal, to enter into and upon the Premises to be allotted to the Person so making default, and to demise the same, and receive and take the Rents, Issues, and Profits thereof, until thereby or therewith, or otherwise, such Share or Proportion of such Rate or Assessment, with lawful Interest thereon as aforesaid, and also all Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

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

XLV. And be it further enacted, That it shall be lawful for the said Commissioner, on Application made to him in Writing by any Person or Corporation entitled to any Estate, Right, or Interest in or to the Lands by this Act directed to be divided, allotted, and inclosed, or by any Husband, Guardian, Trustee, Committee, or Attorney of or for any such Person, being under Coverture, Minor, Idiot, Lunatic, or beyond the Seas, or under any other legal Disability or Incapacity, or by the Person acting as such Guardian, Trustee, Committee, or Attorney, or by any such Person being Tenant in Tail, or for Life or Lives, or in any other Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, to sell any Part of the Allotment to be made by virtue of this Act to the Person or Corporation 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 payable by such Person or Corporation, not exceeding, together with the Sum to be raised by Mortgage as by the said first-recited Act mentioned, the Proportion of Five Pounds for each Acre of the said Lands so to be allotted, and of fencing and inclosing and subdividing his or their Allotment, as shall in and by such Rates or Assessments be charged upon such Parties, and of the Costs, Charges, and Expences of making and completing such Sale: Provided always, that before making any such Sale as aforesaid the Lands intended to be sold shall be first offered to the Lord of the Manor of *Ogley Hay* for the Time being at such Price as the said Commissioner may consider the just and reasonable Value thereof; and in case of the Refusal or Neglect of the said Lord to purchase the same within Ten Days from such Offer, the said Sale shall be made by the said Commissioner in such and the same Manner, and subject to the like Rules and Regulations, as are mentioned and prescribed in the said first-recited Act in respect of the Sale of Lands towards the 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

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 Purchaser shall not in any Manner be liable to see to the Application or be answerable for any Misapplication thereof; and such Purchase Money shall be applied by the said Commissioner in or towards defraying the Costs, Charges, and Expences payable by such Person or Corporation; and if any Surplus shall remain in the Hands of the said Commissioner, such Surplus shall be paid to the Parties from whose Allotment such Sale 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 of Lands, Tenements, or Hereditaments, or of Timber or Wood growing thereon.

Commissioner may borrow Money, and the Parties lending the same shall be repaid with Interest.

XLVI. And be it further enacted, That it shall and may be lawful for the said Commissioner, from Time to Time, as he in his Discretion shall think fit, to borrow, of any Persons willing to lend the same, such Sums of Money as may be deemed necessary for paying the Expences of applying for and obtaining and executing this Act; and the Persons who shall lend, advance, or pay any such Sum or Sums of Money shall be repaid the same out of the Monies which shall be raised or collected in pursuance of this Act, with Interest for the same from the Time of lending, advancing, or paying each such Sum respectively as aforesaid.

Directions for fencing Allotments.

XLVII. And be it further enacted, That the several and respective Allotments to be made of the said Lands hereby directed to be divided, allotted, and inclosed, after the Division thereof, shall, within Six Calendar Months, to be computed from the signing and sealing of the Award of the said Commissioner, or within such shorter Space of Time as may be appointed by the said Commissioner, be inclosed, and the Fences thereof composed of and planted with young Quicksets; and such Fences, where the same shall adjoin upon any public or private Road or Way, and in such other Place or Places as the said Commissioner shall think fit, shall be guarded with good and substantial Posts and Rails, or otherwise, and with such Ditches on each or either Side thereof as the said Commissioner shall direct or appoint; all which said Fences shall be so planted and guarded as aforesaid by and at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, in such Manner, Shares, and Proportions as the said Commissioner shall in and by his Award order and direct: Provided nevertheless, that nothing herein contained shall extend or be construed to extend to exonerate the *Wyrley* and *Essington* Canal Company, or any other Person or Corporation, from any legal Liability now subsisting to fence off the Towing Path of the said Canal from the said Common or Waste Land, or any Part thereof.

For the Protection of the Wyrley and Essington

XLVIII. Provided always, and be it further enacted, That nothing in this Act contained shall take away, diminish, alter, prejudice, or affect any of the Rights, Privileges, Powers, or Authorities vested in the Com-

pany of Proprietors of the *Wyrley* and *Essington* Canal Navigation, or authorize or empower the said Commissioner or any other Person to alter, divert, or obstruct any of the Springs, Brooks, Streams, Feeders, Waters, or Watercourses which now supply the said Canal with Water, or to alter, remove, take down, or injure any of the Houses, Buildings, Lands, Wharfs, Culverts, Bridges, Roads, Banks, Side Ponds, or other Works of the said Canal, without the Consent of the said Company of Proprietors of the *Wyrley* and *Essington* Canal Navigation under their Common Seal first had and obtained. Canal Company.

XLIX. Provided always, and be it further enacted, That if, from Situation, or from any other Circumstance, it shall happen that any of the Parties interested in the Lands hereby authorized to be divided, allotted, and inclosed, or any Person to whom any Allotment shall be made, shall not have a proportionable Share of the Boundary Hedges, Ditches, Mounds, or Fences assigned to him 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 or Person towards making the Boundary Hedges, Ditches, Mounds, and Fences of the Allotments of such other of the said Persons interested in the said Lands 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 or appoint; and the same shall and may be received and recovered by all or any of the Ways and Means which by the said first-recited Act are given or 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 Allotments shall be made; and every such Order of the said Commissioner shall be binding and conclusive on all Parties interested or concerned therein. Equalizing the Share of Fencing.

L. And be it further enacted, That no Person or Persons whomsoever shall graze or keep any Sort of Beast or Cattle whatsoever in, on, or upon any of the Roads or Ways which the said Commissioner shall order and direct to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the making and executing the Award of the said Commissioner; and the Lord of the said Manor of *Ogley Hay*, and his Haywarden, and all Owners of Lands within the said Manor, and also all the Peace Officers of the said District, for the Time being, are hereby empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforeaid as Cattle Damage feasant: Provided always, that nothing herein contained shall prevent or prohibit the Proprietors of the Lands which shall next adjoin the said Roads and Ways from depasturing their Cattle so far as the Frontage of their respective Lands and Grounds may extend. Cattle not to be depastured in the Highways for Seven Years.

LI. And be it further enacted, That if any Person or Persons hath or have sold, or shall, at any Time before the Execution of the Award of the said Commissoner, sell, his or their Right, Interest, and Property in the Lands hereby directed to be divided, allotted, and inclosed, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioner and he is hereby authorized and required, upon such Sale being made, on the Request in Writing of the said Persons may sell or mortgage their Estates before Execution of the Award.

said Parties, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, and his Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, his Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so allotted to him as aforesaid in the same Manner, to all Intents and Purposes, as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person who shall be entitled to any Allotment under or by virtue of this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment, or all or any Part of his Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment to sell, dispose of, and convey the Estate in right of which he may be entitled to any such Allotment, separate and apart from and retaining to himself such Allotment, Common Right, and Interest, and the said Commissioner is hereby required to award such Allotment accordingly.

Deeds, Wills, &c. not to be affected.

LII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to revoke, annul, make void, alter, vary, or in any way affect any Grant, Assurance, Limitation of Use or Uses, Declaration of Trust, or any Deed or Will whatsoever, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Incumbrance, or other Claim or Demand out of, upon, or affecting any of the Lands hereby directed to be divided and allotted, but the same shall immediately after such Allotment remain and enure, and the several Persons to whom the same shall be allotted shall thenceforth stand and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, and Incumbrances, in all respects, as the Estate, Right, or Interest in the Lands by this Act directed to be divided, allotted, and inclosed should or would have stood severally limited, settled, vested, or subject or liable to, or been held by, in case the same had not been allotted as aforesaid, and this Act had not been passed, save and except where any other of the Provisions of this Act are to the contrary, and subject nevertheless to all such Sales as shall be made by Authority hereof or of the said Acts.

Separate Allotments to be made for Land held under different Titles.

LIII. And be it further enacted, That when the Parties entitled to any Allotment under this Act shall hold the Lands or Hereditaments in respect of which they claim such Allotment under different Titles and for different Estates, the said Commissioner shall, upon the Request of the said respective Proprietors in Writing under their Hands, ascertain and distinguish the Land or other Hereditaments held for each of such Estates and under each of such Titles respectively, and shall accordingly in

in his Award set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments.

Application of Money paid for Purchase if amounting to 200*l.*

LIV. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said first herein-before recited Act or this Act, to be paid for the Purchase of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Corporation, 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, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity, or unborn, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, it shall and may be lawful to and for the said Commissioner out of such Sums to defray such Proportion of the Expences of passing this Act, and of carrying the same and the said recited Acts into execution, as shall (if any) be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Corporation, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee in possession of the Lands, Tenements, or Hereditaments so purchased, or on which such Timber or Wood actually grew, 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 Person or Corporation, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee respectively, but not exceeding, together with the Monies which may be raised by Sale or Mortgage for the Purposes aforesaid, the Sum of Five Pounds *per* Acre; 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 at *Westminster*, 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 His Majesty 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, and 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 Party who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debts or other Incumbrances affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Parts thereof as shall be neces- 1 G. 4. c. 35.

sary, or in the Expence of any such permanent Improvement as aforesaid; or until the same shall, upon the like Application in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands, Tenements, or Hereditaments stood limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by 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 in 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 and Interest and annual Produce thereof shall from Time to Time, by Order of the said Court, be paid to the Party who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

Where less than 200*l.* and amounting to 20*l.*

LV. Provided always, and be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the respective Parties for the Time being entitled to the Rents and Profits of the Land, Tenements, and Hereditaments so purchased, or of their respective Husbands, Guardians, or Committees, in case of Coverture, 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 Accountant General of the said Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in the Manner herein-before directed; or otherwise the same may be paid to Two Trustees, to be nominated by the respective Parties exercising such Option (such Nomination to be approved of by the said Commissioner), and such Nomination and Approbation to be signified in Writing under the Hands or Common Seal (as the Case may be) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Proceeds arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money to be paid into the Bank in the Name of the Accountant General of the said Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

Where under 20*l.*

LVI. Provided also, and be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the respective Parties who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased for their own Use and Benefit; or in case of Coverture, Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid, for their Use, to their respective Husbands, Guardians, Committees, or Trustees.

LVII. And

Alterations may be made in the Allotments before the Award.

LVII. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time before the executing of his final Award, to make any such Alterations in the Allotments, or in the Fences or private Roads 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 of 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 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 first herein-before recited Act, in case the same shall be raised by a Rate upon the Proprietors.

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

LVIII. 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, 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, where 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, or 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, Customs, and Services to which the same respectively are subject, and also the Allotments, Lands, and Hereditaments held by, for, or under different Estate 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 subsqeuent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Persons who shall have requested the said Commissioner to make and execute the same, or their Heirs, Executors, or Administrators.

Award to be made and deposited.

LIX. And be it further enacted, That as soon as conveniently may be after the said Division and Allotment shall be completed, the said Commissioner shall form, draw up, and execute an Award, which, together with a proper Map or Plan thereto annexed, shall within Ten Days after the Execution thereof be delivered to the Clerk of the Peace for the County of *Stafford*, who is hereby required to deposit and keep the same among the

the Records of the said County, for the Reception whereof the Fee of Two Guineas, and no more, shall be paid, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled within the Intent and Meaning of the said first-recited Act; and a Copy of the said Award and of the said Map or Plan, signed by the said Commissioner, shall within the Time aforesaid be deposited with the Lord of the said Manor of *Ogley Hay* or the Steward of the said Manor, to be kept with the Court Rolls or Muniments relating to the same, and open at all reasonable Times to the Inspection of all Parties interested in the said Award; and the said Award and the said Copy thereof, and any other Copy of the said Award or of any Part or Parts thereof, to be attested by the Clerk of the Peace for the Time being of the said County or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Monies may be recovered after Execution of the Award.

LX. 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.

Persons under Disability empowered to give Consent.

LXI. And be it further enacted, That whenever the Consent or Concurrence of any Proprietor or Person interested in the Lands hereby directed to be divided, allotted, and inclosed is required for the Purposes of this Act or the said recited Acts, and wheresoever any Powers or Rights are hereby given or reserved to any such Proprietor or Person interested as aforesaid, or to any other Party whomsoever, it shall be lawful for such Proprietor or other Person whomsoever to give such Consent and Concurrence, and exercise and enjoy such Powers and Rights, whether such Proprietor or other Party shall be a Tenant in Fee Simple or for Life, or in Fee Tail, Special or General, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, (by and with the Consent of the Lessor, but not otherwise,) and also whether such Proprietor or other Party shall be a Body Politic, Corporate, or Collegiate, Corporation Aggregate or Sole, Rector, Parson, Vicar, or other Ecclesiastical Person; and it shall be lawful for the Guardian, Husband, Committee, or Attorney of or acting for any such Proprietor or other Party who at the Time of giving or testifying such Consent or Concurrence, or exercising such Powers or Rights, shall be respectively an Infant, Feme Covert, Idiot, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself or herself, and also for the Trustees or Feoffees for charitable, parochial, or other Uses or Trusts, and for any Person having Power to sell and dispose of the Lands to be affected by such Consent or Concurrence, or by the Exercise of such Rights or Powers, to give such Consent or Concurrence, and exercise and enjoy such Powers and Rights; and every Consent and Concurrence, Act and Deed whatsoever, under and in pursuance of the Powers herein-

before given, shall for the Purposes of this Act be as good, valid, and effectual to all Intents and Purposes whatsoever as if the Party giving or testifying such Consent or Concurrence, or exercising such Rights or Powers, had been a Tenant in Fee Simple or absolute Owner or Proprietor: Provided always, that such Consent shall be testified in Writing under the Common Seal of any Body Politic, Corporate, or Collegiate, and under the Hand of any other consenting Party, and the Consent of any Person seised or interested in respect of any Church, Chapel, or Ecclesiastical Benefice shall not be binding without the Consent of the Patron or Ordinary thereof.

Accounts to be audited.

LXII. And be it further enacted, That once at least in every Twelve Calendar Months during the Execution of this Act (to be computed from the Time of the passing thereof) the said Commissioner shall and he is hereby required to make a true and just Statement and Account of all the Sums of Money by him received and expended or applied in the Execution of this Act; and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before One of Her Majesty's Justices of the Peace for the County of *Stafford* not interested in the said Inclosure, to be by him examined and balanced, and such Balance shall be sated in the Book of Accounts to be kept in the Office of the Person acting as Clerk to the said Commissioner; and an Abstract of such Account shall, within Fourteen Days after the same shall have been so examined and balanced, be published in the *Staffordshire Advertiser*, or in some other Newspaper printed and circulated in the said County of *Stafford;* and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justice, and until such Account, or the Abstract thereof, shall have been so published as aforesaid, subject neverthe less to the Power of Appeal herein-after contained.

Power of Appeal

LXIII. And be it further enacted, That if any Persons shall think themselves aggrieved by any thing done in pursuance of the said recited Acts or of this Act, (other than and except as to the Allotments, and except such Claims, Matters, and Things as are herein-before directed or authorized to be ascertained, settled, tried, or determined by any Issue at Law, or where by any of the Provisions of the said recited Acts or of this Act the Determinations, Acts, or Proceedings of the said Commissioner are directed to be final or conclusive,) they may appeal to any General or Quarter Sessions of the Peace which shall be holden for the said County of *Stafford* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and to the Parties concerned Ten Days Notice in Writing of such Appeal and the Matter thereof, except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and balanced as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award with the Clerk of the Peace for the said County of *Stafford* on giving to the said Commissioner such Notice as last aforesaid; and the Justices (not interested in the Premises) at the General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such

Order and award such Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Parties liable to pay the same, rendering the Overplus (if any) to the Owner of such Goods and Chattels, after deducting the reasonable Charges of such Warrant of Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by Certiorari, or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminter* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous and vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellants as to them in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

Saving Rights of the Lord of the Manor.

LXIV. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice, lessen, or defeat the Right, Title, and Interest of the Lord of the said Manor or reputed Manor of *Ogley Hay* for the Time being, or of any other Person claiming any Manor or reputed Manor within the same, or any of them, of, in, or to any Seignories, Royalties, Fisheries, Manorial Rights and other Rights, Customs, or Services incident to or belonging to the said Manor, but that such Lord for the Time being, and all and every Person claiming Interest for him as Lord of the said Manor, shall and may at all Times hereafter have, hold, receive, take, and enjoy all Rents, Services, Courts, Perquisites and Profits of Courts, Fines, Royalties, Privileges, and Jurisdictions to the said Manor or the Lord thereof, or any claiming under him, incident, belonging, appending, or appertaing, (except the Right of Soil of the said Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and the Mines and Minerals under the same, and the Rabbit Warren aforesaid, for which Compensation is herein-before directed to be made,) in as full, large, ample, and beneficial a Manner to all Intents and Purposes as the same might have been held and enjoyed in case this Act had not been passed.

Saving the Rights of the Executors of Phineas Hussey, Esq. deceased.

LXV. And whereas the said Manor of *Ogley Hay* was, with other Hereditaments, conveyed to or to the Use of the said *Charles Forster Cotterill*, his Heirs, Appointees, and Assigns, under or by virtue of certain Indentures of Lease and Release bearing Date respectively the Twenty-seventh and Twenty-eighth Days of *January* in the Year One thousand eight hundred and thirty-seven, the said Indenture of Release being made or expressed to be made between Sir *John Dickenson Fowler* of *Burton-upon-Trent* in the County of *Stafford*, Knight, of the First Part; the Reverend *Edward Levett*, then late of *Bolder Lodge* in the County of *Hants*, Clerk, but then of *Hampton Court* in the County of *Middlesex*, of the Second Part; the said *Charles Forster Cotterill* of the Third Part; and *William Cotterill* of the same Place, Gentleman, of the Fourth Part; and the said *Charles Forster Cotterill* did, by the said Indenture of Release, for himself, his Heirs, Appointees, Executors, Administrators, and Assigns, covenant, promise, and agree to and with the said *Edward Levett*, his Executors and Administrators, and all and every other the present and future Executors and Administrators of *Phineas Hussey* of *Wyrley Grove* in the County of *Stafford*, Esquire, deceased, that he the said *Charles Forster Cotterill*, his Appointees, Executors, Administrators, and Assigns,

or any of them, would not work or raise any Coal or Culm in or upon or from the Hereditaments and Premises thereby released for the Space of Twenty Years from the Twenty-fourth Day of *June* One thousand eight hundred and thirty-six: Saving therefore to the said *Edward Levett*, his Executors and Administrators, and all and every other the present and future Executors and Administrators of the said *Phineas Hussey* deceased, all such Right and Remedy, by way of Injunction, Action, or otherwise, against the said *Charles Forster Cotterill*, his Heirs, Appointees, Executors, Administrators, and Assigns, and against all Parties claiming or to claim under or by virtue of this Act, as the said *Edward Levett* might or could have had or enjoyed against the said *Charles Forster Cotterill*, his Heirs, Appointees, Executors, Administrators, and Assigns, touching or concerning the said Land authorized to be divided, allotted, and inclosed, or any Part thereof, or the Coal or Culm in or upon the same or any Part thereof, in case this Act had not been passed.

General Saving.

LXVI. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all and every Persons and Corporations, their Heirs, Successors, Executors, and Administrators, all such Right, Title, Estate, and Interest, Claim and Demand, (other than except such as are expressly barred and compensated for or intended to be barred and compensated for and extinguished by this Act,) as they, every or any of them, could or might have had, held, and enjoyed of, in, to, or out of the said Lands authorized to be divided, allotted, and inclosed, or any Part thereof, in case this Act had not been passed.

Act to be printed by the Queen's Printers.

LXVII. And be it further enacted, That this Act shall be printed by the several Printers to the Queen'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 Queen's most Excellent Majesty. 1838.