



ANNO QUINQUAGESIMO QUARTO

GEORGI II. REGIS.

Cap. 92.

An Act for inclosing Lands in *Whixall*, in the Parish of *Prees*, in the County of *Salop*.

[27th May 1814.]

WHEREAS there are within the Township of *Whixall*, in the Parish of *Prees* and County of *Salop*, a certain Common Waste Land or Moss Ground, called *Whixall Moss*, and other Commons or Waste Lands, containing Eight hundred and eighty-seven Acres, Statute Measure, or thereabouts: And whereas Sir *John Hill* of *Hawkstone*, in the County of *Salop*, Baronet, is the Lord of the Manor of *Whixall*: And whereas the Lord Bishop of *Lichfield* and *Coventry* is Patron of the Vicarage of the said Parish of *Prees*, (in which Parish the Chapelry of *Whixall* is situate), and the Reverend *Edward Nevile* Clerk is the present Vicar of the said Parish of *Prees*, and as such entitled to all Tithes issuing or arising within the said Chapelry of *Whixall*: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating in one Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas divers Persons are entitled to Rights of Common and Turbary, in and upon the said Moss, in right of their respective Estates; and the said Common, Waste Land or Moss Ground, and other Commons or Waste Lands, in their present State, are of very little Value, but are capable of Improvement; and the several Proprietors thereof, and Persons interested therein, are desirous that the same may be divided and inclosed, and that specific Parts and Shares thereof may be assigned, allotted, and awarded to each of

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them,

Commissioners.

them, according and in Proportion to their several and respective Rights and Interests; but such Division, Inclosure, and Allotment cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Joseph Lee* of *Redbrook*, in the Parish of *Malpas* and County of *Flint*, and *William Jellicoe* of *Benthall*, in the County of *Salop*, Gentlemen, and their Successors, to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for carrying this Act and the said recited Act into Execution; under and subject to the Rules, Orders, and Directions contained in the said recited Act, except in such Cases where the same are hereby varied or altered.

Justice of Peace may administer Oath to the Commissioners.

II. And be it further enacted, That it shall be lawful for any Justice of the Peace for the County of *Salop* to administer to the said Commissioners, or either of them, or to any Person to be appointed a Commissioner by virtue of this Act, the Oath or Affirmation directed by the said recited Act to be taken by Commissioners; and such Oath, being so taken, shall be as effectual as if the same had been administered by one of the Commissioners as directed by the said recited Act.

For choosing new Commissioners in case of Death, &c.

III. And be it further enacted, That in case any One or more of the said Commissioners by this Act appointed, or to be elected in Manner herein-after mentioned, shall happen to die, or shall decline or refuse to act, or become incapable of acting, before the Execution of all the Powers hereby vested in them or him, or shall refuse to qualify and act in Execution hereof, then and in every such Case, and from Time to Time so often as there shall be Occasion, it shall and may be lawful for any Three or more Owners or Proprietors of any Messuages, Lands, or Tenements within the said Township of *Whixall*, to call a General Meeting of the Owners or Proprietors of Messuages, Lands, and Tenements within the same Township, giving Notice in Writing, with their Names subscribed thereto, Ten Days at least before the Day proposed for the Meeting, on the principal Door of the Parish Church of *Prees* aforesaid, and also of the Chapel of *Whixall* aforesaid, and in One or more of the Newspapers printed and circulated in the County of *Salop*; and the major Part in Value (to be ascertained by the Assessments for the Poor) of such Owners or Proprietors who shall be present at such Meeting in Person, or by their respective Agents duly authorized for that Purpose, are hereby empowered summarily to examine into the Facts and declare the Office or Offices of the said Commissioner or Commissioners vacant, if they shall so determine; and shall or may, and they are hereby empowered, by Writing under the Hands of such major Part in Value of the said Owners and Proprietors and Agents present at such Meeting, to appoint a new Commissioner or Commissioners respectively (as the Vacancy shall happen to be); and so from Time to Time as any Vacancy shall happen by Death, Incapacity, Refusal or Neglect of any such new Commissioner or Commissioners, shall or may in like Manner appoint another or others; and every such new Commissioner to be so appointed (having first taken the Oath prescribed in and by the said recited Act) shall have the same Powers and Authorities for carrying this and the said recited Act into Execution, as the

the Commissioner in whose Place he shall succeed was vested with, or as if he had been named a Commissioner in this Act.

IV. And for the Purpose of settling or determining any Difference or Dispute that may arise between the said Commissioners, touching or concerning any of the Matters or Things to be by them done and performed, in pursuance of the said recited Act and of this Act, be it further enacted, That the said Commissioners shall and they are hereby required, immediately after their taking and subscribing the Oath or Affirmation hereinafter directed to be by them taken and subscribed, by Writing under their Hands, to choose, nominate, and appoint some proper Person, not interested in the said Mofs, and not being an Agent for or usually employed by any Person so interested, who shall be willing and consent to act as an Umpire, and such Umpire is hereby authorized and required to hear and determine any such Difference or Dispute as may arise between the said Commissioners touching any Matter or Thing relating to the said Division and Inclosure; and the Judgment and Determination of the said Umpire, so far only as immediately relates to the Matter in Dispute, shall be deemed and considered to be the Judgment and Determination of the said Commissioners, and shall be final and conclusive upon the said Commissioners, and upon all other Persons concerned in the said Division and Inclosure, so far as the Acts of the said Commissioners are by the said recited Act or this Act made final and conclusive: Provided always, that in case the Person so nominated and appointed by the said Commissioners as Umpire shall die or refuse to act, or become incapable of acting in the Execution of the said recited Act and this Act, then and in every such Case it shall be lawful for the said Commissioners to nominate and appoint one other Person, not interested or concerned, or Agent as aforesaid, as Umpire in the room and stead of the Person so dying, refusing to act, or becoming incapable of acting in the Execution of the said recited Act or of this Act; and so from Time to Time, as often as any Person so nominated and appointed as Umpire shall die or refuse to act, or become incapable of acting in the Execution of the said recited Act and of this Act; and in case any such Umpire shall neglect to settle and determine any such Difference or Dispute within Thirty Days after the same shall have been referred to him by the said Commissioners, such Neglect shall be deemed and taken to be a Refusal to act within the Intent and Meaning of this Act.

V. Provided always, and be it enacted, That in case the said Commissioners shall, for the Space of Seven Days next after such Difference or Dispute shall have arisen, refuse or neglect to appoint or shall not appoint such Umpire, or in case such Umpire having been nominated and appointed by the said Commissioners in Manner aforesaid, shall die, refuse, or neglect to act, or become incapable of acting as such Umpire, and the said Commissioners shall for the Space of Seven Days after such Death, Refusal, Neglect, or Incapacity shall be made known to them, refuse or neglect to nominate and appoint or shall not nominate and appoint another Person (not interested in the said Division and Inclosure) in the room or stead of the Umpire so dying, refusing, neglecting, or becoming incapable of acting, then and in every such Case the major Part in Value (such Value to be ascertained according to the several Rates or Assessments made for the Relief and Maintenance of the Poor in the said Township of *Whixall*) of the Owners and Proprietors of Lands and Hereditaments within the said Township of *Whixall*, who shall be present in Person, or

Umpire to be appointed.

How Umpire to be appointed if Commissioners refuse to appoint.

by their respective Agents duly authorized for such Purpose, at a Meeting to be holden for that Purpose, of which Meeting Ten Days Notice in Writing, signed by any One or more of such Owners and Proprietors, shall be given by affixing the same on the principal outer Door of the Parish Church of *Prees* aforesaid, and the Chapel at *Whixall* aforesaid, on some *Sunday* immediately after Divine Service, and also by Advertisement to be inserted in One or more of the Newspapers printed and circulated in the said County of *Salop*, may and are hereby empowered to nominate and appoint, by any Writing under the Hands of the major Part in Value (to be ascertained as aforesaid) of them the said Owners and Proprietors and Agents present at such Meeting as aforesaid, a proper Person (not interested in the said Division and Inclosure) to be such Umpire, and so from Time to Time as often as any such Case shall happen; and every such Umpire so nominated and appointed is hereby authorized and required to hear and determine all such Differences and Disputes as may arise between the said Commissioners; and the Judgment and Determination of the said Umpire thereon shall be deemed and taken to be the Determination of the said Commissioners, and shall be binding upon them, and shall have the like Force and Effect upon all Persons concerned in the said Division and Inclosure as the Judgment and Determination of the said Commissioners would have had in such and the like Cases by the said recited Act or this Act.

Umpire to
take an Oath.

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

Oath.

‘ I do swear, [*or*, being one of the People called *Quakers*,
‘ I do solemnly affirm,] That I will faithfully, impartially and honestly,
‘ according to the best of my Skill and Judgment, execute and perform
‘ the Trusts, Powers, and Authorities vested and reposed in me as an
‘ Umpire, by virtue of an Act passed in the Fifty-fourth Year of the
‘ Reign of King *George*, the Third, intituled *An Act* [*here set forth the*
‘ *Title of this Act*,] according to Equity and good Conscience, and with-
‘ out Partiality, Favour or Affection, Prejudice or Malice, to any Person
‘ or Persons whomsoever.

‘ So help me GOD.’

Which Oath or Affirmation it shall be lawful for the said Commissioners, or either of them, or any Justice of the Peace for the County of *Salop*, to administer; and such Oath or Affirmation, and the several Writings appointing any such Umpire, shall be annexed to and enrolled and deposited with the Award of the said Commissioners; and a Copy of the Enrolment thereof shall be admitted as legal Evidence.

Commission-
ers to appoint
a Clerk and
Surveyor.

VII. And be it further enacted, That the said Commissioners shall have Power, and they are hereby authorized, to appoint One or more Clerk or Clerks, Surveyor or Surveyors, Assistant or Assistants, to assist them in the Execution of the Powers of this or the said recited Act; and such Clerk and Clerks, Surveyor or Surveyors, Assistant or Assistants, from Time to Time to remove, and another or others to appoint, as to them the said Commissioners shall seem meet; and from and out of the Money to be provided for the Purposes of this Act to allow and pay to such Clerks,
Surveyor

Surveyor or Surveyors, Assistant or Assistants, such Salary, Allowance or Remuneration, for their and each of their Labour, Trouble, Allowance, Recompence, and incidental Expences, as to the said Commissioners shall appear just and reasonable.

VIII. Provided always, and be it further enacted, That no Person or Persons shall be capable of acting as a Surveyor or Surveyors, or Engineer or Engineers, in the Execution of this or the said recited Act, until he or they shall have taken and subscribed the Oath or Affirmation following; (that is to say),

‘ I do swear, [*or, being one of the People called Quakers,* Oath.
‘ I do solemnly affirm,] That I will faithfully, impartially and honestly,
‘ according to the best of my Skill and Ability, execute and perform the
‘ Duties incumbent on me as a Surveyor for the Purposes of an Act,
‘ passed in the Fifty-fourth Year of the Reign of His present Majesty,
‘ intituled *An Act [here set forth the Title of this Act]* according to Equity
‘ and good Conscience, and without Partiality, Favour or Affection, Pre-
‘ judice or Malice, to any Person or Persons whomsoever.

‘ So help me GOD.

Which Oath or Affirmation it shall be lawful for any One of the said Commissioners, or for any of His Majesty's Justices of the Peace for the County of *Salop*, to administer; and such Oath or Affirmation, so taken and subscribed, shall be enrolled and annexed to and deposited with the Award of the said Commissioners; and a Copy of the Enrolment thereof shall be admitted as legal Evidence.

IX. And be it further enacted, That the said Commissioners shall, and they are hereby empowered and required, to give or cause to be given public Notice in the Parish Church of *Prees*, and in the Chapel of *Whixall* afore- Notice of
Sittings.
said, upon some *Sunday* immediately after Divine Service, or by any Writing under their Hands, to be affixed on the principal outer Doors of the said Church and Chapel respectively, and also by Advertisement in One or more of the Newspapers usually circulated in the County of *Salop*, of the Time and Place of their First and every subsequent Public Meeting for executing the Powers hereby and by the said recited Act vested in them, Ten Days at least before such Meeting or Meetings respectively; and the said Commissioners, or either of them, shall and may adjourn any and every such Meeting from Time to Time, as they or he shall see Occasion, for the further Execution of this Act and the said recited Act; and in case neither of the said Commissioners shall be present at such Time and Place as shall have been appointed for any such Meeting, then it shall be lawful for the Person or Persons who shall act as Clerk or Clerks to the said Commissioners, or either of them, to adjourn the same to any future Day, not exceeding Twenty-one Days from the Day of Adjournment, such Meeting to be held at the Place where such last preceding Meeting was appointed to be held: Provided always, that all Meetings of the said Commissioners in Execution of this Act shall be held in the Parish of *Prees* aforesaid, or within Eight Miles of the Boundary of the said Parish.

X. And be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners, the Manner of Other No-
tices how to
be given.
making and giving which shall not be otherwise provided for by this or the said recited Act, shall be made and given by Notice in the said Church

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and Chapel as aforesaid, and also by Advertisement in One or more of the Newspapers usually circulated in the County of *Salop*.

Commissioners to settle Differences.

XI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Proprietors or Persons interested or claiming to be interested in the said Mofs so intended to be divided and inclosed as aforesaid, or any Part thereof, concerning the respective Shares, Rights or Interests, which they or any of them may have or claim to have in or upon or relating to the same, or touching or concerning any Matter or Thing relating to the said Division, Allotment and Inclosure, it shall and may be lawful to and for the said Commissioners to examine into, hear, settle, and determine the same.

Commissioners not to decide on Titles nor molest Possession.

XII. Provided always, and be it further enacted, That nothing in this Act contained shall extend to authorize or empower the said Commissioners or Umpire to determine the Title to any Messuages, Cottages, Lands, Tenements or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments made within the Period of Twenty Years as herein-after mentioned); but in case the said Commissioners or Umpire shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment, or other due Course of Law.

Commissioners may award Costs.

XIII. And be it further enacted, That in case the said Commissioners shall upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this Act or of the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons who shall be directed by such Award to pay such Costs and Charges shall neglect or refuse to pay the same within Ten Days after Demand made thereof, it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Parties may try their Rights by a feigned Issue.

XIV. Provided always, and be it enacted, That in case any Person or Persons, interested or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with the Determination of the said Commissioners or Umpire, touching or concerning any Claim or Claims of Right of Common or Turbary, or other Rights or Interests, in, over, or upon the said Mofs hereby intended to be divided, allotted, and inclosed,

closed, or any Part thereof, then and in every such Case it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioners or Umpire, at the then next Assizes to be holden for the County of *Salop*, in case the same shall not be holden within Three Calendar Months next after such Determination; but if the next Assizes for the said County shall be holden within Three Calendar Months after such Determination, then at the following Assizes to be holden for the same County; and for that Purpose the Person or Persons who shall be so dissatisfied with the Determination of the said Commissioners or Umpire shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioners or Umpire, and shall also within Two Calendar Months after such Determination give Notice in Writing to the said Commissioners of his, her, or their being so dissatisfied; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same; and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, unless the Court, wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials; which Allowances and Disallowances shall be final and conclusive upon all Parties: Provided always, that in case the Determination of such Commissioners or Umpire, touching such Claim or Claims of Right to the Soil of the said Moss, or other Rights and Interests in, over, and upon the said Moss hereby directed to be divided, allotted and inclosed, or any Part thereof, shall not be objected to, or being objected to, the Party or Parties objecting shall not cause such Action at Law to be brought and proceeded in within the Time and Manner hereby appointed, such Determination shall be final and conclusive upon all Parties.

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

Actions not to abate by Deaths of Parties.

XVI. And be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons who might have brought such Action or Actions against the Person or Persons

In case of Deaths of Parties before Action brought, the same to be carried on and defended in their Names.

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

ACTIONS, &c.
not to impede
Proceedings
of Commis-
sioners.

XVII. Provided always, and be it further enacted, That no such Difference, Action, Suit, or Proceeding as aforesaid, nor any Difference, Suit, Action or Proceeding, touching or concerning the Title to any Lands, Tenements or Hereditaments, shall impede, delay, or hinder the said Commissioners from proceeding in the Execution of the Powers vested in them by the said recited Act and this Act; but the Division and Allotment shall be proceeded in notwithstanding such Differences, Suits, Actions or Proceedings; and the said Commissioners shall by proper Marks and Bounds set out the Lands and Grounds which shall be allotted in respect of such litigated Property, so that the same may be distinguished from any other Lands and Grounds, and may be had and taken by the Person or Persons who, upon the Determination of such Difference, Suit, Action or Proceeding, shall be entitled to the same.

Deaths of
Parties not
to suspend
the Execu-
tion of the
Act.

XVIII. And be it further enacted, That if any of the Parties interested in the said intended Division or Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioners or Umpire shall not be thereby determined or suspended, but that the said Commissioners or Umpire shall proceed in the Execution of the Powers given to them by this Act or the said recited Act, in such Manner as they might have done in case such Parties had not died; and that the Share or Shares of the Person or Persons so dying shall be allotted to such Person or Persons who by Law shall become entitled to the same, and shall be accepted and fenced by him, her or them, according to the Directions of this Act or the said recited Act; and he, she, or they shall be liable to the Charges and Expences and other Conditions of this Act and the said recited Act.

Commis-
sioners may
suspend or
extinguish
Common
Right, &c.
before Award
made, upon
giving No-
tice.

XIX. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized at any Time or Times after the setting out and allotting the said Lands, and before the Execution of the Award, by Notice in Writing under their Hands, to be affixed to the outer Door of the Parish Church of *Prees* aforesaid, and the Chapel of *Whixall* aforesaid, to order or direct all or any Part of the Rights of Common, or other Commonable Rights, in, over, or upon the said Moss, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Writing; and that all such Rights of Common as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall, from the Time expressed in such Writing, cease, determine, and be for ever extinguished, or the Exercise thereof

thereof be suspended accordingly; any Law, Usage, or Custom to the contrary thereof notwithstanding.

XX. And be it further enacted, That the said Commissioners shall make or cause to be made a Survey, Admeasurement, and Plan of the said Mofs, and such Survey, Admeasurement and Plan, shall be reduced into Writing, and the Number of Acres, Roods, and Perches in Statute Measure, contained in the said Mofs, shall be set forth and ascertained and delivered to the said Commissioners, and shall be verified upon Oath or Affirmation of the Person making the same (which Oath or Affirmation any of the said Commissioners, or any Justice of the Peace for the said County of *Salop*, is hereby authorized and required to administer): Provided nevertheless, that if any Plan or Plans, Survey or Surveys, already made of the said Mofs, or any Part or Parts thereof, shall be produced and laid before the said Commissioners, of the Authenticity of which they shall be satisfied, it shall be lawful for the said Commissioners to make use of the same without causing such new Survey or Plan to be made thereof.

Survey to be made.

XXI. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the said Proprietors in the Mofs to be divided and allotted by virtue of this Act, and also the respective Shares and Proportions by them the said Commissioners proposed to be allotted to such Proprietors respectively in lieu of such Rights and Interests, they the said Commissioners shall set out and delineate such intended Allotments upon a Plan or Map, and shall give Notice in Manner aforesaid of some convenient Time and Place when and where the said Proprietors may be informed of such intended Allotments, and may see the said Map and Plan thereof; and as some of the Proprietors may, upon Inspection of such Map or Plan, be dissatisfied with such intended Allotments, the said Commissioners shall at such Time and Place as last aforesaid, or at some other Time or Place to be appointed by them for that Purpose, receive Statements in Writing of any Complaints or Objections which may be made by any of the said Proprietors against such intended Allotments, and shall forthwith, or as soon thereafter as conveniently may be, determine all such Complaints and Objections; and the Determination of the said Commissioners with respect to such Allotments shall be final and conclusive on all Parties, except as herein-after is mentioned.

Map of Allotments to be made.

XXII. And be it further enacted, That it shall be lawful for the said Commissioners to alter, turn, scour out, widen, fill up, pull down, build and rebuild, or cause to be altered, turned, scoured out, widened, filled up, pulled down, built and rebuilt, any ancient Ditches, Drains, Watercourses, Tunnels, Watergates, Banks, Bridges and Culverts, in or upon the Lands and Grounds hereby intended to be divided and allotted, and also to set out, appoint, and make or cause to be made any Drains, Ditches, Watercourses, Cuts, Sluices, Floodgates, Tunnels, Embankments, Dams, Bridges, Culverts, Fences, and such other Works as they shall think necessary for the Purposes of Drainage, as well in, upon, through, and over the Lands and Grounds hereby intended to be divided and allotted, as also in, upon, through, and over any ancient inclosed or other Lands or Grounds within the said Township (making full Satisfaction to

Power to make Drains, &c.

the Proprietors of such ancient inclosed or other Lands and Grounds for the Damage done thereby, as the said Commissioners in their Discretion shall think reasonable), and of such Depth and Breadth, and in such Directions as the said Commissioners shall think proper; and it shall also be lawful for the said Commissioners, and their Surveyor or Surveyors, Engineer or Engineers, Agents, Workmen, and all other Persons by them employed, and they are hereby respectively authorized and empowered from Time to Time, to enter into and upon any such Lands and Grounds as aforesaid, and also any Lands or Grounds adjoining thereto, for the Purpose of making completing, or repairing and maintaining any such Works, making full Satisfaction as aforesaid for any Damage to be thereby occasioned; and the said Commissioners shall and may, and they are hereby directed and required, in and by their Award to order and direct by whom, and at whose Expence, and at what Time and in what Manner the said Ditches, Drains, Watercourses, Tunnels, Sluices, Dams, Watergates, Embankments, Bridges, Culverts, and other Works, or any of them, shall be afterwards cleansed, scoured, repaired and maintained, and by whom and in what Manner the Expences of so cleansing, scouring, repairing, and maintaining the same, or any of them, shall be paid, and how levied and recovered: Provided that no Brooks, Streams, Springs or Watercourses, which pass through, over, and across any ancient Inclosures, be diverted or turned without the Consent in Writing of the respective Person or Persons from or out of whose Lands the same shall be diverted or turned, and of the Person or Persons through or into whose Lands the same shall be turned.

Ellesmere
Canal not to
be injured
or affected.

XXIII. Provided always, and be it further enacted, That nothing in this Act contained shall be extended or construed to extend to authorize the said Commissioners, their Deputies, Agents or Workmen, or any Person or Persons whomsoever to whom any Allotment or Allotments shall or may be set out in pursuance of this Act, to cut or make any Drain or Drains, or execute any Works for the Purposes of such Drainage of the said Moss as aforesaid, other than at such Distances from the *Ellesmere* and *Chester* Canal, and in such Manner and Direction, and under such Regulations, as may from Time to Time be previously agreed upon betwixt the United Company of Proprietors of the said Canal and the said Commissioners, or the Person or Persons to whom such Allotment or Allotments shall or may be set out as aforesaid.

Old Roads
and Ways
may be
stopped up.

XXIV. And be it further enacted, That it shall and may be lawful for the said Commissioners, and they are hereby authorized and empowered, in case they shall think proper, to stop up, turn, or divert any old or accustomed Road or Roads, Way or Ways, Path or Paths, Track or Tracks, passing or leading through or over the said Moss, Commons or Waste Lands and Moss Grounds, except the Towing-paths of the *Ellesmere* Canal, and subject nevertheless to such Provisions, and under such Regulations, Directions and Conditions, as are contained in the said recited Act, respecting the stopping up of any old accustomed Road or Roads, and the setting out of Roads and Ways; and the several Roads, Ways, Paths, and Tracks so stopped, shall be and be deemed to be Part of the said Moss to be divided, allotted, and inclosed by virtue of this Act: Provided always, that none of the present Roads, Ways, Paths, or Tracks leading through or over the said Moss, shall be shut up or discontinued until

until the several Roads and Ways intended to be and remain Public Roads or Highways shall be set out in Manner by the said recited Act directed, and until the same shall be properly formed and made safe and convenient for the Passage of Horses, Cattle, and Carriages.

XXV. Provided always, and be it further enacted, That no Person or Persons shall be considered to be entitled to any Right of Common or Turbary, nor to any Allotment or Allotments in respect or for any Encroachment or Encroachments which have been made or taken out of the said Mofs within the Space of Forty Years next before the passing of this Act; but that any Proprietor or Proprietors of any Encroachments or Inclosures which have been so made or taken from off any of the Commons or Waste Lands in the Township of *Whixall* aforesaid, for such Space of Forty Years or upwards, shall be considered as entitled to Right of Common and Turbary, and to an Allotment or Allotments in respect thereof, to all Intents and Purposes, as if such Encroachments or Allotments respectively were ancient inclosed Ground within the Township aforesaid, and had exercised a Right of Common and Turbary for Time immemorial; any Law, Custom, or Usage to the contrary notwithstanding.

Respecting
Encroach-
ments within
or before
40 Years.

XXVI. And be it further enacted, That all Encroachments which have been made upon or taken out of the said Mofs hereby directed to be divided, allotted and inclosed, within the Space of Twenty Years next before the passing of this Act, shall be deemed Part and Parcel of the said Mofs from which the same were respectively taken or made, and shall, with all the Buildings and Erections thereon, be set out and allotted unto such Person or Persons entitled to Right of Common or Turbary upon the said Mofs as shall be in the Possession thereof respectively, in part or in full (as the Case may require) of the Allotment or Allotments to be made to him, her, or them respectively by virtue of this Act, so that the same shall not in the Judgment of the said Commissioners or Umpire be more than equivalent thereto; and in case the same shall be more than equivalent thereto, a competent Part only shall be so set out and allotted, and the Residue to some other Person entitled to an Allotment under this Act, in full or in part (as the Case may require) of the Allotment or Allotments to be made to him or them: Provided nevertheless, that in the Valuation of such Encroachments and Inclosures, the Buildings or Erections thereon shall not be included, nor the Lands estimated at any higher Rate than the same would have been estimated at in case they were in their original uninclosed and unimproved State; and in case any Dispute or Question shall arise, touching any such Encroachment or Inclosure, or the Extent thereof, or the Number of Years that the same has been made or taken in, every such Dispute or Question shall be determined by the said Commissioners; but if such Encroachments or Inclosures shall not respectively have been made or erected by, or be in the Possession of, any Person or Persons entitled to Right of Common or Turbary on the said Mofs, then the said Commissioners shall have full Authority by their General Award, or any other Writing under their Hands or Seals, to convey or allot the same Encroachments or Inclosures, with the Buildings or Erections standing and being thereon respectively, to the Person or Persons who have respectively made or erected the same, their Heirs or Assigns, for such Price or Prices in Money as the said Commissioners shall think just and reasonable, which Money shall be applied towards the

Encroach-
ments within
20 Years.

Expences of the said Inclosure as herein-after mentioned ; and in case any Surplus shall remain of any such Money after Payment of such Costs, Charges and Expences, such Surplus shall be apportioned, divided, and paid amongst and unto the several Persons and Parties entitled thereto, in case they shall be seised in Fee Simple of their respective Estates, in right whereof they shall be so entitled ; or otherwise such Surplus Money shall be applied and disposed of in Manner directed by the said recited Act, in Cases where Money to be paid for the Purchase or Exchange of Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, is thereby directed to be paid into the Bank of *England*, and to be laid out in the Purchase of other Lands, Tenements or Hereditaments, to be settled to the same Uses ; and if such Persons respectively shall refuse to purchase the same as aforesaid, the Encroachments or Inclosures with the Buildings and Erections standing or being thereon, of the Persons so refusing respectively, shall be deemed Part of the said Mofs to be allotted, divided, and inclosed by virtue of the said Act.

Allotment to
the Lord of
the Manor.

XXVII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, after setting out the Highways and Roads and the Allotments herein-before mentioned, to set out, allot and appoint, unto the said Sir *John Hill* as Lord of the Manor of *Whixall* aforesaid, and in respect of his Right to the Soil of the said Mofs, so much and such Part or Parts of the said Mofs as shall, in the Judgment of the said Commissioners, be equal in Value to One-fourteenth Part of the Whole of the same Mofs, (Quantity, Quality, and Situation considered,) and in Lieu, Satisfaction, and Extinction of his Right and Interest in the Soil of the same Mofs, as Lord of the Manor of *Whixall*, or otherwise ; but not of an Allotment in respect of the Demesne Lands of the said Manor, or any other Land in *Whixall* aforesaid, belonging to the said Sir *John Hill*.

A distinct
Allotment
in respect of
any Manorial
Claim of the
Earl of
Bridgewater.

XXVIII. Provided always, and be it further enacted, That in case the Earl of *Bridgewater*, or any Person or Persons claiming by, through, or under him, shall be entitled to a Proportion of the said Mofs in respect of any Manorial Right, or any Messuages, Lands, Tenements, or Hereditaments in the said Township of *Whixall*, alledged to be in the Manor of *Whitchurch*, then and in such Case a distinct Allotment or Proportion of the last-mentioned One-fourteenth Part of the said Mofs herein-before directed to be allotted to the said Sir *John Hill* shall be made by the said Commissioners in respect of such Messuages, Lands, Tenements, and Hereditaments so alledged to be in the Manor of *Whitchurch*.

Power to sell
Land to de-
fray the Ex-
pences of
this Act.

XXIX. And be it further enacted, That it shall be lawful for the said Commissioners to set out, assign, and allot so much and such convenient Part or Parts of the said Mofs, as in their Judgment will be sufficient to raise a competent Sum of Money for paying the Charges and Expences of obtaining and passing this Act, and all other incidental Charges and Expences whatsoever, for or by reason of or preparatory to the said intended Division and Inclosure, and for carrying this Act and the said recited Act into complete Execution ; and such Allotment or Allotments shall be sold or disposed of by Public Auction, or otherwise, in the Manner directed by the said recited Act, to such Person or Persons as shall be willing to become the Purchaser or Purchasers thereof, for the best Price
or

or Prices that can or may be reasonably had for the same; and One-seventh Part at least of the Money for which such Land shall be sold shall, at the Time of such Sale, be deposited by the Purchaser or Purchasers in the Hands of the said Commissioners, and the Remainder of such Purchase Money shall be paid to the said Commissioners at such Time as shall be agreed upon between them and such Purchaser or Purchasers, not exceeding Three Calendar Months next after such Sale; and the Receipt or Receipts of the said Commissioners for the Purchase Money which shall be agreed to be paid for the Land which shall be so sold, shall be a full and complete Discharge, or full and complete Discharges, to the Purchaser or Purchasers thereof for the Consideration Money which shall be therein expressed to be received; and such Purchaser or Purchasers, after such Receipt or Receipts, shall not be obliged to see to the Application of such Purchase Money, or any Part thereof, or be answerable or accountable for the Misapplication or Non-application thereof, or of any Part thereof; and in default of such Payment, the Money deposited as aforesaid shall be forfeited, and shall be applied towards the Expences of carrying this Act into Execution, and the Allotment or Allotments shall be again put up to Sale in Manner aforesaid; and after Payment of the full Purchase Money for any such Allotment or Allotments, the Purchaser or Purchasers shall thereupon have and take to himself, herself, and themselves respectively, and his, her, or their respective Heirs or Assigns, an absolute and indefeasible Estate of Inheritance in Fee Simple, of and in the Lands to be comprised in such his, her, or their respective Purchase or Purchases, and for which such Consideration Money shall be so paid as aforesaid, and the same shall be conveyed accordingly unto such Purchaser or respective Purchasers, their Heirs or Assigns respectively, or to any other Person or Persons, to such Use or Uses, upon such Trust or Trusts, and to and for such Intents and Purposes as they the said Purchaser or Purchasers shall by Writing under their respective Hands direct or appoint the same to be limited and conveyed unto, and a Conveyance thereof by any Writing or Writings (being duly stamped), under the Hands and Seals of the said Commissioners, shall be valid and effectual in the Law to convey the same to such respective Purchasers, their Heirs and Assigns; and the said Commissioners shall also set forth and declare such Sale and Conveyance in their said Award.

XXX. And be it further enacted, That the Person or Persons who shall become the Purchaser or Purchasers of the said Lands so to be allotted and sold for Payment of Expences as aforesaid, or of the said Encroachments so to be sold and conveyed or allotted as herein-before mentioned, and their respective Heirs and Assigns, shall be subject and liable to the making and keeping in Repair of all or such Part of the Fences thereof as shall be directed by the said Commissioners, and also to the due Observance and Performance of all Orders, Matters, Charges, and Directions to be made, laid down, and appointed by the said Commissioners in and by their Award, in like Manner as if such Lands or Encroachments had been allotted to such Purchaser or Purchasers, his, her, or their Heirs or Assigns, for or in respect of any Right in, over, or upon the said Mofs; except only, that such Purchaser or Purchasers shall not be subject or liable to the Payment of the Charges and Expences of obtaining this Act, or carrying the same into Execution.

Purchasers of Land sold for defraying Expences to be subject to the Orders of the Commissioners.

Allotment of
Residue.

XXXI. And be it also further enacted, That the said Commissioners shall, and they are hereby authorized and required, to set out, allot and award, all the Rest, Residue, and Remainder of the said Moss, by this Act authorized and intended to be divided, allotted and inclosed, unto and amongst the several Persons who at the Time of making such Allotments respectively shall be entitled to any Estate, Property, Right of Common or Turbary, or other commonable Right or Interest therein, in Proportion to their respective Rights, Interests, and Shares therein; and in making such Allotments the said Commissioners shall have due regard to the Quantity, Quality, and Situation of the Lands and Turbaries so to be allotted, and also to the Situation of the Dwelling and Farm Houses and Estate of the several Persons to whom Allotments shall be made, so as to allot to them respectively the Lands as near or contiguous to their Houses or Estates respectively as shall be consistent with the general convenient Partition and Division of the Lands to be inclosed by virtue of this Act (except the said Sir *John Hill*, in respect of his Right to the Soil of the Moss); and that the respective Allotments so to be assigned, set out, and allotted, unto and for the several Persons who shall be entitled to the same by virtue of this Act, shall be had, held, and enjoyed by the several Persons to whom the same shall be respectively set out and allotted as aforesaid, as and for their several Property and Estates.

Commissioners to declare
by their
Award how
Fences to be
made.

XXXII. And be it further enacted, That the Allotments to be made by virtue of this Act, shall be inclosed and fenced in by and at the Expence of such Person or Persons, in such Manner and at and before such Time and Times, and for ever afterwards shall be preserved, repaired and maintained, in such Manner as the said Commissioners shall by their said Award order or direct.

Satisfaction
for unequal
Share of
Fencing.

XXXIII. Provided always, and be it further enacted, That in case, through the Necessity of Situation, or any other Accident or Circumstance, it shall happen that One or more of the said Proprietors shall not have an equal or proportionable Share of Boundary Mounds or Fences allotted to him, her or them, on the said intended Inclosure, then and in such Case it shall and may be lawful to and for the said Commissioners, when they shall judge it necessary and reasonable, to award, order, ascertain, and appoint what Sum or Sums such Proprietor or Proprietors shall respectively pay and contribute towards making the Mounds and Fences of the Allotment or Allotments of such other Proprietor or Proprietors who shall or may have a greater Proportion of Mounding or Fencing allotted to him, her or them, by virtue of this Act; and in case the Money so ordered, directed or appointed, shall not be paid on Demand, then and in such Case such Money shall be raised, levied, and recovered in such and the same Manner as the Costs, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raised, levied or recovered, as herein-after or in and by the said recited Act is directed.

Commissioners may deliver Possession of Allotments before Award.

XXXIV. And be it further enacted, That the said Commissioners shall and may from Time to Time as they shall find convenient, deliver to the several Persons interested in the several Divisions and Allotments to be set out under this Act, Possession of their respective Allotments hereby directed to be made and set out, and such Possession so delivered shall be kept

kept and retained by the several Persons entitled thereto against all Persons whomsoever, although the said Award herein-after directed shall not then be made and executed.

XXXV. And be it further enacted, That if any Person or Persons have or hath sold, demised, mortgaged or disposed of, or shall at any Time, previous to the Execution of the said Award of the said Commissioners, sell, mortgage, demise, or dispose of his, her, or their Right, Interest, and Property in the said Mofs, Commons or Waste Lands and Moss Grounds intended to be divided and inclosed, or any Part thereof, or his, her, or their Allotment or Allotments thereon to any Person or Persons, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, to make an Allotment or Allotments of Land unto the Vendee, Mortgagee, Lessee or Purchaser, Vendees, Mortgagees, Lessees, or Purchasers in every such Sale, Mortgage, Demise or Disposition, or to his, their, or her Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold, mortgaged, demised, or disposed of as aforesaid, or in case such Allotment or Allotments shall have been already made, to award the same to such Vendee, Mortgagee, Lessee or Purchaser, Vendees, Mortgagees, Lessees or Purchasers, his, her, or their Heirs or Assigns; and every such Mortgagee and Lessee, and his and her Heirs, Executors, Administrators, and Assigns respectively, shall and may from and after the Execution of the said Award hold and enjoy the Lands so to be allotted and awarded to him or her as aforesaid, in such Manner and for such Estates respectively, as in and by such Mortgages and Demises shall be limited and declared; and that every such Vendee or Purchaser, and his, her, and their Heirs and Assigns, shall and may hold and enjoy the same in the same Manner, to all Intents and Purposes, as the Vendor or Vendors in every such Sale might, could, or ought to have held or enjoyed the same, in case such Sale had not been made, or such Right, Interest, or Property had been or remained vested in such Vendor or Vendors at the Time of making such Allotment or Allotments as aforesaid.

If any shall sell his Right to the Lands to be inclosed, the Allotment to be awarded to the Purchaser.

XXXVI. And be it further enacted, That in case any Proprietor or Proprietors of any of the Lands or other Hereditaments hereby or by the said recited Act directed or authorized to be divided, allotted or exchanged, shall hold his, her, or their respective Lands or Hereditaments for different Estates or by different Tenures, the said Commissioners shall ascertain and distinguish the Lands or other Hereditaments held for each of such Estates, and by each of such Tenures respectively, and shall also set out and distinguish the different Allotments or other Hereditaments to be accepted and taken by such Proprietor or Proprietors respectively, as an Equivalent in respect of each of such Estates respectively; and the said Commissioners shall set forth and declare, and they are hereby required to set forth and declare, in and by their Award, in right of what Estates in particular such Allotments shall have been respectively made, and therein also separately to describe and ascertain the Situation of every such Allotment.

Distinct Allotments to be made for Lands holden for different Estates and Tenures.

XXXVII. And be it further enacted, That in all Cases where the Proprietor or Proprietors of any of the Lands or other Hereditaments which shall be allotted, divided, or exchanged by virtue of this or the said

If Commissioners shall have omitted to make distinct Allot-

ments, &c. they may rectify the same by Deed after making their Award.

recited Act, shall hold his, her, or their respective Lands or Hereditaments for different Estates or by different Tenures, and where from the want of necessary Information, or from any other Cause, the said Commissioners shall in their Award have omitted to distinguish and ascertain the Lands or other Hereditaments holden for each of such Estates, and by each of such Tenures respectively, and to set out and award several and distinct Allotments for such Lands or other Hereditaments respectively as herein-before is required; or where the said Commissioners shall in their Award have mis-stated the Estate or Tenure for or by which any such Lands or other Hereditaments are or shall be holden, and shall have made any Allotment or Allotments for such last-mentioned Lands or other Hereditaments, it shall be lawful for the said Commissioners, at any Time after making their said Award, upon Request made to them for that Purpose (within Twelve Calendar Months after the Execution of the Award) by any Person or Persons interested in any such Omission or Mis-statement by Writing under his Hand, to supply or correct such Omission or Mis-statement by a separate Instrument, so far as may be requisite, and for that Purpose to examine Witnesses, and to proceed and act in every other respect as if their Award had not been made; and when they shall have obtained such Information in the Matter as they may judge sufficient, they are hereby also authorized and required, by Deed under their Hand and Seal, to distinguish and set forth the true Estates and Tenures for or by which the Lands and Hereditaments, in respect of which such Omission or Mis-statement shall have arisen, shall be respectively holden, and to make distinct and several Allotments in respect thereof accordingly, in like Manner as they are hereby required to do in their said Award, and as if no such Omission or Mis-statement had happened; and every such separate Instrument shall be annexed to the said Award, and shall be enrolled and deposited therewith, and Evidence shall be given thereof in like Manner as by the said recited Act and this Act, or either of them, is directed concerning the said Award; and all reasonable Expences incurred in or about such separate Instrument as aforesaid shall be paid by the Person or Persons who shall have requested the said Commissioners to make and execute the same as aforesaid, or by his, her, or their Heirs, Executors or Administrators; and every such separate Instrument shall, from and immediately after the due Execution thereof by the said Commissioners, have the Effect to all Intents and Purposes as if the Contents thereof had been inserted or contained in their said Award; and a Duplicate of such Instrument shall be delivered to the Person or Persons upon whose Request any such Omission or Mis-statement shall have been supplied or corrected, or to the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title to the Lands, Hereditaments, or Allotments contained in such Instrument, shall in the Judgment of the said Commissioners belong.

Power to make Exchanges.

XXXVIII. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot and award, any Lands, Tenements or Hereditaments, within the said Township of *Whixall*, in lieu of and in Exchange for any other Lands, Tenements or Hereditaments, within the said Township, or within any adjoining Township, Parish, Hamlet or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors, of the
Lands,

Lands, Tenements or Hereditaments, which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on a Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for Charitable or other Uses, Husbands, Committees or Attornies, of or acting for any such Owners or Proprietors as aforesaid, who, at the Time of making such Exchange or Exchanges, shall be respectively Infants, Femes Covert, Lunatics, or under any legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchanges and Exchange so to be made shall be good, valid, and effectual in 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 lie or be situate.

XXXIX. And be it further enacted, That all Costs, Charges, and Expences attending the making of any Sales, Exchanges or Partitions, to be made by virtue of this Act or the said recited Act, shall be paid, borne, and defrayed by the several Persons making such Sales, Exchanges and Partitions, in such Manner and in such Proportion as the said Commissioners shall by their said Award, or any other Writing under their Hands, order and direct, and shall be recovered in the same Manner as is herein directed respecting the Recovery of the Costs and Charges of obtaining and executing this Act.

Expences of Sales and Exchanges, by whom to be paid.

XL. And be it further enacted, That the Expences attending any such Exchange or Partition, which shall be made in pursuance and by virtue of this or of the said recited Act, shall be borne and paid by the respective Parties making such Exchanges or Partitions, distinct or apart from the other Expences attending the Execution of this Act, in such Manner as the said Commissioners, or their Successors, shall award, order or direct; and in case of Default or Nonpayment thereof, at the Time to be appointed by the said Commissioners, the same shall be recovered in the same Manner as is directed respecting the Recovery of the Costs and Charges of obtaining this Act, and of carrying the same and the said recited Act into Execution.

Expences of Exchanges and Partitions to be borne by the Parties making them.

XLI. And be it further enacted, That every Lease and Agreement for a Lease or Leases at Rack Rent of any Messuages, Lands and Tenements, shall so far as such Lease or Leases, Agreement or Agreements, affect or concern any Allotment or Allotments to be made of the said Mofs hereby authorized to be divided, allotted, and inclosed in respect of any such Messuages, Lands, and Tenements comprised in such Leases or Agreements respectively, or any Right of Common, or other Rights appendant or appurtenant thereto, be and the same is and are hereby declared to be null and void as to such Allotment or Allotments of the said Commons

Leases at Rack Rent to be void.

or Waste Lands, and such Allotment or Allotments shall be made and awarded to the Landlord or Landlords, and not to the Tenant or Tenants, Lessee or Lessees, freed and discharged from all Right and Interest which may or otherwise might be claimed in or to the same by virtue of such Lease or Leases, Agreement or Agreements; and the Person or Persons respectively to whom the Messuages, Lands or Tenements, comprised in such Lease or Leases, Agreement or Agreements respectively shall belong as Landlord or Landlords, shall make such Compensation to the Person or Persons entitled to the same under such Lease or Leases, Agreement or Agreements; as the said Commissioners shall by Writing under their Hands adjudge and determine to be adequate to the Benefit or Interest which the said Lessee or Lessees, Tenant or Tenants, had or derived under the said Leases and Agreements respectively, upon and from the said Commons or Waste Lands and Moss Grounds intended to be divided and inclosed, before the passing of this Act, and would have continued to derive in case this Act had not been passed; and in case such Satisfaction shall not be made accordingly, then it shall be lawful for such Lessee or Lessees, Tenant or Tenants, to sue for and recover the same in any of His Majesty's Courts of Record at *Westminster* by Action of Debt or on the Case: Provided always, that nothing in this Act contained shall extend or be construed to extend to revoke, make void or alter, any Lease or Leases, or any Agreement or Agreements for a Lease or Leases of any ancient Messuages, Lands or Tenements, further or otherwise than as aforesaid.

Not to vacate
Leases ex-
cept of Al-
lotments.

This Act not
to prejudice
Wills, &c.

XLII. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed, deemed, adjudged, or taken to alter, revoke, or make void, or prejudice any Will or Settlement, or to prejudice any Person having or claiming any Right of Dower, Jointure, Portion, Debts, Rents or Incumbrance, in, out of, upon or affecting any Messuages, Lands, Hereditaments and Moss, or other the Premises to be divided and inclosed, exchanged or made Partition of, in pursuance of this Act or the said recited Act; but that the several Messuages, Lands, Hereditaments, and Allotments of the said Moss, which shall be respectively allotted, exchanged, or partitioned by virtue of this Act or the said recited Act, shall, from and after the making of such Allotments, Exchanges, and Partitions respectively, be, remain and enure, and be held and enjoyed, and the several Persons to whom the same shall be assigned and allotted, given or taken in Exchange or upon Partition as aforesaid, and their Trustee or Trustees respectively shall from thenceforth stand and be seised and possessed thereof respectively to such and the same Uses, upon such and the same Trusts, to, for, and upon such and the same Estates, and with, under and subject to such and the same Wills, Settlements, Remainders, Powers, Provisoos, Conditions, Limitations, Declarations, Agreements, Rents, Heriots, Services, Debts, Charges and Incumbrances, as the several Messuages, Lands, Grounds, Hereditaments, and other the Premises, in respect or in lieu whereof such Allotments, Exchanges or Partitions shall be respectively made, were or stood severally limited or subject and liable unto at the Time of making such Allotments, Exchanges, and Partitions respectively.

Tithes re-
leased for the
Five First
Years.

XLIII. And be it further enacted, That it shall not be lawful for the Impropiator or Vicar of the Parish of *Prees* aforesaid, or their Successor respectively, or their or either of their Lessees or Assigns, to demand or take

take any Tithes of Corn, Grain, Hay, or any other Tithes whatsoever, or any Composition, Satisfaction, or Compensation in lieu thereof, from the Owner or Owners, Occupier or Occupiers, of any Part or Parts, Allotment or Allotments of the said Mofs hereby authorized to be divided and inclosed, to the Tithes whereof they the said Vicar or his Successors, or their respective Lessees or Assigns, would otherwise be entitled for or during the Term of Five Years, to be computed from the passing of this Act; but that the said Part or Parts, Allotment or Allotments of the said Mofs, shall be held and enjoyed, freed and discharged of and from all Tithes of Corn or Grain, and all Dues, Compositions, and Payments in lieu thereof, for the said Term of Five Years aforesaid, and no longer.

XLIV. And be it further enacted, That no Person or Persons who shall occupy any of the Allotments to be made as herein directed, shall graze and keep Sheep or Lambs in and upon such their Allotments for the Space of Two Years, to be computed from the Date of the said Award; and in case any Sheep or Lambs shall be found upon the said Allotments, or any One or more of them, it shall be lawful for any Person or Persons to take, drive away, and impound the same.

Regulating
the feeding
of Sheep.

XLV. And be it further enacted, That the Expences of and attending the obtaining and passing this Act, and also of carrying the same and the said recited Act fully into Execution; and of surveying, admeasuring, planning, valuing, draining, dividing, and allotting the said Common, Waste Land, or Mofs Ground hereby intended to be divided and allotted; and of forming and making Public Roads and Ways into, over, and upon the same; under this or the said recited Act; and of making, building, widening, deepening, and repairing all necessary Bridges, Brooks, Rhines, Ditches, Watercourses, and other Works, as are by this Act or the said recited Act authorized to be made, cut, widened, deepened, repaired, built or performed; and of preparing and depositing the Award or Instrument to be made in pursuance of this Act or the said recited Act; and all other the necessary Charges and Expences of the said Commissioners and Umpire in, about, and concerning the carrying of this Act and the said recited Act into Execution, shall be borne, paid, and defrayed by and out of the Money which shall be raised by Sale of Lands as herein-before mentioned; except such Parts of the said Expences as are otherwise provided for by this Act, or as the said Commissioners shall by virtue of this Act adjudge and apportion to be borne and defrayed by the Proprietors or Persons interested in the Common or Mofs Ground to be allotted and divided under this Act.

Expences
how to be
paid.

XLVI. And be it further enacted, That in case the Part or Parts of the said Mofs, as shall be allotted for Sale as herein-before directed, shall be sold for more Money than will be requisite to defray such Charges and Expences as aforesaid, then and in such Case such Surplus Money shall be divided and apportioned between the several Persons interested in the said Mofs hereby directed to be divided and inclosed, according to their several and respective Interests therein, and shall be paid to them, in case they shall be seised in Fee Simple of the several Allotments, or otherwise such Surplus Money shall be paid into the Bank of *England*, in Manner directed by the said recited Act, with respect to Money thereby directed to be paid into the Bank for the Purchase or Exchange of Lands, Tene-
ments

Application
of Surplus
Monies.

ments or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses.

Deficiency, if any, to be made good by the Proprietors.

XLVII. Provided always, and be it further enacted, That in case the Money to be raised by such Sale or Sales as aforesaid shall not be sufficient to pay and defray the Costs, Charges, and Expences incurred preparatory to and in the obtaining and executing this Act, the Deficiency shall be made up by the several Persons interested in the said Mofs, and shall be paid in such Shares and Proportions, and within such Time and to such Person or Persons as the said Commissioners shall direct, nominate, and appoint; or in case any Expences shall be incurred in the Execution of any of the Powers and Provisions of this Act, which in the Judgment of the said Commissioners ought to be borne and defrayed by any particular Person or Persons, and not out of any Money to be raised for the several Purposes of this Act, then the same shall be paid in such Shares and Proportions, and by such Person and Persons, and within such Time, and to such Person or Persons as the said Commissioners shall direct, nominate, and appoint; and in case any Person or Persons herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion thereof within the Time to be appointed as aforesaid, or at any Time after upon Demand, the same shall and may be levied and recovered in the Manner directed by the said recited Act.

Persons advancing Money to pay the Expences of this Act, to be repaid with Interest.

XLVIII. And be it further enacted, That if any Person or Persons shall advance any Money in Discharge of the Fees or other Expences in or about the applying for and obtaining of this Act, or carrying the same into Execution, such Person and Persons shall be repaid the same with Interest, after the Rate of Five Pounds *per Centum per Annum*, out of the Monies which shall be first raised to defray the Expences of this Act.

Allowance to Commissioners.

XLIX. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining, passing, and executing this Act, there shall be paid to or retained by each of the said Commissioners; as a Recompence for his Pains and Trouble and Expences, the Sum of Three Pounds Three Shillings, and no more, for each Day he shall be necessarily attending the Execution of this Act, and in travelling to and from the Meetings of the said Commissioners; and at all such Meetings the said Proprietors, their Attornies and Agents, shall respectively pay and discharge their own Expences.

Commissioners to account.

L. And be it further enacted, That once at least in each and every Year during the Execution of this Act, (such Year to be computed from the Day of the passing thereof), the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received or expended, or due to them for their own Trouble and Expences in the Execution of this Act or the said recited Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before any One or more of His Majesty's Justices of the Peace for the Time being for the said County of *Salop*, (not interested in the said intended Division and Inclosure), to be by such Justice or Justices examined and balanced, and such
Balance

Balance shall be by him or them stated in the Books of Accounts to be kept in the Office of the Clerk of the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice or Justices.

LI. And be it further enacted, That Two Parts of the Award directed by the said recited Act to be made by the said Commissioners, together with a reduced Map or Plan thereto annexed of the said Mofs hereby authorized and directed to be divided, allotted and inclosed, in the State in which the same will be after the same shall have been so divided, allotted and inclosed, shall, within Two Years next after the passing of this Act, be fairly ingrossed or written on Parchment, and signed and sealed by the said Commissioners, and shall, within One Month after the Execution thereof, be delivered to and deposited with the several Persons and in the several Places herein-after mentioned, (that is to say), one Part thereof shall be deposited and kept in a Box or Chest in the Parish Church of the said Parish of *Prees*, and the other Part thereof shall be delivered to and deposited with the Clerk of the Peace for the County of *Salop*, or his Deputy for the Time being, who is hereby required to receive and deposit the same among the Records of the Peace of the said County, upon being paid the Sum of Two Pounds Two Shillings as a Fee for so doing; and the Person or Persons who from Time to Time shall have the Care or Custody of the said Box or Chest in the said Parish Church of the said Parish of *Prees*, and also the Clerk of the Peace for the said County of *Salop*, or his Deputy for the Time being, shall respectively permit the Part of the said Award of which they, or either of them, shall have the Custody respectively, to be inspected by any Person or Persons whomsoever, from Time to Time and at all seasonable Times for ever, such Person or Persons paying respectively to the Clerk of the Peace, or his Deputy, for every such Inspection, the Sum of One Shilling, and no more; and any Part of the said Award, or a Copy of that Part which shall be deposited with the Clerk of the Peace for the said County, attested by him or his Deputy, shall, from Time to Time and at all Times hereafter, be admitted and allowed in all Courts whatsoever as legal Evidence; which Copy the said Clerk of the Peace, or his Deputy, is hereby required to make, certify, and deliver to any Person or Persons requiring the same, he, she, or they paying for such Copy after the Rate of Two-pence *per* Sheet, reckoning Seventy-two Words to each Sheet, and no more.

Directing where Award shall be deposited.

LII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done or omitted to be done in pursuance of this Act, or of the said recited Act, or by any Assessment or Assessments made under any of the Powers and Authorities therein and herein contained (except in such Cases where the Orders or Determination of the said Commissioners, or any Justice or Justices of the Peace, are herein-before or in the said recited Act declared to be final and conclusive, and also except in such Cases where an Issue or Issues at Law shall be tried as herein-before mentioned), he, she, or they may appeal to the First or Second General Quarter Sessions to be holden in and for the said County of *Salop*, next after the Cause of Complaint shall have arisen, every such Appellant giving Ten Days Notice in Writing to the Party or Parties to be appealed against, of his, her, or their

Allowing an Appeal to the Quarter Sessions.

[*Loc. & Per.*]

18 Q

Intention

Intention of bringing such Appeal, and within Ten Days after such Notice, entering into a Recognizance before some Justice of the Peace for such County, with Two sufficient Sureties, conditioned to try such Appeal, and to abide the Order and Award of the said Court therein; and the Justices at such General Quarter Sessions are hereby empowered and 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 Party or Parties liable and neglecting to pay the same, rendering the Overplus (if any) on Demand to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices shall be final and conclusive upon all Parties concerned, and shall not be removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, and without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and such Costs shall be levied and recovered in Manner aforesaid.

General
Saving.

LIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, to the Lords of the Manors of *Whixall* and *Whitchurch* for the Time being, and their Heirs respectively, to the said *Ellesmere* Canal Company, and to all and every Person and Persons, Body or Bodies Corporate or Collegiate, his, her, and their Heirs, Successors, Executors and Administrators, (except the several Persons to whom any Allotment or Allotments, Exchange or Exchanges, Partition or Partitions, shall be made in pursuance of this Act, for and in respect of such Rights and Interests as are hereby meant and intended to be barred, destroyed and extinguished, and all Persons respectively claiming under them, or in Remainder after them), all such Rights, Estates, Titles and Interests, as he, they, every or any of them respectively had and enjoyed, or could or ought to have had or enjoyed, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted and inclosed, before the passing of this Act, or in case this Act had not been made or passed.

Evidence.

LIV. 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 STRAHAN,
Printers to the King's most Excellent Majesty. 1814.