



# Ordnance Survey Act 1841

## 1841 CHAPTER 30

### **Justices at Quarter Sessions to appoint Persons to assist in ascertaining the Boundaries of Counties, Cities, Boroughs, &c.**

That from and after the passing of this Act, for the Purpose of enabling the Master General and Board of Ordnance to make and complete such Surveys and Maps of *England, Scotland, Berwick upon Tweed, and the Isle of Man*, in manner aforesaid, it shall and may be lawful for the Justices assembled at any Quarter Sessions, or Adjournment thereof, held in and for any County, Riding, or Division in *England, Scotland, Berwick upon Tweed, and the Isle of Man*, upon the Application in Writing of any Officer appointed by the Master General and Board of Ordnance for the Purposes of this Act, such Application to be transmitted to the Clerk of the Peace Fourteen Days at the least before the holding of the Court at which such Application shall be considered, who shall cause Notice of such Application to be inserted in the Newspapers in which County Advertisements are commonly inserted Seven Days at the least before the holding of such Court, to nominate and appoint One or more fit and proper Person or Persons to aid and assist, when required, any Officer appointed as aforesaid in examining, ascertaining, and marking out the reputed Boundaries of each County, City, Borough, Town, Parish, Burghs Royal, Parliamentary Burghs, Burghs of Regality and Barony, extra-parochial and other Places, Districts, and Divisions, in *England, Scotland, Berwick upon Tweed, and the Isle of Man*; and such Person shall from Time to Time act under and obey such Directions as he shall receive from the Officer or other Person appointed by the Master General and Board of Ordnance to make such Surveys and Maps as aforesaid:

### **Persons producing fabricated Appointments to forfeit 50l.**

Provided always, that if any Person shall produce any false, forged, untrue, or fabricated Appointment, every such Person shall forfeit and pay the Sum of Fifty Pounds.

### **II Surveyor, &c. empowered to enter Lands to fix Boundaries. Where it is necessary to fix any Mark in any Garden, &c. the Occupier may employ a Person to fix it. Satisfaction to be made for Damages. Appeal to Quarter Sessions.**

And be it enacted, That for the Execution of the Purposes of this Act it shall and may be lawful for any Person appointed by the Justices as aforesaid, and for any other Person acting in aid and under the Orders of such Person, and for any Officer or

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Person appointed by or acting under the Orders of the Master General and Board of Ordnance, and they are hereby respectively authorized and empowered, from Time to Time, after Notice in Writing of the Intention of entering shall have been given to the Owner or Occupier, as the Case may be, to enter into and upon any Estate or Property of any County, or of any Body Politic or Corporate, Ecclesiastical or Civil, or into and upon any Land, Ground, or Heritages of any Person or Persons whomsoever, for the Purpose of making and carrying on any Survey authorized by this Act, or by the Order of the Master General and Board of Ordnance, and for the Purpose of fixing any Mark or Object to be used in the Survey, or any Post, Stone, or Boundary Mark whatsoever, and to fix and place any such Object, Post, Stone, or Boundary Mark in any such Estate or Property, Land or Ground, or Heritages, and to dig up any Ground, for the Purpose of fixing any such Object, Post, Stone, or Boundary Mark, for such Object or Purpose, and also to enter upon any Estates or Property, Lands, Grounds, or Heritages, through which any such Person appointed by the Justices as aforesaid, and any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, shall deem it necessary and proper to carry any Boundary Line for the Purposes of this Act at any reasonable Time in the Day, until the surveying, ascertaining, and marking out of any reputed Boundary Line shall be completed according to the Directions of this Act: Provided always, that in every Case in which it shall be necessary to any Person appointed by the Justices as aforesaid, for any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, or his or their Assistant or Assistants, to fix any such Object, Post, Stone, or Boundary Mark within any walled Garden, Orchard, or Pleasure Ground, such Person appointed by the Justices aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, or his or their Assistant or Assistants, shall give Three Days Notice to the Occupier of such Garden, Orchard, or Pleasure Ground, of his Intention so to do, and it shall be lawful for such Occupier to employ any Person whom he may think fit to fix such Object, Post, Stone, or Boundary Mark within such Garden, Orchard, or Pleasure Ground, at such Time, in such Place or Places, and in such Manner as such Person appointed by the Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, or his or their Assistant or Assistants, shall direct: Provided also, that such Person appointed by the Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, or his or their Assistant or Assistants, and Workmen, shall do as little Damage as may be in the Execution of the several Powers to them granted by this Act, and shall make Satisfaction to the Owners or Occupiers (as the Case may require) of such Lands, Grounds, and Heritages, or Owners of Trees, (as the Case may require,) which shall be any way hurt, damaged, or injured, for all Damages to be by them sustained in or by the Execution of all or any Powers of this Act, in case the same shall be demanded: Provided always, that in case of Dispute between the said Person appointed by the Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, on the one hand, and the Owner or Occupier (as the Case may be), on the other hand, as to the Amount of Damage sustained, the same shall be ascertained and determined by any Two or more Justices in Petty Sessions assembled of the County in which the Lands, Grounds, Heritages, or Trees may be situate: Provided always, that any Owner or Occupier as aforesaid, who shall think himself aggrieved ' by the Decision of the Justices, may appeal against such Decision to the Justices of the said County in Quarter Sessions assembled, who shall hear and determine such Appeal, and shall increase or diminish the Amount of Damages awarded by the Justices in Petty Sessions, and shall award Costs for or against the Appellant, as the Justice of the Case shall seem to them to require: Provided always,

that such Appeal shall be prosecuted at such Quarter Sessions as shall be holden not less than Twenty-one Days nor more than Four Calendar Months after the Decision of the Justices in Petty Sessions : Provided further, that any Person so appealing shall give Notice to the Clerk of the said Justices in Petty Sessions, within Seven Days of their Decision, of his Intention to appeal against their Decision, and shall enter into sufficient Recognizance to prosecute such Appeal.

**III Sheriffs in Scotland to settle the Amount of Compensation.**

And be it enacted, That the Amount of the Damages for which Compensation is provided under this Act shall, in *Scotland*, be ascertained and determined by the Sheriff or Steward of the County or Stewartry, whose Decision in the Matter shall be final and conclusive, and not subject to Review, by Suspension, Advocation, Reduction, or otherwise.

**IV Clerk of the Peace of each County shall deliver to Surveyor a List of all the Cities, Towns, Boroughs, Parishes, &c. within the County, on Penalty of 10l.**

And be it enacted, That the Clerk of the Peace of each and every County shall, within Twenty-one Days after he shall be thereunto required in Writing by any Person appointed by the Justices as aforesaid, or by any Officer or other Person appointed by and acting under the Master General and Board of Ordnance, prepare and deliver to such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, a List containing the Names and Descriptions of the several Hundreds, Cities, Boroughs, Burghs, Towns, Parishes, or other Places within such County; and each such Clerk of the Peace shall be paid-by the said Board adequate Remuneration for his Trouble, and for any Expences incurred by him in pursuance of such Requisition; and if any Clerk of the Peace shall refuse or neglect or omit to make or deliver such List, in compliance with the Request of such Surveyor, every such Clerk of the Peace so offending shall forfeit a Sum not exceeding Ten Pounds and not less than Two Pounds, in the Discretion of the Justice or other Judge, Officer, or Court before whom such Offender shall be convicted.

**V Clerk of the Peace shall attend Surveyor on Twenty Days Notice of defining the Boundaries of Counties, &c. On Failure of Clerk of the Peace attending, Two Inhabitants may be required to attend.**

And be it enacted, That for the Purpose of surveying, ascertaining, and marking out the reputed Boundaries of any such County, it shall be lawful for any such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance within such County, and such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, is hereby authorized and empowered, by Notice in Writing signed with his Name, and directed and delivered to any such Clerk of the Peace, to require the Attendance of any and every such Clerk of the Peace in or for any and every such County, or in or for any adjoining County, either in the same or any adjoining County, at such Time (not being less than Twenty-one Days after the Date of such Notice) and at such Place as shall be specified in such Notice, and to produce to such Person appointed by such Justices as aforesaid, or such Officer or other Person appointed by and acting under the Master General and Board of Ordnance, any Books, Maps,

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Papers, or other Documents, in his Custody or Possession as such Clerk of the Peace, which such Person may require for the Purpose of carrying this Act into execution, at which Time and Place every such Clerk of the Peace shall and he is hereby required to attend upon such Person accordingly, and to aid and assist such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in the Execution of this Act; and in case it shall happen that there shall not be any Clerk of the Peace for any such County or adjoining County, or being such any such Officer shall omit or neglect to attend at the Time and Place mentioned in any such Notice, then and in such Case it shall be lawful for any such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, by like Notice, to require any Two or more Inhabitants of any such County to attend in the Place and Stead of such Clerk of the Peace; and every such Inhabitant to whom any such Notice shall be directed and delivered shall and he and they is and are hereby required to attend upon such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, accordingly, and to assist such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in the Execution of the Purposes of this Act: Provided always, that no Clerk of the Peace shall be obliged to attend as herein directed at such Time or at such Place or in such Manner as shall interfere with the proper Discharge of his ordinary Duties as Clerk of the Peace, nor shall he be called upon to produce any Books, Maps, Papers, or other Documents the Production of which can in any way injuriously affect the Interests of each such County.

## **VI Boundaries of the Counties to be ascertained, &c., and marked out by Posts, Stones, &c.**

And be it enacted, That it shall be lawful for any such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, at the Time mentioned in any such Notice, accompanied by the Clerk of the Peace for the County the reputed Boundaries of which are to be defined and marked out, and by the Clerk of the Peace of any County adjoining thereto, or by such Inhabitants as aforesaid, and such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, Clerk of the Peace, and other Persons, is and are hereby authorized and required to perambulate the Boundaries of such County, for the Purpose of surveying, ascertaining, and marking the same, according to the best of their Power and Information ; and for that Purpose it shall be lawful for such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, Clerk of the Peace, and other Persons, to call on any Inhabitant of any such Counties to assist them in so doing; and when it shall appear to such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, that the reputed Boundaries of any such County are sufficiently ascertained, such Boundaries shall be marked out by such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in such Manner as may be necessary, by the putting down of any Posts, Blocks, or Bolts of Wood, Metal, or Stone, or by the affixing of any Marks on or against any Church, Chapel, Bridge, House, or other public or private Building or Post, and with such distinguishing Letters or Figures as such Person appointed by

such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, shall think fit and proper for the Occasion.

**VII Penalty on removing or defacing Boundary Stones, &c.**

And be it enacted, That if any Person not duly authorized shall take away, remove, or displace, or alter the Situation of any Boundary Stone, Post, Block, Bolt, or Mark which shall be set up and placed for the Purposes of this Act, or shall wilfully deface, mutilate, break, or destroy any such Boundary Stone, Post, Block, Bolt, or Mark, every Person so offending shall forfeit and pay a Sum not exceeding Ten Pounds and not less than Two Pounds, in the Discretion of the Justice, or other Judge, Officer, or Court before whom such Offender shall be convicted.

**VIII Penalty on obstructing Survey, &c.**

And be it enacted, That if any Person shall wilfully obstruct or hinder any Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in the Execution of his Duty in or about the ascertaining and marking out of the Boundaries of any County under the Provisions of this Act, or shall in any way resist such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in the Performance of his Duty under this Act, or shall obstruct, hinder, assault, or resist, any Clerk of the Peace, or any Workman or other Person acting in aid of any such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in the Execution of this Act, every Person so offending shall forfeit and pay a Sum not exceeding Ten Pounds and not less than Two Pounds, in the Discretion of the Justice or other Judge or Officer before whom such Offender shall be convicted.

**IX Allowance to Parties, &c. attending to point out Boundaries.**

And be it enacted, That every Person who shall, in pursuance of Notice from any Person appointed by such Justices as aforesaid or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, attend and accompany any other Person appointed by such Justices as aforesaid, or any Officer or such Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in the ascertaining, surveying, and marking out the Boundary of any County under the Provisions of this Act, shall receive, and shall be entitled to receive, for his Trouble and Loss of Time, such Sum of Money or Allowance as the Master General and Board of Ordnance shall think fit, for every Day during which such Person shall be employed by or engaged with such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in the Execution of this Act, upon a Certificate to be signed by such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance.

**X Payments for Damage, how to be made.**

And be it enacted, That the Amount of Damage sustained by the Occupiers of Grounds, Lands, Heritages, or Owners of Trees, as aforesaid, and the Allowance to be made to the said Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, and to such other Persons as aforesaid, shall be paid by the Board of Ordnance out of the Aids granted to such Board by Parliament.

**XI Penalty on Parties, &c. not attending, or not pointing out Boundaries.**

And be it enacted, That if any Clerk of the Peace, or other Person, who shall be summoned or required in manner herein-before directed, by any Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, to attend such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, in the Execution of this Act, shall refuse or neglect or omit to attend such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, or shall refuse or neglect or omit to inform and point out, to the best of his Knowledge, to such Person appointed by such Justices as aforesaid, or any Officer or other Person appointed by and acting under the Orders of the Master General and Board of Ordnance, the Boundaries of any County, or shall wilfully make any false Statement or Mis-statement with respect to any such Boundaries, or shall wilfully refuse or neglect or omit to give any Information in the Power of such Clerk of the Peace or other Person to give or afford with respect to any such Boundaries, every such Clerk of the Peace or other Person so offending shall forfeit and pay a Sum not exceeding Ten Pounds and not less than Two Pounds, in the Discretion of the Justices, or other Judge, Officer, or Court before whom such Offender shall be convicted.

**XII Act not to affect any Boundaries or Rights of Property.**

And be it enacted, That this present Act, or any Clause, Matter, or Thing herein contained, shall not extend, or be deemed or be construed to extend, to ascertain, define, alter, enlarge, increase or decrease, nor in any way to affect, any Boundary or Boundaries of any County, City, Borough, Town, Parish, Burghs Royal, Parliamentary Burghs, Burghs of Regality and Barony, extra-parochial and other Places, Districts, and Divisions, by whatsoever Denomination the same shall be respectively known or called, nor the Boundary or Boundaries of any Land or Property, with relation to any Owner or Owners, or Claimant or Claimants of any such Land respectively, nor to affect the Title of any such Owner or Owners, or Claimant or Claimants respectively, in or to or with respect to any such Lands or Property, but that all Right and Title of any Owner or Claimant of any Land or Property whatever within any Hundred, Parish, or other Division or Place whatever, shall remain to all Intents and Purposes in like State and Condition as if this Act had not been passed; any Description of any such Land, with reference to any such Hundred, Parish, or other Division or Place whatever, or otherwise, or any thing in this Act contained, or any Law, Custom, or Usage, to the contrary in anywise notwithstanding.

### **XIII Recovery of Penalties before Two Justices of the Peace, Sheriff, Deemsters, &c. Application.**

And be it enacted, That all Penalties and Forfeitures inflicted or imposed by this Act shall and may be recovered in a summary Way by the Order and Adjudication of any Two Justices of the Peace for the County or Place, or of the Sheriff or Court of Deemsters, in which such Penalty shall be incurred, on Complaint to them for that Purpose exhibited, and shall afterwards be levied, as well as the Costs of such Proceedings, in case of Nonpayment, by Distress, Poinding, or other legal Process, and Sale of the Goods and Chattels of the Offender or Offenders, or Person or Persons liable to pay the same, by Warrant under the Hand and Seal of such Justices and of such Sheriff, or Hand and Seal of the Court of Deemsters, or other legal Process; and such Justices, Sheriff, and Court respectively are hereby authorized and required to summon before them any Witness or Witnesses, and to examine such Witness or Witnesses upon Oath (or Affirmation), of and concerning all Offences, Penalties, and Forfeitures under this Act, and to hear and determine the same; and the Overplus (if any) of the Money so levied or recovered, after discharging the Fine, Penalty, or Forfeiture for which such Warrant or other legal Process shall be issued, and the Costs and Expences of recovering and levying the same, shall be returned, upon Demand, to the Owner or Owners of the Goods or Chattels so seized or distrained; and in case such Penalties or Forfeitures shall not be forthwith paid upon Conviction, then it shall be lawful for such Justices, Sheriff, or Court respectively to order the Offender or Offenders so convicted to be detained and kept in safe Custody until Return can be conveniently made to such Warrant of Distress or Poinding, or other legal Process, unless the Offender or Offenders shall give sufficient Security, to the Satisfaction of such Justices, Sheriff, or Deemsters, for his or their Appearance before such Justices, Sheriff, or other proper Officers, on such Day or Days as shall be appointed for the Return of such Warrant of Distress or Poinding, or other legal Process, such Day or Days not being more than Seven Days from the Time of taking any such Security, and which Security the said Justices, Sheriff, or Deemsters respectively are hereby empowered to take by way of Recognizance, Caution, or otherwise ; but if upon Return of such Warrant it shall appear that no sufficient Distress can be had thereupon, then it shall be lawful for such Justice, or any Two Justices of the Peace for such County or Place as aforesaid, or for such Sheriff or Deemsters, and they are hereby authorized and required, by Warrant under their Hand and Seal, or under the Hand of such Sheriff, or other legal Process, to cause such Offender or Offenders to be committed to the Gaol of such County or Place, there to remain, without Bail or Mainprize, for any Term not exceeding Two Calendar Months, unless such Penalties or Forfeitures respectively, and all reasonable Charges, shall be sooner paid and satisfied ; and such Penalties and Forfeitures, when so levied, shall be paid and applied to the Use of any Infirmary or charitable Institution in the said County in which such Offence shall be committed, in such Manner as such Justices, Sheriff, or Deemsters respectively shall direct and appoint.

### **XIV Plea of General Issue.**

And be it enacted, That if any Person shall be sued or prosecuted for any thing done or executed in pursuance of this Act, or of any Clause, Matter, or Thing herein contained, such Person may plead the General Issue, and give the special Matter in Evidence, for his Defence.

**XV Interpretation Clause.**

And be it enacted, That in construing this Act the Word " County" shall be taken to include Hundred, City, Borough, Town, Parish, Burghs Royal, Parliamentary Burghs, Burghs of Regality and Barony, extra-parochial and other Places, Districts, and Divisions, by whatsoever Denomination the same respectively shall be known or called ; and that the Words " Clerk of the Peace" shall be taken to include any Person executing the Duties of Clerk of the Peace, Sheriff Clerk, Sheriff Clerk Depute, and Steward Clerk Depute, Churchwarden, parochial or any public Officer, of any County, Ward, Parish, Hundred, Wapentake, Division, or Districts in *England, Scotland, or Berwick upon Tweed*, and Setting Quest and Moars of any Parish and the Great Inquest of every Sheading in the *Isle of Man* ; and that every Word importing the Singular Number shall, when necessary to give full Effect to the Enactments herein contained, be deemed to extend and be applied to several Persons or Things as well as one Person or Thing; and that every Word importing the Masculine Gender shall, when necessary, extend and be applied to a Female as well as a Male.

**XVI Sheriffs Clerk in Scotland to furnish Lists.**

And be it enacted, That in *Scotland* the Sheriff Clerk shall, instead of the Clerk of the Peace, perform the Duties hereby imposed upon the Clerk of the Peace in reference to *England* of furnishing the Lists of Burghs, Cities, Towns, Parishes, Wards, Districts, Divisions, and Places within any County, and shall be liable in the Penalties hereby imposed in case of Neglect or Refusal so to do.

**XVII Sheriff and Magistrates of Burghs in Scotland to appoint Persons to attend the Surveyor.**

And be it enacted, That in *Scotland* the Sheriff shall, as regards the Boundaries of the County, and the Wards, Districts, Parishes, and other Divisions thereof, upon Application made to him by the Officer appointed by the Master General and Board of Ordnance for that Purpose, appoint a fit and proper Person or Persons to attend the Officer appointed by the Master General and Board of Ordnance, to point out such Boundaries, and aid him in the Execution of this Act: Provided always, that as regards the Boundaries of any Royal or Parliamentary Burgh, City, or Town, the Magistrates and Council thereof shall, upon Application made to them by the Officer appointed by the Master General and Board of Ordnance as aforesaid, appoint a fit and proper Person or Persons to attend him for the Purposes aforesaid; and if any of the Persons to be so appointed by the Sheriff and Magistrates and Council respectively, and accepting the Appointment, shall neglect or refuse to attend and aid in the Execution of this Act in the Manner herein required, such Persons shall be liable in the Penalties hereby imposed upon the Clerk of the Peace or other Person neglecting or refusing so to do in *England*.

**XVIII Duration of Act.**

And be it enacted, That all the Powers in this Act contained shall cease and determine on the Thirty-first Day of December One thousand eight hundred and forty-six.



**XIX Act may be repealed this Session.**

And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.