



ANNO TRICESIMO NONO & QUADRAGESIMO

GEORGI II. REGIS.

Cap. 120.

An Act for dividing, allotting, and inclosing the Commons, Waste Lands, and Marshes, in the Parish of *Whitford*, in the County of *Flint*, and for fencing the said Marsh. [28th July 1800.]

WHEREAS there are within the Parish of *Whitford*, in the County of *Flint*, certain Commons, Waste Lands, and Marshes, containing together Two thousand Acres, or thereabouts: And whereas Sir *Thomas Mostyn* Baronet, is Lord of the Manor of *Mostyn*, within the said Parish of *Whitford*, and Owner of the Soil of so much of the said Commons, Waste Lands, and Marshes, as lie within the said Manor, subject to such Rights and Interests if any, in the Mines of Lead therein, as lawfully belonged to the Right Honourable *Richard* Earl *Grosvenor* before the passing of this Act: And whereas the King's most Excellent Majesty, in Right of His Crown, is Lord Paramount of the Lordship or Hundred of *Colehill*, in the said County, and claims to be Owner of the Soil of the remaining Part of the said Commons, Waste Lands, and Marshes, subject to a Grant heretofore made, and now vested in the said Earl *Grosvenor*, or his Assigns, of all Mines of Lead therein, and subject to such other Rights and Interests, if any, as lawfully belonged to the said Earl before the passing of this Act: And whereas the Right Honourable *Thomas* Lord *Grey de Wilton* is Lord of the Manor of *Holywell*, *Fullbrook*, and *Greenfield*, within which Manor the Townships of

[Loc. & Per.]

of *Mertyn Uchglan* and *Mertyn Isglan*, in the said Parish of *Whitford*, are claimed to be situated: And whereas the Reverend *John Gooch* is Rector, and the Reverend *John Foulkes* is Vicar, of the said Parish of *Whitford*, and as such are entitled to Right of Common in respect of their Glebe Lands within the said Parish: And whereas the said Sir *Thomas Mostyn*, and also Sir *Edward Pryce Lloyd* Baronet, *David Pennant*, *Thomas Thomas*, *Thomas Mostyn Edwards*, *Edward Jones*, Esquires, and other Persons, are Proprietors of Messuages, Tenements, and Lands within the said Parish, and have in respect thereof Right of Common belonging upon all the said Commons, Waste Lands, and Marshes: And whereas if the said Commons, Waste Lands, and Marshes were divided and allotted to and amongst the several Proprietors thereof and Persons interested therein, and such Allotments inclosed, and a Fence made to protect the said Marshes from the Sea, it would be of publick Utility, and beneficial to all Persons concerned: 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 all the Commons, Waste Lands, and Marshes in the said Parish of *Whitford*, shall be severally divided, allotted, and inclosed, and that the said Marshes shall be defended, and protected from the Sea, in the Manner and under the Powers by this Act directed and ordained.

Commons,
Waste Lands,
and Marshes,
to be inclosed
and fenced.

Commissioner,
Surveyor,
and Engineer ap-
pointed, who
are required
to take an
Oath.

II. And be it further enacted, That for the Time being, and subject to the Power of Discharge herein contained, *John Matthews* Gentleman, shall be Commissioner, and *John Calveley* Gentleman, Surveyor, and *Thomas Wedge* Gentleman, Engineer, whose respective Duties are herein-after set forth, and who, before they shall be capable of acting in their respective Offices, or of interfering in anywise therein, shall respectively take and subscribe the following Oath, before One or more of His Majesty's Justices of the Peace for the said County, (who are hereby authorized collectively and individually to administer the same), and in the Presence of any Two or more Proprietors of any Messuages, Tenements, or Lands, in the said Parish of *Whitford*, and the said Oath shall be written upon Parchment, and subscribed by the Party swearing, and by the Justice or Justices administering the same, which Parchment shall be annexed to the Award of Allotment of the said Commissioners, Surveyor, or Engineer, directed, and shall be Evidence of such Oath having been taken, and the same shall be in the Words following; (that is to say)

Oath.

I *A. B.* do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill, Judgment, and Ability, execute and perform the several Trusts, Powers, and Duties vested and reposed in and prescribed to me as a Commissioner, Surveyor, or Engineer, as the Case may be] by virtue of an Act made for dividing, allotting, and inclosing the Commons, Waste Lands, and Marshes in the Parish of *Whitford*, in the County of *Flint*, and for fencing the said Marshes, without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever. I So help me GOD.

Mode of ap-
pointing new
Commissioner.

III. And be it further enacted, That if the said *John Calveley*, *John Matthews*, and *Thomas Wedge*, or any of them, shall die, or shall become incapable

pable of acting, or shall refuse to act himself or themselves, or shall, for the Space of Two Calendar Months, wilfully neglect to act in his or their said respective Offices before this Act is completely executed, then and in every such Case Five Proprietors of any Messuages, Tenements, or Lands, in the said Parish, shall call a Meeting of the Proprietors, giving Notice in Writing, with their Names subscribed thereto, Seven Days at least before the Day proposed for the Meeting, upon the South Door of the Parish Church of *Whitford* aforesaid, and in each of the *Chester* Newspapers; and the Proprietors who shall be assembled at such Meeting, or the Majority of them in Number and Value, are hereby empowered summarily to examine and determine the Fact, which Determination shall be final and conclusive: and shall at the same Meeting declare the Office vacant, if they shall so determine, and by Writing under their Hands, or the Hands of the Majority in Number and Value present as aforesaid, appoint a new Commissioner, Surveyor, or Engineer respectively, as the Vacancy may happen to be, and so from Time to Time as any Vacancy shall happen by Death, Incapacity, Refusal, Misconduct, or Neglect of any such new Officer or Officers, in like Manner appoint others; and every new Commissioner, Surveyor, and Engineer, shall respectively take and subscribe the Oath aforesaid in Manner aforesaid, before he or they shall be capable of acting in his or their respective Offices, or in anywise interfering therein, under this Act.

er, Surveyor,
and Engi-
neer, in Cases
of Death, &c.

IV. And be it further enacted, That the Surveyor General of His Majesty's Land Revenue for the Time being may and shall, from Time to Time, and at any Time or Times hereafter, by Writing under his Hand, nominate and appoint an Assistant Commissioner to carry this Act into Execution, in so far as relates to the Rights of the King's Majesty in, upon, over, and under the said Commons, Waste Lands, and Marshes, with full Power for such Assistant Commissioner (after taking the said Oath, which he shall take and subscribe as herein-before directed) to examine, enquire into, and admit or object to, on the Part of His Majesty, the Limits or Boundaries of the said Manor and Parish, and of the said respective Commons, Waste Lands, and Marshes within the same, or any Part thereof, and every or any Claim or Claims of what Nature or Kind soever, within, over, under, or upon the same Manor and Parish, or the said Commons, Waste Lands, or Marshes, or any Part thereof respectively, and also jointly with the said *John Matthews*, or his Successor to allot and set out the Portion or Portions of His Majesty of and in the said Commons, Waste Lands, and Marshes respectively, in respect of His said Rights, Royalties, and Privileges; and that no Allotment or Allotments to or for the Use of His Majesty, shall be made or be effectual without the Concurrence and Approbation in Writing of such Assistant Commissioner.

For appoint-
ing Assistant
Commission-
er.

V. And be it further enacted, That out of the Money which shall be raised for defraying the Expences of obtaining and executing this Act, the said Assistant Commissioner shall be allowed and paid the Sum of Two Guineas for each Day that he shall be actually employed in the Execution of the Duty hereby in him reposed, inclusive of the Days of travelling to and from his Place of Abode, in full Satisfaction for his Trouble and Expences therein, and shall bear and pay his own Expences during the Time that he shall be so employed.

Allowance to
Assistant
Commissioner.

VI. And

of Incapacity in either of them at the Time) shall, and all other Persons who will attend, may accordingly perambulate the same respectively, taking the best Information and Evidence that can be obtained for their Guidance in ascertaining the said Limits and Boundaries, and shall at all proper Places fix Boundary Stones in the Ground, to perpetuate the Remembrance of the same.

IX. And be it further enacted, That in case any Person or Persons, Bodies Politick or Corporate, shall deny or be dissatisfied with the Boundaries so perambulated and marked, or either of them, or any Part thereof, or claim any Right or Interest within the same, (other than and distinct from such Right of Common), they and every of them respectively may and shall cause Notice in Writing, subscribed with the Name or Names of him, her, or them, or of their respective Agents, to be delivered to the said Commissioner at or before the said Second publick Sitting, stating the Objection or Objections, Claim or Claims, they may have to make, which the said Commissioner shall immediately register, or cause to be registered, in a Book to be by him kept for that Purpose, and refer the Question to be heard and determined in the Manner herein-after directed; but no such Objection or Objections, Claim or Claims as aforesaid, shall be received or registered after Six of the Clock in the Afternoon of the Day of the said Second Sitting.

Objections to Boundaries or Claims within Boundaries to be delivered to the Commissioner.

X. And be it further enacted, That all and every Persons and Person, Bodies and Body Politick and Corporate, having or claiming any Right of Common in or upon the said Commons, Waste Lands, or Marshes, or any Part thereof, are and is hereby required, personally or by their respective Agents, Tenants, or other Persons, to deliver to the said Commissioner, at the said First or Second publick Sitting, a Claim or Claims of Allotment in Writing, specifying the Messuages, Tenements, or Lands, in respect whereof they, or any of them respectively have or hath Right of Common upon the said Commons, Waste Lands, and Marshes, and where situated, with the Quantity, (if ascertained), and the Names of the respective Occupiers thereof; and in case any Persons or Person, Bodies or Body Politick or Corporate, interessed in the said intended Division and Inclosure, shall refuse or neglect, at the said First or Second Sitting, to deliver or cause to be delivered in such Claim or Claims of Allotment, or omit therein the Quantity of the Lands as aforesaid, then and every such Case the Surveyor for the Time being shall make, or cause to be made a correct Survey or Particular, and Valuation, of all and in every or any such Messuages, Tenements, Lands, and Hereditaments, and shall lay the same before the said Commissioner on or before the said Third publick Sitting, which shall stand instead of the Claims and Specifications hereby before required, and the Person or Persons, Bodies Politick or Corporate, owning such Messuages, Tenements, Lands, or Hereditaments, shall pay the Surveyor for the same; and in case of Non-payment for One Calendar Month after an Account thereof given to or left at the usual Place or Places of Abode of any Person or Persons, Body or Bodies Politick or Corporate, so refusing or neglecting to deliver such Claim or Claims, or of their or any of their respective Agent or Agents, it shall be lawful for the Surveyor, his Executors, Administrators, or Assigns, to enter the Allotment or Allotments of the said Commons, Waste Lands, and Marshes, or any of them, which shall be assigned or set out to or for such Person or Persons,

Claims of Commons and Specifications to be delivered to the Commissioner.

Body or Bodies Politick or Corporate, under or by virtue of this Act; and to inclose, hold, possess, and enjoy, and let and let the same, and receive and take the Rents, Produce, and Profits thereof to his and their own Use, without any Molestation, Suit, or Disturbance whatsoever, until the full Amount of such Satisfaction, and all Costs, Charges, and Expences attending the same, and also attending the Entry, Inclosure, Possession, setting and letting of the same Allotment or Allotments, and receiving the Rents, Profits, and Produce thereof, shall be fully paid.

Surveyor empowered to enter upon Lands.

XI. And be it further enacted, That it shall be lawful for the Commissioner and Surveyor for the Time being, and their Servants and Workmen, at any Time or Times, if Occasion shall require, to enter upon, survey, measure, and value all or any Messuages, Tenements, Lands, and Hereditaments, in Right of which any Persons or Person, Bodies or Body Politick or Corporate, are, is, or shall be entitled to Right of Common upon the said Commons, Waste Lands, and Marshes, without any Molestation, Suit, or Disturbance of, from, or by the respective Owners or Occupiers thereof: Provided always, That if any Person or Persons, Body or Bodies Politick or Corporate, shall happen to have a Survey and Admeasurement of their respective Messuages, Lands, and Tenements, in respect whereof they, or any of them, are entitled to Right of Common upon the said Commons and Waste Lands as aforesaid, and shall produce and deliver the same to the said Surveyor, and he the said Surveyor shall be satisfied with the Correctness thereof, then and in such Case the said Surveyor shall not, and he is hereby prohibited from making any Survey or Admeasurement of such Messuages, Lands, and Tenements, of which such Survey and Admeasurement shall be produced and delivered to him as aforesaid.

Survey (if any) already made may be used.

Inspection of Claims.

XII. And be it further enacted, That after the said Commissioner shall have received the said Claims of Right of Common, Specifications, Surveys, and Plans respectively, the same shall, at all seasonable Times afterwards, until and during the First Day of the said Third publick Sitting, remain open before the said Commissioner for the Perusal of, and may be copied, or Extracts made thereof, by any Person or Persons having such Rights of Common as aforesaid, or by any Guardian, Agent, or other Person or Persons, on their or any of their Behalves respectively who may oppose the same, or any of them, by Notice in Writing, with his, her, or their Name or Names thereto delivered to the said Commissioner, and to the Person or Persons whose Claim or Claims is or are opposed, or to his or their Agent or Agents, or left at their respective Abodes, at any Time within Six Days after the First Day of the said Third publick Sitting, declaring the Ground or Cause of such Opposition; and in case any such Opposition be not agreed between the Parties, or withdrawn, before or during the last Day of the said Third publick Sitting, the said Commissioner shall register the Claim or Claims opposed, and the Ground or Causes of Opposition thereto, in the Book aforesaid, and proceed to examine such Claim or Claims, and to hear and consider all Objections that shall have been made thereto, and by Examination of Witnesses upon Oath, or by other proper and sufficient Enquiry, Proof, or Evidence, to hear and determine all such of the said Claims as he shall think fit, and after the said Commissioner shall have heard and determined the said Claim or Claims, he shall, within Seven Days then next following, make a correct List in Writing of such Claims as shall have been determined by him as aforesaid,

aforesaid, and shall cause such List to be forthwith copied or printed, and fixed up the First or Second *Sunday* after such Determination, on One of the principal Church Doors of the said Parish, and appoint a Time and Place in such Notice, being not less than Fourteen Days from the Publication thereof, for all Persons who may be dissatisfied with such his Determination, to notify in Writing to the said Commissioner their Dissatisfaction therewith, and in all Cases where no such Dissatisfaction shall be then and there notified, the Determination of the said Commissioner shall be final and conclusive to all Intents and Purposes.

XIII. Provided always, That every Guardian, next Friend, Husband, Trustee, Committee, and Attorney, may claim and oppose Claims for every Infant, Feme Covert, Child unborn, Cestuique Use, Lunatick, and Person beyond Sea, or otherwise unable or incapacitated, as effectually as if the Party entitled or interested were present and capable. Guardians &c.
to claim.

XIV. And be it further enacted, That in all Cases where no Determination shall have been made by the said Commissioner, or where any Dissatisfaction respecting his Determination shall be notified to him as aforesaid, all Differences or Matters remaining undecided, or about which such Dissatisfaction may arise, shall, within the Space of Three Calendar Months then next following such Determination be referred to *Hugh Leycester*, of *Lincoln's Inn* in the County of *Middlesex*, Esquire, or in case of the Death of the said *Hugh Leycester*, or his declining to act in the said Reference, then to *Richard Mytton*, of the City of *Chester*, Esquire, or in case of his Death or declining to act in the said Reference, then to *William Wicksteed*, of *Whitchurch* in the County of *Salop*, Esquire, or in case of his Death or declining to act in the said Reference, then to such other Counsel as the Chief Justice of *Chester* for the Time being, on the Application of the said Commissioner, shall by Writing under his Hand appoint; and the said *Hugh Leycester*, *Richard Mytton*, *William Wicksteed*, or such other Counsel as aforesaid, shall be, and they are hereby respectively appointed Commissioners of Appeal for the Purposes herein mentioned; and on Application to be made to them respectively for that Purpose by any of the said Parties by Writing under their Hands and Seals, such Commissioner of Appeal is hereby authorized and empowered to examine into all Claims, Matters, and Things, which shall be referred to him as aforesaid, and for that Purpose shall and may, either by Examination of the Evidence taken by the said Commissioner for Inclosure, or of any of the Witnesses that may have been produced before the said Commissioner for Inclosure, or of any other Witnesses or Evidence that the Parties in Difference, or either of them, shall produce and require to be examined by the said Commissioner of Appeal upon Oath (which Oath he is hereby empowered to administer) hear, settle, and determine the same; and in all Cases respecting Rights of Common, where such Commissioner of Appeal shall give Relief to the Party appealing, then the Costs and Charges attending the said Appeal shall be paid and discharged by the said Commissioner for Inclosure, out of the Monies to be raised by him for the Purposes of carrying this Act into Execution; but if the said Commissioner of Appeal shall determine against the Party appealing, then the Costs and Charges attending such Appeal shall be paid by the Appellant; and in Case the Party or Parties making any such Claim or Claims, or the Person Commissioner of Appeal
for settling
Differences,

Person or Persons objecting thereto, shall be dissatisfied with the Determination which shall be made by such Commissioner of Appeal, and shall, by Writing, under his or their Hand or Hands, signify the same to the said Commissioner for Inclosure, within Three Calendar Months next after such Determination shall be made, it shall be lawful for the Person or Persons so dissatisfied with such Determination, to have the Subject of such Claim or Objection, in respect of which such Determination shall be made, tried at Law, by an Action to be brought by him or them against the said Commissioner for Inclosure, upon a feigned Issue, to be settled by the proper Officer of the Court where such Action shall be brought, in case the Parties differ about the same, such Action to be brought within Six Calendar Months next after such Determination shall have been made; and the Defendant or Defendants in such Action shall, and he and they is and are hereby required to appear to such Action, accept a Declaration, and plead to Issue, and the Plaintiff or Plaintiffs shall thereupon proceed in such Action, so as to have the same tried at the First or Second Great Session or Assize to be holden for the County of *Flint*, next after the commencing of such Action, and the Verdict of the Jury on such Trial shall be final and conclusive upon all Parties interested therein, unless the Judge or Judges trying such Issue shall certify the Verdict to be contrary to Evidence or Law; and after any such Trial shall be had as aforesaid, the Costs and Charges, payable by the said Commissioner in such Action or Actions, shall be paid and discharged out of the Monies to be raised by him for the Purposes of this Act; but if the Plaintiff in such Action or Actions shall be nonsuited, or a Verdict shall pass against him, then he shall pay full Costs to the said Defendant.

Determinations of Commissioner of Appeal not objected to, to be final.

XV. Provided always, and be it further enacted, That all such Determinations, either of the said Commissioner for Inclosure, or of the said Commissioner of Appeal, as shall not be objected to by such Notice to be given to the said Commissioner for Inclosure as aforesaid, or being so objected to, and the dissatisfied Parties respectively not causing such Action at Law to be proceeded in as aforesaid, shall be absolutely binding, final, and conclusive.

Commissioners not to determine Titles; and Suits not to impede the Inclosures.

XVI. Provided always nevertheless, That nothing herein contained shall authorize the said Commissioner for Inclosure and Commissioner of Appeal, hereby appointed respectively, or any or either of them, to hear and determine any Difference or Dispute which may arise, touching the Right or Title to any Manor, Messuages, Tenements, Lands, or Hereditaments, of any Person or Persons having Rights of Common in, over, or upon the said Commons, Waste Lands and Marshes, or any other Right or Interest therein; for which the Parties may commence and prosecute such Suits or Remedies at Law or in Equity, in respect of such Rights and Titles, between and among themselves, as they shall be advised and think proper: Provided also, that no Difference or Suit, touching the Title to any Manor, Messuages, Tenements, Lands, or Hereditaments, or other Rights, shall impede or delay the Commissioner in the Execution of the Powers vested in him by virtue of this Act; but the Division and Inclosure hereby directed to be made shall be proceeded in notwithstanding such Differences or Suits.

Power to summon and

XVII. And be it further enacted, That it shall and may be lawful to and for the said Commissioner for Inclosure, hereby appointed or hereafter

to be appointed in the Manner herein-before mentioned, and also to and for any of the said Commissioners of Appeal, and they are hereby authorized and empowered, to call before them respectively, by Summons in Writing under their Hands respectively, all such Person and Persons as they shall think proper to examine as Witnesses, and to administer an Oath (or in case of Quakers, a solemn Affirmation) to such Person or Persons required to give Evidence touching the Matters aforesaid, or in anywise relating thereto.

examine
Witnesses
upon Oath.

XVIII. And be it further enacted, That if any Person or Persons, who shall be duly summoned by Writing under the Hand of the said Commissioner for Inclosure, or by any of the said Commissioners of Appeal, shall omit, refuse, or neglect to appear before the said Commissioners respectively, at any of the Times or Places by such Commissioner of Inclosure, or any of the said Commissioners of Appeal, required, or if appearing shall refuse to be fully examined to the full Satisfaction of the said Commissioners respectively, then and in that Case it shall and may be lawful for any Justice of the Peace for the said County of *Flint*, upon Proof on Oath before such Justice of such Refusal or Neglect to appear, or Refusal to be examined, by Warrant under his Hand and Seal directed unto any Person or Persons whomsoever, to cause any Sum or Sums of Money, not exceeding Ten Pounds nor less than Forty Shillings, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so omitting or neglecting to appear, or refusing to give Evidence, 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 of such Distress and Sale.

Witnesses not
attending to
be liable to a
Fine.

XIX. And be it further enacted, That all and every Person or Persons who, in any Examination to be taken by virtue of this Act, shall give false Evidence before the said Commissioners respectively, or before any Justice or Justices of the Peace, touching any Matter or Thing relating to the Execution of this Act, shall and may be prosecuted for the same; and being thereof convicted, shall be deemed guilty of Perjury, and shall be liable to such Pains, Punishments, and Disqualifications, as by the Laws and Statutes of this Realm Persons convicted of wilful and corrupt Perjury are subject and liable to.

Persons giving
false Evidence,
to be
punished.

XX. And be it further enacted, That the said Surveyor for the Time being shall make a true and correct Survey and Admeasurement of the said Commons, Waste Lands, and Marshes, and after the Determination of all Cases and Questions, Objections and Claims respecting the Limits or Boundaries (if any happen) shall make a correct Plan thereof, and also (if required by the said Commissioner) make a like Survey, Admeasurement, and Plan of the Messuages, Tenements, and ancient inclosed Lands in the said Parish of *Whitford*, in which Plan or Plans respectively the whole Contents, in Statute Measure, of all the said Commons, Waste Lands, and Marshes (and if surveyed, of all the Messuages, Tenements, and ancient inclosed Lands) shall be set forth, and the said Plan or Plans, with the Admeasurement, shall be delivered to the said Commissioner at or before his last adjourned publick Sitting: Provided always, That the Expence of the Survey, Admeasurement, and Plan, if made, of the Messuages, Tenements, and inclosed Lands within the said Parish, shall be paid and borne by the respective Owners thereof.

Surveyor to
make a Plan,
of the Com-
mons.

[*Loc. et Per.*]

25 B

XXI. And

Proprietors
may agree
with the
River Dee
Company.

XXI. And, in order that the best and most effectual Means may be chosen for embanking and securing the said Common Marshes from the Sea, be it further enacted and provided, That if the Company of Proprietors of the Undertaking for recovering and preserving the Navigation of the River *Dee*, shall be inclined to embank the Marshes and Lands belonging to the said Company, the said Proprietors may and are hereby empowered to treat and agree upon Terms with the said Company of Proprietors, for the said Company of Proprietors to make, preserve, and keep in Repair an Embankment upon such Part of the said Company's Lands, as the said Engineer shall, by a Report in Writing to be subscribed with his Name, declare that an Embankment made thereon will be safe and secure against the Force of the Sea and Tides; any Thing before enacted to the contrary notwithstanding.

Preserving
the Rights of
the *Dee* Com-
pany.

XXII. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be deemed or construed to extend, to alter, defeat, or obstruct any of the Powers, or to lessen or abridge all or any of the Tonnage or Duties, Sum or Sums of Money, given to or payable to the Company of Proprietors of the Undertaking for recovering and preserving the Navigation of the River *Dee*, by the several Acts of Parliament for making the said River navigable; but the said Company and their Successors, their Deputies, Agents, Workmen, Officers, and Servants, may at all Times hereafter be at Liberty to embank, recover, and preserve their Marshes and Lands, and also to have, take, receive, use, exercise, and enjoy all such Tonnage Duties, Sum and Sums, Powers, Rights, and Privileges, in as full and ample Manner as they might or could have done in case this Act had not been made; any Thing herein contained to the contrary in anywise notwithstanding.

Fencing the
Marshes not
to delay the
Allotment of
the Commons.

XXIII. Provided always, That the Works necessary for securing and preserving the said Common Marshes, shall not delay or retard the Division and Allotment of the said other Commons and Waste Lands, and to prevent Loss to the Persons who will be entitled to the Allotments of the said Common Marshes, the said Commissioner (after he shall have marked out the Part or Parts thereof to be sold) shall allot the Remainder to the Persons entitled thereto, and the Persons to whom the same shall be allotted shall have the exclusive Pasturage and Benefit of the Produce thereof, in Proportions to be fixed by the said Commissioner; and no Person or Persons shall turn into or upon the said Marshes any more or other Stock than the said Commissioner shall so fix; and the said Common Marshes, although not inclosed, shall from thenceforth be considered as private Property to all Intents and Purposes, and be protected and defended against all Persons and Trespasses; and every or any Person having such Open Allotment or Allotments in the said Common Marshes, may inclose the same, giving up his and their Right of Pasture and Produce in and upon the Remainder of the said Marshes.

Roads to be
set out.

XXIV. And be it further enacted, That the said Surveyor shall mark and set out upon the said Plan of the said Commons, Waste Lands, and Marshes, the Tracks or Lines of publick Highways and private Roads for Carriages and Horses, and Footpaths, as well now open and made as to be opened and made in pursuance of this Act, with the proper Places for Fences and Ditches, Gates and Stiles, and also the Tracks or Lines
of

of Watercourses, Aqueducts, and Drains, and their Mouths or Outlets, and the proper Places for Bridges and Plats, all of which shall be laid out as conveniently as possible for the publick or most general Use; and the publick Carriage Roads shall be Forty Feet wide exclusive of Ditches; and the said Surveyor shall lay the said Plan before the said Proprietors, and if the said Proprietors assembled at such Meeting, or the Majority of them in Number and Value, shall not propose any Improvement or Alteration, or any being proposed shall be approved of by such Majority, the same shall be marked upon the said Plan, and the said Surveyor shall cause the Tracks and Lines of all such Highways, Roads, Footpaths, Fences, Ditches, Watercourses, Aqueducts, and Drains, and the Places for Gates, Stiles, Bridges, Plats, and Outlets of Water, to be marked upon the said Commons, Waste Lands, and Marshes conformably to the said Plan so to be approved: And the said Commissioner may and shall appoint, in Writing with his Signature thereto, a Surveyor of such Highways and Roads until the same shall be completed, with a reasonable Salary for his Trouble; and such Surveyor of Highways, shall be responsible for all his Acts, Receipts, Expenditure, and Conduct to the said Commissioner, who may discharge him at any Time, and appoint another in his Stead; and the said Surveyor of Highways shall cause the said publick Highways, Carriage and Horse Roads, to be ditched, fenced, covered, made, and completed fit for publick Use within a Time to be limited by the said Commissioner, (the Charges and Expences whereof, and the Salary of the said Surveyor of Highways, shall be provided for out of the Rates hereinafter directed to be raised among the Funds for the Execution of this Act); and the said Surveyor of Highways shall, at some General Quarter Sessions of the Peace to be holden for the said County of *Flint*, within Three Calendar Months after the Expiration of the Time to be limited by the said Commissioner, deliver or cause to be delivered to the Justices of the Peace then assembled, an Account in Writing of all Monies by him received, paid, and laid out, specifying the Persons and Purposes to or for which the same shall have been paid or laid out, and also a Certificate in Writing signed by him of the Completion of the said Roads, or if incomplete an Account of the Cause thereof; and the said Justices may and shall examine into the Truth of the Account and Premises upon Oath, and allow or disallow thereof as shall be just, and according to their Discretion shall allow further Time for bringing in a subsequent Account and Certificate, not exceeding One Year, which the said Surveyor of the Highways is hereby required to do at any subsequent General Quarter Sessions of the Peace for the said County to be appointed by the Justices aforesaid, in the same Manner as is before directed touching the First Account and Certificate, who shall examine, and fully allow or disallow thereof as shall be just; and in case any Surveyor shall refuse or neglect to deliver such First Account and Certificate, or either of them, or such First Certificate being suspended, shall neglect to deliver such Second Account and Certificate, or either of them, such Surveyor of Highways shall forfeit and pay any Sum not exceeding Ten Pounds nor less than Five Pounds, to be levied and applied as other Forfeitures or Penalties are by this Act directed; and after such Account and Certificate shall have been delivered and finally allowed as aforesaid, the said Commons and Waste Lands, exclusive of the said Manor of *Mostyn*, and of the said Common Marshes, and except Parcels intermixed with inclosed Lands, shall, for the Purpose of repairing the said publick Highways, Carriage

and

and Horse Roads, be a distinct and separate Township, and be called by the Name of *Tegengle*; and the said Commons and Waste Lands in the said Manor of *Mostyn* shall remain in and continue Part of the said Township of *Mostyn*; and the Inhabitants, Owners, and Occupiers of Lands within the Limits of the said Township of *Tegengle* and *Mostyn* respectively, shall keep the said publick Highways, Carriage Road and Horse Roads in Repair, according to the Laws in Force respecting Highways; and such Parts of the Road or Highway lately made, leading from *Holywell* to *Newmarket*, as lie in the Open Commons and Waste Lands, and not between old Hedges or Fences, shall be included in the said Township of *Tegengle*; and the Townships heretofore charged with the Repairs thereof shall be and are hereby discharged; but the Highways now made, or which shall be set out in the said Marshes under this Act, shall be repaired as heretofore by the Townships chargeable thereto under the Laws in Force respecting Highways.

After Certificate delivered, Roads to be repaired by the Township.

Distance of Trees.

XXV. And be it further enacted, That no Person or Persons shall be charged or chargeable to any Repair whatsoever of the said Roads, or any of them, until the Accounts and Certificates hereby required shall be delivered and finally allowed at the General Quarter Sessions of the Peace as aforesaid; and as soon as such Roads shall be ditched and fenced out, the Ditches and Fences thereof shall be repaired and cleansed by the respective Owners of the Lands adjoining thereto; and no Person shall erect any Gate across any such publick Carriage Road, or plant any Tree or Trees in or within Fifty Yards of the Hedges or Side thereof; and it shall thereafter be unlawful for any Person on Foot or on Horseback, or with any Beast, Coach, Waggon, Cart, or other Carriage whatsoever, to use any Roads, Ways, or Passages, either publick or private, in, over, through, or upon the said Commons, Waste Lands, and Marshes, other than through such Ways or Roads as shall be so appointed and set out as aforesaid; and the said Commissioner shall set forth and declare in his Award, in what Manner, by whom, and at what Time, all publick Foot Roads and private Ways, and all Ditches, Fences, Watercourses, private Bridges, Drains, Gates, and Stiles, shall be made, and for ever thereafter repaired, cleansed, and amended; and all former publick and private Roads and Ways over the said Commons, Waste Lands, and Marshes, or so much of them as shall not be set out and appointed as aforesaid, shall be deemed Part of the Lands to be divided and inclosed by virtue of this Act, and shall be allotted accordingly as Part thereof; and the Soil of all such new publick Roads and Ways within the said Manor of *Mostyn*, shall remain the Property of the Lord of the said Manor as to Royalties, and the Soil of the said publick Road in the Remainder of the said Parish of *Whitford* shall remain the Property of the King's Majesty, or of the King's Majesty and *Thomas Lord Grey de Wilton*, according to their respective Interests, subject to the said *Earl Grosvenor's* Grant of Lead Mines therein, as far as the same extends.

Power to alter Roads.

XXVI. And be it further enacted, That if the said Commissioner shall at any Time or Times determine that it will be beneficial to the Country to alter or divert any Highway or Highways, Road or Roads, now open between any anciently inclosed Lands, or to open any new Highway or Highways, Road or Roads, in or through any anciently inclosed Lands adjoining to the said Commons and Waste Lands, the said Commissioner shall

shall from Time to Time treat and agree with the Owner or Owners of such respective inclosed Lands, for Permission to alter and divert such Highways or Roads, or open any such new Highways or Roads, and allot an Equivalent of the said Commons, Waste Lands, and Marshes, in exchange for the Ground wanted for such altered, diverted, or newly opened Highways and Roads, or if he fails to agree with any Owner or Owners, he shall apply to any Two of His Majesty's Justices of the Peace, to do and execute the same under the Authority of the Act, passed in the Thirteenth Year of His present Majesty's Reign, intituled, *An Act to explain, amend, and reduce into One Act of Parliament, the Statutes now in being for the Amendment and Preservation of the publick Highways within that Part of Great Britain called England, and for other Purposes*; but without Prejudice to such Rights of His said Majesty, His Heirs or Successors, of the said Earl Grosvenor, Thomas Lord Grey de Wilton, and of Sir Thomas Mostyn, their Heirs or Assigns as aforesaid.

XXVII. And be it further enacted, That the said Commissioner shall set out and allot a Portion or Portions of the said Commons, Waste Lands, and Marshes not exceeding in the Whole Ten Statute Acres, in such Places as he shall judge most convenient for the Accommodation of every Part of the said Parish, to be used and enjoyed for ever thereafter by the Proprietors of Messuages, Tenements, or Lands, within the said Parish of *Whitford*, in common, for the Purposes of getting Lime Stone, Building Stone, Gravel, Sand, Earth, Marl, and Clay, to make Bricks for the Use of Lands in the said Parish of *Whitford* only, or in the Repairs of the Highways and private Roads and Paths within and throughout the same Parish, and not to be sold or conveyed out of the said Parish on any Account; and in case there shall be found Stone or any other of the said Materials in any private Land, more conveniently situated than any Part of the said Commons, Waste Lands, and Marshes, and the Owner or Owners thereof shall be willing to exchange the same for any Part of the said Portion or Portions, it shall be lawful for the said Commissioner to make such Exchange or Exchanges, and after the same are fixed, they shall be mutually conveyed by Feoffment with Livery of Seisin, to be given to and by the said Commissioner, as taking or conveying by such Exchange; and the exchanged Portion or Portions of the said Commons, Waste Lands, and Marshes, shall vest in the Person or Persons with whom the same shall be exchanged, to the same Use and Uses, Estate or Estates, as the Lands given in exchange were previously limited to or vested, and the Lands so given in exchange shall vest in the said Proprietors for the Time being of Lands and Hereditaments in the said Parish, for the said Purposes declared by this Act; and the said Commissioner shall also set out and appoint Springs and Pools, and other Watering Places for Cattle and Beasts, and Puddling Pools, and Places for cleansing and washing Minerals, upon the said Commons, Waste Lands, and Marshes, or any Part thereof, for the Common Use and Benefit of all Occupiers of Messuages, Lands, or Hereditaments, in the same Manor and Parish respectively.

Allotments
for Materials
to repair
Roads, &c.

Springs,
Pools, &c. to
be set out.

XXVIII. And be it further enacted, That the said Commissioner shall set out and allot such Part or Parts of the said Commons, Waste Lands, and Marshes, or either of them, and such and so many of the Cottages or Dwellings, and Encroachments erected and made thereon within Twenty

Allotments
for the Use of
the Poor.

[*Loc. & Per.*]

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Years

Years before the Date herein-after mentioned, as the said Proprietors shall require, by any Order or Orders under their Hands, not exceeding Twenty Statute Acres in the Whole, for the Purpose of demising, leasing, or letting out the same, for the Benefit and Comfort of the industrious, deserving, labouring Poor of the said Parish, for One or more Year or Years, and upon such Terms and Conditions as the Proprietors shall from Time to Time direct.

Race Course.

XXIX. And be it further enacted, That the said Commissioner shall in the next Place allot and set out the Race Ground in the said Parish of *Whitford*, which is Part of the Race Ground called *Holywell Course*, to be kept open for a Race Course, in such Manner and under such Restrictions as a Majority in Number of the Proprietors assembled at a Meeting to be held for that Purpose, and the said Assistant Commissioner, whose Concurrence must be obtained, shall direct.

Allotments
to the Lords
and Free-
holders.

XXX. And be it further enacted, That after the said Roads, Ways, and other Allotments are set out, the said Commissioner shall, and he is hereby directed to allot and set out unto the said Sir *Thomas Mostyn*, as Lord of the Manor of *Mostyn* aforesaid, his Heirs and Assigns for ever, such Part or Parts of the said Commons, Waste Lands, and Marshes lying within the said Manor of *Mostyn*, as shall be equal in Value to One Fifteenth Part thereof, (Quantity, Quality, and Situation considered), in Lieu, Satisfaction, and Extinction of his Right and Interest in the Soil of the said Commons, Waste Lands, and Marshes, as Lord of the said Manor; and in case the said Townships of *Mertyn Uchglan*, and *Mertyn Isglan*, shall be proved to be within and Part of the said Manor of *Holywell*, *Fulbrook*, and *Greenfield*, the said Commissioner shall and he is hereby directed to allot and set out to the said *Thomas Lord Grey de Wilton*, as Lord of the Manor of *Holywell*, *Fulbrook*, and *Greenfield* aforesaid, his Heirs and Assigns for ever, such Part or Parts of the said Commons, Waste Lands, and Marshes, lying within the said Townships of *Mertyn Uchglan*, and *Mertyn Isglan*, as shall be equal in Value to One Fifteenth Part thereof, (Quantity, Quality, and Situation considered), in Lieu, Satisfaction, and Extinction of his Rights and Interests in the Soil of the said last-mentioned Commons, Waste Lands, and Marshes, as Lord of the said Manor of *Holywell*, *Fulbrook*, and *Greenfield*; and shall also set out and allot unto the King's Majesty, as Lord Paramount, his Heirs and Successors, such Part or Parts of the said Commons, Waste Lands, and Marshes, in the Remainder of the said Parish of *Whitford*, as shall be equal in Value to One Twentieth Part thereof, (Quantity, Quality, and Situation considered), in Lieu, Satisfaction, and Extinction of His Majesty's Right and Interest in the Soil of the said Commons, Waste Lands, and Marshes, as Lord Paramount thereof; but if the said Townships of *Mertyn Uchglan*, and *Mertyn Isglan*, shall not be proved to be within and Part of the said Manor of *Holywell*, *Fulbrook*, and *Greenfield*, the said Commissioners shall in that Case set out and allot to the King's most Excellent Majesty such Part or Parts of the said Commons, Waste Lands, and Marshes, as shall be equal in Value to One Twentieth Part of the Whole Residue thereof, exclusive of the said Manor of *Mostyn*; and then and thereafter the said Commissioner shall allot and set out all the Residue and Remainder of the said Commons, Waste Lands, and Marshes, unto and among the several Persons, Bodies Politick and Corporate, who are entitled

entitled to Right of Common upon the said Commons, Waste Lands, and Marshes, according to their respective and distinct Right of Common, and rateably, and in due Proportion, (Quantity, Quality, and Situation considered), to the Value of their respective Messuages, Tenements, or Lands, in respect whereof they are severally entitled to such Right of Common as aforesaid, such Value to be ascertained and fixed by the said Commissioner; and the said Commissioner shall not, upon any Account or under any Pretence give any undue Preference to any of the Parties interested in the said Division, in their or any of their Allotments or Shares of the Remainder of the said Commons, Waste Lands, and Marshes, exclusive of the Allotment to be made to the King's Majesty; but the said Commissioner, in making the Division and Allotment thereof, shall have due Regard to the Quality, Situation, and Convenience, as well as Quantity of the Land to be allotted, and shall, if or as far as the same can conveniently be done, make the Allotments near to the Messuages, Tenements, or Lands they shall belong to respectively, and shall also set out and allot the Share or Shares of every Person respectively in One entire Parcel, (where the same can conveniently be done), and as near to every Person's Lands and Tenements respectively as the same conveniently may be.

XXXI. And it is hereby further enacted, That all Encroachments made upon, and Inclosures taken from the said Commons, Waste Lands, and Marshes, or any Part thereof, (save such as have been enjoyed for the Term of Twenty Years or more, next preceding the First Day of *June*, in the Year of our Lord One thousand seven hundred and ninety-eight, without any Interruption), shall be deemed Part and Parcel of the said Commons, Waste Lands, and Marshes; and in case any Question or Doubt shall happen to arise whether any Encroachments or Inclosures, or any Part or Parts thereof respectively, have been or have not been made and enjoyed without Interruption for the said Term of Twenty Years, the same shall be enquired into, heard, and determined summarily by the said Commissioner of Appeal, upon Examination of Witnesses, or other Testimony upon Oath, which Oath the said Commissioner of Appeal is hereby empowered and required to administer; and every such Determination shall be final and conclusive to and upon all Parties.

Encroachments deemed Part of the Commons.

XXXII. And be it further enacted, That the said Commissioner may allot and set out unto any Person or Persons entitled to Right of Common as aforesaid, who shall, at the Time of allotting, be in the Possession of any Encroachment or Encroachments, made within the said Space of Twenty Years, all and every the Lands comprized in such Encroachment or Encroachments, (if not required by the said Commissioner for the Poor as aforesaid), for or in Part of the Allotments directed to be made to them respectively by virtue of this Act, if such Person or Persons shall request the same by Writing, subscribed with his, her, or their Name or Names, or the Name of his, her, or their Agent or Attorney respectively, delivered to the said Commissioner at any Time before or at the said Third publick Sitting, so that such Encroachment or Encroachments, which the said Commissioner is hereby directed to value as Waste Land without considering the Value of any Erections or Improvements made thereon, shall not exceed the Allotment or Allotments to be made to such Person or Persons in respect of his, her, or their Right of Common, and

Encroachments may be allotted.

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39° & 40° GEORGE III. Cap. 120.

if it shall so exceed, the Surplus shall be severed off, and allotted to some other Person or Persons entitled to Right of Common as aforesaid, unless the Person or Persons in Possession of any such Encroachment or Encroachments shall be desirous of purchasing such Surplus Quantity or Quantities of Land, and shall pay into the Hands of the said Commissioner such Price for the same as shall be fixed by such Commissioner, to be applied towards defraying the Expences of this Act and carrying the same into Execution, in which Case such Surplus Quantity or Quantities shall be awarded by the said Commissioner to the Person or Persons in Possession thereof.

To Coparceners, etc. separately, if defined.

XXXIII. And be it further enacted, That all Allotments for or in respect of any Messuages, Tenements, Lands, or Hereditaments, belonging to Coparceners or Tenants in Common, shall be allotted and set out to the respective Coparceners or Tenants in Common, or such of them as shall desire the same, in separate and distinct Portions and Parcels, according to their several and respective Shares in such Messuages, Tenements, Lands, or Hereditaments.

Two Crops of Corn exempt from Tythe.

XXXIV. And be it further enacted, That the Two first Crops of Corn or other Grain, or of other Produce obtained by Tillage, in all and every the said Allotments, shall be exempt from the Payment of Tythes, provided such Two Crops be raised within Four Years after the Execution of the said Award.

Plans to be made.

XXXV. And be it further enacted, That immediately or as soon as conveniently may be after the said Commissioner shall have finished the Partition and Division of the said Commons, Waste Lands, and Marshes, he shall cause Two complete Copies to be made of the Plan of the said Commons, Waste Lands, and Marshes herein-before mentioned, which shall be considered and deemed original Plans; in all which Plans shall be distinctly shewn the actual and determined Boundaries of the said Commons, Waste Lands, and Marshes, and the Abuttals of all inclosed Lands adjoining, with the Names of the then Proprietors wrote thereon, and also the Roads, Ways, and Paths, made or to be made upon or over the said Commons, Waste Lands, and Marshes, shewing what Place they respectively lead to, and all Watercourses and Drains for Water, and the Plats over the same, and also the said Common Allotments for raising Stone and other Materials, and supplying Water, and also the said Allotments for the Benefit of poor Labourers; and in all the said Plans shall also be distinctly shewn all the Allotments made to the King's Majesty, and to the Lord of the Manor of *Adostyn*, and to all and every the several Proprietors of Glebes, Messuages, Tenements, Lands, and Hereditaments in the said Manor and Parish respectively, and the Fences, Hedges, and Ditches dividing the same.

Award.

XXXVI. And be it further enacted, That within the Space of Six Calendar Months next after the said Commissioner shall have finished the Partitions and Allotments of the said Commons, Waste Lands, and Marshes, he shall and is hereby required to form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, which shall express the Quantity, in Statute Measure, of Acres, Roods, and Perches contained in the said Commons, Waste Lands, and Marshes, so intended to be divided and inclosed as aforesaid, and also the Quantity and Contents,

Contents, in like Manner, of each and every Part and Parcel thereof which shall be assigned and allotted to each of the Parties entitled thereto and interested therein, with a Description of the Situation, Abuttals, and Boundaries of such Parcels and Allotments respectively, and also of the said common Allotments for getting Stone and other Materials, and for supplying Water, and also of the said Allotments for the Benefit of poor Labourers, and of such Lands as shall be exchanged by virtue of this Act, together with a Plan thereof respectively to the said Award annexed; and such Award shall also contain proper Orders and Directions for fencing, mounding, ditching, and draining the said Allotments, and for keeping the said Mounds, Ditches, and Drains in Repair, and for setting out and describing proper publick Roads and Ways upon and over the said Commons, Waste Lands, and Marshes so intended to be inclosed, and also proper private Roads, Ways, and Passages, Banks, Gates, Stiles, and other Requisites, with Orders and Directions by whom the same shall be made, and from Time to Time be repaired and kept in Repair; and the said Award shall also contain all such Rules, Orders, Regulations, Directions, and Determinations, which the said Commissioner shall think necessary and proper to be inserted therein, pursuant and according to the several Powers and Authorities hereby given to and vested in him, and conformably to the true Intent and Meaning of this Act; Two Parts of which said Award or Instrument shall be fairly ingrossed or written on Parchment, and a Copy of the said Plan annexed to each Part; and the said Commissioner shall, and he is hereby required and directed to read over One Part of the said Award in the Presence of the Proprietors, who shall or may attend at a Special General Meeting to be called for that Purpose by the said Commissioner, (of which Ten Days Notice at least shall be given in One or both of the *Chester* Newspapers), and each Part of the said Award, and also of the said Plan or Plans, shall be signed and sealed by the Commissioner at such Meeting, and by the said Assistant Commissioner in respect of the Allotments to be made to the King's Majesty, His Heirs and Successors; and the Execution of the said Award shall be proclaimed the next *Sunday* after the same shall have been so read as aforesaid, in the Parish Church of *Whitford* aforesaid, from which Time only the said Award shall be considered as complete; and One Part thereof, with the Plan thereto annexed, shall be deposited and kept in a Box or Chest in the Parish Church of *Whitford* aforesaid; and One other Part thereof, with the Plan thereto annexed, shall, within One Calendar Month after the same shall be so signed, sealed, and proclaimed as aforesaid, be delivered to the Clerk of the Peace for the County of *Flint*, or his Deputy for the Time being, who is hereby required to receive and deposit the same amongst the Records of the said County, upon being paid the Sum of One Guinea 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 Church, and also the Clerk of the Peace for the said County of *Flint*, or his Deputy for the Time being, shall permit the said Part of the said Award to be inspected by any Person or Persons whomsoever, from Time to Time and at all seasonable Times for ever, such Person and 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

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deposited

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 thereafter, 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 Four-pence per Sheet, reckoning One hundred Words to each Sheet, and no more; and the several Allotments, Partitions, Divisions, Orders, Directions, Exchanges, Regulations, and Determinations to be made, declared, and approved by the said Commissioner, in and by his said Award or Instrument as aforesaid, shall be, and are hereby declared to be final, binding, and conclusive, unto and upon the several Parties interested in the said Division and Inclosure, and all other Persons whomsoever; and immediately after the Execution of the said Award or Instrument, or at such other Time as the said Commissioner shall by Writing under his Hand direct, all Right of Common, in, over, and upon the said Commons, Waste Lands, and Marshes, so intended to be inclosed as aforesaid, shall cease and be for ever extinguished.

Commissioners to make an Extract of so much of their Award as describes His Majesty's Allotment.

XXXVII. And be it further enacted, That the said Commissioner shall, and he is hereby required to make an Extract on Parchment under his Hand and Seal, of so much of his General Award herein-before directed to be made, as shall contain an accurate Description of the Allotment or Allotments so to be made to His said Majesty; together with such Regulations or Provisions relative to the said Allotment or Allotments, or to any other Rights or Interests of His Majesty, as may be contained in such Award; and also a Copy, signed by the said Commissioner, of the Plan annexed to the said Award; and transmit the said Extract and Plan to the Surveyor General of His Majesty's Land Revenue for the Time being, within Six Calendar Months after the making and executing the said Award, to be by him filed and kept among the Muniments of his Office.

For paying the Expences of this Act.

XXXVIII. And be it further enacted, That the Costs, Charges, and Expences of obtaining and passing this Act, and of holding the Commissioner's Sittings, surveying, measuring, planning, dividing, and allotting the said Commons, Waste Lands, and Marshes, and of making the said publick Highways, Roads, and Paths, and Bridges and Plats, and of making, executing, and depositing the Award and Plans, and all other incidental Charges and Expences whatsoever, which may arise or be incurred under this Act, until the same shall be finally executed, shall be severally and respectively borne and defrayed from Time to Time, as the same shall be incurred in the said Manor and Parish respectively, by the several Persons to and amongst whom the said Commons, Waste Lands, and Marshes shall be allotted in the said Manor and Parish respectively (except the King's Majesty, His Heirs and Successors) by Rates and Taxes to be from Time to Time and at any Time or Times hereafter, as Occasion shall require, assessed, laid, and charged by the said Commissioner, expressing the Purpose to which every Rate shall be applied, which Rates shall be assessed and charged equally upon and according to the Value, as nearly as can be estimated by the said Commissioner, of the respective

pective Allotments, the Proportions of which Rates upon the Persons liable thereto, shall be paid to such Person and Persons, for such Purposes, Uses, or Services, and at such Times not exceeding Three Calendar Months next after every or any such Rate shall be so assessed, as the said Commissioner, by any Order or Orders in Writing, signed by him, shall direct or appoint; (which Orders respectively shall be sufficient Authorities to the Person or Persons receiving any Money); and in case any Person or Persons, Body or Bodies Politick or Corporate, so assessed or charged, shall refuse or neglect to pay such his, her, or their Proportion or Proportions of any Rate or Rates within the Time or Times to be limited by the said Commissioner, to the Person or Persons whom he shall appoint to receive the same as aforesaid, then and in every such Case it shall be lawful for any One of His Majesty's Justices of the Peace for the said County of *Flint*, by Warrant under his Hand and Seal, directed to any Person or Persons, to cause the said Rates from Time to Time to be levied by Distress, and immediate Sale, as in Cases of Execution upon final Judgement, of the Goods and Chattels of the Person and Persons neglecting or refusing Payment; and in case there shall not be found sufficient Goods and Chattels within the said County of *Flint* to satisfy the same, and all Costs and Charges thereon, the same Warrant shall be indorsed by any Justice of the Peace of any other County in which Goods or Chattels belonging to such Person or Persons shall be found, and the said Rates respectively, and all Costs and Expences thereon, shall be levied by like Distress and Sale of the Goods and Chattels which shall be found in any other County; and in case no Goods or Chattels can be found to be distrained upon, it shall be lawful for the said Commissioner, or any Person or Persons authorized by him, from Time to Time to enter into and upon the Allotment or Allotments of any Person or Persons so assessed and taxed, and refusing or neglecting Payment of his or their Proportion of such Rate or Rates, and to inclose, possess, and enjoy the same, and take the Rents, Issues, and Profits thereof respectively, until therewith or otherwise such Proportion or Proportions of the said respective Rates, and all Costs, Charges, and Expences occasioned by or through any Distress made or attempted, or attending such Entry and Receipt, shall respectively be fully paid and satisfied.

XXXIX. And be it further enacted, That for raising a Fund for defraying the Expences of fencing the said Common Marshes from the Sea, and for making, completing, repairing, preserving, strengthening, and improving of all and singular the Fences and other Works necessary for effectually defending and protecting the said Common Marshes from the Sea, the said Proprietors may and shall, at any Time or Times before the said Marshes are allotted, and by such Ways and Means as they shall judge expedient, authorize the said Commissioner to sell and convey to any Person or Persons, for the best Price or Prices that can reasonably be obtained, such Part or Parts and Quantity of the said Common Marshes, not exceeding Sixty Statute Acres in the Whole, as the said Proprietors shall think sufficient.

Fund for the
Sea Fences
by Sale of
Marshes.

XL. Provided always, and be it further enacted, That if the said Majority in Number and Value of the Proprietors shall, at any Time or Times hereafter

Power of Sale
of Common
Lands.

hereafter, resolve or determine (which they are hereby empowered to do) that the Imposition and Assessment of any Rate or Rates herein before authorized to be charged for carrying this Act into Execution, upon and in respect to the Commons and Waste Lands aforesaid (not being Marsh) will be too burthensome or inconvenient to the Proprietors of Hereditaments having Right of Common in the said Manor or Parish, the said Meeting of Proprietors may and shall thereupon, from Time to Time and as often as they see fit, order and authorize the said Commissioner, by such Ways and Means, and under such Conditions as the said Proprietors shall think proper, to sell and absolutely convey in Fee Simple, subject to the Rights and Interests of His Majesty, His Heirs and Successors, the said Earl Grovesnor, Thomas Lord Grey de Wilton, and Sir Thomas Mostyn, their Heirs and Assigns, to or in such Mines or other Things within, upon, or under the same, as lawfully belonged to them, or either or any of them, before the passing of this Act, to any Person or Persons, for the best Price that can be reasonably obtained, any Part or Parts and Quantity of the said Commons and Waste Lands (not being Marsh) which the said Meeting of Proprietors shall, from Time to Time and at any Time or Times hereafter, determine upon, not exceeding Four hundred Statute Acres in the Whole, and the Money arising thereby shall be applied in aid or place of the said Rates; and upon all and every Sale or Sales, under or by virtue of this Act, the Receipt of the Commissioner for the Time being shall be a sufficient Release, Acquittal, and Discharge to the Purchaser for the Purchase Money in all Cases, and to all Intents and Purposes whatsoever; and the Conveyance to every Purchaser shall be from the Commissioner aforesaid by Feoffment with Livery of Seisin, to which any of the said Proprietors shall be Parties consenting, and the Parcel or Parcels of Land and Hereditaments shall immediately vest in Fee Simple in the Person or Persons to whom the same shall be conveyed.

Commissioner
may borrow
Money to
execute this
Act, and give
Security.

XLI. And be it further enacted, That the said Commissioner may borrow any Sum or Sums of Money necessary towards defraying the Expences of applying for, obtaining, or carrying into Execution all or any of the Purposes of this Act; and all such Sums of Money as he shall borrow, shall be repaid by the said Commissioner to the Person or Persons who shall advance the same, with Interest after the Rate of Five Pounds *per Centum per Annum*, out of the Monies which shall be raised under or by virtue of this Act; and the said Commissioner is hereby empowered, at his Discretion, to grant and demise in Mortgage all or any Part or Parts of the said Commons, Waste Lands, and Marshes, for any Term or Terms of Years not exceeding Five hundred Years, for securing all or any such Monies as shall be advanced as aforesaid, and all Expences of borrowing and securing the same, with Interest as aforesaid, from the Time each respective Sum shall be advanced; and all such Securities may be assigned and re-assigned from Time to Time, by all and every Person and Persons possessing the same, as other Mortgages may be, and they shall have all the usual Powers of Mortgages; which Securities shall be in the Form following:

‘ BY virtue and in pursuance of an Act made in the Fortieth Year of
‘ the Reign of His Majesty King George the Third, intituled, [*insert*
‘ *the Title of this Act*], and in Consideration of the Sum of

‘ this

this Day paid by *A. B.* of _____ to *C. D.* the
 Commissioner appointed for putting the said Act into Execution; I the
 said *C. D.* the Commissioner aforesaid do grant, bargain, and sell, unto
 the said *A. B.* his [*or her*] Executors, Administrators, and Assigns, such
 Proportion of the Commons, Waste Lands, and Marshes in the Parish of
Whitford, in the County of *Flint*, as the said Sum of _____
 doth or shall bear to the whole Sum now or which shall be
 due and owing on the Credit of the said Commons, Waste Lands, and
 Marshes in the said Parish of *Whitford*, to have and to hold the same unto
 the said *A. B.* his [*or her*] Executors, Administrators, and Assigns, for
 the Term of _____ Years from the Date hereof: Provided
 always, That if the said Sum of _____ shall be paid
 to the said *A. B.* his [*or her*] Executors, Administrators, or Assigns,
 together with Interest for the same after the Rate of Five Pounds *per*
Centum per Annum, on or before the _____ Day of _____
 next ensuing, then this Mortgage shall be void.
 In Witness whereof I have hereunto set my Hand and Seal
 this _____ Day of _____ in the Year of our
 Lord _____

XLII. Provided always, and be it further enacted, That out of the first
 Money which shall be borrowed or raised under or by virtue of this Act,
 the said Commissioner shall, and he is hereby required, in the first Place,
 to pay and defray the Charges and Expences incident to and attending
 the soliciting, obtaining, and passing this Act, together with Interest for
 the same from the Time such Money shall be so laid out; and after Pay-
 ment thereof shall apply the Residue of such Money in Manner herein
 mentioned and directed.

For paying
 the Expences
 of this Act.

XLIII. And be it further enacted, That all Orders, Acts, and Pro-
 ceedings of the said Commissioner, shall be entered in a Book to be pro-
 vided for that Purpose, and shall be signed by him; which Book shall be
 received in Evidence in all Suits and Actions concerning any Thing which
 shall be done in pursuance of this Act.

Proceedings
 to be entered
 in a Book.

XLIV. And be it further enacted, That the said Commissioner shall,
 and he is hereby required to enter in a Book to be provided for that Pur-
 pose, an Account of all Monies whatever received by him during the Pro-
 gress of the Inclosure, and also of all the Charges, Expences, and Dis-
 bursements which shall accrue or be made by virtue of this Act, and in
 carrying the same into Execution; which Book of Accounts shall be kept
 at the Office of the Solicitor to the said Inclosure, open at all reasonable
 Times, during the Progress of the said Inclosure, and till all the Accounts
 are finally settled, for the Inspection of any of the Proprietors, without
 Fee or Reward; and in case the said Commissioner or the said Solicitor
 shall neglect to provide and keep such Book of Account as aforesaid, or
 refuse the Inspection thereof to any of the Proprietors at reasonable Times,
 in Manner before mentioned, and shall be convicted thereof upon the
 Oath of One or more credible Witness or Witnesses, not interested in the
 intended Division and Inclosure, before any Justice of the Peace of the
 said County of *Flint*, or of such other County or Place where such Com-
 missioner
 [Loc. & Per.] 25 E

Book of Ac-
 counts to be
 left with the
 Solicitor, for
 the Proprietors
 Inspection.

missioner or Solicitor so offending shall be or reside, every such Commissioner or Solicitor so causing such Neglect or Refusal, and convicted as aforesaid, shall forfeit and pay, for every such Offence, any Sum not exceeding Ten Pounds nor less than Five Pounds, and if he or they shall make Default in paying such Sum for the Space of Ten Days next after such Conviction, the same shall be levied by Distress and Sale of the Goods and Chattels of the Party or Parties so offending, by Warrant under the Hand and Seal of such Justice, (which Warrant such Justice is hereby empowered and required to grant), and the Overplus, after such Penalty, and the Charges of such Distress and Sale are deducted, shall be returned, upon Demand, unto the Owner or Owners of such Goods and Chattels; and the Money arising by such Forfeiture or Penalty shall be paid and applied to or to the Use of such Proprietor or Person interested making the Complaint.

Monies received, when amounting to 50 l. to be put in a Banker's Hands, or such other Person as shall be approved of by a Majority in Value of the Proprietors.

XLV. And be it further enacted, That all the Monies to be raised and received under and by virtue of the Powers of this Act, during the Progress of the intended Division and Inclosure, shall from Time to Time, as often as the same shall amount to the Sum of Fifty Pounds, be paid to and deposited in the Hands of some Banker or such other Person or Persons as shall be approved by a Majority in Value of the Proprietors who shall be present at the first Meeting of the said Commissioner, and in the Notice of which Meeting shall be expressed the Intention of then appointing such Banker or such other Person or Persons; and no such Monies deposited or paid into the Hands of such Banker or other Person or Persons, to be appointed as aforesaid, shall be issued or paid by him or them without an Order in Writing under the Hand of the said Commissioner, specifying the Person or Persons to whom the same are respectively payable, and the Service or Consideration for which the same are due; and that the Balance (if any) upon the final Settlement of all Accounts in anywise concerning the Business of the said intended Division and Inclosure (except where the Application thereof is directed as hereinbefore provided) be immediately repaid and returned to the several Proprietors or Persons interested in proportion to the several Sums respectively paid and advanced by them.

Saving the Rights of His Majesty, Earl Grosvenor, and Sir Thomas Mollyn, their Heirs and Assigns, to the Minerals, and the Lands to be inclosed.

XLVI. Provided always, and be it further enacted, That nothing in this Act contained shall prejudice or take away the Right or Interest of His Majesty, His Heirs or Successors, or of the said Richard Earl Grosvenor, or of the said Sir Thomas Mollyn, their Heirs or Assigns, or of the said Thomas Lord Grey de Wilton, or any Person or Persons claiming or to claim by, from, or under, or in Trust for them, or any of them, or any of the Ancestors of the said Richard Earl Grosvenor, Thomas Lord Grey de Wilton, or Sir Thomas Mollyn, in and to all Mines, Ores, Minerals, and Coals, of what Nature or Kind soever, in or under the said Commons, Waste Lands, and Marshes of the said Majesty, His Heirs and Successors, and the said Richard Earl Grosvenor, Thomas Lord Grey de Wilton, and Sir Thomas Mollyn, their Heirs and Assigns, and such other Person and Persons as aforesaid, and their Heirs or Agents, Servants, Colliers, Miners, and other Workmen, shall and may, from Time to Time and at all Times hereafter, lawfully, justly, have, hold, enjoy, search,

search, and work all Mines and Mine Works, Pits, Holes, Beds, Veins, and other Bearings of Mines, Ores, Minerals, and Coal whatsoever, as fully and effectually, to all Intents and Purposes, as they could have had, held, and enjoyed the same before the passing of this Act, and for that Purpose shall and may use all Pits, Shafts, Levels, Soughs, and Tunnels, already open and sunk in any of the said Commons, Waste Lands, and Marshes, and all Machines, Engines, and Buildings thereon erected or standing, together with full and free Liberty, Power, and Authority, to and for His said Majesty, His Heirs and Successors, and the said *Richard Earl Grosvenor, Thomas Lord Grey de Wilton, and Sir Thomas Mostyn*, their Heirs and Assigns, and all other Persons who shall hereafter for the Time being be entitled to the Mines and Minerals therein, and his and their Lessee and Lessees, and their and every of their Agents, Servants, Miners, Colliers, and other Workmen, to sink, dig, delve, drive, and work all and every or any Number of Pits, Shafts, Levels, Soughs, and Tunnels, which they shall think necessary for discovering, searching for, raising, or getting any Mines, Ores, Minerals, and Coals whatsoever, in or under the said Commons, Waste Lands, and Marshes, and to dig and raise Clay for making and burning of Bricks, Tiles, Gutters, and Ridges, in and upon any Part or Parts of the said Commons, Waste Lands, and Marshes, as well before as after the same shall have been inclosed, for the Use of any Colliery or Collieries now open or hereafter to be opened therein, and for repairing any old or erecting any new Buildings, which may be necessary for carrying on or working any Mine or Mines whatsoever, and also to erect any Number of Steam and other Engines, Machine and Machines, of what Nature or Kind soever, which they shall think necessary for the Use, Convenience, or Advantage of any Mine or Mines whatsoever, in or upon the said Premises, or any Part thereof, and to place, stack up, and lay all Lead, Copper, Iron, and other Ores, Coals, and other Minerals and Matters which shall be gotten and raised, and all Rubbish, Earth, and Soil upon the said Commons, Waste Lands, and Marshes, and to make, burn, or convert Coal and Culm into Charcoal or Cokes, and also to have, make, and use all convenient Ways, Roads, and Railways, in, upon, and over the said Commons, Waste Lands, and Marshes when inclosed, for the Use of any Colliery or Mines sunk or made, or which may be sunk or made in any Part or Parts thereof, and for working and carrying on the same, and with Carts, Waggons, and other Carriages, to fetch, take, and carry away the Lead, Copper, and Iron Ores, and Coal, and all other Mines and Minerals whatsoever, there to be found and raised as aforesaid, and to do all other reasonable and necessary Acts and Things in and upon the same Commons, Waste Lands, and Marshes and Grounds, when inclosed, for the discovering, getting, working, converting, removing, carrying away, selling, and disposing of all Mines, Coal, and other Minerals whatsoever, without any Molestation or Interruption whatsoever; and all and every such Damage, Trespas, and Injury, as shall or may arise or happen to any Allotment or Allotments which shall be set out under this Act, to the Owners and Occupiers thereof, shall be afterwards reimbursed to, and raised among such Owner and Owners, and Occupiers respectively, other than and except His said Majesty, His Heirs and Successors, and the said *Richard Earl Grosvenor, Thomas Lord Grey de Wilton, and Sir Thomas Mostyn*, their Heirs and Assigns, in Manner here-
in-after

in-after mentioned and directed; (that is to say), that when and as often as any such Damage or Injury in any Allotment or Allotments to be set out by virtue of this Act, for or in searching or working the aforesaid Mines and Minerals, or on Account of any Works, Buildings, or Concerns relating thereto, shall be done, the Person or Persons who shall sustain any such Damage, Trespass, or Injury as aforesaid, shall give Information thereof to any Two or more Justices of the Peace for the said County of Flint, Ten Days previous Notice of such Information, signed by the Person giving the same, being fixed on the South Door of the said Parish Church of *Whitford*; and such Justices shall and are hereby empowered to examine and enquire into such Complaint in a summary Way, and by Examination of Witnesses upon Oath (which Oath such Justices are hereby empowered to administer) or by such other Evidence or Proof, Ways or Means, as they shall think proper, and all and every Sum and Sums of Money paid in Satisfaction of such Damages, and the reasonable Charges of giving and prosecuting such Information (to be settled by the said Justices) shall be borne and paid by the Owners or Occupiers of all the Allotments of the Lands and Grounds hereby intended to be divided, allotted, and inclosed, by an equal Rate to be assessed and charged upon them, in respect of such several Allotments, by such Justices, in such Shares and Proportions as shall be just, according to the respective yearly Rents or Values, which shall be ascertained and determined by the Assessments to the Poor Rates for the Time being of the said Allotments, or of the Rents or Hereditaments in respect whereof such Allotments shall have been made; and in case any Person who shall be charged to such equal Rate as aforesaid, shall refuse or neglect to pay the same, within a Time to be limited by the said Justices, to the Person informing as aforesaid, then the said Justices shall and they are hereby required, by Warrant under their Hands and Seals, to cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person refusing or neglecting to pay as aforesaid, rendering the Overplus (if any) after deducting the reasonable Charges of such Warrant, Distress, and Sale, to the Owner of such Goods and Chattels upon Demand; and in case any Occupier of any of the said Allotments shall pay any Part or Share of such equal Rate as aforesaid, every such Occupier shall be at Liberty to deduct the same out of his or her next Rent, and his or her Landlord shall and is hereby required to allow such Deduction.

Leases at
Rack Rent to
be void.

XLVII. And be it further enacted, That the said Commissioner may, and he is hereby directed and authorized to declare void all and every Lease and Leases, and all other Assignments and Tenures at Will or at Rack Rent subsisting of any Mines, Lands, or Tenements, in respect whereof any Allotment shall be made in pursuance of this Act, so far as such Lease or Leases may operate to demise or let all or any Part of the said Commons, Waste Lands, or Mines, or Right of Common thereon, and the said Commissioner is hereby empowered to order and adjudge such Satisfaction, as to him shall appear reasonable, to be made to such Lessee or Lessees, and to cause the same to be made, and determine by whom such Satisfaction shall be made.

XLVIII. And

XLVIII. And be it further enacted, That the several Lessees or Tenants, who under any other Kind of Lease or Leases have any Messuages, Tenements, Lands, or other Hereditaments, in respect whereof any Allotment or Allotments shall be made as aforesaid (except such as have only Right of Common upon the said Commons, Waste Lands, and Marshes whilst the same remain uninclosed, and except Lessees at Will or at Rack Rent) shall, during the Continuance of their respective Leases, have, hold, and enjoy the respective Allotment or Allotments of the said Commons, Waste Lands, and Marshes which shall be set out for and in respect of such Messuages, Tenements, Lands, and Hereditaments, but upon Condition that such Lessee or Lessees, Tenant or Tenants, do and shall well and sufficiently inclose, ditch, and fence out such Allotment and Allotments, within One Year next after the Award herein-before directed shall have been executed, and also do and shall pay his or their Share and Shares, proportionate to their respective Leasehold Interests, of all Charges and Expences relating thereto, to be settled by the said Commissioner, and the Reversioner shall pay the Residue of such Charges and Expences for and in respect of such Messuages, Lands, Tenements, and Hereditaments in Lease respectively; and if any of the said Lessees or Tenants shall refuse or neglect well and sufficiently to inclose, fence, and ditch out such Allotment or Allotments of the said Commons, Waste Lands, and Marshes, so to be set out in respect of their several and respective Messuages, Tenements, Lands, or Hereditaments, within the Time herein-before limited, and to pay their several and respective proportionable Shares of the Charges and Expences aforesaid, according to the true Intent and Meaning of this Act, then all such Allotments of the said Commons, Waste Lands, and Marshes, as shall, at the End of One Year next after the Execution of such Award as aforesaid, be found uninclosed, or not well and sufficiently fenced and ditched as aforesaid, shall go, revert, and remain unto, and vest in Possession in the Proprietors of the Reversion of such Leasehold Messuages, Tenements, Lands, and Hereditaments, exonerated and absolutely discharged from such Leases, and the said Proprietors are in such Case hereby ordered and authorized to inclose, ditch, and fence in the same, within One Year next after such Neglect or Refusal, and to pay all the Charges and Expences thereof; and the Allotment or Allotments of the said Commons, Waste Lands, and Marshes, which shall be set out to the said Leaseholders respectively for and in respect of Messuages, Tenements, Lands, and Hereditaments in Lease, shall nevertheless, from and after the Determination of their Leases respectively, go, remain, and revert to the respective Owners of the Messuages, Lands, Tenements, and Hereditaments, in respect of which the same shall be allotted, who shall respectively enjoy the same Estate and Estates in such Allotments, whether vested in Possession or Reversion, as he, she, or they may have in the Messuages, Tenements, Lands, and Hereditaments, for or in respect whereof such Allotments shall be made as aforesaid.

Other Leaseholders entitled to Right of Common, to hold the same during their Leases, on Condition they inclose and fence in their Allotments.

In case of Refusal or Neglect in the Lessees to inclose and fence, the Reversioners to take the Allotments.

XLIX. And be it further enacted, That all Allotments which shall be made in respect of any Messuages, Tenements, Lands, and Hereditaments, in Grant or Lease, where the Grantee or Grantees, Lessee or Lessees, Tenant or Tenants, is or are not entitled to Right of Common

[Loc. & Per.]

25 F

upon

where Lessees are entitled to Right of Common only whilst uninclosed,

the Allotments to go to the Lessors.

Commissioner to settle between Landlords and Tenants.

Allotments to be accepted in a limited Time.

Guardians, &c. may accept.

Their Non-claim not to bar Infants, &c.

upon the said Commons, Waste Lands, and Marshes, any longer than whilst the same shall be open and uninclosed, shall be held, inclosed, and enjoyed by the Grantor or Grantors, or Owner or Owners of the said Messuages, Tenements, Lands, and Hereditaments so granted or leased respectively, according to their several Estates and Interests therein respectively, and the Grantees, Lessees, or Tenants, shall have no Right to such Allotment, or any Part thereof; and it shall be lawful for the said Commissioner to determine upon and settle all Contracts, Covenants, Agreements, Claims, and Demands whatsoever, touching the said Commons, Waste Lands, and Marshes, or any Part or Parcel thereof, or any Right or Benefit of, in, or to the same, between all and every or any Landlord or Tenant, or Landlords and Tenants.

L. And be it further enacted, That all and every Person and Persons, Body and Bodies Politick and Corporate, who shall be entitled to any of the Allotments which shall be made in pursuance of this Act, shall, and they are hereby required to accept of their respective Allotments, by Writing under their Hands, or under the Hands of their known Agents or Attornies respectively, within the Space of Six Calendar Months next after the Execution of the aforesaid Awards; and in case they, or any of them, shall refuse or neglect to accept his, her, or their Share or Allotment within the Time, such Allotment or Allotments shall be sold towards defraying the Expenses of this Act, and the Execution thereof, and the Person or Persons, Body or Bodies Politick or Corporate, so neglecting or refusing, shall forever be barred and excluded from the same, and from all Interest, Benefit, and Right of Common and Allotments in the said Commons, Waste Lands, and Marshes.

LI. And be it also enacted, That every Husband, Guardian, Trustee, or Committee or Attorney respectively, may and shall accept all Allotments which shall be set out for Femer Covert, Infants, Children unborn, Cestuique Use, Persons beyond the Sea, Lunaticks, Idiots, or other Persons incapable of accepting, and for charitable Institutions or Uses; and every such Acceptance respectively shall be and is hereby declared to be as effectual, as if the Person or Persons to whom the same shall be, made respectively was under no Disability, and had in Person made such Acceptance; any Thing herein contained to the contrary notwithstanding.

LII. Provided always, That the Non-claim or Non-acceptance of any Husband, Guardian, next Friend, Trustee, Committee, or Attorney, or of the Rector or Vicar for the Time being of the said Parish of *Whitford*, of any Allotment or Allotments, shall not exclude or prejudice the Claim or Acceptance of any Infant, Femer Covert, or of any Person or Persons under any Disability or Incapacity, or of their Heirs, in case they shall die under Disability, nor the future Rectors and Vicars of the said Parish of *Whitford*, of or to any such Allotment, with the Consent of the Bishop of the Diocese for the Time being under his Hand and Seal, provided the Person or Persons shall respectively make and declare such Claim and Acceptance within Twelve Calendar Months next after the Removal of the Disability, Incapacity, or the Death of any Person or Persons dying during such Disability or Incapacity.

LIII. And

LIII. And be it further enacted, That the said Commissioner shall cause and order all and every the Allotment and Allotments to be made to the Rector and Vicar of the said Parish of *Whitford* respectively, to be inclosed and fenced on the outward Boundaries thereof respectively, and the Expence thereof shall be paid and defrayed by the said Commissioner, out of the Money which shall be raised under this Act for obtaining and carrying the same into Execution as herein-before mentioned.

Fencing Glebe Allotments.

LIV. And be it further enacted, That all and every Person and Persons, Body and Bodies Politick or Corporate, to whom or to whose Use or Benefit any Land shall, by virtue of this Act, be allotted (other than and except the Rector and Vicar of the Parish of *Whitford* for the Time being) shall inclose and fence the Land that shall be allotted and set out to and for him, her, or them respectively as aforesaid, in such Manner, and at such Time or Times, as the said Commissioner shall in such his Award order and appoint; and in case of Refusal, Neglect, or Delay, in any Person or Persons, it shall be lawful for the Owner or Owners of the adjoining Allotment or Allotments to exhibit a Complaint in Writing against such Person or Persons, before any One of His Majesty's Justices of the Peace for the County of *Flint*, not being interested in the Land so to be inclosed and fenced as aforesaid, who may summon the Parties concerned, and by Examination of Witnesses upon Oath (all which Oaths it shall be lawful for any such Justice to administer) enquire into the Truth of such Complaint, and upon due Proof thereof he shall authorize the Person or Persons, Body or Bodies Politick or Corporate, exhibiting such Complaints, to make proper Ditches and Fences to the Land of the Person or Persons, Body or Bodies Politick or Corporate, so refusing, neglecting, or delaying; and he shall, by Warrant under his Hand and Seal, directed to such Person and Persons as he shall think proper, cause the Charges and Expences of making such Ditches and Fences (if not paid upon Demand made thereof before One or more credible Witnesses) to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons whose Ditches and Fences shall have been so made, rendering the Overplus (if any) to him or them, after deducting the Costs and Charges of taking and making such Distress and selling the same; or otherwise the said Justice of the Peace may, by Writing under his Hand and Seal, authorize and empower the Person or Persons exhibiting such Complaint, to enter into and upon the Allotment or Allotments when so ditched and fenced as aforesaid, and to receive and take the Rents and Profits thereof respectively, until thereby the Charges and Expences of such Complaint and Prosecution thereof, making, repairing, and maintaining the said Ditches and Fences, and all Costs, Charges, and Expences, occasioned by and attending such Entry upon and Receipt of the Rents and Profits of the same Premises, with Interest for the same after the Rate of Five Pounds *per Centum per Annum*, shall respectively be fully paid and satisfied.

For fencing the other Allotments.

LV. Provided always, That convenient Gaps and Openings shall be left in such new Fences and Inclosures for the Space of Twelve Calendar Months next ensuing the Execution of the said Award, for the Passage of Cattle, Carts, and other Carriages, unless the several Parties interested shall agree that the same shall be sooner fenced in, made up, and inclosed.

Gaps to be left.

LVI. And

Fences to
preserve
Quicksets.

LVI. And be it further enacted, That it shall be lawful for all and every Person and Persons, Body and Bodies Politick and Corporate, to whom any Allotment or Allotments shall be made by virtue of this Act, from Time to Time, during the Term of Three Years from the signing of the said Award, to let down Posts and Rails, or any other Fences, in such Manner and in such Places as the said Commissioner shall by his Award direct, on the Outside of the Ditches bounding any Highway or uninclosed Lands adjoining to his, her, or their Allotment or Allotments, for the Preservation of the Quicksets, not exceeding Four Feet from such Ditches, and at any Time before the Expiration of the said Term to remove and take away such Posts, Rails, and Fences; and no Person or Persons, Body or Bodies Politick or Corporate, shall, for the Space of Three Years from the Time of the Execution of the said Award, keep any Sheep or Lambs on any Allotment or Inclosure to be made under this Act, unless he, she, or they shall fence the same with Walling, or Posts and Rails, so as effectually to prevent his, her, and their Neighbours Quicksets and Hedges from being injured or destroyed by such Sheep or Lambs.

Gates across
private Roads.

LVII. And be it further enacted, That the several Proprietors of the said Allotments and new Inclosures, shall have the Liberty for the Term of Ten Years from the Time of the Execution of the said Award, to erect or set up any Gate or Gates in or across any Part of the said private Roads to be made through or adjoining to his, her, or their own Lands, for keeping out Sheep and Cattle, and to prevent their destroying any Banks, Plants, Trees, Quicksets, or Hedges, which shall be made or planted for inclosing or fencing any Part or Parcel of his, her, or their Allotment or Allotments.

Power for
Tenants for
Life to grant
Leases of Al-
lotments.

LVIII. And be it further enacted, That it shall be lawful for all Tenants for Life or in Tail, by Will or Bequest, and for all Husbands, Guardians, Trustees, Compositors, or Attornies of such Owners and Proprietors who shall be under Cover and Intents, Children unborn, Idiots, Lunaticks, or beyond the Seas, or otherwise incapable of acting for themselves, and for the Trustee or Trustees for any Charity or Charities, and all other Trustees, and for all other Persons whomsoever, not otherwise authorized, by any Writing or Writings under his, her, or their Hand and Seal or Hands and Seals, attested by Two or more credible Witnesses, to lease or demise all or any Allotment or Allotments for any Term or Number of Years, not exceeding Twenty one Years from and next after the Date of the said Award, in Possession and not in Reversion, or by way of future Interest; so as in all and every such Lease and Leases there be reserved and made payable, during the Continuance thereof, the most improved yearly Rent that can reasonably be got for the same, to be paid by Two equal Half-yearly Payments, and to be incident to and go along with the yearly Rents and Profits of the Messuages, Lands, and Hereditaments, in respect whereof such Allotments shall be made, without taking any Sum of Money or other Thing by Way of Fine, Income, or Foregift, for or in respect of such Lease or Leases; and so as none of the said Leases be made dispendible of Waste, and so that in every such Lease there be contained a Power of Distress and Re-entry for Non-payment of the

the Rent thereby reserved, and so that the Lessee or Lessees in every such Lease do execute a Counterpart of the same.

LIX. Provided always, That no such Lease shall be made by the Rector or Vicar of the said Parish of *Whitford* for the Time being, without the Consent of the Lord Bishop of *Saint Asaph* for the Time being, under his Hand and Seal first had and obtained.

Rector and Vicar not to make Leases without the Consent of the Bishop.

LX. Provided also, and be it further enacted, That nothing herein contained shall extend, or be construed, adjudged, deemed, or taken to revoke, make void, alter, defeat, or annul any Settlement, Deed, or Will whatsoever, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Rent, Service, Debt, Charge, or Incumbrance, in, out of, upon, or affecting any Part of the Land or Ground to be divided and inclosed as aforesaid, or any Part or Parcel thereof, but the respective Shares of the said Commons, Waste Lands, and Marshes so to be allotted and assigned upon the said Inclosure or Division to the several Proprietors respectively, shall immediately, after such Allotments, vest, remain, and endure, and be held and enjoyed; and the several Persons to whom the same shall be assigned and allotted shall from thenceforth stand and be seized, and possessed thereof respectively, to the same Uses, for the same Estates and Interests, with the same Powers, and subject to the same Conditions, Limitations, Debts, Charges, Incumbrances, Provisoos, Outgoings, and Reprizes, as the said Manor, and the several Messuages, Lands, Tenements, and Hereditaments, in respect whereof such Allotments shall be made to them respectively, were and stood severally limited at the Time of the Execution of the said Award, not impeaching or hindering nevertheless the Powers and Authorities given by this Act for leasing the said Allotments, and other the Purposes herein mentioned.

Not to revoke any Settlement, Will, &c.

LXI. And be it further enacted, That it shall be lawful for all or any Person or Persons, Bodies Politick or Corporate, and Feoffees or Trustees of charitable Institutions or Uses, who respectively have or shall have Right of Common in the said Commons, Waste Lands, or Marshes, and for the Husbands, Guardians, Trustees, and Committees of any Person or Persons having such Right, and being under any Disability, with the Approbation of the said Commissioner, to exchange any Allotment or Allotments, or Part or Parts of any Allotment or Allotments, which they shall respectively have in the said Commons, Waste Lands, or Marshes under this Act, or any of their respective Messuages, Lands, Tenements, or Hereditaments situate within the said Parish of *Whitford*, with any Person or Persons, for any the Allotment or Allotments, or Part or Parts of Allotments, under this Act, or for any other Messuages, Tenements, Lands, or Hereditaments of equal or greater Value, situate within the said Parish of *Whitford*, or any adjoining Parish or Place, and all such Exchanges shall be certified by the said Commissioner in his said Award, and shall from thenceforth be binding and effectual in the Law, without Prejudice to the Rights of His said Majesty, and the said *Richard Earl Grosvenor*, *Thomas Lord Grey de Wilton*, and *Sir Thomas Mostyn*, upon and against all Persons, and to all Intents and Purposes whatsoever, notwithstanding

Exchanges to be made.

[*Loc. & Per.*]

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Infancy,

Infancy, Coverture, or other Disability in any Party or Parties thereto or any Settlements, Devises, Intails, Limitations, Uses, or Trusts affecting the Premises exchanged: Provided nevertheless, That the Allotments, Messuages, Tenements, Lands, and Hereditaments respectively, which shall be received in Exchange, shall be subject to the same Settlements, Devises, Intails, Limitations, Uses, Trusts, and Incumbrances, as the respective Premises for which they shall be exchanged shall have been subject or liable to immediately before exchanging respectively; and provided also, that no such Exchange shall be made by the said Rector or Vicar of the Parish of *Whitford* for the Time being, without the Consent of the Lord Bishop of *Saint Asaph* for the Time being, under his Hand and Seal, first had and obtained.

Power for the Owners and Mortgagees of Allotments to borrow Money.

LXII. And be it further enacted, That it shall be lawful for the several Owners for the Time being of any Allotment or Allotments to be made by virtue of this Act, being Tenants for Life or in Tail, and for Mortgagees in Possession, or after Breach for Redemption broken, and also for the Husbands, Guardians, Trustees, Committees, or Attornies, of or for such of the said Owners and Proprietors as shall be under Coverture, Infants, Children unborn, Idiots, Lunatics, or beyond the Seas, or otherwise incapable of acting for themselves, and for the Trustees for any Charity or Charities, or other Uses, and for every or any of them respectively, (other than and except the Rector and Vicar of the said Parish of *Whitford* for the Time being), to borrow, and by Writing under his, her, or their Hand and Seal or Hands and Seals, from Time to Time to charge the Allotment or Allotments of the said Commons, Waste Lands, and Marshes which shall be allotted and set out unto such Owners or Proprietors, Mortgagees, or their Mortgagees, or other Persons as aforesaid respectively, by virtue or in pursuance of this Act, with such Sum or Sums of Money as the said Commissioner shall, by Entry in Writing in his said Book, or upon the Deed or Instrument of every such Charge respectively, signed by him, direct or appoint, not exceeding Five Pounds for every Acre of Statute Measure of the Lands so to be allotted to them respectively, to be paid to such Person or Persons as the said Commissioner shall appoint, in order to be applied and disposed of towards the Expences of fencing and improving the said Allotments respectively; and for securing the Repayment of such Sum or Sums of Money, with Interest, every or any such Owner and other Person aforesaid, may demise and grant in Mortgage such Allotment or Allotments, unto or in Trust for any Person or Persons who shall respectively advance and lend such Money, his, her, and their respective Executors, Administrators, or Assigns, for any Term or Number of Years; so as every such Demise or Grant be made with a Proviso or Condition for Redemption, or to cease and be void, or with an express Trust to be surrendered, when the Money thereby secured, with the Interest thereof, shall be fully satisfied and paid; and so as in every such Demise or Mortgage, from or on Account of all and every Tenant or Tenants for Life or Lives, there be contained a Covenant to pay and keep down the Interest of the said Money so secured, during his, her, or their respective Life or Lives, in such Way and Manner as that no Person or Persons coming afterwards in Remainder or Reversion, shall be subject or liable to pay further or larger Arrear

Arrear of Interest than for One Year preceding the Death of the Tenant for Life, or the Time when the Right of Possession of the Remainder Man or Reversion shall accrue and commence; and every such Grant, Mortgage, Demise, or Charge of the said Lands and Premises, or any Part or Parts thereof so to be made in pursuance of this Act, shall be good and effectual in the Law for the Purposes thereby intended, notwithstanding the Want of Title in any Party or Parties, Person or Persons whomsoever, interested or concerned in such Allotment or Allotments, or granting or demising the same, or in Tenants in Tail or for Life, Mortgagees or Trustees for any Charity or Charities or other Use, and notwithstanding any Settlement, Will, Trust, or Use, Remainder, Limitation, Equity of Redemption, or other Impediment or Incumbrance; and all and every Person and Persons to whom any Mortgage, Lease, or Demise shall be made by virtue of this Act, or who shall be entitled to the Money thereby secured, may from Time to Time, by any Deed or Deeds, Writing or Writings, under his, her, or their Hand and Seal or Hands and Seals, to be executed in the Presence of a credible Witness or Witnesses, assign or transfer the same Security or Securities, or Principal Money and Interest thereby secured, and all Benefit and Advantages thereof, and all his, her, and their Right, Title, and Interest, of, in, and to the same, unto any Person or Persons whomsoever, who may again in the like Manner re-assign the same when and so often as Occasion shall require; and such Mortgagee or Mortgagees, Assignee or Assignees, his, her, or their Executors or Administrators, and all Persons claiming under them, or any of them, shall and may use, take, and pursue such lawful Methods, Courses, and Expedients at Law or in Equity, for recovering and obtaining Possession of the Premises so to be mortgaged, assigned, and demised as aforesaid, in case of Non-payment of the Principal and Interest thereby secured, or any Part thereof, as are or can be used, taken, or pursued upon other Mortgages.

LXIII. And be it further enacted, That if any of the Parties interested in the said Division and Inclosure, shall die before the same shall be made, the Powers and Authorities hereby given shall not be determined or suspended, but the Commissioner, Surveyor, and Engineer for the Time being, shall proceed to execute the Powers and Authorities by this Act to them respectively given; and the Share of the Person or Persons so dying, shall be allotted to the Person or Persons who is or are, or shall be entitled thereto, and shall be accepted, fenced, held, and enjoyed by him, her, or them, respectively, according to the Terms and Conditions prescribed by this Act.

Death of Parties not to interrupt the Execution of this Act.

LXIV. And be it further enacted, That if any Person or Persons shall carry or convey out of the said Parish of *Whitford*, or sell, bargain, or agree for the Sale of any Limestone or other Stone, Gravel, Sand, Earth, Marl, or Clay, or Brick made of any Earth, Marl, or Clay, which shall be found, hewn, dug, or raised in or upon the said Allotments to be set out for the common Use and Supply of the Parish, or on or upon Lands to be exchanged for that Purpose, he, she, or they in any of the said Cases

Penalties for selling Stone, &c. from public Allotments.

LXVIII. And be it further enacted, That if any Action, Suit, or Information, shall be commenced or prosecuted against any Person or Persons for any Thing done or to be done in pursuance of this Act, or in Execution of any of the Powers hereby given, every such Action, Suit, or Information, shall be commenced within Six Calendar Months next after the Cause of such Action shall have arisen, and not afterwards, and shall be brought or laid in the said County of *Flint* and not elsewhere; and the Defendant or Defendants in every such Action, Suit, or Information, shall plead the General Issue only, or if in Replevin justify and avow by virtue of this Act only; and give the special Matter in Evidence, which shall be a complete Defence in all Suits, Actions, and Cases arising from or under this Act.

Limitation of Actions.

LXIX. And be it further enacted, That this Act or any Thing herein contained shall not extend, or be construed to extend, to defeat, lessen, or prejudice the Right, Title, or Interest of the King's most Excellent Majesty, as Lord Paramount as aforesaid, or the said Sir *Thomas Mostyn*, as Lord of the said Manor of *Mostyn*, or of the said *Thomas Lord Grey de Wilton*, as Lord of the Manor of *Holywell, Fulbrook, and Greenfield*; but that His Majesty, His Heirs and Successors, and the said Sir *Thomas Mostyn* and *Thomas Lord Grey de Wilton*, their Heirs and Assigns, may, from Time to Time and at all Times hereafter, hold and enjoy all the Rents, Services, Courts, Perquisites and Profits of Courts, Deodands, Waifs, Estrays, Forfeitures, and all other Royalties, Privileges, Pre-eminences, Manerial Jurisdictions, and Appurtenances whatsoever, except Right of Common, or of Soil and Quarries, Springs and other Matters not being Mines or Minerals, which Quarries, Springs, and other Matters, not being Mines or Minerals, shall belong to the several Persons, Bodies Politick or Corporate, to whom any Allotments shall be made by virtue of this Act; and which said Mines or Minerals shall continue to belong to such Person or Persons, Body or Bodies Corporate or Politick, as was or were lawfully entitled to the same before the passing of this Act.

Manerial Rights saved.

LXX. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politick or Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, (other than and except the several Persons, Bodies Politick or Corporate, to and among whom the said Commons, Waste Lands and Marshes shall be allotted and divided by virtue of this Act, and whose Rights are hereby intended to be barred, and other than and except all and every Person and Persons, his, her, and their Successors, against whom any Verdict or Judgement shall pass or be given in any Action or Actions at Law brought by him, her, or them, or any of them, or upon any Reference to the said Commissioner of Appeal under this Act, to try any Claim or Right as aforesaid), all such Right, Title, and Interest, as they, every, or any of them, had and enjoyed of, in, to, within, upon, under, or out of the said Commons, Waste Lands, and Marshes, at the Time of passing this Act, or could or might have had or enjoyed in case this Act had not been made.

General Saving.

Act. (LXXI. And be it further enacted, That this Act shall be deemed, ad-
judged, and taken to be a public Act, and be judicially taken Notice of
as such, by all Judges, Justices, and other Persons whomsoever, without
the same being specially pleaded.

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