



ANNO QUADRAGESIMO PRIMO

GEORGI III. REGIS.

Cap. 77.

An Act for dividing, allotting, inclosing, draining, and improving several Common Moors, called *Sydney Moor, Small Moor, Rodway Moor, Waters-Upton Moor*, and other Commons and Waste Lands, within the several Parishes of *Rockwardine, Eyton, Kynnersley*, and *Waters-Upton*, in the County of *Salop*, and within the several Townships of *Crudgeington* and *Sleap*, in the Parish of *High-Ercall*, otherwise *Ercall-Magna*, in the same County. [20th June 1801.]

WHEREAS there are within the several Parishes of *Rockwardine, Eyton, Kynnersley*, and *Waters-Upton*, some or one of them, in the County of *Salop*, and within the Townships of *Crudgeington* and *Sleap*, or One of them, in the Parish of *High Ercall*, otherwise *Ercall Magna*, in the same County, certain Common Moors, called *Sydney Moor, Small Moor, Rodway Moor, Waters-Upton Moor*, and certain other Commons and Waste Lands, containing in the Whole, by Estimation, Seven hundred and fifty Acres, or thereabouts: And whereas the Most Honorable *Granville* Marquis of the County of *Stafford* is Lord of the

[Loc. & Per.] 16 S Manor

Manor of *Kynnersley* aforesaid, and as such is entitled to the Soil of such Part or Parts of the said Common Moors, and other Commons and Waste Lands, as is or are situated within the same Manor: And whereas the Right Reverend Father in God *Richard*, by Divine Providence Lord Bishop of *Londaff*, is the Rector of the said Parish of *Kynnersley*, and as such, is entitled to all the Tithes, great and small, arising within the same Parish, and is also entitled to certain Glebe Lands lying therein: And whereas the said Marquis of the County of *Stafford* is likewise Lord of the Manors of *Crudgeington* and *Sleap* aforesaid, and as such, is entitled to the Soil of such Part or Parts of the said Common Moors, and other Commons and Waste Lands, as is or are situated within the same Manors, or either of them, and the said Marquis is also Impropiator of all the great Tithes arising within the Townships of *Crudgeington* and *Sleap* aforesaid, or either of them: And whereas the said Marquis of the County of *Stafford* is Lord of the Manor of *Waters-Upton* aforesaid, and is entitled to the Soil of such Part or Parts of the said Common Moors, and other Commons and Waste Lands, as is or are situated within the same Manor: And whereas the Reverend *Thomas Hatton* Clerk, is Rector of the Parish of *Waters-Upton* aforesaid, and as such is entitled to all the Tithes, great and small, arising within the said Parish, and also to certain Glebe Lands lying therein: And whereas the Right Honourable *Charles* Earl of *Sbrewsbury*, the Right Honourable *Thomas Noel* Lord *Berwick*, and *Revell Phillips* Esquire, are Lords of the Manor of *Rockwardine* aforesaid, and as such are entitled to the Soil of such Part or Parts of the said Common Moors, and other Commons and Waste Lands, as is or are situated within the said Manor: And whereas *William Cludde* Esquire, is Impropiator of all the Tithes of Corn and Grain arising within the said Parish of *Rockwardine*, and the Reverend *Joshua Gilpin* Clerk, is Vicar of the same Parish, and as such is entitled to all the small Tithes arising within the said Parish, and also to certain Glebe Lands lying therein: And whereas *Thomas Eyton* Esquire, is Lord of the Manor of *Eyton* aforesaid, and also of the Manor of *Bratton*, within the Parish of *Rockwardine* aforesaid, and as such is entitled to the Soil of such Part or Parts of the said Common Moors, and other Commons and Waste Lands, as is or are situated within the said Manors, or either of them: And whereas the Reverend *John Rocke* Clerk, is the Rector of the said Parish of *Eyton*, and as such is entitled to all Tithes, great and small, arising within the said Parish, and also to certain Glebe Lands lying within the same Parish: And whereas the said *Granville* Marquis of the County of *Stafford*, *Charles* Earl of *Sbrewsbury*, *Thomas Noel* Lord *Berwick*, *Revell Phillips*, *Thomas Eyton*, and *William Cludde* Esquires, and also Sir *William Pulteney* Baronet, *Saint John Charlton* Esquire, *Charles Price Stanier*, *Richard Emery*, *Stephen Jennins*, *Martha Rowe* Widow, *William Cheshire Glover*, *John Wase*, and others, are the Owners of divers Messuages, Lands, and Tenements, within the said several Parishes, Manors, and Townships, in respect whereof they severally are, or claim to be entitled to Right of Common of Pasture upon the said several Common Moors, and other Commons and Waste Lands respectively, or upon some Part or Parts thereof: And whereas the said Common Moors are in their present State subject to Inundation, and are frequently overflowed by several Brooks, Rivulets, and Water-courses, running through or near the same, and various Parts thereof are unsound and boggy, and are in their present State incapable of any material

material Improvement: But if such Brooks, Rivulets, and Watercourses were diverted and made straighter, wider, and deeper, proper Falls obtained, and proper Embankments and Drains made, and the Waters of the said Brooks, Rivulets, and Watercourses were put under due Regulation, as well for the Purposes of draining and floating the said Moors, as of draining and floating the adjacent Lands, and the said Common Moors and other Commons and Waste Lands were divided and inclosed, and specifick Parts thereof allotted to the several Persons interested therein, according to their respective Rights, not only the said Moors, and other Commons and Waste Lands, but a considerable Extent of Land already inclosed, might and would be greatly improved, to the Advantage of the Owners thereof, and of the Publick in general: But as such Improvements cannot be accomplished, nor such Division and Inclosure, or the necessary Works of Embankment, Drainage, and Floating rendered permanent and effectual, without the Authority of Parliament; may it 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 Content of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *John Bishton* the Younger, of *Kilsall*, in the said County of *Salop* Gentleman, (and his Successor for the Time being, to be elected in Manner herein-after mentioned) shall be, and is hereby appointed, the Commissioner for setting out, dividing, and allotting the said Common Moors, and other Commons and Waste Lands, and for draining, embanking, and improving the same, and for doing, ordering, and directing such Matters and Things, as shall be expedient for the Purposes of this Act, and for carrying it fully into Execution.

Appointment
of Commis-
sioner.

II. Provided always, That the said *John Bishton*, or his Successors, or any other Person, shall not act, nor be capable of acting as a Commissioner in the Execution of this Act (except in giving Notice of the First Meeting) nor as a Surveyor, until he shall have taken and subscribed the Oath following; (that is to say)

Commissioner
not to act till
sworn.

I do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgement, execute the Trusts reposed in me, by virtue of an Act made for dividing, allotting, inclosing, draining, and improving several Common Moors, called *Sydney Moor*, *Small Moor*, *Rodway Moor*, *Waters-Upton Moor*, and other Commons and Waste Lands, within the several Parishes of *Rockwardine*, *Eyton*, *Kynnersley*, and *Waters-Upton*, in the County of *Salop*, and within the several Townships of *Crudgeington* and *Sleap*, in the Parish of *Higb Ercall*, otherwise *Ercall Magna*, in the same County.

So help me GOD.

Oath.

Which Oath it shall be lawful for any One of His Majesty's Justices of the Peace for the County of *Salop* (and which he is hereby authorized and required to do) to administer to the said Commissioner; and the said Oath, taken and subscribed by such Commissioner, and also the Instrument of Appointment of any new Commissioner, if any, as also his Oath, shall be enrolled or deposited in the same Place as the Award or Instrument herein-after directed to be made by the said Commissioner, is by this Act directed to be enrolled or deposited.

III. And

Mode of Appointment of succeeding Commissioners.

III. And be it further enacted, That the said *John Bishton* shall, and he is hereby required, immediately after he shall have taken and subscribed the said Oath, by Writing under his Hand and Seal, to nominate and appoint a fit and proper Person (not interested in the said Inclosure, Embankment, Drainage, or Improvement) as his Successor; and in case the said *John Bishton* shall die, or refuse or neglect to act as a Commissioner in the Execution of this Act, for the Space of Three Calendar Months after being thereunto required, by Notice in Writing signed by any Three or more Persons interested in the said Common Moors, and other Commons and Waste Lands, or in any of them, and left at his usual Place of Abode, then and in such Case, the Person so nominated and appointed by the said *John Bishton* (having first taken and subscribed the said Oath) shall be the Commissioner for carrying this Act into Execution, and shall have the like Powers and Authorities as the said *John Bishton*, and shall be subject to the like Rules, Orders, Regulations, and Restrictions, and shall by Writing under his Hand and Seal, nominate and appoint a Successor in Manner aforesaid, to be the Commissioner for carrying this Act into Execution; and so *toties quoties*, whenever any Person, so nominated and appointed as a Successor, shall become a Commissioner.

Mode of appointing Commissioners, in case of the Death Declining or Omission of a former Commissioner.

IV. Provided always, and be it further enacted, That if the said *John Bishton*, or any other Person acting as a Commissioner in the Execution of this Act, shall not have appointed a Successor as aforesaid; or if such Successor, when so nominated and appointed, shall die, or shall refuse, or neglect to act for the Space of Three Calendar Months as aforesaid, then and in such Case it shall be lawful for the Persons interested in the said Common Moors, and other Commons and Waste Lands, hereby directed to be inclosed, or the major Part in Value of them, who shall attend a Meeting, in Person or by Proxy, duly authorized in Writing, under his, her, or their Hand or Hands, to be holden for that Purpose, from Time to Time, to elect and appoint a new Commissioner (not interested in the said Inclosure, Embankment, Drainage, or Improvement) in the Place or Stead of the Commissioner so dying, refusing, or neglecting to act as aforesaid; but Notice in Writing of the Time and Place of Meeting, for every such Election, shall be fixed on the principal Door of the respective Parish Churches of *Rockwardine, Eyton, Kynnersley, Waters-Upton, and High-Ercall* aforesaid; and be inserted in One of the *Shrewsbury* Newspapers, or in some other publick Newspaper, usually circulated in the County of *Salop*, at least Fourteen Days before any such Meeting; and every such new Commissioner, whether nominated by his Predecessor or elected as aforesaid, having taken and subscribed the Oath herein-before prescribed, before One of His Majesty's Justices of the Peace for the said County of *Salop*, shall have the like Powers and Authorities for putting this Act in Execution, and shall conform to the Directions thereof, in like Manner as the said *John Bishton*, or any other Commissioner, is by this Act invested with or required to do,

Commissioner to give Notice of his Attendance.

V. And be it further enacted, That the said Commissioner shall cause Notice to be given, in Writing, to be affixed on the principal Door of the said several Parish Churches of *Rockwardine, Eyton, Kynnersley, Waters-Upton, and High-Ercall* aforesaid, and to be inserted in One of the *Shrewsbury* Newspapers, or in some other publick Newspaper usually circulated in the said County of *Salop*, of the Time and Place of his First, Second, Third,

Third, and Fourth Attendance, for executing the Powers hereby vested in him, at least Eight Days before any such Attendance; Attendances by Adjournment only excepted, and which Adjournments may be made by the said Commissioner from Time to Time as he shall see Occasion.

VI. And be it further enacted, That the said Commissioner with the Lords of the said several and respective Manors, and other Persons interested therein, or with such of them, or such of their respective Agents or Attornies as shall attend, shall at such Time or Times as the said Commissioner shall appoint, by giving such Notice thereof as is herein-before directed for the Attendance of the said Commissioner, openly, publickly, and in the Day Time, ride or perambulate, or cause to be rode or perambulated, the Boundaries of the said several Manors, and of the said several Parishes of *Rockwardine, Epton, Kynnersley, and Waters-Upton*, and of the said several Townships of *Crudgeington and Sleap*, and likewise of the said several Common Moors, and other Commons and Waste Lands, or such Part or Parts of the said Manors, Parishes, or Townships, or of the said Common Moors, and other Commons and Waste Lands respectively, as he shall think necessary or proper for the Purposes of this Act, and shall set out and denote the Boundaries of the said several Manors, Parishes, and Townships, upon or adjoining to the said Common Moors, and other Commons and Waste Lands, by Ditches, Stakes, Stones, or other visible Marks.

Boundaries
to be peram-
bulated.

VII. And be it further enacted, That all Persons, and Bodies Corporate or Politick, who shall have any Claim or Claims which may affect the same Boundaries, or any Common or other Right or Interest in or upon the said Common Moors, and other Commons and Waste Lands, or any of them, are hereby required to deliver in, or cause to be delivered in to the said Commissioner, at the next Attendance subsequent to such Perambulation, or some Adjournment thereof, an Account or Schedule in Writing, signed by him, her, or them, or by the Husband, Guardian, Trustee, Committee, Attorney, or Agent of him, her, or them, respectively, stating the Nature and Extent of such his, her, or their respective Claim or Claims, and whether in respect of Freehold, Copyhold, or Leasehold Premises, and the Description and Contents of every Part thereof respectively; and if any Person or Persons, or Body Corporate or Politick, having such Claim or Claims affecting the Boundaries before-mentioned, or the said Common Moors, and other Commons and Waste Lands, or any of them, shall neglect to deliver, or cause to be delivered, such Account or Schedule as aforesaid to the said Commissioner, at his said Attendance, or some Adjournment thereof; or in case any Account or Schedule so delivered, or the Claim or Claims thereby made, or any of them, shall be objected to by the Lords of the said several Manors, or any of them, or by Two or more Persons affected thereby, in Writing, signed in like Manner as is herein-before directed, as to the said Claims, and delivered in to the said Commissioner, at his Second Attendance subsequent to the said Perambulation, or any Adjournment thereof, and the Party or Parties making such Claim or Claims respectively, shall not, at the Third Attendance of the said Commissioner, subsequent to the said Perambulation, or any Adjournment thereof, persist therein, by Writing signed and delivered in Manner aforesaid, then they, and every of them respectively, shall be totally barred and excluded of and from all Right and Title in, to, or upon the said Common Moors, and other Commons and Waste

Claims to be
delivered in.

Objections to
be also deli-
vered.

Lands respectively, and of and from all Benefit and Advantage in or to any Share or Allotment thereof on the said intended Division; and the said Commissioner, at any subsequent Attendance, by Examination of any Witness or Witnesses, upon Oath (which Oath he is hereby empowered to administer), or by other proper and sufficient Evidence and Inquiry, shall and may hear and determine upon all and every such Claim and Claims so made, objected to, and persisted in as aforesaid, and shall and may ascertain and determine all and every Part and Parts of the said Boundaries; and his Determination therein, as also every Claim which shall be so delivered, and not objected to as aforesaid, and all and every such Part and Parts of such Boundaries, against which no Claim shall be delivered as aforesaid, shall be valid, final, binding, and conclusive, and stand confirmed, finally and conclusively, unto, upon, and against all Persons and Bodies Corporate or Politick whatsoever, and shall not be further litigated, controverted, or disputed.

Claims and
Objections to
be left for
Inspection.

VIII. And be it further enacted, That the said Commissioner shall leave a Copy or full Abstract of the said Claims for Inspection, at such convenient Place or Places as he shall think proper, during the Space of Fourteen Days previous to the Time which shall be appointed for receiving Objections thereto; and shall also leave a fair Copy or full Abstract of the said Objections for Inspection, at some such convenient Place or Places as aforesaid, during the Space of Twenty-one Days previous to his receiving any Evidence thereon, or respecting any Boundary or Claim thereby objected to; or shall deliver a like Copy or Abstract of such Objection or Objections to the respective Parties affected thereby, Fourteen Days at least previous to the hearing thereof, exclusive of the Day of delivering such Notice and the Day on which such hearing is to take place; and the said Copies or Abstracts of the said Claims and Objections respectively, so left as aforesaid, shall every Day, between the Hours of Ten in the Forenoon and Four in the afternoon (*Sunday* excepted) during the respective Times aforesaid, be open (*gratis*) to the Inspection of all Parties interested or affected, or claiming to be interested or affected, in or by the said Perambulation, Division, or Inclosure, and their respective Attornies or Agents.

Appeal to
Sessions as to
Boundaries.

IX. Provided always, That if any Person or Persons interested in the Determination of the said Commissioner respecting the said Boundaries, or any of them, shall be dissatisfied therewith, such Person or Persons may appeal to the Justices of the Peace, acting in and for the said County of *Salop*, at any General Quarter Sessions of the Peace to be holden within Four Calendar Months next after such Determination shall be made, entered, and signed by him, in his Book of Minutes of his Proceedings under this Act; and the Decision of the said Justices therein shall be final and conclusive.

For varying
Boundary
Fences.

X. But forasmuch as the Boundaries between the said several Manors of *Rockwardine, Epton, Kynnersley, Waters-Upton, Crudgeington* and *Sleap*, as well in respect of each other as in respect of other Manors, Parishes, and Townships adjoining thereto respectively, are in several Parts confused and irregular be it therefore enacted, That it shall be lawful for the said Commissioner, with the Consent in Writing, under the Hand or Hands of the Lord or Lords of the said Manors respectively, to set out, ascertain, and fix

fix the Boundaries to be made between all or any of the said Manors, or any Part or Parts thereof, as he shall judge proper; and after every such Boundary shall be so set out and ascertained, the same shall, for ever thereafter, be deemed and taken to be the Boundary between the said several Manors respectively, any Law, Usage, or Custom to the contrary notwithstanding.

XI. And be it further enacted, That the said Commissioner shall cause a correct Survey, Admeasurement, and Plan, as well of the said Common Moors, and other Commons and Waste Lands, as of such of the ancient inclosed Lands lying within the said several Parishes of *Rockwardine*, *Eyton*, *Kynnersley*, and *Waters-Upton*, and the said Townships of *Crudgeington* and *Sleap*, or elsewhere, having Right of Common upon the said Moors, and other Commons and Waste Lands, or being otherwise in his Judgement connected with, or affected by the Execution of this Act, to be made by such Person or Persons as the said Commissioner shall appoint for that Purpose; which Survey, Admeasurement, and Plan, shall be reduced into Writing, and the Number of Acres, Roods, and Perches contained in each and every of the said Common Moors, and other Commons and Waste Lands, and of the said ancient inclosed Lands belonging to each Proprietor, shall be therein set forth and ascertained; and the same shall be laid before the said Commissioner, at his several Attendances for the Purposes of this Act, or when he may require the same, and shall be verified upon Oath, by the Person or Persons making the same (which Oath the said Commissioner is hereby empowered to administer); provided nevertheless, that if any Plan or Plans, Survey or Surveys, already made of the said Common Moors, and other Commons and Waste Lands, or any of them, or of the said ancient inclosed Lands, or any Part or Parts thereof respectively, shall be produced and laid before the said Commissioner, at his first or second Attendance, of the Correctness whereof he shall be satisfied, it shall be lawful for the said Commissioner to make use of the same, without causing any new Survey to be made thereof.

Survey and
Plan to be
made.

XII. And be it further enacted, That the said Commissioner for the Time being, and the Surveyor or Surveyors to be appointed in pursuance of this Act, and his and their Servants and Assistants, and all Persons by them respectively or otherwise employed, for the Purposes and in Execution of this Act, shall have, and they are hereby respectively invested with full Power and Authority, at any Time or Times whatever, to enter into, view and examine, survey and admeasure, and to do all such other Matter and Things in and upon all and every the said Common Moors, and other Commons and Waste Lands, and in and upon all and every the inclosed Lands, as shall be necessary or expedient for the Purposes of this Act.

Power to
enter Lands.

XIII. And be it further enacted, That for the Purpose of draining, and also of watering and improving, as well the said Common Moors, and other Commons and Waste Lands, as any other Lands within the said several Parishes of *Rockwardine*, *Eyton*, *Kinnerley*, and *Water's-Upton*, or any of them, or within the said Townships of *Crudgeington* and *Sleap*, or either of them, or any Lands within any other Parish, Township, or Place adjoining to any of the aforesaid Parishes or Townships, it shall be lawful for the said Commissioner to take down, remove, or alter, any Dams, Buildings,

For embank-
ing and drain-
ing Lands.

ings, Weirs, Erections, and other Impediments, within the said Parishes of *Rockwardine, Eyton, Kinnerley, and Water's-Upton*, or any of them, or within the said Townships of *Crudgeington and Sleap*, or either of them, or within any other Parish, Township, or Place adjoining to the said Parishes or Townships, or any of them, or so much thereof, and in such Manner as shall, in his Opinion be necessary, making full Compensation for the same, to be ascertained by the said Commissioner to the respective Owners and Occupiers thereof; and such Commissioner shall and may also straighten, widen, deepen, alter, enlarge, contract, turn, change, discontinue, or stop the present Course of any Stream, Rivulet, or Brook, and of the present Watercourses, Drains, and Ditches, within such Parishes, Townships, or Places, or any of them, as he shall see convenient, and also shall and may set out, appoint and make, or direct to be made, any new Watercourses, Sluices, Drains, Ditches, Cuts, Dams, Stanks, Tunnels, Culverts, Banks, Bridges, Trays, Stamps, Outlets, Weirs, Engines, Embankments, Gauges, Fences, and other Works, in, through, and upon any Lands within the said several Parishes of *Rockwardine, Eyton, Kynnersley, and Water's-Upton*, or any of them, or within the said Townships of *Crudgeington and Sleap*, or either of them, or any other Parish, Township, or Place adjoining to any of the aforesaid Parishes or Townships, as he shall think necessary or proper (such Lands not being a Garden, Orchard, planted Walk, or Avenue to any House before the passing of this Act, unless with the Consent of the Owner or Owners thereof respectively for the Time being) making full Satisfaction (to be ascertained as aforesaid) to the Owners and Occupiers of any Buildings or Lands within the said several Parishes of *Rockwardine, Eyton, Kynnersley, and Water's-Upton*, or within the said Townships of *Crudgeington and Sleap*, or any of them, or within any other Parish, Township, or Place adjoining thereto, who shall be injured thereby; and such Streams, Rivulets, or Brooks, Watercourses, Sluices, Drains, Ditches, Cuts, Dams, Stanks, Tunnels, Culverts, Banks, Bridges, Trays, Stamps, Outlets, Weirs, Engines, Embankments, Gauges, Fences, and other Works, which shall be so straightened, widened, altered, changed, set out, appointed, and made respectively, (save such Drains, Ditches, or other Matters and Things as are herein-after directed to be preserved, cleansed, or repaired, by the Owners or Occupiers of the Lands whereon or to which such Drains, Ditches, or other Matters or Things shall be or belong respectively) shall from Time to Time, for ever afterwards, be preserved, cleansed, scoured, amended, changed, removed, renewed, maintained, and kept in Repair, as often as Occasion shall require, by a Surveyor to be elected and appointed for that Purpose, as herein-after mentioned; and the Expence of such Repairs, Renewals, and Alterations (including a reasonable Allowance to the said Surveyor or any Person or Persons to be employed by him for his and their Time and Trouble therein) to be ascertained and allowed by One of His Majesty's Justices of the Peace for the said County of *Salop*, not interested therein, from Time to Time, as the same shall be incurred, and verified on Oath by the said Surveyor, before the said Justice, shall be reimbursed and repaid to the said Surveyor, upon Demand, by the Owners or Occupiers of such of the Lands, within the said Parishes, Townships, or Places respectively, as shall be benefited by such Works, Matters, and Things (but not by any Owner or Occupier of Lands not benefited thereby) in Proportion only to the Benefit they shall respectively receive; and which Proportion, and the

Lands

Lands liable to be charged therewith, shall be ascertained and settled by the said Commissioner, in and by his Award, to be made as herein-after mentioned: And in the mean Time, and until such Award shall be made, by any Writing or Writings under the Hand of such Commissioner (which Writing or Writings shall be binding and conclusive) and the Occupiers or Tenants of such Lands shall have a written Receipt for the Money by them from Time to Time respectively paid, and may deduct the same out of the Rent or Rents payable to his, her, or their respective Landlord or Landlords; and such Landlord or Landlords is and are hereby required, upon the Production of such Receipt or Receipts, to pay or allow such Deduction accordingly.

XIV. Provided always, That nothing herein contained shall extend, or be construed to affect any Contract now subsisting between any Landlord and Tenant, or to prevent any Landlord or Landlords from agreeing or contracting with his, her, or their Tenant or Tenants, for the Payment of all or any Part of such Expences by any such Tenant or Tenants, as he, she, or they shall think proper.

Not to affect Contracts between Landlord and Tenant.

XV. Provided also, and it is hereby further enacted and declared, That nothing in this Act contained shall extend to empower, or be construed to empower the said Commissioner, or any other Commissioner to be appointed by virtue of this Act, or any other Person, to take down any Mill, or to remove or alter the Flood Gates, Dams, or Wiers, of or belonging thereto, or to take away or divert any of the Streams, Rivulets, or Brooks, from the same, without the Consent in Writing of the Owner and Owners thereof respectively; but that all such Streams, Rivulets, and Brooks, which now flow to such Mills respectively, shall continue so to do in as full and ample Manner, in all Respects, as they now do, may, or can; save and except such Flood and Drain Waters as may be necessary to be conveyed and carried off by the Side of such Mills, in order the more effectually to prevent the said Lands from being overflowed in Time of Floods, and to drain and improve the same, according to the true Intent and Meaning of this Act.

Mills not to be prejudiced.

XVI. And be it further enacted, That such last-mentioned Surveyor, shall from Time to Time, for ever hereafter, be elected and appointed, and shall be removeable, and may be removed, and another appointed in his Stead, at a publick Meeting or Meetings to be held in the Town of *Wellington*, or within Five Miles thereof, in the said County of *Salop* (of which, and of the Purpose of holding the same, such previous Notice shall be given by the Lords or Lord of the aforesaid Manors, or any of them for the Time being, or by their or any of their Agents or Attornies, or by any Five or more of the Proprietors of any Lands or Tenements within the said Parishes of *Rockwardine*, *Eyton*, *Kynnersley*, and *Water's Upton*, or any of them, or within the said Townships of *Crudgeington* and *Sleap*, or either of them, being interested in the said Embankments, Drainage, and Watering, as is herein-before required, to be given of the Attendance of the said Commissioner) by such of the said Lords and Proprietors, liable to contribute to the Expences of such Embankments, Drainage, and Watering as aforesaid, as shall attend either personally, or by their respective Husbands, Guardians, Trustees, Committees,

Appointment of Surveyor of Embankments, &c.

tees, Attornies, or Agents, or the major Part in Value of them (such Value to be ascertained by the Rate specified in the Award or Writing of the said Commissioner as aforesaid); and such Lords and Proprietors, or such major Part of them may, at any such Meeting or Meetings, from Time to Time, allow to the said Surveyor such reasonable Salary, for his Trouble in the Execution of his Duty therein, as shall be thought proper, and which Salary shall be and is hereby declared to be part of the Expences of cleansing, repairing, and maintaining or altering the said Watercourses, Floodgates, Sluices, Drains, Embankments, Gauges, and other Works as aforesaid.

Power to get
Materials.

XVII. And be it further enacted, That it shall be lawful for the said Commissioner and Surveyor respectively, or any other Person or Persons, by either of them authorized or employed, to enter, search for, get, lay, and carry away, such Stone or other Materials, Matters, and Things, for the Purpose of making and repairing all and every such Embankments, Weirs, Bridges, Dams, and other Matters and Things, for or about such Drainage or Floating, or other the Purposes of this Act, in, upon, from, and through any Lands, within the aforesaid Parishes, Townships, or Places, or any of them, as the said Commissioner or Surveyor shall think proper, making reasonable Satisfaction to the Owners and Occupiers of the Lands in, upon, from, or through which such Stone, or other Materials, Matters, or Things, shall be searched for, gotten, laid, or carried, for the Damages to be occasioned thereby, in such Manner as Satisfaction is by this Act directed to be made for any other Damages to be occasioned by the Execution of this Act.

Not to be
subject to the
Commissioners
of Sewers.

XVIII. Provided always, and be it further enacted, That the said Brooks, Rivulets, Drains, Ditches, and other Watercourses, or other Works, Matters, and Things, by this Act authorized to be diverted, straightened, widened, deepened, made, or done, shall not be subject to the Controul, Direction, Survey, or Order, of any Commission of Sewers; any Law or Statute to the contrary notwithstanding.

Drains to be
kept open by
Owners or
Occupiers of
Lands.

XIX. And be it further enacted, That the Owner or Owners, Occupier or Occupiers of the several Lands intended to be drained, as aforesaid, shall, at all Times after the said Drainage shall be completed, keep the Fence Drains, and other Drains, Ditches and Gutters, of and belonging to his and their respective Lands, of such Width and Depth as the same shall have been made, or directed to be made by the said Commissioner; and also cause the same to be well and effectually scoured and cleansed from Weeds, and other Obstructions, and cause Tunnels to be laid therein, and Stocks or Inlets to be placed in and through the Banks, which shall be made for the Purposes aforesaid, where the same shall be needful, and in such Manner as the said Commissioner shall order, for the better issuing, running, and conveying of the Waters in, from, or through the same: And if any such Owner or Occupier shall refuse or neglect to keep such his or her Drains, Ditches, and Gutters of such Dimensions as shall be ordered by the said Commissioner, or to scour and cleanse the same from Weeds, or other Obstructions, after Twenty-one Days Notice to him or her given, or left at his or her last or usual Place of Abode, in Writing, under the Hand of the Surveyor thereof for the
Time

Time being, or of any other Person or Persons aggrieved thereby, it shall be lawful for the said Surveyor, or such other Person or Persons, to cause the same to be done in a proper and effectual Manner, the Expences whereof being verified upon the Oath of the said Surveyor, or such other Person or Persons, before any Justice of the Peace for the said County of *Salop*, (which Oath the said Justice is hereby empowered to administer), shall or may be levied by such Surveyor, or such or any other Person or Persons, by Warrant under the Hand and Seal of such Justice, by Distress and Sale of the Goods and Chattels to be found at any Time afterwards on the Lands, on or to which such Drains, Ditches, or Guttets shall be and belong, (together with the Charges of and attending such Warrant, Distress, and Sale, to be settled and allowed by such Justice, over and above any other Assessment or Tax chargeable or to be charged upon the same Lands, by virtue of this Act), rendering the Overplus (if any) to such Owner or Owners, Occupier or Occupiers respectively, when demanded.

XX. And be it further enacted, That it shall be lawful for the Owners and Occupiers of any Lands lying within the said Parishes of *Rockwardine*, *Eyton*, *Kynnersley*, and *Water's Upton*, or any of them, or within the said Townships of *Crudgeington* and *Sleap*, or either of them, or within any other Parish or Place adjoining to any of the said Parishes or Townships, charged with any Share or Proportion of the Expences of or attending the repairing, renewing, maintaining, or altering the several Embankments, Drains, and other Works, Matters, or Things aforesaid, to divert, turn, and use the Water of any of the said Brooks, Streams, Rivulets, or Watercourses, for the Purpose of floating and improving such and so much of the same Lands, at and for such Time or Times, in such Quantities or Proportions, upon and under such Terms, Circumstances, and Regulations, and in such Manner and Form, as the said Commissioner shall direct, in and by his said Award; and in the mean Time, until such Award shall be made as the said Commissioner shall direct, by any Writing or Writings under his Hand.

Powers and Regulations as to floating.

XXI. And be it further enacted, That if any sudden Breach or Injury shall happen to the said Watercourses, Sluices, Drains, Weirs, Floodgates, Embankments, Gauges, Fences, and other Works, Matters, and Things, or any of them, which may require immediate Stoppage, Renewal, Repair, or Amendment, the Owner or Occupier of any Lands or Tenements affected thereby, or liable to contribute thereto, may, without Delay, upon giving Notice in Writing of such Breach or Injury to the Surveyor thereof for the Time being, proceed to and in the said Stoppage, Renewal, Repair, and Amendment, until the Surveyor shall take the Direction and Management thereof: And if the said Surveyor shall not, without Delay, do, or cause to be done, such Acts, Matters, and Things as shall be necessary and proper for the effectual Stoppage of such Breach, and Prevention of any further Injury, and for the Preservation, amending, maintaining, and keeping the said Watercourses, Sluices, Drains, Weirs, Floodgates, Embankments, Gauges, Fences, and other Works, Matters, and Things, in proper Order, Repair, and Condition, after taking such Direction and Management as aforesaid, or after having had Three Days Notice in Writing of such Breach or Injury, or of any other Matter or Thing defective or wanting therein, then any such

Provision for sudden Breaches.

Punishment of Surveyor for Neglect of Duty.

Owner

Owner or Occupier may do, or cause the same to be done, and as well the Expence thereof, as of every such Stoppage, Repair, and Amendment of any such Breach or Injury, or other Matter or Thing as aforesaid, (including a reasonable Allowance for Trouble and Loss of Time), shall be ascertained in Manner aforesaid, and shall be repaid unto him, her, or them, by the said Surveyor; and every such Surveyor who shall neglect or refuse to do his Duty in the Premises, or to repay such Expence and Allowance, on the same being ascertained as aforesaid, and who shall be convicted thereof, either on his own Confession, or on the Oath of One or more credible Witness or Witnesses, before any Justice of the Peace for the said County of *Salop*, not interested therein, (who is hereby authorized and required to administer such Oath, and to hear and determine the same), shall, in Addition to such Expence and Allowance, pay to the Prosecutor or Complainant such Costs, and shall also forfeit and pay such further Sum (not exceeding Twenty Pounds nor less than Twenty Shillings) as such Justice shall adjudge and order; the said Penalty to be paid into the Hands of such Person or Persons as the said Justice shall appoint, and be applied towards the Expence of preserving, repairing, and maintaining the Embankments, Floodgates, Gauges, and other Works, Matters, and Things aforesaid.

Penalty on
Persons de-
stroying or
damaging
Works.

XXII. And be it further enacted, That all and every Person and Persons, who shall unlawfully, wilfully, and maliciously spoil, damage, injure, or destroy any Watercourse, Sluice, Drain, Gutter, Floodgate, Weir, Embankment, Gauge, Fence, or other Work, Matter, or Thing, which shall be made, erected, widened, or altered, in pursuance of this Act for the draining, watering, dividing, enclosing, preserving, or improving of any of the Lands within the said several Parishes, Townships, and Places, or any of them, shall, on Conviction thereof at any General Quarter Sessions of the Peace, to be holden in and for the said County of *Salop*, be deemed guilty of Felony, and shall be liable to be transported as a Felon, for any Time not exceeding Seven Years: But the Court before whom such Person or Persons shall be tried, may, in Mitigation of such Punishment, if they think fit, award such Sentence as the Law directs in Cases of Petit Larceny; or if any Person or Persons shall in any Manner wilfully, maliciously, or wantonly stop or obstruct any of the said Watercourses, Gutters, or Drains, or lay or place any Matter or Thing therein for that Purpose, or for impeding, or which shall impede the Course of the Water therein, or draw, or pull up, open, shut, or let down any of the Floodgates or Sluices, for the Purpose of doing or occasioning any Injury or Damage to any of the Lands within the said several Parishes, Townships, and Places, or any of them, every such Person being convicted thereof, on his or her voluntary Confession, or on the Oath of a credible Witness, before any Justice of the Peace for the said County of *Salop*, not interested in the Premises (who is hereby authorized and required to administer such Oath, and to hear and determine the same), shall forfeit and pay any Sum, not exceeding Twenty Pounds nor less than Twenty Shillings as such Justice shall adjudge and order, over and besides the Amount of the Damages thereby done, which Damages shall be ascertained by such Justice; and the said Forfeiture and Damages shall be paid to the Surveyor of the said Works for the Time being, and be applied in restoring and repairing the same, or otherwise for the general Benefit of the said Works.

XXIII. And

XXIII. And be it further enacted, That the Proprietors of the Lands, liable to contribute to the Preservation and Maintenance of the said Wiers, Embankments, Drains, Gauges, and other Works, Matters, and Things, or the major Part in Value of such of them as shall personally, or by their Agent or Attorney thereunto authorized, in Writing, be assembled, at any publick Meeting or Meetings for that Purpose, such Value to be ascertained in like Manner, and such Meeting or Meetings to be convened by the like Notice, as is herein before directed for or concerning the Appointment of a Surveyor thereof, shall and may make such Orders and Directions, (not being repugnant to Law, or to the Award of the said Commissioner), as to them shall appear proper and necessary, as to the Time or Times and Manner of raising or lowering the Waters of the said Brooks, Rivulets, or Watercourses, or of opening or shutting, or otherwise managing the said Weirs, Sluices, Floodgates, Gauges, Embankments, and other Works, Matters, and Things, or for the more effectually draining, flooding, preserving, and improving the said Lands, and the same at any subsequent Meeting or Meetings (of which such Notice shall be given as aforesaid) to alter, revoke, and renew, as Circumstances may require; and all and every Person and Persons not performing or observing such Orders and Directions, or any Order or Direction, made or given in and by the said Award, relating thereto, or to any other Matter or Thing concerning the said Inclosure, shall forfeit and pay any Sum not exceeding Twenty Pounds nor less than Twenty Shillings, to be adjudged, recovered, and applied in such Manner as in the Clause last preceding is directed, with respect to any Fine or Forfeiture for unlawfully or wantonly stopping or obstructing any of the said Watercourses, Gutters, or Drains, or impeding the Course of the Water therein, or drawing or shutting any of the Floodgates or Sluices, for the Purpose of doing or occasioning any Injury or Damage to the said Lands.

Proprietors of Lands at Meetings to direct the Management of the Works.

Penalty on not observing their Directions.

XXIV. And be it further enacted, That in the mean Time, and until the said Commissioner shall execute his Award, as herein-after mentioned, he the said Commissioner shall or may, from Time to Time, by any Writing or Writings under his Hand, order, direct, and appoint, in what Manner the said Common Moors, and other Commons and Waste Lands, hereby directed to be divided and enclosed, and any other of the Lands hereby intended to be embanked, drained, watered, or improved, shall be occupied, managed, and enjoyed, and whether to be sown, mowed, or grazed respectively; and may also, when he shall think convenient and necessary, determine or suspend all or any Part of the Rights of Common, in and upon the said Common Moors, and other Commons and Waste Lands, or any of them, or any Part or Parts of any of them, and shall cause Eight Days Notice thereof, in Writing under his Hand, to be affixed on the principal Door of the several Parish Churches of *Rockwardine, Eyton, Kynnersley, Water's-Upton, and High Ercall* aforesaid; and from and after such Notice given, all such Right of Common, as by such Notice or Notices shall be directed or declared to be determined or suspended, shall determine or be suspended, for such Time as the said Commissioner shall in and by such Notice direct; and if, after such Determination or Suspension, any of the Proprietors, or other Person or Persons, shall permit his, her, or their Cattle, Sheep, or other Stock, to depasture, feed, or go on any of the said Moors, or other Commons and Waste Lands, over which such Common Right shall be so determined or suspended, it

Commissioner may direct the Manner of Occupation, or determine or suspend any Right of Common.

[*Loc. & Per.*]

16 X

shall

shall be lawful for any other of the Proprietors, or for any Person authorized by the said Commissioner, to distrain the Cattle, Sheep, or other Stock found thereupon contrary to such Determination or Suspension, and impound the same until the Person or Persons so offending shall pay to the Person or Persons distraining the same, any Sum not exceeding Ten Shillings nor less than Five Shillings, for each of the Cattle, Sheep, or other Stock so distrained; and in case the same shall not be paid before the next Attendance of the said Commissioner after such Impounding, then the said Commissioner is hereby authorized, upon Proof of such Offence or Offences having been committed, and of the Nonpayment of the Penalty hereby imposed, to cause the Cattle, Sheep, or other Stock so distrained, or such of them as he shall think necessary, to be sold, for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Impounding, Distress, and Sale, rendering the Overplus (if any) to the Owner of such Cattle, Sheep, or other Stock upon Demand; and the said Commissioner shall and may, from Time to Time, by Writing or Writings under his Hand as aforesaid, make such further or other Orders and Directions in the Premises as he shall think necessary; and in case any Person or Persons shall act in any Manner contrary to such the Orders and Directions of the said Commissioner, every such Person shall, for every such Offence, forfeit and pay any Sum not exceeding Ten Pounds, and shall also pay the Amount of the Damages or Injury (if any) which shall be occasioned thereby; such Forfeiture and Damage to be ascertained by the said Commissioner, or by any Justice of the Peace for the said County of *Salop* not interested therein, and be paid to such Person or Persons, for such Uses and Purposes, and with such further Sum for Costs, as the said Commissioner or Justice shall direct.

Encroachments of more than 20 Years.

XXV. And be it further enacted, That all Cottages, Erections, Encroachments, and Inclosures, which shall have been erected and made upon, or from, or out of the said Common Moors, and other Commons and Waste Lands, or adjoining any Road or Roads, by any Proprietor or Proprietors of Freehold or Copyhold Messuages, Lands, or Tenements, within the said Parishes or Townships respectively, or by his, her, or their Tenant or Tenants, in respect of, or laid unto and occupied with his, her, or their Freehold or Copyhold Messuages, Lands, or Tenements, within the same Parish or Township, for the Space of Twenty Years or upwards before the passing of this Act, for which no Rent or Amercement hath been paid, or Attornment made to the Lord or Lords of the Manor, within which such Cottages, Erections, Encroachments, or Enclosures shall have been erected or made, shall be deemed, and are hereby declared to be, the sole and exclusive Property of such Proprietor or Proprietors respectively; and that all other Cottages, Erections, Encroachments, and Enclosures, which shall have been erected and made upon, or from, or out of the said Common Moors, or other Commons and Waste Lands, or adjoining any Road or Roads, for the Space of Twenty Years or upwards, before the passing of this Act, shall be deemed and are hereby declared to be the sole and exclusive Property of the Lord or Lords of the Manor within which such last-mentioned Cottages, Erections, Encroachments, or Inclosures shall have been so erected or made, or such other Person or Persons as shall claim the same by Conveyance from such Lord or Lords, or any of his or their Predecessors, Lord or Lords of the said Manor; but no Allotment shall be made to the said Proprietor
or

or Proprietors, or to the said Lord or Lords, or other Person or Persons; for or in respect of any Common Right which shall or may be claimed by reason of such Cottages, Erections, Encroachments, or Inclosures, or any of them; and also that all Encroachments and Inclosures made upon or from or out of the said Common Moors, or other Commons and Waste Lands, within the Space of Twenty Years before the passing of this Act, shall be deemed Part and Parcel of the said Common Moors, and other Commons and Waste Lands, and such of them as shall have been made by any such Proprietor or Proprietors as aforesaid, or his, her, or their Tenant or Tenants, in respect of, or laid unto and occupied with such his, her, or their said Freehold or Copyhold Messuages, Lands, or Tenements, and for which no Rent hath been paid, or Attornment made to the Lord or Lords of the said Manors respectively, shall, with all Buildings and Erections thereon, be set out and allotted (except as hereafter mentioned) unto such Proprietor or Proprietors as is or are in the Possession thereof, in Part or in full of the Allotment hereby directed to be made to him, her, or them, in case the same shall not, in the Opinion of the said Commissioner, be more than equivalent thereto, and such Proprietor or Proprietors shall request the same, by Writing under his, her, or their Hand or Hands respectively, delivered to the said Commissioner before the Time of making the Allotments, and the Remainder of the said Encroachments and Inclosures, so made within Twenty Years as aforesaid, with all Buildings and Erections thereon, shall be set out and allotted (except as herein-after mentioned) unto the said Lord or Lords of the said Manor, within which the same shall have been made in Part or in full of his or their Allotment, as the Case may require; and in the Valuation of such Encroachments or Inclosures, either to the said Proprietor or Proprietors, or to the said Lord or Lords, the Buildings or Erections thereon shall not be included, nor the Lands estimated at any higher Rate than the same would have been valued at, if they were in their original uninclosed and unimproved State; but in case the said Commissioner shall find it convenient and proper, it shall be lawful for him to set out and allot all or any Part or Parts of the said Encroachments or Inclosures, so made within Twenty Years as aforesaid, (as well those to be allotted to the said Proprietor or Proprietors, as those to be allotted to the said Lord or Lords as aforesaid), unto any other of the Proprietor or Proprietors entitled to an Allotment or Allotments within the same Manor, in case there shall be no Cottage or Dwelling House thereon, or near thereto, with which the same shall be occupied, possessed, or enjoyed, upon estimating the same, according to the full improved Value thereof, and setting out and allotting to the Party or Parties who would otherwise have had the same, other Lands equal in Value to such improved Value thereof; and in case any Dispute shall arise to whom the said Cottages, Erections, Encroachments, and Inclosures, or any of them respectively belong, or ought to be allotted, the same shall be heard and finally determined by the said Commissioner, upon the Oath of One or more credible Witness or Witnesses (which Oath the said Commissioner is hereby empowered to administer), or by other proper and sufficient Evidence and Enquiry.

XXVI. And be it further enacted, That the said Commissioner shall set out and appoint such publick and private Roads, Foot-paths, and Ways, in, over, and upon the said Common Moors, and other Commons and Waste Lands, hereby intended to be divided, allotted, and inclosed, Roads to be set out.

inclosed, or in, over, or upon any of the old inclosed Lands, within the said Parishes of *Rockwardine, Eyton, Kinnersley, and Waters-Upton*, or any of them, or within the said Townships of *Crudgeington and Sleaf*, or either of them, as he shall think necessary and proper, so as no such Road, Foot-path, or Way, be made in any old inclosed Land, without the Consent of the Owner or Owners thereof, in Writing, under his or their Hand or Hands; all which said publick Roads, over the said Common Moors, and other Commons and Waste Lands, shall be Forty Feet in Breadth, at the least, between and exclusive of the Ditches and Fences, and shall be well and sufficiently fenced out on both Sides, by such of the Owners of the said Lands, in such Manner and within such Time as the said Commissioner shall direct and appoint: And that it shall not be lawful for any Person to erect any Gate, Bar, or other Obstruction, in, upon, or across any of the said publick Carriage Roads, or to plant any Trees in or near the Hedges on the Sides of such Roads, at a less Distance from each other than Fifty Yards: And after the said publick Carriage Roads over the said Common Moors, and other Commons and Waste Lands, shall be set out as aforesaid, the said Commissioner shall, by Writing under his Hand, appoint some proper Person to be Surveyor thereof; and such Surveyor shall cause the same to be formed and put into good and sufficient Repair, and shall be allowed such Salary or Reward, for his Trouble therein, as the said Commissioner shall, by Writing under his Hand direct; which Salary or Reward, and also the Expences (over and above the Statute Duty) of forming the said publick Carriage Roads, and putting the same into good and sufficient Repair, shall be paid out of the Monies hereby directed to be raised by Sale of Part of the said Common Moors, and other Commons and Waste Lands, or shall be paid by the Persons hereby charged with, or made liable to, the Costs and Expences of obtaining and executing this Act, and shall be raised by a Rate to be laid on such Persons respectively, according to the annual Value of their respective Estates, within the respective Manor or Manors wherein such Road or Roads shall be set out and assessed by the said Commissioner, either before or after the Execution of his Award, or by any Justice of the Peace for the said County of *Salop*, not interested therein, upon Application made for that Purpose by the said Surveyor; and to be collected and received by such Person or Persons as the said Commissioner or Justice, by whom such Rate shall be laid and assessed, shall, by Writing, appoint: And in case any Person or Persons shall neglect or refuse to pay his, her, or their Share of the said Rate or Assessment within Fourteen Days next after Demand thereof made, the same shall and may be levied by Distress and Sale of the Goods and Chattels of the Persons so neglecting or refusing, by Warrant under the Hand and Seal of the said Commissioner or Justice, or of any other Justice of the Peace for the said County, which Warrant the said Commissioner or Justice is hereby empowered and required to grant, upon Proof, on Oath, of such Neglect or Refusal, and of such Demand as aforesaid (which Oath the said Commissioner or Justice is hereby empowered to administer), and the Overplus (if any) after such Share of the Rate, and the Charges of levying the same, shall have been deducted, shall be returned, on Demand, to the Owner or Owners of such Goods and Chattels: And that no Person, other than the Proprietors of the said Common Moors, and other Commons and Waste Lands, shall be charged or chargeable, over and above the
the

the Statute Duty, towards forming and repairing the said Roads, until the same shall be made fit for the passing of Travellers and Carriages, and shall have been certified so to be by the said Surveyor, by Writing under his Hand, to be delivered to the Justices at some Quarter Sessions of the Peace, to be holden for the said County of *Salop*, and such Certificate shall have been allowed and confirmed by them; which Certificate shall be delivered to the said Justices at their Quarter Sessions to be holden next after the said Roads shall be formed, and put into good and sufficient Repair as aforesaid: And within the Space of Two Years next after the Execution of the said Award, unless sufficient Reason shall be given, to the Satisfaction of the said Justices, that a further Time is necessary for that Purpose, in which case the said Justices may, and they are hereby empowered to allow such further Time for the Delivery of the said Certificate as they shall think proper, not exceeding One Year; and in case the said Surveyor shall neglect or refuse to deliver the said Certificate within the Time before limited, he shall forfeit and pay any Sum not exceeding Fifty Pounds, nor less than Twenty Pounds, to be recovered by Distress and Sale of his Goods and Chattels, by Warrant under the Hand and Seal of any Justice of the Peace for the said County of *Salop*, rendering the Overplus (if any) to the Surveyor, after deducting the Charges and Expences of such Warrant, Distress, and Sale; and such Penalty shall be applied towards the making or repairing of the said Roads: And from and after the Delivery of such Certificate to the said Justices by the said Surveyor as aforesaid, and the Allowance and Confirmation of the same by them, the said Roads shall, for ever thereafter, be supported and kept in Repair in the same Manner as other publick Roads are by Law to be amended and kept in Repair; and all the publick Bridle or Footways, and all private Ways, and also the Fences next to the said publick Highways and Roads, which shall be so set out and appointed as aforesaid, shall be made and raised, and and at all Times thereafter repaired, maintained, and kept in Repair, in such Manner and Form, and by and at the Expence of such Fund or of such Person or Persons, as the said Commissioner, by his said Award, or by any Writing under his Hand, shall direct and appoint; and all and every Owner and Owners of Land, charged with such Expences, shall respectively be liable thereto, and deemed chargeable therewith, by Reason of the Tenure of his, her, or their respective Lands: And the Soil of all such new publick Roads and Ways, so to be set out as aforesaid, shall be and be deemed to be the Property of the Lord or Lords of the Manor within which the same shall lie, as to all Royalties whatsoever: And that after the several publick and private Roads and Ways shall have been set out and made as aforesaid, it shall not be lawful for any Person or Persons to use any other Road or Way, publick or private, over or upon the said Common Moors, and other Commons and Waste Lands, herein directed to be divided, allotted, and inclosed; and that all former Roads and Ways, which shall not be set out and appointed as the Roads or Ways through or over the same Lands, shall be deemed Part of the Lands hereby intended to be divided, allotted, and inclosed; and the said Commissioner shall and may vary, alter, change, stop, shut up, and by Writing under his Hand, to be affixed on the principal Door of the several Parish Churches of *Rockwardine*, *Eyton*, *Kynnersley*, *Waters-Upton*, and *Higb Ercall* aforesaid, and to be inserted in One of the *Sbrewsbury* Newspapers, or some other Paper usually circulating in the

said County of *Salop*, order and direct to be discontinued such of the present publick and private Roads, Footpaths, and Ways, leading through or over any of the Lands within the said Parishes of *Rockwardine*, *Eyton*, *Kynnersley*, and *Waters-Upton*, or any of them, or the said Townships of *Crudgeington* and *Sleap*, or either of them, as to him shall appear useless and unnecessary.

Present Roads
not to be
stopped till
new ones
completed.

XXVII. Provided always, That none of the present Roads shall be shut up and discontinued, until the said Commissioner shall have caused the said new or other Roads to be set out as aforesaid, and until the same shall be properly formed, and made safe and convenient for Horses, Cattle, and Carriages.

Notice to be
given of
Roads being
set out.

XXVIII. Provided nevertheless, and be it further enacted, That as soon as conveniently may be after the said Commissioner shall have set out and appointed such publick Carriage Roads as aforesaid, he shall cause Notice thereof to be given by Advertisement in some Newspaper usually circulated in the said County of *Salop*; and that it shall be lawful for any Person or Persons whomsoever, who shall be dissatisfied with the setting out, Appointment, or Disposition of any of such publick Carriage Roads as aforesaid, (on giving Notice in Writing, to the said Commissioner, of his, her, or their Intention, within Fourteen Days after the Publication of such Advertisement, and within Seven Days after such Notice, entering into a Recognizance before some Justice of the Peace for the said County of *Salop*, with Two sufficient Sureties, in any Sum not exceeding Fifty Pounds, nor less than Thirty Pounds, conditioned to try such Appeal, and abide the Order of, and to pay such Costs as shall be awarded by the Justices at such Quarter Sessions (to appeal against all or any of such publick Carriage Roads, to some General Quarter Sessions of the Peace, to be held in and for the said County of *Salop*, within Four Calendar Months next after the setting out, Appointment, or Disposition of the said publick Carriage Roads, and Notice thereof given as aforesaid, and he, she, or they shall be heard by himself, herself, or themselves, or by his, her, or their Counsel, Agents, Attornies, and Witnesses; and that the said Commissioner, or his Surveyor or Clerk, shall attend at such Sessions; and the Justices before whom such Appeal shall be made, upon due Proof of such Notice being given as aforesaid, and of the entering into such Recognizance, shall, on hearing the Evidence, finally determine, whether the said publick Carriage Roads so appealed against, shall be made, or whether any other publick Carriage Roads shall be set out, and shall make and give such Orders and Directions touching the Matters before them, and award such Costs as to them shall seem necessary and expedient in that Behalf; and such Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by *Certiorari*, or any Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case no such Notice shall be given to the Commissioner as aforesaid, or such Recognizance shall not be entered into, or such Appeal shall not be proceeded in as aforesaid, then such setting out, Appointment, and Disposition of the said publick Carriage Roads by the said Commissioner as aforesaid, shall be final and conclusive to all and every Person and Persons whomsoever.

XXIX.

XXIX. And be it further enacted, That the said Commissioner shall, and he is hereby authorized and required, to set out, in and upon some Part or Parts of the said Common Moors, and other Commons and Waste Lands, lying respectively within the said several Parishes of *Rockwardine*, *Eyton*, *Kynnersley*, and *Water's-Upton*, and the said Townships of *Crudgeington* and *Sleap*, sufficient Allotments, for the Purpose of furnishing Stone, Gravel, and other Materials, for the making and repairing the Highways, and other Roads within the same Parishes and Townships respectively, if such Materials can be had therein.

Materials for mending Roads.

XXX. Provided always, and it is hereby, further enacted, That in case no sufficient Materials can, in the Judgement of the said Commissioner, be found in such Part or Parts of the said Waste Lands as is or are situated in any One or more of the said Parishes or Townships, for the Repairs of the Highways and other Roads within the same Parish or Township, it shall be lawful for the said Commissioner, and also for the said Surveyor of Highways, and all other Persons authorized or employed by either of them, to enter into any of the antient inclosed Lands, within the said Parishes of *Rockwardine*, *Eyton*, *Kynnersley*, and *Water's-Upton*, or within the said Townships of *Crudgeington* and *Sleap* respectively, as to the said Commissioner or Surveyor shall appear to be situated most conveniently for that Purpose, and by an Order in Writing signed by the said Commissioner, or by any Justice of the Peace for the said County of *Salop* not interested therein, to get and carry away sufficient Stone, Gravel, and other Materials, for the making and repairing of such Highways and other Roads, making adequate Compensation to the Owners or Occupiers of Lands, within or through which such Materials shall be got or conveyed, by and out of the Monies to be raised for making and repairing the publick Highways within the Parish or Township where such Materials shall be used, and to be ascertained in Writing by the said Commissioner, or by any such Justice as aforesaid.

Power to enter into antient inclosed Lands, to get Materials, if none to be had on the Waste for mending Roads.

XXXI. And be it further enacted, That after the said Watercourses, Drains, Highways, and Allotments for Materials (if any) for the Repair of the Highways and Roads as aforesaid, shall have been respectively set out and appointed, the said Commissioner shall set out and allot One full Fourteenth Part of such Part or Parts of the said Common Moors, and other Commons and Waste Lands, as is or are situated within the said Manors of *Kynnersley*, *Crudgeington*, *Sleap*, and *Water's-Upton*, or any of them, unto and for the said Marquis of *Stafford*, as Lord of the said several Manors, his Heirs and Assigns; a like Part of such Part or Parts of the said Common Moors, and other Commons and Waste Lands, as is or are situated within the said Manor of *Rockwardine*, unto and for the said *Charles Earl of Shrewsbury*, *Thomas Noel Lord Berwick*, and *Revell Phillips Esquire*, as Lords of the said Manor, their respective Heirs and Assigns, according and in Proportion to their respective Rights and Interests in the said Manor; and a like Part of such Part or Parts of the said Common Moors, and other Commons and Waste Lands, as is or are situated within the said Manors of *Eyton* and *Bratton*, or either of them, unto and for the said *Thomas Eyton*, as Lord of the same Manors respectively, his Heirs and Assigns, in lieu of, and as a Compensation for, their several and respective Rights and Interests to and in the Soil of the said several Parts of the said Common Moors, and other Commons and Waste Lands, within

Allotment to the Lords.

within the said Manors respectively, (save as hereafter mentioned), over and beside what they shall severally and respectively be entitled to, in respect of their several and respective Messuages and Lands within the said Manors respectively.

Sale of Land
for defraying
certain Ex-
pences.

XXXII. And be it further enacted, That the said Commissioner shall, in the next Place, mark and set out such Part and Parts of the said Common Moors, and other Commons and Waste Lands respectively, as in his Opinion will, by Sale thereof, raise a sufficient Sum to pay all such Charges and Expences as are hereafter directed to be paid out of the same, and such Part and Parts of the said Lands to sell to any Person or Persons, for the best Price or Prices that can be got for the same, by publick Auction or Auctions to be held for that Purpose, at such Time or Times as he shall think proper, (of which at least One Calendar Month's previous Notice shall be given, by affixing the same on the principal Door of the several Parish Churches of *Rockwardine, Eyton, Kynnersley, Water's-Upton, and High Ercall* aforesaid, and by Advertisement to be inserted in One of the *Shrewsbury Papers*, or in some publick Paper circulating in the said County of *Salop*), and the Person or Persons purchasing the same shall immediately (by Way of Deposit) pay into the Hands of the said Commissioner, or of such Person as he shall appoint, One-tenth Part of his, her, or their Purchase Money, and pay the Remainder thereof to the said Commissioner, or such Person as he shall appoint, within Three Calendar Months next after such Auction, or at such other Time as the said Commissioner shall appoint; and in Default thereof, the Money so deposited shall be forfeited, and be applied in carrying this Act into Execution; and the said Part or Parts, for which the Whole of such Purchase Money shall not have been so paid, shall be again put up to Sale and sold in Manner aforesaid; and such Part or Parts for which the full Purchase Money shall be paid, shall immediately thereupon be absolutely discharged of and from all common Right thereon, and be vested in Fee Simple in, and be inclosed, and thenceforth held in Severalty by the Purchaser or Purchasers thereof respectively, his, her, and their Heirs and Assigns, as his, her, and their own absolute Property, and shall be allotted accordingly, by the said Commissioner, in and by his Award; and the said Purchase Money shall be applied by the said Commissioner in defraying the Charges and Expences directed to be paid by Sale of Land, as hereafter mentioned.

Preference in
Purchase to
Proprietors of
old Inclosures
lying next to
the Land to be
sold.

XXXIII. Provided always, and be it further enacted, That no such Sale or Sales as aforesaid shall be made by the said Commissioner, of any Part or Parts of the said Common Moors, or other Commons and Waste Lands intended to be inclosed by virtue of this Act, which shall immediately adjoin the old Inclosures of any Proprietor or Proprietors, so that the same do not exceed Two Acres in any One Instance: And provided such Proprietor or Proprietors shall be desirous of becoming the Purchaser or Purchasers thereof at the said Commissioner's Valuation, and shall signify such his, her, or their Desire to the said Commissioner, by Writing under his, her, or their Hand or Hands, within One Calendar Month next after the publick Roads shall be set out, and shall pay such his, her, or their Purchase Monies, at such Time or Times, and with such Deposit as is herein-before directed, in Case of Sales by Auction; and in such Case all such Parts and Parcels of the said Common Moors, and other Commons and Waste Lands, shall be allotted and awarded to such

such Proprietor or Proprietors, in such and the same Manner as is hereinbefore provided, in case of Sales by Auction as aforesaid.

XXXIV. And be it further enacted, That after the said Watercourses, Drains, and Highways, and the several Allotments aforesaid, shall have been set out or provided for, the said Commissioner shall divide, set out, and allot the Remainder of the said Common Moors, and other Commons and Waste Lands, and also the Herbage of the Roads and Ways (except publick Carriage Roads) unto, for, and amongst the several Persons interested therein, their respective Heirs, Successors, and Assigns, according to the Extent and Value of their respective Rights of Common, and other Rights and Interests in and upon the same respectively: And in making all and every of the said Allotments, the said Commissioner shall have due Regard, as well to the Quantity, Quality, and Value of the Lands, so to be allotted, as to the Situation, Contiguity, and Convenience thereof, to the respective Messuages or Tenements, and old inclosed Lands of the several Persons to or for whom the same shall be allotted respectively; all which Allotments shall thenceforth be held and enjoyed by the several Persons to whom the same shall be made, their respective Heirs and Assigns in Severalty, and be in full Bar and Compensation of and for all Shares, Rights, and Interests of the several Parties in, over, and upon the said Common Moors, and other Commons and Waste Lands so to be inclosed as aforesaid: Save only of and for such Rights and Interests as are herein-after reserved to or for the said Lords of the said Manors respectively.

Allotment of
the Residue.

XXXV. And be it further enacted, That it shall be lawful for the said Commissioner (having regard to Quantity, Quality, Situation, and Convenience as aforesaid) to set out and allot all or any Part or Parts of the Lands which shall be cut off or separated from the other Lands or Estates of the Owners thereof, by any Road, Watercourse, Drain, Embankment, or other Work, to any other Owner or Owners of Lands adjoining or near thereto, and to set out and allot to the Owners of such first-mentioned Lands, in lieu thereof, so much of the said Common Moors, or other Commons and Waste Lands, or the Lands of any other Owner or Owners, as shall, in the Opinion of the said Commissioner, be equal thereto; and also to set out and allot any Part or Parts of the said Common Moors, and other Commons and Waste Lands, in any One or more of the said several Manors, Parishes, or Townships, for and in lieu of any other Part or Parts of the said Common Moors, and other Commons and Waste Lands, within any other of the said Manors, Parishes, or Townships, so as to render the Property of the respective Parties, to whom the same shall be respectively allotted, more compact and valuable.

Detached
Pieces of
Land, &c.
may be al-
lotted.

XXXVI. Provided always, and be it further enacted, That nothing in this Act contained shall prejudice, lessen, defeat, or in any Manner alter or affect, the Right, Title, or Interest of the respective Rectors, Impropriators, or Vicars, of the said several Parishes of *Rockwardine*, *Eyton*, *Kynnersley*, *Water's-Upton*, and *High Ercall* respectively, or of any other Parish or Place, or other Person or Persons, in or to any Tithes, Moduses, Compositions, or other Payments, arising or renewing out of, or payable in respect of, any Part or Parts of the said Common Moors, and other Commons and Waste Lands, lying within the said Parishes,

Right to
Tithes, &c.
not to be af-
fected.

respectively; but that all and every the said Rectors, Impropiators, Vicars, and other Person or Persons, shall be and remain intitled to such and the same Tithes, Moduses, Compositions, and other Payments arising from or payable in respect thereof, or of any Part or Parts thereof, in like Manner and Sort, and to the like Remedies for Recovery thereof, as if this Act had not been passed.

Differences of Suits not to hinder the Inclosure.

XXXVII. Provided always nevertheless, That if, before the said Division and Inclosure shall be completed by virtue of this Act, any Difference or Dispute shall arise, or any Suit or Suits shall be commenced or prosecuted, touching or concerning the Title of any Person or Persons in or to any Part or Parts of the said Common Moors, and other Commons and Waste Lands, hereby intended to be divided and inclosed, such Suit or Suits shall not impede or hinder the said Commissioner from proceeding in the Execution of the Powers vested in him by this Act; but that the said Division and Inclosure shall be proceeded in notwithstanding such Differences or Suits; and the said Commissioner shall, and he is hereby required to fence, in a competent Manner, such disputed Lands, and to charge the Expences thereof to the Person or Persons who, upon the Determination of such Difference or Suit, shall become intitled to the same, in Manner herein-after mentioned.

For fencing Allotments.

XXXVIII. And be it further enacted, That all Hedges, Ditches, Drains, and Fences, to be made for inclosing, separating, and dividing the said Common Moors, and other Commons and Waste Lands, hereby directed to be divided, allotted, and inclosed, shall be made by such Person or Persons respectively, within such Time, and in such Manner, as the said Commissioner shall, in and by his said Award, or by any Writing under his Hand, to be affixed on the principal Door of the several Parish Churches of *Rockwardine, Eyton, Kynnersley, Waters-Upton, and High Erroll* afore said, order, direct, and appoint; and such Hedges, Ditches, Drains, and Fences, shall, at all Times thereafter, be maintained and kept in Repair by the Proprietor or Proprietors of the Lands on which the same shall be respectively raised and made; and if any Person or Persons shall neglect or refuse to make and raise such Hedges, Ditches, Drains, or Fences, according to the Order or Direction of the said Commissioner, it shall be lawful for the said Commissioner, and he is hereby required to cause such Hedges, Ditches, Drains, or Fences, to be raised and made in such Manner, and at such Time or Times, as the said Commissioner shall, by Writing under his Hand, think proper to order and direct; and if the Person or Persons who ought to have raised and made such Hedges, Ditches, Drains, or Fences, shall neglect or refuse to pay the Expences of raising and making the same (such Expences being settled by the said Commissioner) within Five Days after Demand made thereof in Writing, from such Person or Persons, or left at his, her, or their usual Place or Places of Abode, or with the Occupier of the Premises, in respect of which the Allotment or Allotments upon which such Hedges, Ditches, Drains, or Fences ought to have been raised or made, shall be set out, it shall be lawful for the said Commissioner, and he is hereby required, to cause the same to be levied upon the Owner or Occupier of the last-mentioned Premises, by such Ways and Means as the Expences of obtaining and executing this Act, in case the Lands herein-directed to be sold shall not be adequate to the Payment thereof, are hereby authorized to be raised and levied.

XXXIX. And

XXXIX. And be it further enacted, That it shall be lawful for the Trustee or Trustees, Feoffee or Feoffees, and also for any Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, who is, are, or shall be Proprietor or Proprietors, or be seised or possessed of any Messuages, Buildings, Lands, or other Hereditaments, lying within the said Parishes of *Rockwardine, Eyton, Kynnersley, Waters Upton, and High Ercall*, or any of them, or in any Parish adjoining thereto; and also to and for the Husbands, Guardians, Committees, and Trustees of any of the said Proprietors, being under Coverture, Minors, Ideots, Lunaticks, or beyond the Seas, or otherwise incapable of acting for themselves; and also to and for all Persons acting as Guardians, Trustees, or Committees of any of such Proprietors being under any Disability whatsoever, whether such Proprietors be Tenants in Fee Simple, Tenants in Fee Tail general or special, Tenants for Life, or by the Courtesy of *England* or in Dower, Tenants for Years determinable on any Life or Lives, or for any Term or Number of Years, absolute or otherwise, from Time to Time, to exchange all or any of his, her, or their Messuages, Buildings, Allotments, old Inclosures, Lands, Tenements, Tithes, or other Hereditaments, within the said several Parishes or any of them, or within any adjoining Parish, for any other Messuages, Buildings, Allotments, old Inclosures, Lands, Tenements, Tithes, or other Hereditaments, within the same Parishes, or any of them, or within any such adjoining Parish, so that all and every such Exchange or Exchanges be made by and with the Consent and Approbation of the said Commissioner, and be specified and declared in his said Award, or in some other Instrument or Instruments in Writing, to be executed by the said Commissioner for that Purpose, either before or within One Year after the Execution of the said Award: And all and every such Exchange and Exchanges shall be made at the Expence of the Parties interested therein, and shall be good and valid in the Law, to all Intents and Purposes, without any Fine, Recovery, Surrender, or other Assurance; and notwithstanding any Entail, Infancy, Coverture, or other legal Incapacity or Disability of the Party or Parties whose Property shall be so exchanged; and the Property so exchanged shall afterwards be enjoyed by the Person or Persons taking the same, subject to the same Uses, Trusts, Estates, Leases, and Charges, as the Property in lieu whereof the same shall be so taken in Exchange was, or would have been subject to, in case the same had remained unexchanged: Provided always, That no Exchange shall be made by virtue of this Act, of any Messuages, Lands, Tenements, or Hereditaments, holden in Right of any Church or Chapel, without the Consent in Writing of the Diocesan, and of the Patron or Patrons thereof for the Time being.

Power to exchange Lands.

XL. And be it further enacted, That it shall be lawful for the said Commissioner to make Partition of any Messuages, Tenements, Lands, or other Hereditaments, in the said Parishes of *Rockwardine, Eyton, Kynnersley, Waters-Upton, and High Ercall*, or in any Parish adjoining thereto, and as well of old Inclosures, as of Lands to be inclosed by virtue of this Act, belonging to any Persons, as Coparceners, Joint Tenants, or Tenants in Common, so that every such Partition be made upon Application from the Proprietors thereof, or Persons interested therein, and be signified in Writing, under his, her, or their Hand or Hands, or under the Hand or Hands of the Guardian or Guardians, Trustee or Trustees,

Power to make Partition.

tees, Committee or Committees, or Attorney or Attornies, duly authorized, of such of the said Proprietors or Persons interested, as are or shall be under Coverture, Minors, Lunaticks, or beyond the Seas, or under any other Disability or Incapacity of acting for themselves; and be specified and declared in the Award of the said Commissioner, or by any Instrument signed by him, either before or after the Execution of the said Award; and every such Partition shall be good, valid, and effectual, to all Intents and Purposes whatsoever.

For distinguishing and dividing intermixed or open Lands, or where Boundaries are confused, &c.

XXI. And be it further enacted, That in all Cases where the Lands of any One or more Person or Persons, situate within the said several Parishes of *Rockwardine, Eyton, Kynnersley, Waters-Upton, and High Erroll* or any of them, shall lie intermixed with, or open to, or be difficult to be distinguished from the Lands of any other Person or Persons; or where the Lands of any Person or Persons, situate within any of the said Parishes, shall be partly of Freehold and partly of Copyhold, or any other Tenure; and it shall be doubtful or difficult to be distinguished which, or what Part or Parts of such Lands is or are Freehold or Copyhold, or of any other Tenure; it shall and may be lawful for the said Commissioner, and he is hereby required, upon Application in Writing under the Hand or Hands of any Person or Persons interested therein, by Examination of Witnesses upon Oath, Inspection of Records, or other Evidences and Writings, or by such other Ways and Means as he shall think proper, to enquire into, determine, and ascertain the same, by Metes and Bounds, and by an accurate Description thereof, in his said Award, or in any other Instrument in Writing, to be executed by him, either before or after the Execution of his said Award; and to direct by whom and at whose Expence, at what Time or Times, and in what Manner the same shall be inclosed, separated, or divided, where an Inclosure, Separation, or Division shall, in his Judgement, appear necessary, and by whom the Hedges, Ditches, Drains, Mounds, and Fences, for effecting such Inclosure, Separation, or Division, shall be made and ever afterwards kept in Repair.

Expence to be borne by the Parties interested.

XLII. Provided always nevertheless, and it is hereby further enacted, That all the Expences of and attending the said Investigation and Determination of the said Commissioner, shall be defrayed by the Parties interested therein, or such of them, and in such Proportions, as the said Commissioner shall, by his said Award, or any other Writing or Writings under his Hand, order and direct; and shall be recovered in like Manner as the Money for defraying the Expences of this Act, which shall not be raised by Sale of Lands, is herein-after authorized to be recovered.

Not to revoke any Settlement, Will, &c.

XLIII. Provided always, and be it further enacted, That nothing in this Act contained shall be construed to revoke, make void, alter, or affect any Deed, Will, or Settlement, or prejudice any Person having or claiming any Jointure, Dower, Portion, Debt, Rent Charge, Annuity, or Incumbrance, out of, upon, or affecting any of the Lands hereby intended to be divided or inclosed, or any Messuages, Lands, Tenements, or Hereditaments, to be partitioned or exchanged in pursuance of this Act; but that the respective Shares of the said Common Moors, and other Commons and Waste Lands, so to be allotted and assigned upon such

such Division and Inclosure as aforesaid, to the several Lords of the said Manors and Proprietors respectively; and the Messuages, Lands, Tenements, and Hereditaments which shall be partitioned or taken in Exchange, shall, immediately after such Allotment, Partition, or Exchange respectively, be and remain to the same Uses and Estates, with such and the same Powers and Authorities, and subject to the same Limitations, Provisoes, Charges, and Incumbrances, as the Manors, Messuages, Lands, and Hereditaments, in lieu or in respect whereof such Allotment, Partitions, or Exchanges shall be made, were and stood severally limited and liable unto, at the Time of making such Allotments, Partitions, or Exchanges respectively.

XLIV. And be it further enacted, That all Leases and Agreements for any Term or Terms at Rack Rent, and now subsisting, of all or any Part of the said Common Moors, and other Commons and Waste Lands, or any Right thereupon, or of any Messuages, Lands, Tenements, Tithes, or Hereditaments, in respect whereof any Allotment shall be made to the Proprietor in pursuance of this Act, and which, in Consequence of such Allotment, the said Commissioner shall be of Opinion will be improper to continue after and in Consequence of such Allotment being made, shall cease, determine, and be void, on such Day or Days respectively before or within One Year after the signing of his said Award, as the said Commissioner shall fix for that Purpose in or by his said Award, or by any Writing under his Hand previous to such Award being made; and such Leases or Agreements so ceasing or made void, shall be delivered up to be cancelled at such Time or Times as the said Commissioner shall, by his said Award, or other Writing, direct, and the respective Proprietors of the Premises so leased or agreed for, shall make such reasonable Satisfaction to their respective Lessees or Tenants, on account thereof, and as an Equivalent for the Loss or Losses he, she, or they shall respectively suffer, on account of the Determination of their respective Leases or Terms, as the said Commissioner shall, in and by his said Award, or other Writing, ascertain and direct: And that all such subsisting Leases or Agreements, for any Term or Terms at Rack Rent as shall not be made void as aforesaid, and all other Leases and Agreements whatsoever, (save as aforesaid), shall continue, and in such respective Cases the said Commissioner shall determine and direct whether all or any of the Lands so allotted, shall be respectively inclosed, drained, and improved, by or at the Expence of the said Proprietors, or by or at the Expence of their respective Tenants, as he shall think proper; and the several Lessees or Tenants, during the Continuance of their respective Terms, shall pay such greater or less Rent to their respective Lessors or Landlords, for such Time or Times, and conform in the Occupation and Management of the Lands so allotted, as the said Commissioner shall, by his said Award or other Writing, direct; which Rent shall be recoverable in the same Manner, in every Respect, as the Rent originally reserved, or made payable for their respective Tenements, would have been recoverable by Law if this Act had not been passed.

Provision as
to subsisting
Leases or
Agreements.

XLV. And be it further enacted, That as soon as conveniently may be after the said Commissioner shall have compleated the Division, Inclosure, Embankment, and Drainage of the said Lands and Grounds, he shall cause to be drawn up an Award, in Writing, which shall express the

Award to be
made.

[Loc. & Per.]

17 A

Quantity,

Quantity, in Statute Measure, of Acres, Roods, and Perches, in the Lands and Grounds intended to be inclosed, embanked, and drained by virtue of this Act, and the Quantity and Description of the Situation, Buttals, and Boundaries of each and every Part and Parcel thereof, which shall be allotted to each of the Parties intitled to the same; and also shall distinguish to which of the said respective Manors, Parishes, and Townships each and every of such Parcels and Allotments to be set out and made in pursuance of this Act shall belong and appertain, and shall contain proper Orders and Directions for embanking, draining, fencing, and mounding the same, and for making, maintaining, supporting, and keeping in Repair, all proper Roads and Ways, Gates, Stiles, Fences, Engines, Banks, Weirs, Cuts, Drains, Ditches, Dams, Sluices, Tunnels, Culverts, Bridges, and all such other Works which the said Commissioner is hereby impowered to make, and which he shall think necessary to be made and maintained, according to the Intent and Meaning of this Act; and such other Orders, Regulations, and Determinations, as shall be proper and necessary to be inserted therein, according to the Purport and true Meaning of this Act, Two Parts of which said Award or Instrument shall be fairly written on Parchment, and signed and sealed by the said Commissioner, One Part of which said Award shall, within Four Calendar Months next after the signing and sealing thereof, be deposited in the Office of the Clerk of the Peace for the said County of *Salop*, or his Deputy; and the said Clerk of the Peace is hereby required, on Payment of the Sum of One Guinea, to receive and preserve the same, to the End Recourse may be had thereto by all Persons interested therein, (for the Inspection and Perusal whereof no more than One Shilling shall be paid), and a Copy of the said Award, or of any Part thereof, shall, from Time to Time, be delivered to any Person requiring the same, signed by the Clerk of the Peace for the said County, or his Deputy, certifying it to be a true Copy, (for which no more than Two-pence *per* Sheet, each Sheet containing Seventy-two Words, shall be paid), and the other Part of the said Award shall be deposited with and kept by such Person and in such Place, for the Benefit and Accommodation of all Persons interested therein, as the said Commissioner shall, in and by his said Award, appoint for that Purpose, and each Part of the said original Award, or a Copy thereof, signed by the said Commissioner, or by the Clerk of the Peace for the said County, or his Deputy as aforesaid, shall be at all Times admitted to be legal Evidence of all Matters and Things therein contained in all Courts whatsoever; and the several Allotments, Exchanges, Partitions, Orders, Directions, Regulations, Matters, and Things, which shall be made, specified, and set forth in the said Award, shall be final, binding, and conclusive, unto and upon all Persons and Bodies Politick and Corporate, interested in, or entitled to, the several and respective Lands and Hereditaments to be divided, allotted, inclosed, or exchanged, or whereof Partition shall be made, in pursuance of this Act, or who shall be affected by any of the Orders or Regulations therein, their several and respective Heirs, Successors, and Assigns.

Award to be executed in the Presence of the Proprietors, and proclaimed in the Parish Church.

XLVI. Provided always, and be it further enacted, That the Award of the said Commissioner shall be read and executed by him in the Presence of the Proprietors who may attend at a Special General Meeting called for that Purpose, of which Ten Days Notice at least shall be given in some Newspaper usually circulated in the said County of *Salop*, which

Execution

Execution of such Award shall be proclaimed the next *Sunday* in the Parish Churches of *Rockwardine, Eyton, Kynnersley, Waters-Upton,* and *High Erccall* aforesaid, immediately after Divine Service; from the Time of which Proclamation only, and not before, such Award shall be considered as complete.

XLVII. And be it further enacted, That the several Allotments to be made in pursuance of this Act shall be accepted and taken Possession of by the Persons to or for whom the same shall be respectively set out; or their Guardians, Committees, Husbands, Trustees, or Attornies; and shall be inclosed and fenced off, by Drains, or by Rails and Posts, and Quickset Hedges, with proper Ditches thereto, from the adjoining Lands and Grounds, in such Manner, and within such Time or Times, as the said Commissioner shall, by Writing under his Hand, to be affixed on the Principal Door of the said several Parish Churches of *Rockwardine, Eyton, Kynnersley, Waters-Upton,* and *High Erccall*, appoint for that Purpose; and such Fences shall be maintained and kept in Repair by and at the Expence of the respective Proprietors thereof for the Time being for ever, and shall be so ordered and directed by the said Commissioner, in and by such Writing as aforesaid, or by his said Award; and in Case the Allotment or Allotments of any One or more of the Proprietors shall be so situated as to make it necessary or expedient for the said Commissioner to appoint to him, her, or them, a larger Share of the Boundary Fencing than shall, in the Judgement of the said Commissioner, be his, her, or their due Proportion; it shall be lawful for the said Commissioner, and he is hereby required to make such Allowance, and grant such Relief to the Person or Persons aggrieved in respect thereof, as to the said Commissioner shall seem reasonable.

Allotments to be accepted within a limited Time.

XLVIII. And be it further enacted, That if any Person or Persons shall keep any Sheep or Lambs in any of the said Allotments, to be made by virtue of this Act, during the Space of Seven Years next after the Execution of the said Award, without making and maintaining at his, her, or their own Expence, a Fence sufficient to guard the young Quick Fences round such Allotments from being cropt, hurt, or damaged by such Sheep or Lambs, whether such young Fence be planted or set by the Owner or Occupier of such Allotment or Allotments as aforesaid; or by the Owner or Occupier of any Allotment or Allotments, or other Lands adjoining thereto, the Person or Persons so keeping the same shall, for every such Sheep and Lamb, pay to the Owner or Owners of such last-mentioned Allotment or Allotments or other Lands, any Sum not exceeding Seven Shillings, to be recovered before any One of His Majesty's Justices of the Peace for the County of *Salop*, not interested therein, on the Oath of One or more credible Witness or Witnesses, by Distress and Sale of the Goods and Chattels of the Offender or Offenders.

No Sheep to be kept in the new Inclosures for Seven Years.

XLIX. And be it further enacted, That all the Messuages, Buildings, Lands, or Grounds, which shall be allotted or exchanged by virtue of this Act, to or with any Person or Persons, for or in lieu, or in respect of any Messuages, Buildings, Lands, or Grounds, holden of any Manor or Manors, by Copy of Court-Roll, or for or in respect of any Leasehold Lands or Grounds, or for or in respect of any Right of Common, or other Right or Interest appurtenant or appendant to any such Copyhold

Allotments to be of the same Tenure as the Lands in Right of which they are made.

or

or Leasehold Premises, shall, from and after the Execution of the said Award, be deemed and taken to be Copyhold, Customaryhold, or Leasehold, and shall be holden as such, by and under the same Tenure, Rents, Payments, Fines, Customs, Heriots, and Services, as the Copyhold, Customaryhold, or Leasehold Messuages, Buildings, Lands, or Tenements respectively, for or in respect whereof such Allotments or Exchanges shall be made, are now holden; and that such Parts of the said Common Moors, and other Commons and Waste Lands, as shall be allotted unto any Person or Persons by virtue of this Act, for or in respect of any Copyhold Messuages or Cottages, shall be deemed and taken to be Copyhold: And that all and every Person or Persons to or with whom such Copyhold Lands and Premises shall be allotted or exchanged as aforesaid, shall, within Twelve Calendar Months next after the Execution of the said Award, be admitted Tenant or Tenants of the same, without paying any Fine or other Charge to the Lord or Lords, or Steward or Stewards of the Manor or Manors whereof the same shall be holden (save and except such reasonable Fees to such Steward or Stewards for his or their Trouble therein, as the said Commissioner shall by his said Award direct): But in case the Person or Persons to or with whom such Copyhold Lands and Premises shall be allotted or exchanged, shall die without Admission within the said Twelve Calendar Months, then the customary Fines, Fees, and other Payments, shall be due and payable on the Admission of the Person or Persons entitled to such Lands and Premises: And after every such First Admission as aforesaid, the Copyhold Lands and Premises so to be allotted or exchanged shall at all Times be held under and subject to the same Tenure, Fines, and other Payments, as the present Copyhold Messuages, Cottages, Lands, or Tenements, in lieu or in respect whereof such Messuages, Buildings, Lands, and Premises shall be allotted or exchanged, are now holden under and subject to: And the said Commissioner shall, by the said Award, determine and describe the Messuages, Buildings, and Lands, respectively, so to be allotted and exchanged, which are to be and remain Copyhold, Customaryhold, or Leasehold, and all other Messuages, Buildings, and Lands, to be allotted or exchanged by virtue of this Act (except what shall be so ascertained by the said Commissioner to be Copyhold, Customaryhold, or Leasehold) shall be from thenceforth deemed, taken, and enjoyed as Freehold Messuages, Buildings, and Lands; subject, nevertheless, to such free Rents and Services (if any) as are now payable out of the respective Messuages, Lands, Tenements, or Hereditaments, for or in respect whereof they shall or may be allotted or exchanged.

For defraying
the Expences
of the Act.

L. And be it further enacted, That the Charges and Expences incident to and attending the surveying, dividing, setting out, and allotting the said Common Moors, and other Commons and Waste Lands hereby directed to be divided and inclosed, and the Charge of forming and making Highways and other Roads, and of procuring and passing this Act, and all such other Charges and Expences of carrying the same into Execution, as, in the Judgement of the said Commissioner, ought to be charged to the Account of the Inclosure of the said Moors, and other Commons and Waste Lands, shall be defrayed and discharged by and out of the Money arising by the Sale of such Part or Parts of the said Lands as shall be allotted for that Purpose as aforesaid, in such Shares and Proportions as the said Commissioner shall think equitable: And that the
Charges

Charges and Expences of and attending the said Embankment and Drainage, and the several Sums of Money to be paid as a Satisfaction or Recompence for any Damage in respect thereof, shall be defrayed, paid, and discharged by the Owners of, or Persons interested in, such Part or Parts of the said Commons and Waste Lands, and also of and in any antient inclosed or other Lands, in Proportion to the Benefit and Improvement which will, in the Judgement of the said Commissioner, arise to, or in respect of the said Lands respectively; such Proportions to be determined by the said Commissioner, by his said Award, or by any other Writing or Writings, under his Hand, which shall be binding and conclusive: And that all other Charges and Expences, not hereby otherwise provided for, shall be defrayed and discharged, by and out of the Monies arising by Sale of such Part or Parts of the said Lands as shall be allotted for that Purpose as aforesaid, in such Manner as such Commissioner shall think equitable: And in case any Surplus shall remain of the Monies arising from such Sale or Sales as aforesaid, after such Payments as aforesaid, the same shall be divided amongst the Persons interested in the said Common Moors, and other Commons and Waste Lands, or such of them, and in such Shares and Proportions as the said Commissioner shall think equitable, and by any Writing or Writings under his Hand direct; and shall be applied, in Part or full Discharge, (as the Case shall be) of the Parts or Shares of Expences which such Person or Persons shall be respectively appointed to pay, in respect or on Account of such Embankment and Drainage, or other Expences as aforesaid, and the Residue (if any) shall be applied for the Benefit of such Persons, in such Manner as the said Commissioner shall direct: But in case the Purchase Money arising from such Sale of Lands as aforesaid, shall be insufficient to defray all the Charges and Expences for which the same is hereby directed to be appropriated, then such Deficiency shall be made up by such of the said Persons interested in the said Inclosure, and in such Shares and Proportions, and be paid to such Person or Persons, and within such Time or Times, as the said Commissioner shall, by any Writing or Writings under his Hand, order, direct, and appoint, and in Default of Payment of the Shares or Proportions which the said Commissioner shall direct to be paid, by any Person or Persons interested in the said Moors, and other Commons and Waste Lands, or by the Owners of, or Persons interested in any old inclosed or other Lands, which shall be benefited by the said Works of Embankment and Drainage as aforesaid, the said Commissioner shall and may, by Warrant under his Hand and Seal, directed to any Person or Persons, cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons making such Default, rendering the Overplus (if any) on Demand to the Owner of such Goods and Chattels, after deducting the Costs and Charges of such Distress and Sale: Or otherwise the said Commissioner, or any Person or Persons authorized by him, shall and may enter into and upon any Messuages and Lands of or belonging to such Defaulter or Defaulters, and receive the Rents and Profits thereof, until thereby or therewith his, her, or their Share or Proportion of the said Charges and Expences, together with lawful Interest for the same, from the Time such Share or Proportion shall become due and ought to have been paid, together also with the Costs and Charges of and attending such Warrant, Distress, and Sale, or Entry and Possession, shall be fully paid and satisfied.

Interest to be paid on Money advanced for the Purposes of the Act.

LI. And be it further enacted, That all and every Person or Persons, who shall disburse, or shall advance or lend any Money to defray the Expences of applying for and obtaining this Act, or of or attending the Execution thereof, shall be repaid the same out of the first Monies which shall be raised in Pursuance hereof, with Interest after the Rate of Five Pounds *per Centum per Annum*.

Power for Rectors and Vicars to grant Leases.

LII. And be it further enacted, That it shall be lawful for the said Lord Bishop of *Landaff*, and his Successors, Rectors of *Kynnersley* aforesaid, the said *Thomas Hatton* and his Successors, Rectors of *Waters-Upton* aforesaid, the said *Joshua Gilpin*, and his Successors, Vicars of *Rockwardine* aforesaid, and the said *John Roocke* and his Successors Rectors of *Eyton* aforesaid respectively, by and with the Consent of the respective Patrons of the said several Rectories and Vicarages, and of the Lord Bishop of *Lichfield* and *Coventry* for the Time being, in Writing under their respective Hands and Seals, to lease or demise all or any Part of the Lands to be allotted to the said several Rectors and Vicars respectively, in Right of their said respective Rectories or Vicarages, to any Person or Persons for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the Execution of the Award herein-directed to be made by the said Commissioner, so that in every such Lease or Leases there be reserved and made payable to the said Rectors and Vicars respectively, and their respective Successors, the best and most improved Rent or Rents that can be reasonably had or gotten for the same, without taking any Income, Fine, Premium, or Foregift, in Consideration of granting any such Lease or Leases, but nevertheless, with such Abatement of Rent, and with such Allowance as may be reasonable, for or on Account of the Expence which the said Rectors and Vicars respectively, or their respective Tenant or Tenants may be at, or be put unto, in inclosing, subdividing, draining, and otherwise improving their said several Allotments respectively, and so that the Lessees in such Lease or Leases, be not thereby made dispunishable of Waste; and that in every such Lease or Leases there be contained a Power of Re-entry for Non-payment of such Rent or Rents, to be thereby reserved within a reasonable Time, to be therein limited, after the same shall become due, and so that a Counterpart of every such Lease or Leases be made and executed by the Lessee or Lessees respectively, and so that the Rents thereby to be reserved be made payable to the respective Rectors and Vicars of the said several Parishes Half-yearly, and other necessary and usual Clauses and Covenants to be contained in every such Lease or Leases; and every such Lease and Leases so to be made, shall be good, valid, and effectual, to all Intents and Purposes whatsoever, any Law, Statute, Usage, or Custom to the contrary notwithstanding.

Power to borrow Money.

LIII. And be it further enacted, That it shall be lawful for any of the said Lords or Proprietors of the Lands to be inclosed or embanked, drained, or improved, by virtue of this Act, whether Tenants in Fee Tail, or for Life, and for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the said Lords or Proprietors, being under Coverture, Minors, Lunaticks, or beyond the Seas, by and with the Consent of the said Commissioner, in Writing under his Hand, by any Deed or Deeds duly executed under his, her, or their respective Hands

Hands and Seals, to charge the Lands which shall be allotted to him, her, or them, respectively, or which are intended to be embanked, drained, or improved, by virtue of this Act as aforesaid, with any Sum or Sums of Money, for defraying his, her, or their respective Proportions of the Charges and Expences of this Act, and of carrying the same into Execution, in case sufficient shall not be raised by Sale of Land as aforesaid; and also with such further Sum and Sums of Money as shall be requisite for the Purposes of inclosing and fencing the Land so allotted to him, her, or them, and of embanking, and draining the Lands intended to be embanked, drained, and improved by virtue of this Act, and all other necessary Expences about and concerning such last-mentioned Purposes, not exceeding Four Pounds for every Acre of all and every such Lands, and so in Proportion for a greater or less Quantity; and for securing the Repayment of such Money, with Interest for the same, to grant, mortgage, or demise, the Lands so to be charged unto any Person or Persons who shall advance and lend such Money, his, her, or their Executors, Administrators, or Assigns, for any Term or Number of Years, so as every such Grant or Demise be made with a proviso or Condition to cease and be void, or with an express Trust to be surrendered, when the Money thereby to be secured, and the Interest thereof shall be fully paid and satisfied; and so as in every such Grant or Demise to be made by any Person or Persons entitled to the mortgaged Premises for Life only, there be contained a Covenant to pay and keep down the Interest of the Money thereby to be secured, during his, her, or their Life or Lives, and so that no Person or Persons succeeding or becoming afterwards entitled to such Premises, shall be liable to pay any further or larger Arrear of Interest, than for One Year preceding the Commencement of his, her, or their Title to the Possession thereof.

LIV. And be it further enacted, That it shall be lawful for any Tenant or Tenants in Tail, or for Life, of any Allotment or Allotments to be made, or of any of the inclosed Lands intended to be embanked and drained by virtue of this Act, by any Deed or Deeds in Writing, or by his, her, or their last Will, duly executed according to Law, to charge such Allotment or Allotments, or inclosed Lands respectively, where no such Mortgage shall have been made as aforesaid, with such Sum and Sums of Money, as he, she, or they shall respectively pay for his, her, or their Share of the Charges and Expences of this Act, and carrying the same into Execution, in Case sufficient shall not be raised by Sale of Land as aforesaid, and also with such further Sum and Sums of Money, for the Purposes of inclosing, fencing, embanking, and draining the Lands to be inclosed, embanked, and drained, by virtue of this Act, and other necessary Expences about and concerning the last-mentioned Purposes, not exceeding Four Pounds *per* Acre, and so in Proportion for a greater or less Quantity, as shall be appointed by the said Commissioner to be paid, and which, by any Writing or Writings under his Hand, shall be certified to have been so paid by such respective Tenant or Tenants in Tail or for Life, for his, her, or their said Share or Proportion of the Charges and Expences of and attending the Execution of this Act, and for the Purposes of dividing, inclosing, fencing, embanking, and draining the said Lands, in pursuance thereof; which Sum and Sums of Money, so to be charged as aforesaid, shall be payable within One Year

Tenants in Tail or for Life empowered to charge Allotments.

Year next after the Decease of any such Tenant in Tail or for Life, with Interest for the same after the Rate of Five Pounds *per Centum per Annum*, to be computed from his, her, or their respective Decease, unto such Person or Persons as such Tenant or Tenants in Tail or for Life shall, by such Deed or Deeds or last Will direct or appoint, and in Default of such Direction or Appointment, to his, her, or their respective Executors or Administrators.

Restraint from charging more than actually paid.

LIV. Provided always, and be it further enacted, That it shall not be lawful for any such Tenant in Tail or for Life, nor for the Husbands, Guardians, Trustees, Committees, or Attornies acting for or representing any Person or Persons, who shall be intitled to any Allotment or Allotments of the Lands hereby directed to be divided, allotted, and inclosed, to charge, by virtue of this Act, such Allotment or Allotments with any further or larger Sum of Money than the said Commissioner shall find sufficient to defray the respective Share and Proportion of the Money which shall be charged on him, her, or them, (if any shall be charged), to supply any Deficiency in the Money raised by Sale of Land as aforesaid, and also the Charges and Expences of inclosing, fencing, embanking, and draining, his, her, or their Allotment or Allotments, and other necessary Expences about and concerning the same as aforesaid, and which, by any Writing or Writings under the Hand of the said Commissioner, shall be certified to have been actually paid or laid out accordingly, any Thing herein-contained to the contrary notwithstanding.

Power to summon Witnesses.

LVI. And be it further enacted, That it shall and may be lawful to and for the said Commissioner, and he is hereby authorized and empowered, from Time to Time, by Writing under his Hand, to summon and require any Person or Persons to appear before him, at any Time and Place in such Writing mentioned, and to testify the Truth, upon Oath, which Oath the said Commissioner is hereby authorized to administer, touching any Matter in Difference between any of the Persons interested in the Inclosure, Embankment, or Drainage of the said Lands, or concerning any Matter or Thing relating thereto, or to or upon any other Question or Subject, within the Authority of the said Commissioner, to hear or determine, judge, direct, or decide upon, and to cause a Duplicate or Copy of such Writing to be duly served on every such Person required to testify: And if any Person, having been so summoned as aforesaid, and having been paid or tendered a sufficient Sum of Money (to be ascertained by the said Commissioner) to defray the Charges of his Attendance, shall, without such Excuse as the said Commissioner shall think reasonable, refuse or neglect to appear before the said Commissioner, pursuant to such Summons, or shall refuse to be sworn, or to be examined, and give Evidence touching the Premises, the said Commissioner, upon due Proof made before him, upon Oath (which Oath the said Commissioner is hereby empowered to administer) shall, and he is hereby authorized and empowered, by Warrant under his Hand and Seal, directed to any Person or Persons, to cause any Sum or Sums of Money, not exceeding Ten Pounds, (over and besides such Sum or Sums as shall have been paid to the Person so offending), to be levied by Distress and Sale of the Goods and Chattels of the Person so refusing or neglecting to appear and give Evidence as aforesaid, rendering the Overplus (if any) upon Demand, to the Person whose Goods and Chattels shall have been

to distrained and sold, after deducting the Costs and Charges attending such Warrant, Distress, and Sale, and the Money so to be levied as aforesaid; either Wholly or in Part, shall be paid to the Party or Parties having Occasion for and requiring such Testimony, or be applied towards the Costs and Charges of obtaining and executing this Act, as the said Commissioner shall direct.

LVII. And be it further enacted, That in all Cases wherein Cognizance is given to the said Commissioner, or to any Justice or Justices of the Peace by this Act, whether an Oath is hereby expressly required to be taken by any Witness or Party, or not, it shall be lawful for the said Commissioner, or for any such Justice or Justices, to administer an Oath to such Witness or Party, for the more certain Information and Satisfaction of such Commissioner, or Justice or Justices respectively; and that all and every Person and Persons who, in any Examination upon Oath to be taken by virtue of this Act, shall give false Evidence before the said Commissioner, or before any such Justice or Justices of the Peace, shall or may be prosecuted for the same, and upon Conviction thereof, shall be subject to such Punishments and Disqualifications as any Person or Persons is, are, or shall be subject to, for wilful and corrupt Perjury, by any of the Laws or Statutes of this Realm.

Power for
Comissioner
and Justices to
administer an
Oath.

False Evidence
upon Oath,
Perjury.

LVIII. And be it further enacted, That all Costs, Charges, Expences, Fines, Forfeitures, and Penalties, and all Sums for Satisfaction of Damages or Injuries sustained; which shall be charged, imposed, or directed to be paid, or made payable by virtue of this Act, for which no Remedy is hereby otherwise provided, shall be levied by Distress and Sale of the Goods and Chattels of the Person or Persons liable thereto respectively, (together with the Costs and Charges attending such Distress and Sale, by Warrant under the Hand and Seal of the said Commissioner, or of any Justice of the Peace for the said County of *Salop* not interested therein; and in case no sufficient Distress can be found, the Person or Persons respectively so liable thereto shall and may, by a like Warrant, be committed to the Common Gaol or House of Correction of or for the said County of *Salop*, for any Time not exceeding One Year, or until the said Costs, Charges, Expences, Fine, Penalty, or Forfeiture, together with the Costs of and attending such Warrant, and the carrying of such Person or Persons to Prison, shall be paid; but if the said Costs, Charges, or Expences, Fine, Penalty, or Forfeiture, shall be payable by any Owner or Occupier of Lands or Tenements within any of the said Parishes of *Rockwardine, Egton, Kynnersley, Waters-Upton, and High Ercall*, or within any Parish, Township, or Place adjoining thereto, then the said Commissioner or Justice shall and may, if the Party or Parties to whom the same shall be payable shall desire it, authorize such Party or Parties, by Writing under the Hand and Seal of such Commissioner or Justice, to enter into and upon any of such Lands or Tenements belonging to or in the Occupation of the Person or Persons so making Default as aforesaid, and to receive and take the Rents and Profits thereof, until thereby or therewith the same Costs, Charges, and Expences, Fine, Penalty, and Forfeiture, with all Charges and Expences occasioned by or attending such Entry and Perception, shall be fully paid and satisfied; and if any such Costs, Charges, and Expences, Fine, Penalty, or Forfeiture, shall be payable by any Owner of such Lands or Tenements, and shall be paid by

Recovery of
Costs, Fines,
&c.

[*Loc. & Per.*]

17 C

the

the Occupier thereof, every such Occupier shall have a Receipt for the same, and may deduct it out of his Rent, and such Owner is hereby required to pay or allow such Deduction, upon Production of such Receipt.

Distress, &c.
not to be un-
lawful for
Want of
Form.

LIX. And be it further enacted, That in case any Action shall be brought on Account of any Distress, or other Proceeding made, had, or done by virtue of this Act, it shall be lawful for the Defendant or Defendants to set forth generally, in his, her, or their Plea, Avowry or Justification, that the same was made by or under the Authority of this Act, and to give in Evidence all Matters necessary to make out his, her, or their Authority, Right, or Title, without specially pleading the same; and that no Summons, Order, Adjudication, Verdict, Rate, Assessment, Conviction, Warrant, Distress, or other Proceeding, under this Act, by or before the said Commissioner, or any Justice or Justices of the Peace, shall be quashed, vacated, or deemed void, or voidable, for want of Form only, nor be removed or removeable into any Court of Record at *Westminster*; nor in case of any Irregularity in any such Distress, or any Sale thereupon or Proceeding therein, shall any of the Parties concerned be deemed a Trespasser or Trespassers *ab initio*, but the Party or Parties injured thereby, shall and may recover full Satisfaction for his, her, or their special Damage in an Action upon the Case, if no sufficient Tender of Amends shall have been made to him, her, or them, before such Action brought, and not otherwise; and every Conviction under this Act shall or may be drawn up in the following Form, or to the like Effect; (that is to say),

Form of Con-
viction.

Shropshire, } BE it remembered, That on the Day of
to wit, } in the Year , and in the
Year of His Majesty's Reign, A. B. of is convicted
before me C. D. the Commissioner authorized to put in Execution an
Act, &c. [here insert the Title of this Act], or before E. F. One of His
Majesty's Justices of the Peace for the said County, upon the Inform-
ation (or Complaint) of G. H. (or, on his own Confession, as the Case
may be) of [here specify the Offence, and when and where committed] and
is thereupon adjudged to have forfeited the Sum of
to be distributed (or applied) as the Law directs, (or to be paid to
[as the Case shall be; or in Cases where the Amount
of any Damage done is to be ascertained] together with the Sum of
as a Recompence for the Damage to be occasioned
thereby, or that has been sustained by the said G. H. [or in case of any
Penalty for the Non-appearance of any Witness] and do thereupon impose
upon the said A. B. to the Use of the said G. H. a Fine of
together with the Sum of which was paid to the said
A. B. by the said G. H. to defray his Charges of Attendance. Given
under my Hand and Seal, the Day and Year first above-written.

Book of Ac-
count to be
left with the
Clerk for
Inspection of
Lords or Pro-
prietors.

LX. 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 Purpose, an Account of all Monies whatever, received from any Person during the Progress of the said Inclosure, Embankment, and Drainage, and also of the Charges, Expences, and Disbursements which shall accrue or be made by virtue of this Act, and in carrying the same into Execu-
tion,

tion; which Book of Account shall be kept at the Office of his Clerk, open at all reasonable Times, during the Progress of the said Inclosure, Embankment, and Drainage, and until all the Accounts are finally settled, for the Inspection of all Persons interested therein, without Fee or Reward; and in case the said Commissioner or his Clerk respectively, shall neglect to provide and keep such Book of Account as aforesaid, or refuse the Inspection thereof to any Person interested as aforesaid, at such reasonable Times as before-mentioned, and shall be convicted thereof upon the Oath of One or more credible Witness or Witnesses, not interested in the said Division, Inclosure, Embankment, or Drainage, before any Justice of the Peace of the said County of *Salop*, or of such other County or Place where such Commissioner or Clerk shall be or reside, every such Commissioner or Clerk, guilty of such Neglect or Refusal, and convicted as aforesaid, shall forfeit and pay for every Offence any Sum not exceeding Ten Pounds, nor less than Five Pounds; and if he or they shall make Default in Payment of 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 for the Use of such Person interested and making Complaint as aforesaid.

LXI. And be it further enacted, That all Monies to be raised and received under and by virtue of this Act, during the Progress of the intended Division, Inclosure, Embankment, and Drainage, 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 other Person or Persons to be appointed by a Majority in Value of the Persons interested therein, or of such of them who, by themselves, or their Agents or Attornies respectively, shall be present at the First Meeting of the said Commissioner, and in the Notice of which Meeting shall be expressed the Intention of such Banker, or other Person or Persons, being appointed; and the Monies deposited or paid into the Hands of such Banker, or other Person or Persons to be appointed as aforesaid, shall not 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 to be paid, and the Service or Consideration for which the same are due; and the Balance (if any) upon the final Settlement of all Accounts in anywise concerning the said Division, Inclosure, Embankment, and Drainage, (except as is herein-after mentioned), shall be immediately paid to the several Persons interested, in Proportion to the several Sums respectively paid and advanced by them, or in Proportion to their several Rights and Interests in the Land sold for Payment of Expences as aforesaid, as the Case may be.

When Receipt amounts to Fifty Pounds, to be paid into a Bank, or such other Person as the Majority in Value of the Proprietors shall appoint.

LXII. And be it further enacted, That if any Money shall be agreed or ordered to be paid for any Damage or Injury done to any Messuages, Buildings, or Lands, by virtue of the Powers of this Act, which shall belong to any Corporation, Feme Covert, Infant, Lunatick, or Person or

Application of Monies to incapacitated Persons.

Persons

Persons under any other Disability or Incapacity; or if any Surplus shall remain of the Money to be raised by Sale of Land as aforesaid, and any Share or Proportion thereof shall belong to any such Corporation, or other Person or Persons as aforesaid, such Money shall, in case the same shall amount to the Sum of Two hundred Pounds, with all convenient Speed be invested in the Purchase of Lands or Hereditaments, which shall be conveyed and settled upon, and subject to the like Uses, Trusts, and Limitations as the Messuages, Buildings, Lands, or Hereditaments, to which such Injury or Damage shall be done on the Lands or Hereditaments in respect of which such Money shall be paid, were settled, limited, or assured; and in the mean Time, and until such Purchase can be made, such Money shall be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the High Court of Chancery, to be placed to his Account there *ex parte* the said Commissioner, to the Intent that such Money shall be applied, under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons entitled to such Messuages, Buildings, Lands, or Hereditaments, either in or towards the Purchase of Land-Tax, or towards the Discharge of any Debts or Incumbrances affecting the same Lands or Hereditaments, or any others standing settled to the same Uses, or until the same shall, upon the like Application in a summary Way, be laid out by Order of the said Court, in the Purchase of other Lands or Hereditaments, to be settled to the like Uses; and in the mean Time, and until such Order can be made, such Money may, by Order of the said Court, be laid out in the Name of the Accountant General, in the Purchase of Three Pounds *per Centum* Consolidated, or Three Pounds *per Centum* Reduced Bank Annuities, and the Dividends of Interest arising therefrom shall, by Order of the said Court, be paid to such Person or Persons as would, for the Time being, be entitled to the Rents and Profits of such Lands or Hereditaments so to be purchased, conveyed, and settled; and in case the said Commissioner shall find any Difficulty in obtaining such Purchase in Lands or Hereditaments, which may be equal in Value to such Sum not exceeding Two hundred Pounds, as herein-before directed to be paid into the Bank as aforesaid, or which Purchase may be disadvantageous in other Respects, he the said Commissioner shall apply such Sum of Money towards defraying the Expences of passing and executing this Act, so far as the Proportion of the Party entitled thereto shall amount to; and if there shall be any Surplus of the said Sum of Two hundred Pounds, then and in such Case, such Surplus shall and may be applied in Diminution of the Sum allowed to be charged upon such Estate, after such Application as aforesaid: Provided always, That if any such Money shall be less than the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, then and in such Case the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the said Lands or Hereditaments, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, be paid into the Bank, in the Name and with the Privity of the said Accountant General of the said Court of Chancery, and be placed to his Account as aforesaid, in order to be applied in the Manner before directed, or otherwise the same shall be paid to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of
by

by the said Commissioner, (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties), in order that such Principal Money, and the Dividends arising thereon, may be applied in Manner herein-before directed, so far as the Case may be applicable, without obtaining, or being required to obtain the Direction or Approbation of the said Court of Chancery: Provided also, that in all Cases where such Money shall be less than Twenty Pounds, the same shall be applied to the Use of the Person or Persons who would, for the Time being, have been entitled to the Rents and Profits of the said Messuages, Buildings, Lands, or Hereditaments, in such Manner as the said Commissioner shall think fit; or in case of Infancy or Lunacy, then to his, her, or their Guardian or Guardians, Committee or Committees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

LXIII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved, by any Thing done in pursuance of this Act, (except in Cases where the Award or Determination of the said Commissioner is herein declared to be final and conclusive), he, she, or they may appeal to the General Quarter Sessions of the Peace, to be holden for the said County of *Salop*, within Four Calendar Months next after the Cause of Complaint shall have arisen, such Appellant first giving or causing to be given Ten entire Days Notice in Writing of his, her, or their Intention so to appeal, and of the Matter thereof to the said Commissioner, or such other Person or Persons as shall be interested in the Subject of the said Appeal, and within Six Days after such Notice, entering into a Recognizance, before some Justice of the Peace for the said County, with Two sufficient Sureties, conditioned to try such Appeal, and abide the Order and Award of the said Court thereon: And the said Court of Quarter Sessions, upon due Proof of such Notice and Recognizance having been given and entered into, shall hear and determine such Appeal, and make such Order, and award such Costs, as to the said Court shall seem reasonable, and by their Order or Warrant levy the Costs so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of such Distress and Sale, which Determination or Order of the said Court shall be final and conclusive unto and upon all Parties concerned therein, and shall not be removed or removable, by *Certiorari*, or by any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

LXIV. Provided always, and be it further enacted, That nothing herein contained shall extend to authorize the inclosing, dividing, allotting, or draining of any Commons or Waste Lands, or other Lands or Grounds whatsoever, situated within or belonging to the Township of *Rockwardine Wood*, in the said Parish of *Rockwardine*, or to vest in the said Commissioner, or any other Person or Persons, any Power or Jurisdiction in or over the same, or any Part thereof, except as to the ascertaining the several Titles and Boundaries or Divisions of Property in the inclosed Lands of the respective Owners thereof, and as to exchanging and making Partition with the Consent of Parties, and also except

Not to extend to any Waste Lands in the Township of *Rockwardine Wood*.

[*Loc. & Per.*]

[17 D]

such

such Part or Parts of the said Common Moors, called *Sydney Moor*, *Small Moor*, *Rodway Moor*, and *Waters-Upton Moor*, or of such of them, if any, as shall be found to be situated within or appertaining to the said Township.

Saving of
Mines to the
Lords of
Manors.

LXV. Provided always, and be it further enacted, That nothing herein contained shall extend, or be construed to extend, to prejudice, lessen, defeat, or vary, any Right, Title, or Interest, which the said Lord or Lords of the said several Manors respectively have or hath in or to any Mines, Ores, Coals, Metals, or Minerals whatsoever, in or under such Part or Parts of the said Common Moors, and other Commons and Waste Lands hereby intended to be divided and inclosed, as are situated within his, or their Manor or Manors respectively, but that it shall and may be lawful to and for such Lord or Lords, his and their respective Heirs and Assigns, according to his and their several Rights in such Manors respectively, to enter into and upon the said Part or Parts of the same Moors, and other Commons and Waste Lands, so situated within his or their said Manor or Manors respectively, and to delve, search for, get, make merchantable, take, and carry away, with all Manner of Carriages, and by any Ways or Means whatsoever, and dispose of to his or their own respective Uses, the said Mines, Ores, Coals, Metals, and Minerals, or any Part thereof; and to make, erect, and use any Roads, Railways, and other Ways, Sumps, Levels, Warehouses, Furnaces, Forges, Smithies, Machines, Engines, Erections, and other Conveniencies, and to do all other Acts, Matters, or Things, as shall be needful or expedient for all or any of the said Purposes; and the same Rails, and the Sleepers thereto, Warehouses, Furnaces, Forges, Smithies, Machines, Engines, Erections and other Conveniencies, or any of them, and the Materials thereof, from Time to Time, and at any Time or Times, to alter, take down, remove, and carry away, at their respective free Will and Pleasure; full Satisfaction from Time to Time being made by the Person or Persons exercising any of the said Powers, to the respective Owners and Occupiers of the Allotments to be made by virtue of this Act, for the Spoil and Damage which shall be done or occasioned thereby: Such Satisfaction (in case the Parties disagree) to be settled and determined by Two indifferent Persons, One to be nominated by each Party; or in case the said Arbitrators cannot agree therein, then by some Third indifferent Person, to be appointed by the said Arbitrators as Umpire therein: And every such Determination of the said Arbitrators or Umpire respectively shall be final and conclusive, and shall not be impeached or questioned in any Court, or before any Jurisdiction whatsoever.

Saving of
other Manorial
Rights.

LXVI. Provided always, and be it further enacted, That nothing contained in this Act shall prejudice, lessen, or defeat the Right, Title, or Interest of the said Lord or Lords of the said Manors respectively, or of his or their Heirs or Assigns, in or to the Seigniorie or Royalties incident and belonging to the said Manors respectively, but that such Lord or Lords of the said Manors respectively for the Time being, shall and may, from Time to Time, and at all Times hereafter, hold and enjoy all Rents, Services, Courts, Perquisites, and Profits, of Courts, Goods and Chattels of Felons and Fugitives, Felons of themselves, Persons put in Exigent, Deodands, Waifs, Estrays, Forfeitures, and all

all other Royalties, Jurisdictions, Rights, and Pre-eminencies whatsoever to the said Manors respectively, or to the respective Lord or Lords thereof, for the Time being, incident, appendant, appurtenant, or in any wise belonging, (other than and except such Rights and Interests as by this Act are declared or intended to be destroyed or extinguished), in as full, ample, and beneficial Manner, to all Intents, as he or they respectively might or could have held and enjoyed the same in case this Act had not been passed.

LXVII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Person and Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest (other than such as are intended to be barred and destroyed by this Act) of, into, or in Respect of the said Common Moors and other Commons and Waste Lands, hereby directed or authorized to be divided and inclosed, embanked, drained, or exchanged, as they, or any of them, might or could have had and enjoyed, in case this Act had not been made. General Saving of Rights

LXVIII. And be it further enacted, That this Act shall be deemed Publick Act; adjudged, and taken to be a Publick Act, and shall be judicially taken Notice of as such by all Judges, Justices, and other Persons, without specially pleading the same.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1801.

100

THE HISTORY OF THE
CITY OF BOSTON
FROM 1630 TO 1800
BY
JOHN H. COOPER
VOL. I

CHAPTER I
THE FOUNDING OF THE CITY
1630-1634
The first settlement in the city of Boston was made in 1630 by a group of Puritan settlers from England. They were led by John Winthrop, who had written the famous "City upon a Hill" sermon. The settlers arrived in the city on September 21, 1630, and established the town of Boston. The city was named after the town of Boston in Lincolnshire, England.

CHAPTER II
THE GROWTH OF THE CITY
1634-1680
The city of Boston grew rapidly in the years following its founding. The population increased from about 100 in 1630 to over 10,000 by 1680. The city became a major center of trade and commerce in the New England region. The city was also a center of education and culture, with the founding of Harvard University in 1636.

CHAPTER III
THE REVOLUTIONARY WAR
1773-1780
The city of Boston played a central role in the American Revolutionary War. The Boston Tea Party took place in the city in 1773, and the city was the site of the Battle of the Clouds in 1775. The city was occupied by British troops from 1775 to 1780, and the city suffered significant damage during the war.