



ANNO QUADRAGESIMO NONO

GEORGI II. REGIS.

Cap. 109.

An Act for inclosing Lands in the Manors of *Abdon* and *Stoke Saint Milborough*, in the County of *Salop.* [20th May 1809.]

WHEREAS there are within the Manors of *Abdon*, in the Parish of *Abdon* and *Stoke Saint Milborough*, in the Parish of *Stoke Saint Milborough*, both in the County of *Salop*, several Tracts of Common or Waste Lands, containing together One thousand and four hundred Acres or thereabouts: And whereas the Right Honourable *Richard Viscount Fitzwilliam* is Lord of the said Manors, and as such is entitled to the Soil of the said Common or Waste Lands: And whereas the said *Richard Viscount Fitzwilliam* and *Sir James Graham* Baronet, *Thomas Mytton*, *Charles Thomson*, *William Bentham*, *Thomas Kynnersley*, Esquires, and others, are the Owners of Messuages, Lands and Tenements within the said Manors, and in respect thereof have or claim Right of Common upon the Waste Lands within the same respectively, in proportion to the Extent and Value of their said respective Messuages, Lands and Tenements: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said Division and Inclosure cannot be made and effected without the Aid and 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 Consent of

Recital of the
General In-
closure Act.

[*Loc. & Per.*]

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the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Henry Bowman* of *Knockin*, *William Fellicoe* of *Bentball*, and *Samuel Southam* of *Cotton Hall* in the said County of *Salop*, Gentlemen, and their Successors for the Time being, to be elected in Manner herein-after mentioned, shall be and are hereby appointed to be Commissioners for putting this Act in Execution, and shall proceed in the Execution of their Duty without any Neglect or Delay, and in such Manner and subject to such Regulations as are herein-after prescribed, and subject to such of the Powers, Regulations, Restrictions and Provisions contained in the said recited Act as are not varied or altered by or repugnant to any of the said Clauses, Provisions or Regulations in this Act contained; and that all Acts, Matters and Things authorized or directed to be done and executed by or before the said Commissioners for effecting the Purposes aforesaid, may be done and executed by or before any Two of them; and the same when so done shall be as valid and effectual as if done and executed by or before all the said Commissioners.

Allowance to
Commission-
ers.

II. And be it further enacted, That out of the Money that shall be raised for defraying the Expences of obtaining and executing this Act, there shall be paid to each of the said Commissioners, as a Recompence for his Pains and Trouble, the Sum of Three Guineas and no more for each Day he shall be employed in travelling to, returning from and attending on the Execution of this Act; and that the said Commissioners shall defray their travelling Expences, and also their own Expences at all Meetings to be held in pursuance of this Act; and every Proprietor and other Person in any Manner interested in the Commons and Waste Lands to be divided and inclosed by virtue of this Act, shall at all such Meetings pay and discharge their own Expences.

Commission-
ers to appoint
Surveyors and
Assistant Sur-
veyors, and to
remove them
at their Plea-
sure.

III. And be it further enacted, That it shall and may be lawful to and for the said Commissioners and they are hereby authorized and empowered, when and as to them shall seem meet, to appoint such and so many Persons as they shall think proper or necessary to be Surveyors and Assistants to such Surveyors, for the Purposes of the said intended Division and Inclosure, and from Time to Time to displace and remove any such Person or Persons so to be appointed, and to appoint any other Person or Persons in the Room, Place and Stead of any such Surveyor or Surveyors, Assistant or Assistants so to be displaced and removed, and to make such Surveyor and Surveyors, Assistant and Assistants, such Recompence for their respective Labour, Skill and incidental Expences, as to the said Commissioners shall appear just and reasonable.

Old Roads to
be stopped.

IV. And be it further enacted, That the said Commissioners shall and they are hereby empowered to stop up any old or accustomed Road passing or leading through any Part of the old Inclosures in either of the said Parishes or Places, with the Concurrence and Order of Two Justices of the Peace acting in and for the County of *Salop*, and not interested in the Repair of such Roads, and which Order shall be subject to an Appeal to the Quarter Sessions of the said County of *Salop*, in like Manner and under the same Form and Restrictions as if the same had been originally made by Two Justices as aforesaid.

V. And

V. And be it further enacted, That all Cottages, Erections, Encroachments and Inclosures which have been erected and made upon or taken out of the said Waste Lands by any Freeholder or Freeholders, his, her or their Tenant or Tenants, in respect of or laid unto and occupied with his, her or their Freehold Messuages, Lands or Tenements within the said Manors respectively, for the Space of Twenty Years or upwards before the passing of this Act, and for which no Rent or Amerciament hath been paid, or Attornment been made to the Lord of the said Manors, shall be deemed to be the Property of such Freeholder or Freeholders respectively; and that all other Cottages, Erections, Encroachments and Inclosures which shall have been erected and made upon or taken out of the said Waste Lands for the Space of Twenty Years or upwards before the passing of this Act, shall be deemed to be the Property of the Lord of the said Manors and Owner of the Soil of the same Waste Lands respectively, or such Person or Persons as shall claim the same by Conveyance from him or any of his Predecessors as such Lord or Owner respectively, or shall otherwise have a lawful Title thereto; but no Allotment shall be made for or in lieu of any Common Right which shall be claimed in respect of any such Cottages, Erections, Encroachments and Inclosures.

Encroachments of Twenty Years standing.

VI. And be it further enacted, That all Encroachments and Inclosures made upon or taken out of the said Waste Lands within Twenty Years next before the passing of this Act, shall be deemed Parts and Parcels of the said Lands, and such of them as shall have been made before the First Day of *January* One thousand eight hundred and nine, by any such Freeholder or Freeholders as aforesaid, his, her or their Tenant or Tenants, in respect of or laid unto and occupied with such his, her or their said Freeholds, and for which no Rent or Amerciament hath been paid, or Attornment made to such Lord or Owner of the Soil respectively, shall, with all Buildings and Erections thereon, be set out and allotted unto such Freeholder or Freeholders, and Owner of the Soil of the said Waste Lands as shall be in Possession thereof respectively, in Part or in full of the Allotments herein-before directed to be made to him, her or them, in case the same shall not in the Opinion of the said Commissioners be more than equivalent thereto (in which Case a competent Part thereof shall be so set out and allotted), and the Remainder of the said Encroachments and Inclosures so made before the First Day of *January* One thousand eight hundred and nine, and within Twenty Years before the passing of this Act as aforesaid, with all Buildings and Erections thereon, shall be set out and allotted unto the Lord of the said Manors respectively, in part or in full of his said Allotments, as the Case may require; and in the Valuation of such Encroachment or Inclosure either to the said Lord or other Owner, or any Freeholders to whom they shall be respectively allotted, 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.

Encroachments under Twenty Years.

VII. And be it further enacted, That public Notice shall be given upon some *Sunday* by Writing to be affixed on some public Door of the Parish Church of *Abdon* and *Stoke Saint Milborough* aforesaid, and also by an Advertisement in the *Shrewsbury* Newspapers or some other public Newspapers circulated in the same County, of the respective Times and Places which the said Commissioners shall fix for perambulating Boundaries, receiving

Notice of Meetings.

Claims

Claims or Objections, and determining Disputes respecting any of the said Boundaries or Claims, or respecting any Cottages, Erections, Encroachments, Inclosures, Allotments, Roads, Drains, and other Works, or for electing any Commissioner, Ten Days at least before each such Time respectively, and public Notice shall be given in like Manner of the respective Times and Places which the said Commissioners shall fix for leaving the said Claims and Objections or Copies or Abstracts thereof, and also the Maps, Particulars and Schedules, to be inspected previous to their being so left respectively; and the Business may be adjourned to such Time and Place or Times and Places as the said Commissioners shall think most convenient, without any further Notice; and in case the said Commissioners shall not attend at the Time and Place appointed for transacting any such Business as aforesaid, or at any Adjournment thereof, then and so often it shall be lawful for their Clerk for the Time being to appoint such future Time and Place as he shall think proper for proceeding therein without any Notice, so that such Place of Meeting, whether by Adjournment or otherwise, be within one of the said Parishes, or do not exceed the Distance of Eight Miles from the Boundaries of one of the said Parishes.

Adjournment. VIII. And be it further enacted, That all other Notices necessary or expedient to be made and given by the said Commissioners shall be so made and given by Advertisement in the *Shrewsbury* Newspapers, or in case the same Newspapers shall not be published, then in some other Newspaper printed or circulated in the said County of *Salop*.

Other Notices. IX. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Division and Inclosure, touching or concerning the respective Rights of Common and other Interests which they or any of them shall have or claim to have in the same, or the Nature, Limits and Extent of such Rights and Interests, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, it shall and may be lawful for the said Commissioners, and they are hereby authorized and required to examine into, hear and determine the same: Provided always, that nothing in this Act contained shall authorize such Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements or Hereditaments whatsoever.

Commissioners to determine Differences. X. Provided always, and be it further enacted, That in case any Person or Persons, Bodies Politic or Corporate, interested or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Claim or Claims, Objection or Objections of or to the Common or other Rights or Interests in, over or upon the Lands and Grounds hereby directed to be divided and inclosed, or any Part thereof, or as to the Nature, Limits and Extent of such Rights and Interests, and shall thereof give Notice in Writing to the said Commissioners, or any One of them, within Three Calendar Months next after such Determination shall be made, and Notice thereof given to him or them, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial or Trials at Law of the Matter so determined by the said Commissioners, at the then next or at the following Assizes to be holden for the said County of *Salop*, or for some

Allowing Parties to try their Rights by an Issue at Law.

some adjoining County, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, or with whom such Question shall arise; within Three Calendar Months next after the Determination of the said Commissioners shall be made, and Notice thereof shall be given as aforesaid; and the Defendant or Defendants in such Action or Actions shall, and he, she or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept one or more Issue or Issues, whereby such Claim or Claims, Objection or Objections, and the Right or Rights thereby insisted on may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties differ about the same), and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do as is usual in other Cases; and after such Verdict or Verdicts shall be obtained and not set aside by the Court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners touching such Claim or Claims of Right to the said Commons and Waste Lands, or other Rights or Interests in, over or upon the Lands and Grounds hereby directed to be divided and inclosed or any Part thereof, which shall not be objected to, or being objected to the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive on all Parties.

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

If any of the Parties die Proceedings not to abate.

XII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought, if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners or his Successors with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, or in his, her or their own Name or Names, and Proceedings shall be had therein in the same Manner as if such Person

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

or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Persons in Possession not to be molested without due Course of Law.

XIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments as herein-after mentioned); but in case the said Commissioners shall be of Opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment, or other due Course of Law.

Costs to be determined by Commissioners.

XIV. And be it further enacted, That all Costs, Charges and Expences occasioned by any Disputes, which shall be heard and determined by the said Commissioners, shall be borne and paid by such Person or Persons, in such Proportions, Manner and Form as the said Commissioners shall under their Hands from Time to Time direct or appoint, all which said Costs, Charges and Expences shall be levied by the said Commissioners upon such Person or Persons as shall be directed or ordered to pay the same, in such Manner and under such Powers of Entry, Distress and Sale as are herein-after mentioned; and such Costs, Charges and Expences when paid or levied, shall be applied in such Manner as shall be directed or appointed by the said Commissioners.

Allotments for Watering Places, Gravel, &c.

XV. And be it further enacted, That the said Commissioners shall in the first Place set out and allot unto the Surveyors of the Highways within the said Parishes respectively, such Parts and Parcels of the said Lands and Grounds hereby directed to be divided and inclosed, as the said Commissioners shall think proper or necessary as and for public Watering Places for Cattle, and for Stone and Gravel Pits, Sand and Clay, and for laying and depositing Rubbish; and the same Allotments when so set out shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Lands, Tenements and Hereditaments within the said respective Parishes and Townships, and their Tenants for the Time being, in such Manner and under such Rules and Regulations as the said Commissioners shall by their Award direct or appoint.

Commissioners to sell Part of the Commons to defray the Expences of obtaining this Act.

XVI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered from Time to Time, when they shall think proper, to sell such Parts and Parcels of the said Commons or Waste Lands within the said Parishes, in such Proportions as the said Commissioners shall think just and equitable for the Purposes of raising so much Money as shall be sufficient to pay and defray the Charges of preparing, obtaining and passing this Act, and carrying the same into full Execution, agreeable in all respects to the Rules and Regulations in the said recited Act mentioned,

Application of the Surplus Money.

XVII. And be it further enacted, That in case any Part or Parts of the said Commons and Waste Grounds shall be sold for more Money than will be required to defray such Charges and Expences as aforesaid, then and in such Case such Surplus Money shall be divided and apportioned

between the several Proprietors of the Lands hereby directed to be divided and inclosed, according to their several and respective Interests therein, and paid to them, in case they shall be seized in Fee Simple of their several Allotments, or otherwise such Surplus Money shall be paid into the Bank of *England* in Manner directed by the said recited Act with respect to Money thereby directed to be paid into the Bank for the Purchase or Exchange of Lands, Tenements or Hereditaments, or any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments, to be settled to the same Uses.

XVIII. Provided always, and be it further enacted, That all Costs, Charges and Expences attending the making and completing of any Exchanges and Partitions, shall be paid and borne by the several Persons making such Exchanges and Partitions, in such Manner and in such Proportions as the said Commissioners shall order and direct.

Costs of Exchanges and Partitions to be paid by Persons interested.

XIX. And be it further enacted, That after the public Highways, Wells, Watering Places, Drains and Watercourses, Quarries and other necessary public Conveniencies shall be set out and affixed, and the Lands to be sold for defraying the Expences shall be set out and appointed as aforesaid, they the said Commissioners shall set out and allot One full Fourteenth Part of the Waste Lands within the said Manors unto and for the said *Richard Viscount Fitzwilliam*, the Lord of the said Manors respectively, as the Owner of the Soil thereof, his Heirs and Assigns, in lieu of and as a Compensation for his Rights and Interests in, to and upon the Soil of such Waste Lands within the said Manors respectively, over and beside what he shall be entitled unto in respect of his Freehold Lands; and the said Commissioners shall also divide, set out and allot in Severalty the Remainder of the said Waste Lands, and also the Soil and Herbage of the Roads and Ways (except public Carriage Roads) unto, for and amongst the several Persons interested therein, their respective Heirs, Successors and Assigns, according to the real Extent and Value of their respective Shares, Rights of Common and other Rights and Interests in or upon the same, in such Manner as the said Commissioners shall in their Judgement think proper, but subject to the Rules, Orders and Directions in this Act contained: Provided always, that it shall be lawful for the said Commissioners at any Time before executing their final Award, to make any Alteration in the Allotments and Fences which they may have set out and ordered, or in the private Roads laid or to be laid over or to such Allotments that they shall think right and expedient; and in case any Person or Persons be injured by such Alterations, on account of any Expences he, she or they may have been at, the said Commissioners shall ascertain and determine what Recompence shall be made to him or them, and shall direct by whom and in what Manner such Recompence shall be made: Provided always, that if through Situation or other Circumstances of any Allotment or Allotments, it shall happen that the Proprietors thereof shall not have a proportionable Share of Boundary Fencing thereto, it shall be lawful for the said Commissioners, where they shall judge it reasonable, to ascertain and appoint any Sum or Sums of Money to be paid by such Proprietor towards the Boundary Fencing of such other or others of the said Proprietors as may happen to have too great a Proportion thereof, in order that the Expences of the Boundary Fencing may be brought as
near

Allotment to the Lord of the Manor.

near as may be to a just and equal Proportion, and the Money so to be ascertained and appointed shall be levied and recovered in such and the same Manner as last herein-before mentioned with respect to the Expence of making and raising Fences where Parties neglect or refuse so to do.

Allotments,
etc. to be
staked out
and Schedules
left for In-
spection.

XX. And be it further enacted, That when and as the said Commissioners shall have fixed on such Division and Allotment as aforesaid, and such Orders and Directions respecting the Roads, Wells, Waters, Drains and other Works and Conveniencies as aforesaid, and respecting fencing the Allotments as herein directed in the said Manors or either of them, they shall stake and mark out all and every of the said Roads, Drains, Allotments and other Works accordingly; and the said Commissioners shall also from Time to Time leave a Schedule or Schedules or a Description of the said Roads, Drains, Allotments and other Works, and of their said Orders and Directions, at such Place or Places as they shall think proper, for the Inspection of the Parties concerned, during the Space of One Calendar Month; and the said Commissioners shall afterwards hear and determine all Objections that shall be made thereto, and make such Alterations therein as they shall on Consideration think proper.

Proprietors
may enclose
Allotments
before all the
Allotments
are staked out,
paying a Rent
for a limited
Time.

XXI. And, for the more speedy inclosing and improving the said Commons and Waste Lands, be it further enacted, That it shall be lawful for the said Commissioners, if they shall find it convenient and expedient so to do, immediately or at any Time after the passing of this Act, and before all such Allotments are made and staked out, and the Rights and Interests of each and every the Proprietors fully ascertained, to set out and allot to any of such Proprietors such Lots and Parcels of Land as Part of the Allotments to be made to such Proprietors respectively, and by Writing under their Hands to empower such Proprietors respectively to fence, occupy and enjoy the same in Severalty, paying such annual Rents in respect thereof, until the whole of the Allotments to be made by virtue of this Act shall be ascertained or staked out, as the said Commissioners shall fix and appoint, such Rents to be applied by the said Commissioners towards the Payment of the Expences of obtaining this Act and carrying the same into Execution, and to be recovered in Manner herein-after directed.

For extin-
guishing or
suspending
Rights of
Common.

XXII. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby authorized, at any Time or Times before the Execution of the said Award, by Notice in Writing under their Hands to be affixed upon the principal Doors of the said Parish Churches, to order and direct all or any Part of the Rights of Common in, over or upon the said Commons and Waste Lands or any Part thereof, to be extinguished or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Writing, and that all such Rights of Common as the said Commissioners shall by such Writing order and direct to be extinguished or the Exercise thereof to be suspended as aforesaid, shall from the Time of affixing such Writing on the said Church Doors cease, determine and be extinguished or the Exercise thereof suspended accordingly; any Law, Usage or Custom to the contrary notwithstanding.

XXIII. Fro-

XXIII. Provided always, and be it further enacted, That convenient Gaps or Openings shall (if necessary) be left in the Hedges and Fences of the said Allotments, for such Space of Time next ensuing the Execution of the Award of the said Commissioners, for the Passage of Horses, Cattle, Carts, and Carriages, as the said Commissioners shall in and by their Award direct and appoint.

Gaps to be left in Fences for a certain time.

XXIV. And be it further enacted, That no Sheep or Lambs shall be kept and depastured in the said Allotments from the Time such Allotments are staked out, and for the Space of Seven Years after signing the Award by the said Commissioners, unless the Owners or Occupiers thereof shall at their own Expence fence and effectually guard the young Quickset Hedges on every Side of the Allotments where such Sheep and Lambs shall be kept.

No Sheep or Lambs to be kept on the Allotments for Seven Years after the Award, except in certain Cases.

XXV. Provided always, and be it further enacted, That if any Dispute shall arise between any Persons respecting the Right or Title to all or any Part of the said Waste Lands, or any Messuage, Land or Tenement to which any Common or other Rights in, to, or upon the said Waste Lands, or any Part thereof, or any other Matter or Thing touching the said Inclosure shall belong or appertain, the same shall not retard the said intended Division, but the same shall be proceeded in as if such Dispute had not arisen; and in case the Dispute refers to an Allotment, the same shall be made in respect thereof separate and apart from any other Allotment.

Disputes as to Titles not to retard Inclosure.

XXVI. And be it further enacted, That the said Commissioners for the Time being, and Surveyors to be appointed in pursuance of this Act, their Servants and Assistants, and all Persons employed by them respectively, shall have and they are hereby vested with full Power and Authority, at any Time or Times whatever, to enter into, view and examine, survey and admeasure all and every the said Lands and Grounds hereby directed to be divided and inclosed, and also such other ancient inclosed Lands and Grounds as shall be necessary for effecting the Purposes of this Act.

Power to enter Lands.

XXVII. And be it further enacted, That in order to shorten the Boundary Fences between the Lands and Grounds hereby intended to be divided, allotted and inclosed, and the Lands lying within any Parish or Parishes adjoining thereto, it shall be lawful for the said Commissioners (with the Consent in Writing under the Hand or Hands of the major Part in Value of the Land Owners in any Parish or Parishes adjoining to the said Parishes of *Abdon* and *Stoke Saint Milborough*, and also under the Hand or Hands of the Lord or Lords, Lady or Ladies of the Manor or Manors in any such adjoining Parish or Parishes, or of the Owner or Owners of the Land upon which such Fences shall or may be intended to be made) to set out, ascertain, and determine the Boundary Fences to be made between the Lands and Grounds hereby intended to be divided, allotted and inclosed, and the Lands lying in such adjoining Parish or Parishes, as they shall judge proper for the Purposes aforesaid; and after the Boundaries shall be so set out, ascertained and determined, such Fences shall be erected thereon by such Person or Persons in such Manner and at such Time or Times as the said Commissioners shall direct; and the same shall for ever thereafter be deemed and taken to be the Boundaries between the Lands

For shortening Boundary Fences.

and Grounds hereby directed to be divided, allotted and inclosed, and such adjoining Parish or Parishes; any Law, Usage or Custom to the contrary notwithstanding.

This Act not to prejudice any Wills, Deeds, &c.

XXVIII. And be it further enacted, That nothing herein contained shall extend to annul, revoke or alter any Will, Deed or Settlement, or to prejudice any Person having or claiming any Jointure, Dower, Portion, Debt or Incumbrance out of, upon or affecting any of the Lands or Hereditaments to be divided and inclosed, partitioned or exchanged in pursuance of this Act; but that the several Lands and Hereditaments to be set out and allotted or divided, partitioned or given in Exchange in pursuance of this Act, shall immediately after the vesting of such Allotments, or making such Partitions and Exchanges respectively be, remain and enure, and the several Parties to or for whom the same shall be allotted or shall be given in Exchange or Partition as aforesaid, shall thenceforth stand and be seised thereof, to such Estates, Uses and Trusts, and subject to such Wills, Deeds, Settlements, Limitations, Remainders, Charges and Incumbrances, as the several Lands and Hereditaments in lieu or in respect whereof such Allotments, Divisions, Partitions and Exchanges shall be made as aforesaid, would have been subject and liable to be charged with or affected by in case this Act had not been made.

Allotments to enure to the same Tenures.

XXIX. And be it further enacted, That all and singular the Lands and other Premises which shall be allotted under or by virtue of this and the said recited Act, shall, immediately after such Allotments are made, be held and subject to such and the same Tenures, Customs, Heriots, Rents and Services, as the several and respective Messuages, Buildings, Lands, Tenements and Hereditaments, in respect whereof such allotted Lands shall be made, are now subject.

Leases at Rack Rent to be void.

XXX. Provided always, and be it further enacted, That all Leases and Agreements for any Term or Terms at Rack Rent now subsisting of all or any Part of the said Waste Lands, or of the said Messuages, Lands, Tenements, Tythes or Hereditaments which shall be so wholly or in part exchanged, or in respect whereof any Allotment shall be made to the Proprietors in pursuance of this Act, and which in consequence of such Allotment or Exchange the said Commissioners shall be of Opinion will be improper to continue after, and in consequence of such Allotment or Exchange being made or taking Effect, shall cease, determine and be void on such Day or Days respectively, within One Year after the signing of the said Award respecting the same Lands, Grounds, Tythes or Hereditaments, as the said Commissioners shall fix for that Purpose in or by any Writing or Writings under their Hands; 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 Commissioners shall order by any such Writing, and the respective Owners 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 Commissioners shall in and by the said Award 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, shall

shall continue, and in such respective Cases the said Commissioners shall determine and direct whether all or any of the Land so allotted or exchanged shall be respectively inclosed, and held or occupied by the said Proprietors or by their respective Tenants, as they shall think most 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, and for such Time or Times as the said Commissioners shall in and by any Writing under their Hands 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 if this Act had not been passed: Provided always, that if there shall be any Lease of Lands, Part of which shall be in the said Parishes of *Abdon* and *Stoke Saint Milborough*, or either of them, and Part in any adjoining Parish, all and every such Lease or Leases upon Rack Rent now subsisting may be vacated, but where any Land shall have been taken in Exchange, which Land shall be under Lease and wholly situate in any adjoining Parish, the Lease of such last-mentioned Land shall not be vacated.

XXXI. Provided also, and be it further enacted, That it shall be lawful for any Person entitled in right or in respect of any Church or Chapel to any Allotment or Allotments of the Lands hereby intended to be divided and allotted (by and with the Consent of the Lord Bishop of the Diocese in which such Church or Chapel is situate, and of the Patron of such Church or Chapel for the Time being respectively) by Writing under his Hand and Seal, by and with the Consent of the said Commissioners, testified in Writing under their Hands and Seals, to make any Lease or Leases of their respective Allotments or any Part thereof, for any Term not exceeding Twenty-one Years from the staking out and finally settling the Allotments so to be leased; so as every such Lease shall commence or take place within One Year next after the Date thereof, and the most improved annual Rent which can be gotten be made Half-yearly for the same; and so that no Fine, Premium or Foregift be taken for making the same; and that such Lease be not made dispunishable for Waste, but contain all usual and reasonable Covenants, and the usual Powers of Re-entry on Non-payment of Rent or Non-performance of any of the said Covenants, and so as the Lessee or Lessees do execute a Counterpart thereof; and every Lease so made as aforesaid shall be valid and effectual.

Power to
lease Allot-
ments.

XXXII. And be it further enacted, That it shall and may be lawful to and for any Person or Persons interested in the said Commons or Waste Lands to be inclosed by virtue of this Act, who shall have in himself, herself or themselves respectively an Estate of Inheritance in Fee Simple of and in any Freehold Lands, Tenements or Hereditaments in respect of which he, she or they shall or may be entitled to any Allotment or Allotments by virtue of this Act (or an Estate of Inheritance according to the Custom or Customs of the Manor or Manors or other Places of which the same shall be held, of or in any Copyhold, Tenant Right or Customary Messuages, Lands or Hereditaments) at any Time or Times before the signing of the said Award or Instrument herein-before directed to be made by the said Commissioners, or at any Time afterwards, to sell and dispose of all such Estate, Right, Title, Interest and Property which he, she or they now have or hath, or shall or may hereafter have in, to, or upon the said Commons or Waste Lands, or in or to any Allotment or Allotments to be made in
respect

Proprietor
may sell their
Interest in the
Lands to be
inclosed,
before Execu-
tion of the
Award.

respect thereof by virtue of this Act, separate from such Freehold (Copyhold, Tenant Right or Customary) Estate or Estates in right whereof he, she or they is, are or shall be so entitled; and that in case of any such Sale or Sales previous to the Execution of such Award, it shall and may be lawful for the said Commissioners, and they are hereby authorized and required to allot the same to the Purchaser or Purchasers thereof respectively, who shall and may immediately after the same shall be allotted and marked out as aforesaid, have, hold, use and enjoy such Allotments so by him, her or them purchased as aforesaid, and shall and may have, use and exercise any Act of Ownership in and upon the same, in as full and ample a Manner to all Intents and Purposes whatsoever, as the former Proprietor or Vendor, Proprietors or Vendors thereof respectively might have done in case such Sale or Sales had not been made; but subject nevertheless to the several Rules, Orders, Conditions and Restrictions mentioned and contained in this Act.

Expences of the Act, &c. how to be paid.

XXXIII. And be it further enacted, That the Costs, Charges and Expences of obtaining and carrying this Act into Execution, 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 Commissioners shall think equitable.

Persons advancing Money to be repaid with Interest.

XXXIV. And be it further enacted, That if any Person or Persons shall advance and pay any Sum or Sums of Money for the Purpose of defraying the Expences previous to obtaining and passing this Act, or afterwards of carrying the same into Execution, every such Person shall be repaid the same, with Interest after the Rate of Five Pounds *per Centum per Annum*, out of the first Monies which shall be raised for defraying any Expences by virtue of this Act.

Appointment of a new Commissioner.

XXXV. And be it further enacted, That if the said Commissioners hereby appointed or to be elected in Manner herein-after mentioned or any of them, shall die, or resign or be incapable to act, then and so often the major Part in Value (such Value to be ascertained by the Land Tax Assessment for the said Parishes) of the Persons interested in the said Inclosure for the Time being, who shall attend either personally or by their respective Agents, Husbands, Guardians, Trustees, Committees or Attornies, shall and may within One Calendar Month next after such Death, Resignation or Incapacity, or as soon after as conveniently may be or Occasion require, at a public Meeting to be appointed and holden as herein mentioned with regard to the Meetings of the Commissioners, elect another fit Person (not interested in the said Inclosure) to be a Commissioner in the Room of him or them so deceased or resigned or become incapable; and every such Commissioner so elected, shall have the same Powers and Authorities for executing this Act respectively as if he had been herein nominated and appointed a Commissioner.

Commissioners to account.

XXXVI. Provided always, and be it further enacted, That once in each and every Year during the Execution of this Act (such Year to be computed from the Day of the passing thereof) the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for
their

their own Trouble and Expences in the Execution of this Act, and such Statement or Account when so made, together with the Vouchers relating to the same, shall be by them laid before any One or more Justice or Justices of the Peace for the said County of *Salop*, to be by him or them examined and balanced, and such Balance shall be by him or them stated in the Book of Accounts by the said recited Act required to be kept at the Office of the Clerk to the said Commissioners, and no Charge or Item in such Account shall be binding on the Parties concerned, or be valid in the Law, unless the same shall be duly allowed by such Justice or Justices as aforesaid.

XXXVII. Provided always, and be it further enacted, That nothing herein contained shall prejudice, lessen or defeat any Right, Title or Interest which the said *Richard Viscount Fitzwilliam* as Lord of the said Manors, or the Person or Persons who shall or may hereafter be entitled as Lord or Lords of the said Manors, or as Owner or Owners of the Soil of the said Waste Lands now have or hath or shall hereafter have in, or to any Mines, Ores, Coals, Metals or Minerals whatsoever in or under the said Waste Lands, or any Part or Parcel thereof; but that it shall be lawful to and for the said *Richard Viscount Fitzwilliam*, his Heirs and Assigns respectively, in and upon the said Waste Lands, at any Time or Times hereafter, according to his Rights therein, to delve, search for, get up, make merchantable and take and carry away, with all or any Manner of Carriages, to their own respective Uses, the said Mines, Ores, Coals, Metals and Minerals, or any Part thereof, and to make, erect and use any Roads, Ways, Sumps, Levels, Warehouses, Smithies, Engines, Machines and other Conveniencies and Erections, and to do any other Acts which shall be necessary or proper for all or any of those Purposes; and the same Warehouses, Smithies, Engines, Machines and other Conveniencies or Erections, or any of them, at any Time or Times to alter, take down, remove, re-erect and take and carry away at their respective Pleasure, he the said *Richard Viscount Fitzwilliam*, his Heirs and Assigns, and the future Lord and Lords, Owner and Owners, his or their Heirs and Assigns respectively, making full Satisfaction from Time to Time to the respective Owners and Occupiers of the said Allotments of the said Waste Lands for the Spoil and Damage which shall be done or occasioned thereon by the Exercise of all or any of the said Powers.

Reservation
of Mines.

XXXVIII. Provided always, and be it further enacted; That nothing herein contained shall extend or be construed to extend to give unto the Lord of the said Manors, any further or other Manorial Rights, Title or Interest than those he now is entitled unto, nor to defeat, lessen, prejudice or affect the Right, Title or Interest of, in or to the Rents, Services, Courts, Perquisites and Profits of Courts, Goods and Chattels of Felons and Fugitives, Felons of themselves and put in Exigent, Deodands, Waifs, Estrays, Forfeitures and all other Royalties, Jurisdictions, Privileges, Pre-eminencies and Appurtenances whatsoever incident, belonging or appertaining to the said Manors respectively (other than and except those meant and intended to be barred, destroyed or extinguished by virtue of this Act); but that the same and every of them shall remain and be enjoyed by the said Lord of the said Manors, in as full, ample and beneficial Manner, to all Intents and Purposes, as he could or might have held and enjoyed the same in case this Act had not been passed.

Saving Ma-
norial Rights.

[*Loc. & Per.*]

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XXXIX. And

Appeal to the
Quarter
Sessions.

XXXIX. 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 the said recited Act or of this Act, then and in every such Case (except as to such Claims, Matters and Things as are herein-before or by the said recited Act directed or authorized to be tried, settled or determined by the Verdict of a Jury, or where any of the Clauses or Provisions of the said recited Act or this Act shall express that the same shall be final and conclusive) such Person or Persons may appeal to the General Quarter Sessions of the Peace which shall be held in and for the said County of *Salop*, within Four Calendar Months next after the Cause of Complaint shall have arisen; and the Justices of such Sessions are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order therein and to award such Costs as they shall think reasonable, and by their Order and Warrant to levy the Costs which shall be 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 reasonable Charges of every such Distress and Sale; and such Determination of the said Justices shall be final and conclusive on all Parties concerned, and shall not be removable by *Certiorari* or any other Writ or Process whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

General Sav-
ing of Rights.

XL. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Person and Persons, Bodies Corporate and Politic, his, her and their Heirs, Successors, Executors and Administrators, all such Right, Title, Estate and Interest (other than those meant and intended to be barred and destroyed by this Act), as they, every or any of them had and enjoyed of, in, to or out of the said Waste Lands or any Part thereof, before the passing of this Act, or could or might have had or enjoyed in case this Act had not been made.

Publick Act.

XLI. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty, and a Copy thereof so printed shall be admitted as Evidence thereof by all Judges, Justices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1809.