



ANNO QUINQUAGESIMO PRIMO

GEORGI II. REGIS.

Cap. 21.

An Act for enclosing Lands in the Parish of *Whickham*,
in the County of *Durham*. [4th April 1811.]

WHEREAS there is within the Parish of *Whickham*, in the County of *Durham*, a certain Common or Tract of Waste Land called *Whickham Fell*, containing by Estimation Five hundred Acres or thereabouts: And whereas the Honourable and Right Reverend *Shute* Lord Bishop of *Durham*, in Right of his See, is Lord of the Manor of *Whickham* aforesaid, and as such is seised of the Soil and Royalties of, within, and under the said Common or Waste Grounds called *Whickham Fell*; and Sir *Thomas Henry Liddell* Baronet, *James Archibald Stuart Wortley* Esquire, and the Right Honourable *John Bowes* Earl of *Strathmore*, are the present Lessees of the said Manor: And whereas the said Earl of *Strathmore*, and the said Sir *Thomas Henry Liddell*, the Most Honourable *John* Marquis of *Bute*, and the Most Honourable *Francis Seymour* Marquis of *Hertford*; *John Carr*, *Robert Hopper Williamson*, *George Thomas Leaton*, and *Jasper Harrisson*, Esquires, and several other Persons are Proprietors of divers Messuages, Lands, Tenements, and Hereditaments, and in respect thereof, or as appendant, appurtenant or belonging thereto, they or their Lessees, Farmers or Tenants, are or claim to be entitled to Right of Common in and upon the said Common or Waste Land called *Whickham Fell*: And whereas the said Common or Waste Land is, in its present State, incapable of Cultivation; and it would be highly beneficial to the several Persons interested therein, if the same were divided and inclosed, and specific Aliotments made thereof, in the Manner

[*Loc. & Per.*]

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hereinafter

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sioner ap-
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hereinafter expressed; but inasmuch as such Division and Inclosure cannot be effected without the Aid and Authority of Parliament; May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *John Bell*, of the Town and County of *Newcastle-upon-Tyne*, Gentleman, shall be and he is hereby appointed sole Commissioner for dividing and allotting the said Common or Waste Land called *Whickham Fell*, and for carrying this Act into Execution, in such Manner and subject to such Regulations as are hereinafter contained, and with such of the Powers, and subject to such of the Rules, Orders, Directions, Authorities, Regulations, Restrictions and Provisions, contained in an Act 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*, as are not controuled by or repugnant to any of the Clauses, Provisions, or Regulations contained in this Act.

Power to ap-
point a new
Commis-
sioner.

II. And be it further enacted, That if the said *John Bell*, or any succeeding Commissioner to be appointed as hereinafter is mentioned, shall die or refuse to act, or become incapable of acting as a Commissioner in the Execution of this Act, before all the Powers, Authorities, and Trusts hereby reposed in him shall be fully executed and performed, it shall be lawful for the Lord of the said Manor of *Whickham*, or his Lessee or Lessees, or his or their known Agent or Attorney, by Writing under his or their Hand or Hands, and for the major Part in Value (such Value to be ascertained according to the Land Tax Assessment for that Year) of the Proprietors and Owners of Messuages, Lands, Tenements, and Hereditaments, entitled to Right of Common upon the said Common or Waste Land hereby intended to be divided and inclosed, or their respective known Agents or Attornies present at a Meeting to be holden for that Purpose, (of which Meeting Notice shall be given by any Two or more of such Proprietors and Owners, or their respective Agents, by affixing the same on the principal Door of the Parish Church of *Whickham* aforesaid, and also causing the same to be inserted in the *Newcastle Courant* Newspaper, or if that Newspaper shall not then be published, in some other Newspaper generally circulated in the County of *Durham*), by any Instrument in Writing under their Hands, to nominate and appoint one other fit and proper Person not interested in the said Division and Inclosure, to be Commissioner in the Place of him so dying or refusing to act, or becoming incapable of acting as aforesaid; and so from Time to Time on the Death, Refusal, or Incapacity of every succeeding Commissioner as aforesaid; and every such new Commissioner shall, immediately from and after such Appointment, be vested with all such Powers and Authorities to put this Act into Execution, as if he had been originally named and appointed a Commissioner in and by this Act.

A Survey to
be made.

III. And be it further enacted, That a true and accurate Survey and Admeasurement shall be taken, and a Plan or Plans shall be made of the said Common or Waste Land, and of any other Lands in the said Parish which the Commissioner shall deem necessary and direct to be surveyed or planned for the Purposes of this Act, some Time before the First Day of
July

July next, or as soon after as conveniently may be, by *Matthew Wheatley*, of the Town and County of *Newcastle-upon-Tyne* aforesaid, Land Surveyor; or in case of his Death, or Refusal or Neglect to take and make such Survey, Admeasurement and Plan, then by such other fit and proper Person or Persons, not interested in the said Division, as the Commissioner for the Time being shall, by Writing under his Hand, from Time to Time nominate and appoint.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as Surveyor as aforesaid, until he shall have taken and subscribed before the said Commissioner an Oath in the Form following; (that is to say),

‘ I *A. B.* do swear, That I will faithfully, impartially and honestly, according to the best of my Skill and Ability, survey and admeasure all the Lands required to be surveyed and admeasured, by virtue of an Act passed in the Fifty-first Year of the Reign of His Majesty King *George* the Third, intituled, [*here set forth the Title of this Act*] and in making true Maps or Plans thereof, to be laid before the Commissioner for putting the said Act into Execution. So help me God.’

Which Oath the said Commissioner is hereby authorized and required to administer when and as often as Occasion shall require; and which Oath, and also the Instrument or Instruments of Appointment of every new Surveyor, shall be respectively inrolled in the same Place, and Evidence thereof given in the same Manner, as by the said Act of the Forty-first Year of the Reign of His present Majesty is directed, concerning the General Award to be made by the said Commissioner.

V. And be it further enacted, That the Surveys or Admeasurements, including all necessary Re-surveys and all Plans (except the fair Plan upon Vellum hereinafter particularly mentioned) shall be paid for at and after the Rate of Sixpence per Acre for each and every Acre of the Land which shall be surveyed, admeasured, and planned in pursuance of this Act; and the said Surveyor shall at all Times bear his own Expences; and in case of the Death of any such Surveyor, before such Surveys, Admeasurements, and Plans as aforesaid shall be finished, then and in every such Case the Executors, or Administrators of every such Surveyor so dying shall be paid after the Rate of Three-pence per Acre for each and every Acre which shall have been so surveyed and admeasured in his Lifetime.

VI. And be it further enacted, That the said Surveyor shall, after the said Division and Allotment of the Lands and Grounds intended to be hereby divided and inclosed shall be completed, make a fair Plan upon Vellum of all the said Lands and Grounds intended to be hereby divided and allotted; whereon shall be truly and distinctly delineated, set down, marked and expressed, the several Matters and Things necessary and proper to be inserted therein, for the better explaining the Award of the said Commissioner; and for which fair Plan, so to be made as aforesaid, the Sum of Twenty-one Pounds shall be paid and no more.

Commissioner to appoint a Clerk.

VII. And be it further enacted, That it shall be lawful for the said Commissioner, by Writing under his Hand, to nominate and appoint some fit and proper Person to be his Clerk to assist him in the Execution of this Act; and in case the said Clerk shall die or refuse to act, or become incapable of acting as such Clerk in the Execution of this Act, then and in every such Case it shall be lawful for the said Commissioner, by Writing as aforesaid, to nominate and appoint some fit and proper Person to be his Clerk in the Place of the same Person so dying or refusing or becoming incapable to act as aforesaid, and so as often as Occasion shall require; and that the said Clerk for the Time being shall be paid such Compensation for his Trouble, Charges, or Expences, as the said Commissioner shall think fit and reasonable.

Notice of Commissioner's Sittings.

VIII. And be it further enacted, That the said Commissioner shall and he is hereby required, with all convenient Speed after the passing of this Act, to give publick Notice in the Parish Church of *Whickham* aforesaid, upon some *Sunday* immediately after Divine Service, or by Notice in Writing under his Hand, to be affixed on one of the outer Doors of the said Church immediately before Divine Service, and also to give Notice in the said Newspaper called *The Newcastle Courant*, or in some other Newspaper usually circulated within the said County of *Durham*, of the Time and Place of his first, second and third Meetings for carrying this Act into Execution, Twenty Days at least before each of such Meetings respectively; and of each and every subsequent Meeting the said Commissioner shall give Notice in the Manner aforesaid Ten Days at least before each of such last-mentioned Meetings; and in case the said Commissioner shall not attend at the Time and Place appointed for any Meeting in pursuance of this Act, or to which any such Meeting shall be adjourned, it shall be lawful for the Clerk to the said Commissioner to adjourn such Meeting from Time to Time to any future Day not exceeding Fourteen Days from the Day of such Adjournment, and to such Place as to the said Clerk shall seem most convenient; and the said Clerk is hereby required to give timely Notice of such Adjournment to the Commissioner for the Time being, and to leave at the House or Place at which any such Adjournment shall be made, Notice under his Hand, when and where such adjourned Meeting is to be held from Time to Time; but no further or other Notice shall be necessary to be given of any such Adjournment: Provided always, that all such Meetings to be holden by the said Commissioner for carrying this Act or the said recited Act into Execution shall be holden within the Parish of *Whickham* aforesaid.

Where to be held.

Other Notices how to be given.

IX. And be it further enacted, That all other Notices necessary or required to be given by or in pursuance of this Act, or by or in pursuance of the said recited Act, shall be given and published in the said Paper called *The Newcastle Courant*, or in some other Newspaper usually circulated in the said County of *Durham*; and that at all Meetings for carrying into Execution this Act, all Parties attending the same shall pay their own Expences.

Commissioner may determine disputed Claims.

X. And be it further enacted, That in case any Dispute or Difference shall happen to arise between the Parties interested or claiming to be interested in the said intended Division or Inclosure, or any of them, touching or concerning the respective Interests or Shares which they or any of them shall

shall claim in the said Common or Waste Land, or any Inclosures or Encroachments in or upon the same, the said Commissioner is hereby authorized and required to hear and determine the same; provided that nothing herein contained shall authorize the said Commissioner to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any such Parties (except with regard to such Inclosures or Encroachments as shall have been made upon, or taken from or out of the said Common or Waste Land within the Space of Thirty Years last past, or for which any Acknowledgment shall have been paid within the like Space of Thirty Years now last past, as hereinafter mentioned); but in case the said Commissioner 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.

but not
Titles,

nor Rights
contrary to
Possession,
except as to
Encroach-
ments.

XI. And be it further enacted, That it shall be lawful for the said Commissioner, in case he shall so think fit, to assess such Costs and Charges as he shall think reasonable, for the Use and Benefit of the Party or Parties in whose Favour he shall make his Determination, upon or against the Party or Parties whose Claims or Objections shall be disallowed, as the Case shall happen, and by Warrant under his Hand and Seal, to levy such Costs and Charges by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) after deducting the reasonable Charges attending such Warrant, Distress and Sale, to the Party or Parties whose Goods and Chattels shall be distrained and sold.

Commissioner
or to assess
Costs.

XII. Provided always, and be it further enacted, That if the Party or Parties making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Rights or Interests therein, or objecting to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioner, and shall be desirous of having such Claim or Claims, Rights and Interests respectively tried at Law, and the Party and Parties so desirous to have the same tried at Law, shall by themselves or their Agents or Attornies respectively give Notice thereof in Writing to the said Commissioner, within Two Months after such Determination shall have been made, (of which Notice the said Commissioner is hereby required, immediately on the Receipt thereof, or as soon afterwards as conveniently may be, to give Information to the adverse Party or Parties, or his or their respective Agents or Attornies, by Writing under his Hand, to be delivered to or left at the usual Place of Abode of such Party or Parties, Agents or Attornies respectively); then, but not afterwards, it shall be lawful for the Party or Parties giving such Notice as aforesaid, their respective Heirs, Successors or Assigns, to proceed to a Trial at Law for the same at the first Assizes to be holden for the County of *Durham* after the Expiration of Thirty Days from the Day of giving such Notice, in a feigned Action for that Purpose, to be commenced in any of His Majesty's Courts of Record at *Westminster*, or in the Court of Pleas at *Durham*, by the Party or Parties, their respective Heirs, Successors or Assigns, giving such Notice as aforesaid against the adverse Party or Parties making such Claim or Objection as aforesaid; and the Defendant or Defendants in such

Persons dissatisfied with
the Commis-
sioner's De-
termination,
may try their
Claims at
Law.

[*Loc. Et Per.*]

A. N.

Action

The Court
may put off
the Trial, or
award a new
Trial, upon
Cause shewn.

Actions not
to abate by
the Death of
Parties.

No Turfs,
&c to be
dug after
passing this
Act.

Action or Actions shall forthwith name an Attorney or Attornies, who shall file Common Bail, or appear and accept One or more Issue or Issues, whereby all such Claims, Rights, and Interests may be properly tried and determined, (such Issue or Issues to be settled by the proper Officers of the Court in which such Action or Actions shall be brought, if the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in the said Action or Actions shall be final and conclusive to all Persons, Bodies Politic and Corporate whomsoever; and after any Verdict or Verdicts shall have been obtained, and not set aside by the Court, the said Commissioner shall and he is hereby authorized and required to conform thereto: Provided always, that it shall be lawful for the Court, in which any Action commenced in pursuance of this Act shall be depending, upon sufficient Cause shewn, to put off the Trial of such Action, and to award a new Trial therein, although the Time herein-before limited for the Trial of such Action may be thereby exceeded; but if no such Action or Actions at Law shall be brought or commenced by the Party or Parties giving such Notice within the Time aforesaid, or if such Action or Actions shall not be proceeded in, to a Trial or Trials at the First Assizes which shall be holden for the County of *Durham* after the Expiration of Thirty Days from the Day of giving such Notice, by or on Account of the Neglect or Default of the Plaintiff or Plaintiffs therein; then and in such Case the Determination of the said Commissioner shall be final, binding and conclusive unto and upon all Parties whomsoever: Provided always, that if any Party or Parties in any such Action or Actions to be brought or prosecuted in pursuance of this Act, shall die pending the same, such Action or Actions shall not abate by Reason thereof, but shall be proceeded in as if no such Event had happened; and 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 the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Bodies Politic or Corporate, 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 Commissioner with Notice of such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereon be incumbent on the Heir or Heirs, or 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, and Proceedings shall be had therein, in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

XIII. And be it further enacted by the Authority aforesaid, That no Person or Persons whomsoever shall from and after the passing of this Act, cut, dig, grave, pare, or carry away any Turfs or Sods, or any Part of the Soil or Surface in, upon, or from the said Common or Waste Ground called *Whickham Fell*, or any Part thereof, other than and except the said Lord Bishop of *Durham* and his Successors, or his or their Lessee or Lessees, in exercise of the Liberties and Privileges herein mentioned; nor make or form any Mound or Mounds of Earth or Soil, nor use any Earth or Soil, nor mix any Earth or Soil with Lime or other Thing upon the said Com-

mon or Waste or any Part thereof, without the Leave or Licence of the said Commissioner under his Hand first had and obtained for that Purpose.

XIV. And be it further enacted, That all Inclosures or Encroachments within or upon, or which have been taken from or out of the said Common or Waste Land (except such as have been peaceably and quietly enjoyed for the Space of Thirty Years last past or upwards, without any Interruption given to the Possession thereof, or Payment of any Acknowledgment for the same), shall be deemed Part and Parcel of the said Common or Waste Land to be divided by virtue of this Act.

What Encroachments to be allotted.

XV. Provided always, and be it further enacted, That the said Commissioner shall and he is hereby required, in all Cases where the same can be done without Prejudice or Inconvenience to the Occupation of the adjoining Lands, to assign and allot unto such Person or Persons, Body or Bodies Politic or Corporate, entitled to Right of Common upon the said Common or Waste, as are or is in Possession of any such Encroachment or Encroachments as is or are herein-before directed to be deemed Part of the said Common or Waste, all and every the Lands and Grounds comprized in such Encroachment or Encroachments, and all Edifices and Buildings erected thereon, for or in Part of the Allotment or Allotments which shall be made to them respectively by virtue of this Act; unless it shall happen that such respective Encroachment or Encroachments shall be greater or more (Quantity and Quality considered) than the Allotment or Allotments would amount unto which such Person or Persons, Body or Bodies Politic or Corporate, in the Possession of such Encroachment or Encroachments, would be entitled to, for or in respect of their ancient Estate; in which Case a proportionable Part of such Encroachment or Encroachments shall be deducted from the same respectively; and the said Commissioner is hereby directed and required, in his Valuation of such Encroachments respectively, for the Purposes aforesaid, to estimate the same according to their original Value in their open State, without any regard to the Improvements made therein, or to the Value of the Edifices or Buildings erected or built, or Wood planted and growing thereupon.

Encroachments to be allotted to the Persons in Possession under certain Restrictions.

XVI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to determine and adjudge what Part or Parts of the Highways and Roads to be set out and appointed by the said Commissioner by virtue of the said recited Act and this Act, shall belong to the several Townships and Quarters respectively within the said Parish of *Whickham*, and the said Commissioner shall, in and by his General Award, order and direct by what Townships and Quarters respectively within the said Parish, such Highways and Roads shall be maintained, amended and kept in Repair; and when and as soon as such Highways and Roads shall be formed and put into complete Repair, and declared so to be according to the Directions of the said recited Act, all such Highways and Roads shall be for ever thereafter maintained, amended and kept in Repair, by the Owners or Occupiers for the Time being of such Townships and Quarters respectively to which such Highways and Roads shall be so determined and adjudged to belong, in such and the like Manner as ancient and common public Highways and Roads are by Law to be amended and kept in Repair.

Commissioner to determine to what Townships Roads shall belong.

XVII. Provided!

Restrictions
as to the Use
of Roads.

XVII. Provided always, and be it further enacted, That after the said Highways and Roads shall be so formed and put into complete Repair, and declared so to be according to the Directions of the said recited Act, it shall not be lawful for any Person or Persons, at any Time or Times thenceforth, to drive over or along the said Highways and Roads or any Part thereof, any Cart, Wain, Waggon, or other Carriage whatsoever laden with Lead, Coal, Iron or Timber, unless the Sole or Bottom of the Fellies of the Wheels of such Cart, Wain, Waggon, or other Carriage respectively, shall be Five Inches in Breadth at the least.

How the
Common is
to be divided.

XVIII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, according to the best of his Skill and Judgment, after deducting so much and such Parts of the said Common or Waste as he may think proper to set out and appoint for public Highways, Roads and Drains, and for a common Quarry or Quarries, and common Watering-places or Wells, by virtue of the said recited Act and this Act, to set out, and allot the Residue of the said Common or Waste intended to be hereby divided, in Manner following; (that is to say), in the first Place, the said Commissioner shall set out and allot unto and for the said *Shute* Lord Bishop of *Durham*, and his Successors, Lords of the said Manor of *Whickham*, or his or their Lessee or Lessees, but for the sole Use and Benefit of such Lessee or Lessees, during the Continuance of their present Lease, One full Sixteenth Part or Share in Value (the Quantity, Quality, and Situation of the Land being considered), of and in the said Residue of the said Common or Waste intended to be hereby divided and inclosed, in full Compensation and Satisfaction for his and their Rights and Interests of, in, and to the Soil of the said Common or Waste; and shall then set out and allot all the Residue of such Common or Waste unto and among the several Persons and Bodies Politic or Corporate having Rights of Common in and upon the same, in Proportion and according to the annual Value of the Messuages, Lands, Tenements, Estates and Interests, in respect of which they may severally be entitled to such Rights of Common; such annual Value to be ascertained by the said Commissioner in such Manner as he shall think fit: Provided always, that all Houses and Buildings not occupied with some Farm of Land on the Twelfth Day of *May* One thousand eight hundred and nine, shall be valued separately from the Lands, Garths and Gardens, and the Allotments to be made in respect of such Houses or Buildings shall be less by One-third than the Allotments to be made in respect of any Lands, Garths and Gardens; but no separate Valuation shall be made of any Houses or Buildings which were occupied with and were Part and Parcel of any Farm of Land on the said Twelfth Day of *May* One thousand eight hundred and nine, but all such last-mentioned Houses and Buildings shall be considered as included in the Valuation of the Lands constituting such Farm to which they respectively belong; and that all Mills (if any) having Right of Common upon the said Common or Waste intended to be hereby divided, shall be also separately valued, and the Allotments to be made in respect of such Mills shall also be less by One Third in Proportion to the Value of such Mills, than the Allotments to be made in respect of Lands and Grounds.

Direction as
to the relative
Value of
Houses and
Lands.

Allotments
to be in the
same Town-
ships as
ancient Lands.

XIX. Provided always, and be it further enacted, That the said One full Sixteenth Part or Share of the said Common or Waste so directed to be set out and allotted to the Lord of the Manor of *Whickham*, or his Lessees

Lessees as aforesaid, shall be and be deemed Part and Parcel of the said Manor of *Whickham*, and shall be divided into distinct Plots or Parcels, in Proportion and according to the Value of the several Messuages, Lands, Tenements, and Hereditaments in each Township, Quarter, or Place respectively, which have Right of Common upon the said Common or Waste, and shall be allotted and awarded to be, in such respective Townships, Quarters and Places accordingly; and that the several Allotments of the said Common or Waste to be set out and allotted by the said Commissioner as aforesaid, in respect of any Messuages, Lands, Tenements, or Hereditaments, having a Right of Common thereon as aforesaid, shall be deemed or adjudged and taken, and the same is and are hereby declared to be Part and Parcel of and within the Township, Quarter or Place, Townships, Quarters or Places respectively, wherein the Messuages, Lands, Tenements, or Hereditaments do lie or are situate, for or in respect of which such Allotments shall be made respectively.

XX. And be it further enacted, That the several Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched and fenced, at the Expence of the respective Proprietors to whom such Fences shall be allotted or directed to belong (except the Rector of *Whickham*) with Ditches and Quickset Hedges, or in such other Manner, and within such Time, as the said Commissioner shall by his Award, or any other Writing under his Hand, direct or appoint.

Allotments to be fenced.

XXI. Provided always, and be it further enacted, That the Expence of inclosing and ring-fencing the Allotment or Allotments to be made to the Rector of *Whickham* for the Time being, for or in respect of his Glebe or any Part thereof, shall be paid and defrayed by and out of the Monies directed to be raised for paying the Expences of passing and executing this Act; and after making such Inclosure and Ring Fences, the same, or such Part or Parts thereof as the said Commissioner shall direct, shall for ever thereafter be kept in Repair by the said Rector and his Successors.

Fences of Rector's Allotments.

XXII. Provided always, and be it further enacted, That where the Proprietor or Proprietors of any Lands or other Hereditaments, which shall be allotted or exchanged by virtue of this or the said recited Act, shall hold their respective Lands or Hereditaments by different Tenures, or for different Estates, or under different Titles, the said Commissioner shall ascertain and distinguish the Lands or other Hereditaments held by or under each of such respective Tenures, Estates or Titles, and shall accordingly in his Award set out and distinguish distinct and several Allotments for such respective Lands and other Hereditaments.

Separate Allotments for Estates held by different Titles.

XXIII. Provided also, and be it further enacted, That all and every Allotment and Allotments of the said Common or Waste which shall by virtue of this Act be made, set out or allotted to any Person or Persons, for or in respect of any Messuages, Lands, Tenements, or Hereditaments, shall be held in the same Manner, and by the same Tenure, and be subject to the same Yearly and other Rents, Payments, Duties, Dues, and Services to the Lord of the Manor of *Whickham* for the Time being, as the several and respective Messuages, Lands, Tenements and Hereditaments, for or in respect of which such Allotments were respectively made, are and have heretofore been holden respectively; and the Lord of

Allotments to be of the same Tenure as the ancient Estates.

the said Manor of *Whickham* for the Time being shall have the same Powers, Liberties, and Authorities, for recovering and enforcing the same respectively, as he could or might have had in respect of such Messuages, Lands, Tenements and Hereditaments, before the passing of this Act.

Copyhold
Allotments
to be Parcels
of the ancient
Tenures,

and subject
to the same
Services.

XXIV. And be it further enacted, That all and every Allotment and Allotments of the said Common or Waste Land which shall be made for or in respect of any Copyhold or Customary Messuages, Lands, Tenements or Hereditaments, shall be considered, deemed, and taken to be Part and Parcel of the several ancient Copyhold or Customary Messuages, Lands, Tenements and Hereditaments, for or in respect of which the same was or were so allotted, and shall from Time to Time pass and be surrendered by and holden in and by the like Surrenders and Admittances as such ancient Copyhold or Customary Premises are or have been usually passed, holden or surrendered by, and shall be surrendered, admitted to, demised and demisable, either together with or seperately from the said ancient Estates in respect of which the same were respectively allotted, in such Manner and subject to such Suit of Court, Duties, Powers and Customs, as the same ancient Estates are now holden by, enjoyed and admitted to, demised and subject to respectively: Provided always, that the several ancient Copyhold or Customary Messuages, Lands, Tenements, and Hereditaments, in respect of which any Allotment or Allotments of the said Common or Waste Ground shall be set out or allotted by virtue of this Act, and the Allotment or Allotments in respect thereof, shall not nor shall any of them be subject to the Payment or Performance of any new or increased yearly or other Rents, Payments, Dues, Duties or Services whatsoever, to the Lord of the said Manor of *Whickham* for the Time being; but that every ancient Copyhold or Customary Tenement, together with and including the Allotment set out in respect thereof, shall continue subject and liable only to the Payment and Performance of the same Rents, Payments, Dues, Duties and Services, as such ancient Copyhold or Customary Tenement was subject and liable to at the Time of passing this Act, and no more, any Thing herein contained to the contrary in anywise notwithstanding.

Proprietors
may sell or
mortgage
their Allot-
ment before
the Execu-
tion of the
Award and
their Rights
of Common,
separate from
their other
Property.

XXV. And be it further enacted, That it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act, to give, grant, bargain, sell, demise, mortgage, limit, convey, and assure the same for all or any Part of his, her, or their Estate or Interest therein, or Right thereto, at any Time before the Execution of the Award of the said Commissioner; and every such Gift, Grant, Bargain, Sale, Demise, Mortgage, Limitation, and Conveyance and Assurance, shall be of the same Force and Validity as if made after the Execution of the said Award; and also, that it shall and may be lawful for any of the Occupiers or Proprietors of any Common Rights upon the Lands and Grounds hereby directed to be divided and inclosed, to sell and dispose of the same, or of the Allotment or Allotments to be made and set out in respect thereof by virtue of this Act, separate and distinct from the Estate in Right of which they, he or she, are or is entitled to the same, in the same Manner as they, he, or she might have done at any Time after the Execution of the said Award.

Tythes, &c.

XXVI. Provided always, and be it further enacted, That all the Allotments of Land to be made in pursuance of this Act shall, after the Inclo-

sure thereof respectively, be subject and liable to the Payment of such Tythes, or of such Moduses or prescript Payments in lieu of Tythes only, and entitled to such Exemptions and Privileges as the Lands in respect of which such Allotments shall respectively be made, were respectively subject and liable or entitled to at the Time of passing this Act.

XXVII. And be it further enacted, That it shall be lawful for the said Commissioner to assign or award any of the Lands or Grounds, hereby directed to be divided and allotted, or any Messuages, Buildings, inclosed Lands or Grounds, or other Hereditaments in the Parish of *Whickham* or Township; so as every such Exchange be made by the Award of the said Commissioner, or by some Deed or Deeds executed by the said Commissioner before his Award, and be set forth or referred to in such Award; and so also that every such Exchange be made with the Consent of the respective Proprietors or Persons seized or entitled in Possession of or to the Hereditaments so to be exchanged, for any Life or Lives, or for Years determinable upon any Life or Lives, or for some Estate of Inheritance less than an Estate in Fee Simple, or with the Consent of the Husbands, Guardians, Trustees, Committees, or Attornies of any such Proprietors, who shall at the Time of making any such Exchange be Femes Covert, Infants, Lunaticks, beyond the Sea, or under any other legal Disability of acting for themselves; and that all such Consents as aforesaid be respectively signified by Writing under the Hands of the consenting Parties, or under the Seals of any of them, being Corporations Aggregate; and every Exchange which shall be so made and declared, shall as well in respect of the Hereditaments within the Parish of *Whickham* aforesaid, as in respect of the Hereditaments within any other Parish or Township adjoining thereto, be for ever good, valid, and effectual in Law to all Intents and Purposes; provided that all Exchanges which shall be made, by virtue of this Act, of any Messuages, Lands, or Hereditaments held in Trust for any charitable Use or Purpose, be also made with the Consent of the Trustees for the Time being, under whose Direction, Superintendence or Management, such charitable Institution is placed, by the Will, Deed, or other Instrument, under or by virtue of which the same Messuages, Lands, or Hereditaments are so held as aforesaid; and that all Exchanges which shall be made by virtue of this Act, of any Messuages, Lands, or Hereditaments belonging to any Ecclesiastical Benefice, be also made with the Consent of the Patron thereof, and of the Lord Bishop of the Diocese in which the same is situated, such Consents to be testified in like Manner.

XXVIII. Provided always, and be it further enacted, That the Allotments to be made and set out by virtue of this Act, in Right of any Property under Lease at Rack Rent, (save and except the Allotments to be allotted and set out to the said *Sir Thomas Henry Liddell*, *James Archibald Stuart Wortley*, and *John Bowes* Earl of *Strathmore*, as Lessees of the said Lord Bishop of *Durham*, which shall be allotted and awarded to the Lessor and Lessees, according to their respective Interests therein), shall be allotted and set out to the respective Lessors or Landlords, and shall be held and enjoyed by them, free from all Right and Interest of their respective Lessees or Tenants; and such respective Lessors or Landlords, their Heirs or

Exchanges
may be made.

Allotments
to be made to
Landlords,
who shall
make Com-
pensation.

or Assigns, or the Person so seized of their Estates for the Time being, shall make such Abatement out of the Rents reserved by such Leases respectively, on Account of the Determination of the Common Rights comprized therein, as the said Commissioner shall judge reasonable, and shall in and by his Award, or any other Writing under his Hand, ascertain, direct and appoint.

Allotments to go to the same Uses as the Estates for which they were held.

XXIX. And be it further enacted, That the several Lands, Tenements, and Hereditaments which shall be respectively allotted or exchanged by virtue of this Act, shall, upon the Allotment and Exchange thereof respectively, go and remain to the same Persons, for the same Estates and Interests, to the same Uses, upon the same Trusts, and for the same Intents and Purposes, and be under and subject to the same Powers, Provisoes, Limitations, Conditions, Covenants, Debts, Charges and Incumbrances, and Provisions of every kind, and in the same Manner, as the Hereditaments in respect whereof the same Lands, Tenements, and Hereditaments shall be respectively allotted and exchanged, would belong, or stand or be limited to or upon, or be subject unto, if such Allotments and Exchanges had not been made, or this Act had not been passed; but such Allotments shall nevertheless be subject to such Charges and Incumbrances thereon as shall be made in pursuance of this Act.

Sheep not to be kept in the Lanes.

XXX. And be it further enacted, That no Person shall keep or depasture, or permit to be kept or depastured any Cattle, Sheep, Lambs, Horses, Mules, or Asses in the Roads or Lanes to be set out by virtue of the said recited Act or this Act.

Sheep not to be kept in Allotments for Seven Years.

XXXI. And be it further enacted, That no Lambs or Sheep shall be depastured in any of the said Allotments to be made in pursuance of this Act, during the Space of Seven Years from the Execution of the Award of the said Commissioners, unless the Persons respectively so depasturing or keeping Lambs or Sheep do at their own Expence effectually guard and fence their Neighbours Quicksets adjoining such Allotments respectively in which Lambs or Sheep shall be depastured or kept as aforesaid, so as to prevent any Damage or Injury from being done to such Fence or Fences and Quicksets by any such Lambs or Sheep.

Money advanced for passing this Act to be repaid with Interest.

XXXII. And be it further enacted, That the Money that shall be advanced by any Person or Persons for the Purpose of defraying the Expences of applying for and passing this Act, or which after the passing of this Act shall be advanced or lent to the Commissioner for the Time being for carrying the same into Execution, shall be repaid with legal Interest to the Person or Persons lending, advancing, or paying the same, out of the first Money to be raised for defraying the Expences of obtaining and executing this Act.

Allowance to the Commissioner.

XXXIII. And be it further enacted, That the Commissioner acting in the Execution of the Trusts and Powers hereby vested in him, shall be allowed and paid, in Satisfaction for his Trouble and Expences, the Sum of Three Guineas for every Day on which he shall be employed in carrying this Act into Execution; and at all Meetings to be held in pursuance of this Act such Commissioner shall pay his own Expences.

XXXIV. And

XXXIV. And be it further enacted, That it shall be lawful to and for the said Commissioner, upon the Request in Writing (to be delivered to the said Commissioner within such Time as he shall for that Purpose appoint) of any of the Owners or Proprietors of any Messuages, Lands, Tenements, or Hereditaments, having Rights of Common in and upon the said Common or Waste hereby directed to be allotted, whether seized in Fee Simple, Fee Tail, or any other Estate of Inheritance less than an Estate in Fee Simple, or for Life or Lives, or for Years determinable on a Life or on Lives, or for any other determinable Estate or Interest, or at the Request of the respective Husbands, Guardians, Trustees, Committees, Agents or Attornies of or for any such Owners or Proprietors being under Coverture, Minors, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or for the Persons acting as such Guardians, Trustees, Committees, Agents or Attornies, or of the Trustees for any charitable or public Uses, or the major Part of any such Trustees respectively, to deduct from the Value and Amount of the Allotment or respective Allotments of such Owner or Owners, by whom or on whose Behalf such Requests shall be made as aforesaid, so much Land as shall in the Judgement of the said Commissioner be equal to his, her, and their Share and Proportion or respective Shares and Proportions of the Charges and Expences of passing this Act and of carrying the same into Execution; and to allot, award, and divide the Land so deducted, to and amongst such of the Owners and Proprietors as shall by the said Commissioner be charged with and shall pay such Charges and Expences, in proportion to the Sums they shall respectively pay or contribute thereto; provided that it shall be lawful to and for the said Commissioner, and he is hereby required, upon any such Request as aforesaid, and upon Payment by the Person or Persons making such Request of his, her, or their full Proportion of such Costs and Expences, to allot to the Person or Persons respectively by whom or on whose Behalf such Request and Payment shall be made, his, her, and their Heirs and Assigns, the Land which shall have been so deducted; and the Person or Persons respectively to whom any such Allotments shall be made and awarded, shall be and become seized thereof of an absolute Estate in Fee Simple, freed and discharged from all former Titles, Charges, and Incumbrances; provided always, that the Land so to be deducted shall not exceed in Value the Sum that may be borrowed by virtue of the said recited Act or this Act, by any such Proprietor for the Purposes aforesaid; and provided also, that in all Cases where any Land shall be deducted from the Allotment of any of the said Proprietors or Persons towards Payment of Expences as aforesaid, it shall not be lawful for the Proprietor or Person from whose Allotment Land shall be deducted as aforesaid, to charge his, her, or their Lands, Tenements or Hereditaments, by virtue of the said recited or this Act, with any Money towards Payment of such Expences.

Land may be deducted from Allotments for Expences.

XXXV. And be it further enacted, That it shall be lawful for the several Proprietors of any Lands or other Hereditaments which shall be allotted or exchanged by virtue of this Act, being Tenants for any Life or Lives, or for any Term of Years exceeding Twenty-one Years, either absolute or determinable on any Life or Lives, or by Copy of Court Roll determinable as aforesaid, or for any Estate of Inheritance less than an Estate in Fee Simple, or for the Trustees for any charitable or public Uses, or the major Part of any such Trustees respectively, and also for the Husbands, Guardians, Trustees, and Committees of any such Proprietors, being under

Power to borrow Money.

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der Coverture, Minors, Lunatics, Idiots, or beyond the Seas, or under any other Disability, (except the Rector of *Whickham* for the Time being), to charge such Lands with such Sums of Money as the said Commissioner shall by his Award, or any Writing under his Hand either before or after the Execution of such Award, adjudge necessary to pay their respective Proportions of the Expences of obtaining and executing this Act, and of ring-fencing and dividing their respective Allotments, and also the Expences of making such Charges, with lawful Interest for the same, so that the Principal Money to be charged shall not in any Case exceed the Rate of Five Pounds for every Acre of the Lands charged; and to grant, mortgage, surrender, lease, or demise the Lands and Hereditaments so to be charged to the Person or Persons who shall lend or advance the same, or to any other Person or Persons in Trust for him, her or them, his, her, or their respective Executors, Administrators and Assigns, for any Term of Years or greater Estate, so that every such Grant, Mortgage, Surrender, Lease or Demise, be made with a Covenant to keep down the Interest accruing thereon, and so that no Person afterwards becoming entitled to any such Lands, shall be liable to pay any larger Arrear of Interest than for Twelve Calendar Months preceding the Time when the Title to such Possession shall have commenced.

How the Expences of passing and executing this Act are to be raised and paid.

XXXVI. And be it further enacted, That the Costs and Charges of and incident to and attending the obtaining and passing of this Act, and of surveying, admeasuring and planning, valuing, dividing and allotting the Lands intended to be hereby divided and inclosed, and of surveying, admeasuring, and valuing any Land or other Hereditaments for any of the Purposes of this Act, and of making the public Roads to be set out, and of preparing and inrolling the Award of the said Commissioner, and all other the Charges and Expences of the said Commissioner, and of the several Persons to be employed by him, either before or after the Execution of the said Award, in, about, or concerning the Execution of this Act, shall be borne and defrayed by all the Persons having Rights or Interests in the said Common or Waste Land hereby intended to be divided and allotted (except the Rector of *Whickham*), in such Proportion, and shall be paid to such Person or Persons, and at such Time or Times, either before or after the Execution of the said Award, as shall be settled, adjusted, determined, and directed by the Commissioner for the Time being by any Writing under his Hand; and the same shall and may be levied and recovered in such Manner as is provided or mentioned by the said Act of the Forty-first Year of His present Majesty's Reign.

Commissioner empowered to sell certain Parcels of Waste.

XXXVII. And whereas there are several small detached Plots or Parcels of Land lying in the Town or Village of *Whickham*, within the said Manor of *Whickham*, being Part and Parcel of the Wastes within the said Manor (which in their present State are of little Value); be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Commissioner, and he is hereby directed to sell all or any of such detached Plots or Parcels of Land (except the Mines and Minerals within and under the same) to the respective Proprietors or Owners of the Messuages, Lands, or Tenements to which the same Plots or Parcels of Land respectively adjoin, but not to any other Person or Persons whomsoever; and shall award and appoint the same to the respective Purchaser or Purchasers thereof by his General Award, or by any other Instrument or Instruments to be respectively executed under his Hand and Seal, either previous to or

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at the Time of the Execution of his said General Award; and the Person or Persons to whom such Plots or Parcels of Land shall be so respectively awarded and appointed as aforesaid, shall, after the Execution of the General Award of the said Commissioner, or such other Instrument or Instruments as aforesaid, hold and enjoy the same in free and common Soccage in Fee Simple, freed and absolutely discharged of and from all Right of Common, Right of Way or Passage, and other Easements whatsoever, except only such as they shall respectively be declared to remain subject to in and by the Award of the said Commissioner, or such other Instrument or Instruments as aforesaid.

XXXVIII. And be it further enacted, That the Money arising by such Sale and Sales, shall be paid to the said Commissioner, and applied by him in or towards the Expences of obtaining and executing this Act; and the Receipt or Receipts of the said Commissioner shall effectually discharge the Person or Persons paying such Purchase Money, from being bound to see to the Application or being in anywise answerable for the Misapplication or Nonapplication thereof: Provided always, that in case any of the respective Proprietors or Owners of the Messuages, Lands or Tenements adjoining to any of the aforesaid detached Plots or Parcels of Land hereinbefore directed to be sold, shall refuse or decline to purchase the same respectively, then and in every such case the Plots or Parcels of Land, of which the Purchase shall be so refused or declined, shall not, by virtue of this Act, be sold or disposed of to any other Person or Persons whomsoever, nor shall the same be deemed or taken to be any Part of the Common or Waste directed by this Act to be divided and inclosed.

Application
of the
Purchase
Money.

XXXIX. And be it further enacted, That in case such Part or Parts of the said Plots or Parcels of Land hereby directed to be sold as hereinbefore mentioned, shall be sold for more Money than will be required to defray such Costs, Charges, and Expences as aforesaid, then and in such case such Surplus Money shall be divided and apportioned between the several Proprietors and other Persons interested in the Lands and Grounds hereby directed to be divided, allotted and inclosed, in such Shares as shall be in Proportion to such their respective Property, Rights, and Interests; and the respective Shares of such of them as shall be Tenants in Fee Simple of their respective Allotments, shall be paid to them respectively, and the Shares of such other Proprietors or Persons of and in such Surplus Money, shall be applied and disposed of in Manner directed by the said recited Act of the Forty-first Year of the Reign of His present Majesty, in case any Money is to be paid for the Purchase or Exchange of any Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses.

Surplus pro-
duced by
Sale to be
divided be-
tween Pro-
prietors, ac-
cording to
their Interests.

XL. And be it further enacted, That *Robert Hopper Williamson* Esquire, shall be and he is hereby appointed Auditor of the Commissioner's Accounts; and in case of his Death or Refusal to act, then some other fit and proper Person (not interested in the Premises) shall be appointed Auditor for that Purpose by the major Part in Value of the Persons interested in the said Division and Inclosure who shall be present at any Meeting to be

Commissioner's
Accounts
to be audited
and settled.

be held in the like Manner, and after such Notice as is hereby directed for the choice of a new Commissioner, and so from Time to Time as often as Occasion shall require; and the Accounts of the Commissioner for the Time being, containing a true Statement of all such Sums by him received and expended, or due to him for his own Trouble and Expences, shall at least once in every Year from the passing of this Act, until such Accounts shall have been finally allowed, together with the Vouchers relating to the same, be examined by the said Auditor for the Time being, and the Balance by him stated in the Book of Account to be kept in the Office of the Clerk of the said Commissioner; and that no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall be duly allowed by the said Auditor.

Award and
Plan to be
deposited.

XXI. And be it further enacted, That the General Award to be made by the Commissioner pursuant to the Directions of the said recited Act, shall be inrolled with the Clerk of the Peace of the County of *Durham*, and the said original Award, together with such Plans and Surveys as may be annexed thereto, shall within the Space of Twelve Months after the Execution and Inrolment of the said Award, be respectively lodged and deposited in the Parish Church of *Whickham* aforesaid, to the End that Recourse may be had thereto respectively by any Person or Persons whomsoever.

Appeal to
the Quarter-
Sessions.

XLII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done by or under Authority of the said Commissioner, in pursuance of this Act or the said Act of the Forty-first Year of His present Majesty, (other than and except such Claims, Matters and Things as are herein-before directed or authorized to be ascertained, settled, tried and determined by the Verdict of a Jury, or where by any of the Provisions of this Act or of the said Act, the Determinations, Acts, or Proceedings of the said Commissioner are directed to be final and conclusive), then and in every such case he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be held for the said County of *Durham*, within Four Calendar Months next after the Cause of Complaint shall have arisen; and the said Justices in their said General Quarter Sessions, are hereby required to hear and determine the Matter of such Appeal, and to make such Order therein and to award such Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party and 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 such Distress and Sale; which Determination of the said Justices shall be final and conclusive to all Parties concerned, 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.

Saving the
Royalties to
the Lord of
the Manor.

XLIII. Provided always, and be it further enacted, That nothing in this Act shall be construed or adjudged to defeat, lessen, or prejudice the Right, Title, or Interest of the said Lord Bishop of *Durham*, or his Successors, as Lord of the said Manor of *Whickham*, or his or their Lessee or Lessees, of, in, and to the Seigniorie and Royalties incident to the said Manor.

Manor of *Whickham*; but that the said Lord of the said Manor, and his Lessee or Lessees for the Time being, shall and may from Time to Time, and at all Times hereafter, hold and enjoy all Courts, Perquisites, and Profits of Courts, Rents, Services, Waifs, Estrays and all Royalties, Jurisdictions, Matters and Things whatsoever, to the said Manor incident, belonging or appertaining, in as full, ample and beneficial a Manner, to all Intents and Purposes, as he or they might or would have enjoyed the same if this Act had not been made; and that the said Lord Bishop of *Durham* and his Successors, and all Persons claiming under him and them, shall and may from Time to Time and at all Times have, hold, work, and enjoy exclusively all Mines, Minerals, and Quarries of what Nature or Kind soever lying and being within or under the said Common or Waste Land intended to be divided as aforesaid (subject only to the Rights and Privileges herein reserved and given in respect of the Common Quarry or Quarries), together with all convenient and necessary Ways and Way-leaves in, through, over, and along the same or any Part or Parts thereof respectively, not only before but also at all Times after the same shall be divided, allotted, and inclosed in pursuance of this Act; and full and free Liberty at all Times hereafter of making, laying, repairing, and using any new Road or Roads, Waggon-way or Waggon-ways, or any other Way or Ways whatsoever in, through, over, and along the same or any Part thereof, and for that Purpose to take away and remove any Hedges, Fences, Trees, Partitions, or other Obstructions which shall be made for dividing the said Common or Waste or otherwise, or which shall be standing or growing thereon, and to do every Act either now in Use or hereafter to be invented, which shall be necessary to be done for the Purpose of searching for, draining, winning, working, leading, and carrying away the Produce of the said Mines, Minerals, and Quarries within and under the said Common or Waste; and also of carrying and leading all Iron, Wood, Materials, and Things unto the said Mines and Quarries needful, necessary or proper for the draining, winning, working, and Use of the same respectively, and of making Pits, Shafts, Pit-rooms, Heap-rooms, Drifts, Levels, Watercourses and Drains, and of erecting and using Fire Engines and other Engines, Workshops and other Buildings, (except Dwelling-houses), Hay-yards, and Raft-yards, and all other necessary or convenient Works, Buildings, Erections, Liberties, Powers, and Authorities either now in Use or hereafter to be invented; together also with full and free Liberty, Power, and Authority, from Time to Time and at all Times, at his and their Will and Pleasure, to remove and to take away and convert to his and their own Use and Uses all and every the Rails, Sleepers, Iron, Timber, and other Materials of the said Waggon-ways and other Ways, Pit-shafts, Fire Engines and other Engines, Shops and other Works, Buildings and other Erections whatsoever already laid, placed, built or erected, or hereafter to be laid, placed, built or erected as aforesaid, as fully and freely as he or they might or could have held, used, or enjoyed the same, in case this Act had not been made, he or they doing as little Damage as may be, and making reasonable Satisfaction to the Owners and Tenants or Occupiers respectively of the Allotments in, upon, or through which such Mines, Minerals, and Quarries, Roads, Ways or other Works, shall be wrought, made, laid or carried, for the Destruction, Damage, and Spoil of Ground occasioned thereby, to be ascertained and paid in such Manner as the said Commissioner, by his General Award, shall order and direct.

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XLIV. Provided

Proprietors of Allotments may work Stones within the same, and within the Common Quarries, for the Use of Allotments only.

General Saving.

XLIV. Provided always, and be it further enacted, That it shall be lawful for the Owners and Occupiers of the Allotments to be made by virtue of this Act, at any Time or Times, to win, work, and get Stones within their respective Allotments; and also to win, work, and get Stones in and out of the Common Quarry or Quarries to be set out by the said Commissioner for the Use of the Lands to be so allotted to them respectively, but not for the Purpose of Sale or for any other Purpose whatsoever.

XLV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, or their Heirs, Successors, Executors, Administrators, or Assigns; (other than and except the respective Persons to whom any Allotment or Allotments of Land or other Compensation shall be made, or is provided by virtue of this Act, in respect of the Interest or Property for which such Allotment or Compensation shall be made, and except such other Rights and Interests as the Intents and Purposes of the Inclosure hereby authorized shall require to be barred, destroyed, or extinguished by this Act), all such Estates, Rights, and Interests, as they, every, or any of them had or enjoyed, of, in, and to, or in respect of the Lands and Grounds hereby directed to be divided and inclosed, before the passing of this Act, or could or might have had and enjoyed if this Act had not been made.

Evidence Clause.

XLVI. 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. 1811.