



ANNO QUINQUAGESIMO SECUNDO

GEORGI III. REGIS.

Cap. 136.

An Act for inclosing the Forest of *Delamere*, in the County of *Chester*. [9th June 1812.]

WHEREAS the King's most Excellent Majesty is seized to himself, his Heirs and Successors, of the Forest or Chace of *Mere* and *Mondrum*, otherwise *Delamere*, in the County of *Chester*, containing by Estimation Eight thousand Acres of Land or thereabouts, now lying open and uninclosed; and also of Two ancient Inclosures situate within the Boundaries of the said Forest, called *The Old Pale* and *The New Pale*, containing together by Estimation, Seven hundred and fifty Acres or thereabouts; the said *Old Pale* and *New Pale* being the exclusive Property of His said Majesty, his Heirs and Successors, subject nevertheless to such Rights of Agistment and Commonage, or other Rights, as the Owners and Occupiers of any Messuages, Lands, Tenements, and Hereditaments in the several Townships, Hamlets, or Places, adjoining or lying near to the said Forest, may prove themselves entitled unto, in, over, and upon the open and uninclosed Parts thereof: And whereas the whole of the said Forest and the said Inclosures therefrom are Extra-parochial: And whereas the Right Honourable *George James Earl Cholmondeley* is Lessee under His Majesty, for a certain Term of Years yet to come and unexpired, of the Agistment, Herbage, Pasturage, and Pannage of Hogs, Turbary, Fern, Crops, and Brakes, upon the whole of the uninclosed Parts of the said Forest, and also of the said Inclosures called *The Old* and *New Pales*: And whereas *John Arden*, of *Harden* in the County of *Chester*, Esquire, is Chief Forester, Bowbearer, and Forest Bailiff of the said Forest, and in such Right, and by virtue of
[Loc. & Per.] 32 I several

several Grants from the Crown, made to him and those under whom he derives his Title, claims for himself and his Under-keepers to be entitled to certain ancient Lodges and Offices, and several Sheep Walks in and upon the said Forest, and to divers Messuages, Cottages, Buildings, Lands, and Hereditaments belonging thereto, also to the Conies and Fishings, and the Pasturage of Conies and Sheep, in and upon the said Forest, or some Part or Parts thereof, and to certain Rents, and other Rights and Interests in and upon the said Forest: And whereas *Thomas Cholmondeley*, of *Vale Royal* in the said County of *Chester*, Esquire, as Owner of the Scite of the dissolved Monastery of *Vale Royal*, and of divers Messuages, Lands, Tenements, and Hereditaments, heretofore Parcel of the Possessions of the Abbot and Convent of *Vale Royal* aforesaid, claims to be entitled to a certain Mere or Piece of Water in and upon the said Forest called *Oakmere*, with a certain Extent of the Turbary and Moss Ground adjoining thereto, and a certain Stone Quarry called *Eddisbury Hill Quarry*, and also to Rights of Agistment, and other Rights in, over, and upon the uninclosed Parts of the said Forest, for and in respect of the Scite of the said Monastery, and the said Messuages, Lands, Tenements, and Hereditaments: And whereas *John Egerton*, of *Oulton* in the County of *Chester*, Esquire, claims to be entitled to two certain Pools of Water in and upon the said Forest, called *Hatchew Meer* and *Fish Pool*, with all the Fish therein, and the Right of Fishing of and in the said Pools, by virtue of a Demise or Grant thereof from His Majesty to *Philip Egerton* Esquire, deceased, dated the Tenth Day of *November* One thousand seven hundred and seventy-seven, for the Term of Ninety-nine Years, determinable on three Lives: 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 from the great and increasing Difficulty of procuring a Supply of Timber from Foreign Countries, and from the Estates of private Individuals in the United Kingdom, it has become necessary to adopt Measures for securing a more adequate Supply of Timber in this Kingdom; and if His Majesty were empowered to inclose certain Parts of the said Forest, and such Parts were appropriated for the Growth and Preservation of Wood and Timber, the same would be of great Advantage to His Majesty and the Public in general; 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 *Robert Harvey*, of *Dunstall* in the Parish of *Abbots Bromley* in the County of *Stafford*, and *Joseph Fenna*, of *Blackhurst* in the said County of *Chester*, Gentleman, and their Successors, to be nominated and appointed in Manner hereinafter mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Forest, and for carrying into Execution the several other Purposes of this Act, in such Manner as is hereinafter provided or mentioned, and with such of the Powers, and subject to such of the Rules, Orders, Regulations, and Restrictions, contained in the said recited Act of the Forty-first Year of the Reign of His present Majesty, as are not varied, altered, or otherwise provided for by this Act.

Commissioners.

II. And

II. And be it further enacted, That no Commissioner shall act in the Execution of any of the Powers by the said recited Act or this Act given, save and except the Power of signing and giving Notice of the first Meeting of the said Commissioners, until he shall have taken and subscribed the following Oath, to be administered and enrolled in like Manner as the Oath by the said Act prescribed to be taken by the Commissioners is directed to be administered and enrolled; (that is to say)

‘ I do swear [or, being one of the People called Quakers, do affirm] Oath.
 ‘ That I am neither Proprietor or Occupier of, nor to the best of my
 ‘ Knowledge, am I concerned as Guardian, Steward, or Agent, for any
 ‘ Proprietor of Messuages, Houses, Cottages, Lands, or Grounds, or other
 ‘ Person having or claiming any Right of Common, or any Manorial
 ‘ Rights, Tythes, or any other Right or Interest whatsoever, in, over, or
 ‘ upon the Open Commonable Grounds and Waste Lands to be inclosed
 ‘ by virtue of an Act, made in the Fifty-second Year of the Reign of King
 ‘ George the Third, intituled *An Act for inclosing the Forest of Delamere,*
 ‘ *in the County of Chester,*’ or any Part or Parts thereof.
 ‘ So help me GOD.’

III. And be it further enacted, That in case the said *Robert Harvey*, Appointment or any Person to be nominated and appointed a Commissioner in his Room of new Com- or Stead by virtue of this Act, shall die, or refuse, or neglect to act, or missioners. become incapable of acting as such Commissioner in the Execution of the said recited Act and this Act, then and in such Case it shall and may be lawful to and for the Commissioners for the Time being of His Majesty's Woods, Forests, and Land Revenues, by any Writing under their Hands, within One Calendar Month after such Death, Refusal, or Incapacity as aforesaid, shall be made known to them (by Notice in Writing, signed by any of the said Commissioners acting in Execution of the said recited Act and this Act, to be left at the Office of the Commissioners of His Majesty's Woods, Forests, and Land Revenues,) to nominate and appoint a proper Person, (not interested in the said intended Division and Inclosure,) to be a Commissioner in the Room or Stead of the said *Robert Harvey*, or of such other Person nominated and appointed in his Room or Stead, so dying, or refusing, or becoming incapable to act as aforesaid, and so from Time to Time as often as any Commissioner to be nominated and appointed by the said Commissioners of His Majesty's Woods, Forests, and Land Revenues as aforesaid, shall die, refuse, neglect, or become incapable to act as such Commissioner in the Execution of the said recited Act and this Act; and in case the said *Joseph Fenna*, or any Person to be nominated and appointed in his Room or Stead by virtue of this Act, shall die, refuse, neglect, or become incapable to act in the Execution of the said recited Act and this Act, then and in every such Case it shall and may be lawful to and for the said *John Arden*, and any Five or more of the several other Owners and Proprietors of Lands and Hereditaments in the several Townships or Places claiming Rights of Agistment or other Rights in the said Forest, (other than and except the said Commissioners for the Time being of His Majesty's Woods, Forests, and Land Revenues, to whom other Powers of Nomination and Appointment are hereinbefore given,) to summon a Meeting (of which Meeting Twenty-one Days Notice by Advertisement shall be given in the *Chester Chronicle* Newspaper, if then published, or if not, then in some other Newspaper usually circulated in the said County of Chester)

Chester) of all and every the Owners and Proprietors claiming such Rights, and the major Part in Value of such Owners and Proprietors who shall be present in Person, or by their respective Agents or Proxies duly authorized for that Purpose, at such Meeting or Meetings (such Value, in case of any Difference or Dispute touching the same, to be ascertained by Reference to the Land Tax Assessment of the several Townships or Places wherein the several Messuages, Lands, Tenements, and Hereditaments lie, in respect whereof such Owners and Proprietors claim such Rights as aforesaid,) shall and they are hereby required to nominate and appoint, by any Writing under their Hands, a proper Person or Persons (not interested in the said Division and Inclosure) to be a Commissioner in the Room or Stead of the said *Joseph Fenna*, or of such other Person to be nominated and appointed in the Room or Stead of him so dying, or refusing, or neglecting to act, or becoming incapable of acting as aforesaid, and so from Time to Time as often as any such Case or Cases shall happen; and every such Commissioner so to be nominated and appointed shall, after taking and subscribing the Oaths prescribed in that Behalf, have the like Powers and Authorities for carrying the said recited Act and this Act into Execution; and shall be subject and liable to the like Rules, Regulations, and Restrictions, as if he had been originally nominated a Commissioner in and by this Act.

If Commissioners of His Majesty's Wood's, &c. neglect to appoint new Commissioners within the prescribed Time, the acting Commissioners to make such Appointment.

IV. And be it further enacted, That if the said Commissioners for the Time being of His Majesty's Woods, Forests, and Land Revenues, or the said Persons claiming such Rights, or who shall have delivered such Claim as aforesaid, or any of them, shall make Default in nominating and appointing any new Commissioner so directed to be nominated and appointed by them, or any of them respectively as aforesaid, within the respective Times for that Purpose limited, and in Manner aforesaid, then and in every such Case it shall and may be lawful to and for the surviving or remaining Commissioner, and he is hereby required from Time to Time, by Writing under his Hand, within One Calendar Month next after the Expiration of such respective Times so allowed for nominating and appointing such new and succeeding Commissioners as aforesaid, to nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room or Stead of every such Commissioner so dying, refusing, or becoming incapable of acting as aforesaid; and every Commissioner so nominated and appointed shall, after taking and subscribing the Oath prescribed in that Behalf, have the like Power and Authority for carrying the said recited Act and this Act into Execution, and shall be subject and liable to the like Rules, Regulations, and Restrictions, as if he had been originally nominated a Commissioner in and by this Act.

Commissioners neglecting to attend Meetings, considered as a Refusal to act.

V. Provided always, and be it enacted, That if either of the said Commissioners hereby nominated, shall refuse or neglect to attend at the First Meeting appointed to be holden for carrying this Act into Execution, and duly qualify himself by taking and subscribing the Oaths prescribed in that Behalf, or if either of the said Commissioners shall at any Time after the said First Meeting, wilfully absent himself from any Three following successive Meetings appointed to be holden by virtue of this Act, or having been absent from Two successive Meetings, shall not attend during the whole of the Third or next succeeding Meeting, such Meetings being known to him either by his being present at the Appointment thereof, or

Notice

Notice thereof in Writing having been given to him or left at his last or usual Place of Abode, by the Clerk or Clerks to the said Commissioners, and such Commissioner not having been prevented by Sicknefs or other reasonable Cause, to be allowed by the other Commissioner, from attending or continuing at such Meetings; or if any Commissioner to be nominated and appointed in Manner by this Act directed, shall not attend and qualify himself to act as a Commissioner in the Execution of this Act, at the First Meeting of the said Commissioners after his Nomination or Appointment, or shall thereafter wilfully absent himself from Three following successive Meetings to be holden by virtue of this Act, or having been absent from Two successive Meetings, shall not attend during the Whole of the Third next succeeding Meeting, such Meetings being known to him, either by his being present at the Appointment thereof, or Notice thereof in Writing having been given to him or left at his last or usual Place of Abode, by the Clerk or Clerks to the said Commissioners, and such Commissioner not being prevented by Sicknefs or other reasonable Cause, to be allowed by the other Commissioner, from attending or continuing at such Meetings, then and in every of such Cases such Absence or Non-attendance shall be deemed and taken to be a Refusal to act, within the Intent and Meaning of this Act.

VI. And be it further enacted, That if any Difference shall arise between the said Commissioners, touching or concerning any Matter or Thing to be done by them, by virtue or in Execution of the said recited Act or this Act, whereupon the said Commissioners shall differ in Opinion, the said Commissioners from Time to Time, when and so often as such Difference of Opinion shall arise, shall, by Writing under their Hands, appoint some fit and proper Person, not being interested in the Premises, nor being the Attorney or Agent of any Person so interested, to be an Umpire between them, and the Matter upon which such Difference of Opinion shall or may arise, shall be referred to, and shall be settled and determined by such Umpire, whose Determination shall be made in Writing, and shall be binding and conclusive upon the said Commissioners; and for the Purposes aforesaid, but not for any other Purpose, such Umpire shall have, and he is hereby vested with the same Powers and Authorities as by the said recited Act and this Act are given to or vested in the said Commissioners.

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

‘ I do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the several Powers and Authorities vested and reposed in me as an Umpire, by virtue of an Act passed in the Fifty-second Year of the Reign of King George the Third, intituled *An Act for inclosing the Forest of Delamere, in the County of Chester*, according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality to any Person or Persons whomsoever.

‘ So help me GOD.’

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Which Oath the said Commissioners or either of them are and is hereby empowered to administer, and such Oath, and also the Writing appointing such Umpire, shall be annexed to the Award of the said Commissioners.

Surveyor appointed.

VIII. And be it further enacted, That *Joseph Hill*, of *Cholmondeley* in the said County of *Chester*, Gentleman, shall be and he is hereby nominated and appointed Surveyor for viewing, surveying, and measuring, the Open Commonable Grounds and Waste Lands in the said Forest, and he the said *Joseph Hill*, or the Surveyor or Surveyors to be appointed as hereinafter mentioned, is and are hereby accordingly authorized and directed, as soon as conveniently may be after the passing of this Act, to view, survey, and admeasure the said Open Common Grounds and Waste Lands, and all the Buildings and Encroachments whatsoever made in and upon the same, and to describe and lay down the same by way of Map or Plan, whereon, or in a Book of Reference to be annexed thereto, shall be set forth the Number of Statute Acres, Roods, and Perches, of the said Open Commonable Grounds and Waste Lands, and the several Buildings and Encroachments made thereon, and of what such Encroachments respectively consist, and the Names of the several Persons holding and enjoying the same; and that when and so soon as the said *Joseph Hill*, or the Surveyor or Surveyors to be appointed as hereinafter mentioned, shall have finished and completed the said Survey, Map, or Plan, he or they shall, by Notice in Writing under his or their Hand or Hands, apprise the said Commissioners thereof, and appoint a Time and Place for a Meeting with them, of which Ten Days Notice at the least shall be given unto each of the said Commissioners, at which Meeting the said *Joseph Hill*, or the Surveyor or Surveyors to be appointed as hereinafter mentioned, shall deliver unto the said Commissioners present at such Meeting, his or their Survey, and Plan and Book of Reference, and shall subscribe the same with his or their Name or Names, in the Presence of the said Commissioners, who shall attest the same; and the said Surveyor or Surveyors shall take and subscribe the following Oath; (that is to say)

Survey to be delivered to Commissioners, and certified on Oath.

Surveyor's Oath.

‘ I *A. B.* do swear, That by virtue and in pursuance of an Act of Parliament, passed in the Fifty-second Year of the Reign of King *George* the Third, intituled *An Act for inclosing the Forest of Delamere, in the County of Chester*, I have taken a true and exact Admeasurement and Survey of the Open Commonable Grounds and Waste Lands, directed by the said Act to be inclosed, and of all the Buildings and Encroachments whatsoever made in and upon the same, to the best of my Judgment and Ability; and that the Survey, Map, or Plan, and Book of Reference, whereunto I have now set my Hand, are and do contain a just and true Description, Survey, and Admeasurement, and Account, of the Open Commonable Grounds and Waste Lands, and of all the Buildings and Encroachments in and upon the same, with the Names of the several Persons holding and enjoying the same respectively, and that the same were made and taken by me according to the best of my Knowledge, Information, and Belief, and the true Intent and Meaning of the said Act, without Favour, Affection, or Partiality, to any Person or Persons; and I do further swear, that I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute the several
‘ other

‘ other Trusts reposed in me as a Surveyor by virtue of the said Act,
 ‘ without Favour or Affection, Prejudice or Partiality, to any Person or
 ‘ Persons whomsoever. So help me GOD.’

Which Oath it shall and may be lawful to and for any One or more of the said Commissioners to administer; and the said Oath, when so taken, shall be written on Parchment, and subscribed by the said Surveyor, and duly attested by the said Commissioners under their Hands, and shall be enrolled with the Award to be made by the said Commissioners.

IX. Provided always, and be it enacted, That in case the said *Joseph Hill*, or any other Surveyor or Surveyors to be appointed as hereinafter mentioned, shall die, or refuse, or neglect to act, or become incapable of acting in the Execution of the said recited Act and this Act, then and in every such Case it shall and may be lawful to and for the Commissioners for the Time being of His Majesty's Woods, Forests, and Land Revenues, by any Writing under their Hands, within One Calendar Month after such Death, Refusal, Neglect, or Incapacity as aforesaid shall be made known to them, by Notice in Writing, signed by either of the said Commissioners acting in the Execution of the said recited Act and this Act, to be left at the Office of the said Commissioners of His Majesty's Woods, Forests, and Land Revenues, to nominate and appoint some other fit and proper Person, (not interested in the said Division and Inclosure,) to be a Surveyor in the Room or Stead of the said *Joseph Hill*, and of every Surveyor so dying, refusing, or neglecting to act, or becoming incapable of acting in the Execution of the said recited Act and this Act; and every Surveyor so nominated and appointed shall, after taking and subscribing the Oath prescribed in that behalf, have the like Powers and Authorities, and shall be subject and liable to the like Rules, Regulations, and Restrictions, as if he had been originally named a Surveyor in and by this Act.

For electing new Surveyors in case of Death, &c.

X. And be it further enacted, That if the said Commissioners for the Time being of His Majesty's Woods, Forests, and Land Revenues, shall make Default in nominating and appointing any new Surveyor or Surveyors, so directed to be nominated and appointed by them as aforesaid, within the Time for that Purpose limited, and in Manner aforesaid, then and in every such Case it shall and may be lawful to and for the said Commissioners acting in the Execution of the said recited Act and this Act, and they are hereby required from Time to Time, by Writing under their Hands, within One Calendar Month next after the Expiration of the Time so allowed for nominating and appointing any new and succeeding Surveyor or Surveyors as aforesaid, to nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Surveyor in the Room or Stead of every such Surveyor so dying, refusing, or becoming incapable of acting as aforesaid; and every Surveyor so nominated and appointed shall, after taking and subscribing the Oath prescribed in that behalf, have the like Powers and Authorities, and shall be subject to the like Rules, Regulations, and Restrictions, as if he had been originally named a Surveyor in and by this Act.

If Commissioners of His Majesty's Woods, &c. neglect to appoint a Surveyor, Commissioners under Act to appoint.

XI. And be it further enacted, That it shall and may be lawful to and for all and every Person and Persons, Bodies Politic, Corporate, or Collegiate, Proprietors to produce Surveys of

the Lands
and Grounds
in respect
whereof they
are entitled to
Rights of
Common, &c.

legate, claiming Rights of Agistment or Commonage, or other Rights in and upon the said Forest, to be inclosed by virtue of this Act, or any Part thereof, and they are hereby required at the Time of their delivering in their respective Claims to the said Commissioners as directed by the said recited Act, to produce and deliver to the said Commissioners, Surveys, Maps, or Plans, of their Lands or Grounds, for or in respect whereof they may so claim to be entitled to Right of Commonage, or other Rights in, over, or upon the said Forest, with Books of Reference to the same Surveys, Maps, or Plans, setting forth a minute and exact Account of all and singular the Messuages, Cottages, Lands, and Grounds, in respect whereof such Claims are or may be made, and the Quantity and Contents of each and every Field, Inclosure, and Parcel of Land, whereof the same consist, with the Names of all and every the Owners or Occupiers thereof respectively, distinguishing such of the Premises as are of Freehold Tenure, from such as are of Copyhold, or Customary, or Leasehold Tenure, and of what particular Manors or Lordships, or Persons, the said Copyhold, or Customary, or Leasehold Tenements, are or may be severally and respectively holden; and the said Commissioners shall, on the producing and delivering such Surveys, Maps, and Plans respectively, enquire on the Oath as well of the Person or Persons, producing and delivering the same, as of such other Person or Persons as they shall think fit, (which Oath the said Commissioners are hereby authorized to administer) into the Authenticity and Accuracy of all and every such Surveys, Maps, and Plans, and in all such Cases where the said Commissioners shall not be satisfied that such Surveys, Maps, and Plans are authentic, or have not been accurately made, they the said Commissioners shall cause their Surveyor or Surveyors, to make accurate Surveys, Maps, or Plans, of the Messuages, Cottages, Lands, and Grounds, so comprized and described in the Surveys, Maps, and Plans, the Authenticity and Accuracy whereof they the said Commissioners shall not be fully satisfied as aforesaid; the Expence of making such new Surveys, Maps, or Plans, by the said Surveyor or Surveyors, to be borne and defrayed by the Person, or Persons, claiming Rights of Agistment or Commonage, or other Rights in and upon the said Forest, in respect of the Messuages, Cottages, Lands, and Grounds, so comprized and described in such new Surveys, Maps, or Plans as aforesaid; and in case of their Refusal to pay such Expence at the Time and Place appointed by the said Commissioners for the Payment thereof, then and in such Case the said Commissioners shall cause the same to be raised, levied, and recovered, in the Manner in which Penalties and Forfeitures are directed to be recovered by the said recited Act.

Fixing the
Time for executing the
Act.

XII. And be it further enacted, That after the said Surveyor shall have made and delivered his Survey of the said Forest to the said Commissioners in Manner hereinbefore directed, they the said Commissioners shall proceed in the Execution of the said Act with all possible Dispatch, and shall sit or employ themselves in the Execution of the said Act, at least Twelve Days in every Two Calendar Months ensuing, until the whole of their Proceedings under the said Act shall be completed, exclusive of the Days of travelling to the Place or Places of Meeting, and so as their first Award shall be made within Two Years next after receiving the said Survey from the said Surveyor, and so that the final Award of the said Commissioners shall be made within Three Years next after the passing of this Act.

XIII. And

XIII. And be it further enacted, That there shall be paid to each and every of the said Commissioners, the Sum of Three Pounds and Three Shillings for each and every Day's actual Attendance, touching the Execution of this Act, and no more; and that no Commissioner shall require or be entitled to receive any Fee, Reward, or Gratuity whatsoever, except the Sum of Three Pounds and Three Shillings *per Day*, and that at all Meetings to be held in pursuance of this Act, the said Commissioners shall thereout pay their own Expences; and that the said Proprietors, their Attornies and Agents, shall also pay their own Expences when they, or any of them, shall attend the said Commissioners, at any of their Meetings to be held in pursuance of this Act; and that the Surveyor, and Clerk, appointed, and to be appointed by the said Commissioners, shall be paid such Sum or Sums of Money, *per Day* or otherwise, for their respective Pains and Trouble in attending the said Commissioners in the Execution of this Act, as to the said Commissioners shall seem just and reasonable; and in all Cases in which the Objection or Approbation of the Proprietors, to any Act, Matter, or Thing, to be done in pursuance of the said recited Act, and this Act, is directed to be made, and testified at any Meeting or Meetings, it shall be lawful for the Proprietors to attend such Meeting or Meetings, by their respective Agents, or Proxies, duly appointed by Writing under his or their Hand or Hands, whose Acts or Votes shall be as effectual as if such Proprietors were present in Person.

XIV. And be it further enacted, That the First Meeting of the said Commissioners for putting this Act into Execution, shall be held at the Dwelling-house of *John White*, known by the Name or Sign of the *Swan Inn* in *Tarporley*, in the said County of *Chester*, or at some other convenient House or Place in *Tarporley* aforesaid, within Two Calendar Months at furthest after the passing of this Act, and that the said Commissioner shall cause Notice by Advertisement to be inserted in the *Chester Chronicle* Newspaper, if then published, and if not, then in some other Newspaper, or Newspapers, usually circulated in the said County of *Chester*, of the Time and Place of their First and every future Meeting, (Meetings by Adjournment only excepted) for the Execution of the Powers of the said recited Act, and this Act, vested in them, Fourteen Days at least before the Times appointed for such respective Meetings; and in case only One of the said Commissioners shall meet at the Time and Place appointed for any Meeting, or to which any Meeting shall be adjourned, it shall be lawful for such Commissioner, and to and for the Clerk to the said Commissioners, in case none of the said Commissioners shall attend, to adjourn the said Meeting to be holden on any future Day, not exceeding Twenty-one Days from the Day of Adjournment, at the same or some other convenient Place within Eight Miles of the said Forest, and the Commissioner or Clerk so making such Adjournment, is and are hereby required to give timely Notice thereof to the absent Commissioners.

XV. And be it further enacted, That all other public Notices requisite or necessary to be given by the said Commissioners, shall be given by Advertisement to be inserted in the said *Chester Chronicle* Newspaper, if then published, and if not, then in some other Newspaper usually circulated in the said County of *Chester*.

[*Loc. & Per.*]

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XVI. And

For shorten-
ing Boundary
Fences.

XVI. And whereas it may shorten the Boundary Fences between the said Forest hereby directed to be divided and inclosed, and the Lands in any adjoining Parish or Township, if the said Commissioners were empowered to cause such Fences to be raised in such Direction as they shall deem most proper and convenient for shortening and making the same regular: Be it therefore further enacted, That it shall and may be lawful to and for the said Commissioners, with the Consent in Writing under the Hand or Hands of the Lord or Lords of the Manor or Manors in which the Land is situate, the major Part in Value of Land Owners in any Parish or Township adjoining to the said Forest, (such Value to be ascertained by the Land Tax Assessment of any such Parish or Township) or under the Hand or Hands of the Owner or Owners of the Lands upon which such Fence or Fences shall or may be intended to be made, to set out, ascertain, and determine, the Boundary Fences to be made between the said Forest hereby directed to be divided, allotted, and inclosed, and the Lands lying in any such adjoining Parish or Township, as they shall judge proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, and determined, the same shall be inclosed and fenced by such Person or Persons, in such Manner and at such Time or Times, as the said Commissioners shall direct, and shall for ever thereafter be deemed and taken to be the Boundaries between the said Forest and such adjoining Parish or Township respectively; any Law, Usage, or Custom, to the contrary notwithstanding.

Parties dis-
satisfied with
the Bounda-
ries as set
out, may try
their Rights
at Law.

XVII. Provided also, and be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested in the ascertaining of the Boundaries of the said Forest, and of any Parish, Township, or District adjoining thereto, shall be dissatisfied with the Determination of the said Commissioners or Umpire made in pursuance of the Directions of the said recited Act, or of this Act, respecting such Boundaries or any of them, and shall be desirous of having the Boundaries affected by such Determination tried at Law, and shall by themselves or their respective Agents or Attornies, within One Calendar Month next after the Determination of the said Commissioners or Umpire shall have been made and published by them, give Notice in Writing to the said Commissioners, of such his, her, or their Objection to the said Boundaries so determined by the said Commissioners, or Umpire, and of such Desire to have the same Boundaries settled by Trial at Law, then and in every such Case the said Commissioners shall and they are hereby required, immediately on Receipt of such Notice as aforesaid, or as soon afterwards as conveniently may be, to give Notice to One or more of the Party or Parties interested therein who shall insist upon the Boundaries so determined by the said Commissioners or Umpire, or to the respective Agents or Attornies of such Person or Persons, by Writing under the Hands of them the said Commissioners, to be delivered to or left at the usual Place of Abode of such Party or Parties, Agents or Attornies respectively; and it shall and may be lawful to and for the Person or Persons giving such Notice to the said Commissioners as aforesaid, or his or their Heirs, Successors, or Assigns, after the Expiration of Two Calendar Months from the Time of such Notice being given to the said Commissioners as aforesaid, to proceed to a Trial at Law for the ascertaining of such Boundaries so objected to as aforesaid, at the First or Second Assizes to be holden for the County of *Chester* next after the giving of such Notice to the said Commissioners,

in an Action or Actions for that Purpose to be commenced in One of His Majesty's Courts of Record at *Westminster*, by the Person or Persons giving such Notice to the said Commissioners as aforesaid, their respective Heirs, Successors, or Assigns; against any such Person or Persons interested therein who shall insist on the Boundaries so determined by the said Commissioners or Umpire as aforesaid; and the Defendant or Defendants in such 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 Boundaries may be properly tried and determined (such Issue or Issues, if the Parties differ about the same, to be settled by the proper Officer of the Court wherein such Action or Actions shall be commenced); and the Jury or Juries who shall try such Issue or Issues, shall find the Boundary or Boundaries of the said Forest, or of all or any of the Manors, Parishes, Townships, Hamlets, or Districts so in Dispute, and the same shall, under the Direction of the Judge who shall try the said Issue or Issues, be indorsed specially on the Postea, in case the same shall be thought necessary for ascertaining such Boundaries; and the Verdict or Verdicts which shall be given in any such Action or Actions, shall be final and conclusive to every Person and Persons, Body and Bodies Politic, Corporate, or Collegiate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside the Verdict or Verdicts so to be given as aforesaid, and order a new Trial or Trials to be had (which it shall be lawful for the said Court to do, and also, upon sufficient Cause shewn, to put off the Trial of such Issue, or to change the Venue as is usual in other Cases); and after any Verdict or Verdicts shall have been obtained, and not set aside by the Court as aforesaid, the said Commissioners shall and they are hereby authorized and required to conform to such Verdict or Verdicts, any Thing in the said recited Act or in this Act contained to the contrary notwithstanding: Provided that the Defendant or Defendants in every such Action shall be by the said Commissioners reimbursed all the Costs, Charges, and Expences, which he or they shall reasonably pay, expend, or be put unto in the Defence of such Action or Actions, by and out of the Money to be raised for carrying this Act into Execution.

XVIII. Provided always, and be it further enacted, That all Persons having or claiming any Estate or Interest in or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, shall, by themselves or their Agents, deliver their respective Claims in Writing to the said Commissioners, at a Meeting to be holden for that Purpose, in the Manner directed by the said recited Act of the Forty-first Year of the Reign of His present Majesty, of which Meeting Twenty-one Days Notice at the least, by Advertisement, shall be given by the said Commissioners, expressing the Purpose of such Meeting, in Manner hereinbefore directed.

XIX. And be it further enacted, That in case any Dispute or Difference shall arise between any of the Parties interested in the said intended Division and Inclosure, touching or concerning their respective Rights and Interests which they or any of them shall have or claim to have in the same, or touching or concerning any Matter or Thing relating to the said Division and Inclosure, it shall and may be lawful to and for the said Commissioners or Umpire, and they are hereby authorized and empowered

Commissioners not to determine Titles to Estates.

powered to examine into, hear, and determine the same respectively: Provided always, that nothing herein contained shall authorize the said Commissioners or Umpire to determine the Title to any Messuages, Lands, Tenements, or other Hereditaments whatsoever, but they shall assign and set out the several Allotments directed to be made, unto the Person or Persons having the actual Seisin of the Messuages, Lands, Tenements, or Hereditaments, in Right or in Respect whereof such Allotments shall be made.

Commissioners to assess Costs.

XX. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Objection to be delivered to them in pursuance of the said recited Act or this Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners or Umpire shall be made, by the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Claim or Objection shall be thereby disallowed or over-ruled, or against whom the said Commissioners shall have determined as aforesaid; and in case the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, who shall be liable to pay such Costs, shall neglect or refuse to pay the same upon Demand, it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause such Costs to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus, if any, upon Demand, to the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Power to try Rights by an Issue at Law.

XXI. Provided always, and be it further enacted, That in case any Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division and Allotments, shall be dissatisfied with any Determination of the said Commissioners or Umpire touching or concerning any Claim or Objection which shall be delivered to the said Commissioners in pursuance of the said recited Act or this Act, or touching or concerning any Property, Right or Interest, intended to be affected by such Determination, and shall within Three Calendar Months next after such Determination, cause Notice in Writing of such Dissatisfaction to be delivered to or left at the usual Place of Abode of the said Commissioners, and of the Party or Parties in whose Favour such Determination shall have been made, or his, her, or their Agent, it shall be lawful for such Person or Persons, or Bodies Politic, Corporate, or Collegiate, giving such Notice as aforesaid, to proceed to a Trial at Law of the Matter so determined by the said Commissioners or Umpire, at the then next Assizes to be held for the said County of *Chester*, unless such Assizes shall happen within Two Calendar Months next after the Determination of the said Commissioners or Umpire, then and in that Case at the Second Assizes to be held for the said County of *Chester* next after such Determination; and for that Purpose the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate,

Collegiate, giving such Notice as aforesaid, shall, within Two Calendar Months next after such Determination, cause an Action to be brought in One of His Majesty's Courts of Record at *Westminster*, upon a feigned Issue, against the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, in whose Favour such Determination shall have been made; 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, and the Property, Right, and Interest, thereby insisted upon, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action shall be commenced, in case the Parties shall differ about the same; and the Verdict which shall be given upon the Trial of such Action, shall be binding, final, and conclusive, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had therein, which it shall be lawful for the said Court to do, in case the said Court shall think proper; and that after such Verdict shall be obtained and not set aside by the said Court, the said Commissioners shall and they are hereby required to act in Conformity thereto, and to allow or disallow the Claim, Property, Right or Interest thereby determined, according to the Event of such Trial or Trials: Provided If no Action brought, or not proceeded in, the Determination of the Commissioners to be final. always, that if no such Notice shall be given, or if any such Notice shall be given and such Action at Law shall not be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time hereinbefore limited for that Purpose, then the Determination of the said Commissioners or Umpire shall be final, binding, and conclusive, to all Intents and Purposes whatsoever: Provided also, that if any of the Parties in any such Action to be commenced as aforesaid, shall die before the Determination thereof, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and that no Difference, Suit, or Proceeding as aforesaid, nor any Difference or Dispute touching the Title Trial not to suspend the Execution of the Powers of this Act. to any Lands, Tenements, or Hereditaments shall impede or delay the said Commissioners or Umpire in the Execution of this Act, but the Division and Allotments hereby directed to be made shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding.

XXII. Provided always, and be it further enacted, That if any Person Deaths of Parties before Actions brought, the same to be carried on and defended in their Names. or Persons in whose Favour 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 hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, 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 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, and

[*Loc. & Per.*] 32 M Pro.

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.

Persons in Possession not to be molested.

XXIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners or Umpire to determine any Right between any Parties contrary to the Possession of any such Parties, except in Cases of Encroachments made within the Period of Forty Years as hereinafter mentioned; but in case the said Commissioners, or Umpire shall be of opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been given up or recovered from such Person or Persons by Ejectment or other due Course of Law.

Commissioners may adjudge the Quantity and Value of the Land, &c.; but all ancient Messuages to be considered of equal Value.

XXIV. Provided nevertheless, and be it further enacted, That nothing herein contained shall extend to preclude the said Commissioners from adjudging and determining the Quantity and Value of the Land, in virtue whereof any Person or Persons shall be allowed to have a Right of Common upon the said Open and Commonable Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof; but the said Commissioners shall and they are hereby authorized to adjudge and determine the Quantity and Value of all and every such Lands respectively, and rate and estimate the same as to them shall seem just and reasonable, according to the real Value thereof, for the Purposes of Husbandry, without regard to any artificial or extraordinary Value arising from local, temporary or other peculiar Advantages; and such their Judgment and Determination shall be binding and conclusive upon all Parties whomsoever: Provided also, that nothing herein contained shall extend to authorize the said Commissioners, or any of them, to consider any ancient Messuage or Building, or Scite thereof, in respect of which any Right of Common shall be allowed, at any more or greater Value than any other ancient Messuage or Building, or Scite thereof, but the said Commissioners shall rate and estimate all ancient Messuages and Buildings, and Scites thereof, at an equal Value one with the other, and at such Value as they shall think most expedient.

Value of Encroachments not to be considered.

XXV. And whereas great Sums of Money have been expended in improving divers Parcels of Land taken up without legal Authority from the said Forest, and as no Abatement of such Encroachments has been made for a Series of Years, it is not reasonable that the Persons who have expended such Sums of Money should be deprived of the Benefit of such Improvements; be it further enacted, That all Encroachments which may have been made within Forty Years, by the Tenants of His Majesty, or by any other Person or Persons having Right of Common on the said Forest, shall be considered in setting out the Allotments to His Majesty, or to such Person or Persons, as so many Acres of Common Land, without regard to the actual Value resulting from the Expence incurred in improving the same.

Compensation to be made to Per-

XXVI. And be it further enacted, That if any Encroachment shall appear to separate or impede the Occupation of the Property of any other Person,

Person, the said Commissioners may and they are hereby authorized and required to allot such Encroachment to the Person whose Property would be so separated, or the Occupation of which would be impeded, making such Compensation to the Person who made or possessed such Encroachment, out of the Allotment to the Person who shall receive such Encroachment, as in the Judgment of the said Commissioners shall be reasonable and adequate.

Persons whose Encroachments shall be taken away.

XXVII. And be it further enacted, That the said Commissioners shall and they are hereby required, as soon as conveniently may be after setting out the Public Roads and Highways as directed by the said recited Act, to set out in such Places as they shall deem most convenient on the said Forest, such Part and Parts thereof as the said Commissioners shall think necessary and sufficient for the general Use and Accommodation of His Majesty and his Lessees and Tenants, and of all other the Proprietors of Lands to whom any Allotments shall be made under this Act, and their Lessees for the Time being, for the Purpose of getting Stone, Marl, or Clay, for Bricks, Gravel, Sand, and Earth, to be used upon the Lands lying within the Limits of the said Forest, or for the Repairs of the Turnpike Roads and Public Highways, and Private Roads and Paths within the said Forest, but the same shall not be sold or conveyed out of the said Forest on any Account whatsoever; and also to set out Watering Places on the said Forest for Cattle and Beasts, for the common Use and Benefit of all Persons occupying Lands within the Limits of the said Forest.

Allotments for Repairs of Roads, &c.

XXVIII. And be it further enacted, That it shall not be lawful for any Person whomsoever, to sell or convey, out of the Limits of the said Forest, any Stone, Gravel, Sand, Marl, Clay, or other Materials that may be found or raised upon the said Allotments hereinbefore directed to be set out for the common Use of the said Forest as aforesaid; and that if any Person shall sell or convey out of the Limits of the said Forest, any Stone, Gravel, Sand, Marl, Clay, or other Materials that may be found or raised upon the said Allotments hereinbefore directed to be set out for the common Use of the said Forest as aforesaid, any Justice of the Peace for the said County of Chester, upon due Proof thereof made before him upon Oath (which Oath any such Justice is hereby empowered to administer) shall and he is hereby required, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause any Sums of Money, not exceeding Forty Shillings, to be levied by Distress and Sale of the Goods and Chattels of any Person offending in the Premises, rendering the Overplus, if any, upon Demand, to the Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and that the Money so to be levied by way of Penalty as aforesaid shall be applied towards defraying the Costs and Charges of executing this Act.

No Marl, &c. to be carried out of the Forest.

XXIX. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to stop up and discontinue, or divert and turn, and to set out and appoint any Public Roads, Tracks, Ways, or Paths, in the said Forest, and to make such Order or Orders as to them shall seem proper for that Purpose, subject nevertheless, to the Provisions and Directions of the said recited Act,

Power to turn and stop up Roads.

Act, with respect to the stopping up of any old or accustomed Road or Roads, and subject to an Appeal to the Quarter Sessions as therein mentioned; provided always, that no Turnpike Road shall be altered or diverted without the Consent of the Trustees thereof, or any Public Highway or Road shut up or discontinued, until the Roads intended to be and remain public Highways shall be set out according to the Directions of the said recited Act, and until the same shall be properly formed and made convenient and safe for Horses, Cattle, and Carriages: Provided also, that all Private Roads, Ways, and Footpaths, which shall be set out and appointed by the said Commissioners, shall be made and for ever maintained and kept in Repair by such Persons and in such Manner as the said Commissioners shall, by their Award, or any other Writing under their Hands, order, direct, or appoint.

Commissioners may scour out Brooks, make Ditches, &c.

XXX. And be it further enacted, That the said Commissioners shall and may, previously to their making any Valuation, Division, or Allotment of the said Forest, with the Assistance of any Engineer or Surveyor they shall think proper to employ, and to whom they are hereby empowered to make an adequate Compensation for his Trouble, cause all such Brooks, Streams, Ditches, Drains, Watercourses, Tunnels, and Bridges, to be scoured, cleansed, and widened, and also shall and may set out, order, and direct such new Ditches, Drains, Watercourses, Tunnels, Watergates, Banks, and Bridges to be made, of such Depth and Breadth, and in such Situation and Direction, as they the said Commissioners shall think proper, as well in, through, over, and upon the said Forest, as also in, through, and over any Lands and Grounds of any Person or Persons, Body or Bodies Politic or Corporate, (having any Rights or Interests in, over, or upon the said Lands and Grounds), near or adjoining thereto, or any of them, or any Part or Parts thereof, for the Purpose of effectually draining all or any Part of the said Forest, and the several Bogs and Turbaries thereon, and also such of the Meers and Pools of Water on the said Forest, as the said Commissioners shall be of Opinion can and may be advantageously drained, making such Compensation to the said *John Arden*, or any other Person or Persons who may be entitled to Right of Fishery, or other Rights in and upon the said Meers or Pools of Water, in Satisfaction of such Rights, and to the Owners and Proprietors of such Lands and Grounds, not hereby intended to be divided and inclosed, for the Damage done thereby, as they the said Commissioners shall judge reasonable; and the said Commissioners for the Time being shall and may, and they are hereby directed in and by their Award or Awards, to order and direct by whom and at whose Expence, and what Time and in what Manner the said Brooks, Drains, Watercourses, Tunnels, Watergates, Banks, and Bridges, shall be thereafter repaired, cleansed, scoured, and maintained; and after the said Work of Drainage shall have been completed, the said Meers and Pools of Water so drained shall be considered as Part of the uninclosed and Waste Lands by this Act to be divided, allotted, and inclosed: Provided always, that no such Brook or Stream shall be diverted or turned, without the Consent in Writing of the Owner or Owners, Proprietor or Proprietors, of the Lands and Grounds, or Waters from which any such Brook or Stream shall be diverted, and into which the same shall be turned.

XXXI. And

XXXI. And be it further enacted, That the said Meer or Pool of Water called *Oakmere*, together with a Border or Margin round the same, of the Width of Eight Yards from High Water Mark, and a Road or Way to the said Pool of Water, together with the Stone Quarry called *Eddisbury Hill Quarry*, shall remain vested in the said *Thomas Cholmondeley*, his Heirs and Assigns, and shall not be taken by the said Commissioners to be any Part of the Land or Ground to be allotted, divided, or inclosed by this Act.

Oakmere and Eddisbury Hill Quarry to remain vested in Mr. Cholmondeley; and not to be considered any Part of the Lands to be inclosed.

XXXII. And be it further enacted, That it shall and may be lawful for the said Commissioners, and they are hereby authorized and required to set out and allot to the said *John Egerton*, his Heirs and Assigns, the said Pools of Water called *Hatchew Meer* and *Fish Pool*, together with a Border or Margin round the same respectively, of the Width of Eight Yards from High Water Mark, with all the Fish therein, and the Right of Fishing of and in the said Pools, and all other Liberties and Privileges now enjoyed therewith respectively, in Part of such Allotments as he shall be entitled to in respect of his Interests in the said Demise or Grant, and of his other Rights in and upon the said Forest; and also that due and proper Roads shall be set out by the said Commissioners, to the said Pools of Water respectively, for the Enjoyment thereof, and the Protection of the Rights and Privileges of the Lessees or Grantees of the same.

Hatchew Meer and Fish Pool to be allotted to John Egerton.

XXXIII. And be it further enacted, That when the Survey of the said Forest shall have been made and delivered to the said Commissioners, and the Boundaries thereof shall have been duly settled, and the Extent and Value of all Encroachments made therefrom within the Period of Forty Years last past ascertained; and when pursuant to the Powers hereinbefore contained, the several Roads, Highways, Watering Places for Cattle, and Places for the Materials for Repairs of Roads and other Purposes, shall have been set out, the said Commissioners shall, as soon as may be, proceed to value the Whole of the said Forest, and the several Encroachments that shall have been made therefrom within Forty Years last past; and when and so soon as such Valuation shall have been made, the said Commissioners shall proceed to divide the said Forest into Two Moieties or equal Half Parts, Quantity, Quality, and Situation being respectively considered; and shall allot unto the King's Majesty, his Heirs and Successors, One of the said Moieties or equal Half Parts, which Moiety or Half Part, so soon as the same shall be fenced in and severed from the Lands adjoining thereto, shall become and remain the exclusive and absolute Property of the King's Majesty, his Heirs and Successors, freed, exonerated, and for ever discharged of and from all Right of Common of Pasture, of Turbary Common, of Estovers, and all other Rights, of what Nature and Kind soever, of all and singular the Owners or Occupiers of Messuages, Lands, Tenements, and Hereditaments, who at the Time of the passing of this Act were entitled to any such Rights thereon, or of any other Person or Persons whomsoever; which said Moiety so to be allotted to His Majesty, his Heirs and Successors, shall for ever thereafter be made and kept by and under the Direction and Care of His Majesty's Surveyor-General of Woods and Forests for the Time being, under the Order and Controul of the Lords

Allotment to the King.

Forest divided into Moieties.

of the Treasury, as Nurseries for Wood and Timber only, and for no other Use, Intent, or Purpose whatsoever.

Further Al-
lotment to
His Majesty.

XXXIV. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required in the next Place, out of the remaining Moiety of the said Forest, to separate and set apart such Portion or Quantity of Land as shall in their Judgment, when inclosed and subdivided in Manner hereinafter mentioned, be of the yearly Value of Two hundred Pounds if let on a Twenty-one Years Lease, and to be formed of Land of the yearly Value of not less than Twenty Shillings a Statute Acre, and in such Part and Situation of the said Forest as they shall think proper, and to allot and award the said Portion or Quantity of Land unto and for the King's Majesty, his Heirs and Successors.

A Church to
be built by
His Majesty.

XXXV. And be it further enacted, That the King's Majesty, his Heirs or Successors, shall within Four Years next after the passing of this Act, erect and build, or cause to be erected and built on the said last-mentioned Allotment, a Church, to be consecrated and set apart for the public Worship of Almighty God, according to the Laws Ecclesiastical of this Realm, and which shall be adequate to the probable Population of such Part of the said Forest as shall be kept in a State of Cultivation; and shall also erect and build, or cause to be erected and built, a Parsonage House, with suitable Outbuildings and Curtilage thereto belonging; and shall also provide and set apart out of the said last-mentioned Allotment, a Piece or Parcel of Land as a Cemetery or Burial Ground for the said Church; and the King's Majesty, his Heirs or Successors, shall cause the said Portion or Quantity of Land so to be allotted and awarded to him and them as last mentioned, to be properly fenced, subdivided, and drained, and when so fenced, subdivided, and drained, shall endow the said Church with the same.

District of
Delamere
Forest to
become a
Parish.

XXXVI. And be it further enacted, That the District called or known by the Name of *Delamere Forest*, and all such Lands lying contiguous thereto as are now Extra-parochial, shall, as soon as the Moiety of the said Forest which is hereby directed to be allotted to and amongst the Persons enjoying Rights of Common thereon, shall have been so allotted, divided, and inclosed, be and be deemed and taken to be a Parish, and called and known by the Name of *Delamere Parish*, and shall for ever thereafter be and be deemed and taken to be a Rectory.

Commission-
ers to divide
the Forest
into Town-
ships.

XXXVII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to divide the said Parish into Two or more Townships, to be called and distinguished by such Names as the said Commissioners shall appoint; and when the same shall be so divided, each and every such Township shall from thenceforth for ever thereafter provide for its own Poor, make and maintain its own Roads, and have, enjoy, and be vested with, such and the like Powers, Privileges, and Immunities, and be subject to the same Regulations as are incident to and as are had, held, and enjoyed, by the several other Townships within the said County of *Chester*, by the Laws and Statutes of that Part of the United Kingdom of *Great Britain and Ireland* called *England*.

XXXVIII. And be it further enacted, That the said Church, when the same shall have been duly consecrated, shall be and be deemed a Parish Church, and every Minister officiating therein for the Time being, shall be subject in all Respects to the ordinary Ecclesiastical Jurisdiction by Law established, and Divine Service shall be from Time to Time for ever thereafter performed in the said Church according to the Rites and Ceremonies of the United Church of *England and Ireland* as by Law established.

Church, &c.
subject to
Ecclesiastical
Jurisdiction.

XXXIX. And be it further enacted, That the Rights of Patronage and Presentation of, in, and to the said Parish Church so to be erected and constituted by virtue of this Act, shall be vested in His Majesty, his Heirs and Successors for ever.

Right of Pre-
sentation
vested in His
Majesty, his
Heirs and
Successors.

XL. And be it further enacted, That all Marriages to be duly solemnized in the said Parish Church of the said Rectory and Parish, to be erected and constituted by virtue of this Act, according to and in pursuance of the Provisions and Directions of an Act, made in the Twenty-sixth Year of the Reign of His late Majesty King *George the Second*, intituled, *An Act for the better preventing clandestine Marriages*, shall be good, valid, and effectual in the Law, and a Register of every such Marriage, or a Copy thereof, shall be received in all Courts of Law and Equity as Evidence of Marriage, in such and the like Manner as the Register of any Marriage solemnized in any other Parish Church is received in Evidence.

Marriages in
the Church
to be valid.

XLI. And be it further enacted, That all the public and general Laws and Statutes of this Realm now in being, concerning Rectories, Parishes, Parish Churches, Rectors, Parochial Clergy, and Parochial Officers, shall be in full Force, and have Effect and Operation in all Respects as to the said Rectory, Parish, and Parish Church to be erected and constituted by virtue of this Act; which said Rectory and Parish shall be subject to the same Jurisdiction, Visitation, and Controul, as any other Rectory or Parish in the County of *Chester* is now subject to.

Laws con-
cerning the
Cergy ex-
tended to the
Rectory of
Delamere.

XLII. And whereas, by reason that the said Forest and Inclosures therefrom are Extra-parochial, no Tithes have hitherto been paid or collected in respect thereof: And whereas the said Lands and Grounds will, by virtue of this Act, become Parochial, be it therefore further enacted, That the said Forest, and all the Lands and Grounds to be inclosed or rendered Parochial by virtue of this Act, and which are now Extra-parochial, shall at all Times for ever hereafter be exonerated, exempt, and free from all Tithes, both great and small, or of what Nature or Kind soever, any Thing in this Act contained to the contrary thereof notwithstanding.

The Forest to
be for ever
exempt from
Tithes.

XLIII. And, to the end that the said Inclosures may be preserved in the Crown for public Use as aforesaid, be it further enacted, That in case any Person whatever shall presume to take or obtain any Gift, Grant, Estate, or Interest, of or in the said Inclosures, or any Wood or Trees growing thereon, every such Gift, Grant, Estate, or Interest shall, *ipso facto*, be null and void, and the Person so taking the same shall be utterly disabled to have, hold, or enjoy any such Gift, Grant, Estate, or Interest,

Any Grant
of Inclosure,
Trees, &c. to
be void, and
the Person
obtaining
such Grant to
forfeit Treble
Interest,

the Value thereof.

terest, and also shall forfeit Treble the Value of any such Gift or Grant to him who shall first sue for the same, in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt, wherein no Essoign or Wager of Law shall be allowed to the Defendant.

Commissioners to divide the Forest in such Manner as that each Moiety may have a due Proportion of good and bad Land.

XLIV. And, in order that His Majesty, his Heirs and Successors, and all other Persons having Allotments on the said Forest, may be reciprocally benefited by their respective Allotments, be it enacted, That the said Commissioners shall and they are hereby required, so far as Circumstances will admit of, so to divide the said Forest, as that each of the said Moieties shall contain its due Proportion of good and bad Land.

Award of His Majesty's Allotment to be enrolled in the Exchequer at Westminster, and the Office of the Auditor of Land Revenue.

XLV. And be it further enacted, That when and as soon as the said Commissioners shall have set out the Moiety of the said Forest to be allotted to His Majesty, his Heirs and Successors, they shall prepare a separate Award, with a Map or Plan annexed thereto, to be called their First Award, whereof there shall be Three Originals, One to be enrolled in the Court of Exchequer at *Westminster*, another in the Office of the Auditor of the Land Revenue, there to remain on Record, and shall afterwards be filed and preserved amongst the Muniments of the Office of the Surveyor-General of His Majesty's Woods and Forests for the Time being, such Award, or the Enrolment thereof, to be produced, read, and received in Evidence on all Occasions where any Question, Doubt, or Controversy may arise relating to or affecting the Rights and Interests of His Majesty, his Heirs or Successors, in respect of any Allotment vested in the King's Majesty, his Heirs and Successors, by virtue of this Act, and the Third of the said Awards to be deposited with the Clerk of the Peace of the said County of *Chester*.

His Majesty empowered to grant a Lease of the ancient Inclosure called The Old and New Pales unto Lord Cholmondeley.

XLVI. And, in order to make a Compensation to the said *George James Earl Cholmondeley* for his Interest in the Herbage, Pasturage, Pannage, and Agistment of the open and uninclosed Parts of the said Forest, and for the Residue of his Term and Interest in the said ancient Inclosure, called *The Old and New Pales*, which he hath agreed to surrender and yield up unto His Majesty, and to induce him the said *George James Earl Cholmondeley* to erect proper and substantial Buildings upon the said ancient Inclosures, which will be attended with very considerable Expence, and to undertake such general Improvements as may be necessary to bring the Soil and Surface thereof into the highest State of Cultivation of which the same is capable; be it enacted, That it shall and may be lawful to and for His Majesty, his Heirs and Successors, on the Expiration or other sooner Determination of the present Lease thereof, to grant and demise the said Inclosure, called *The Old and New Pales*, unto the said *George James Earl Cholmondeley*, his Executors, Administrators, and Assigns, for any Term or Number of Years not exceeding Sixty-one Years, in Possession and not in Reversion, at such Rent, and under such Covenants, Conditions, and Agreements, as to His Majesty's Commissioners of Woods, Forests, and Land Revenues, shall seem proper.

Allotment to Mr. Arden, in lieu of his Rights as

XLVII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required, in the next Place, out of the remaining Moiety of the said Forest,

Forest, to set out and allot unto the said *John Arden*, so much and such Part of the said Forest as shall in the Judgment of the said Commissioners be in Proportion to the Value of the said Conies and Fishings, and of Pasturage for Conies and Sheep, and other Rights incident to his said Office of Chief Forester, Bowbearer, and Forest Bailiff, as the said *John Arden* shall prove himself entitled unto; such Allotment to be in Lieu, Satisfaction, and Extinction of all such Rights as aforesaid, except as to Titles of Honour, and such Rents as are payable to him from or out of any Townships, Hamlets, or Places, adjoining or lying near to the said Forest, which said Rents and each and every of them shall continue and remain to be payable to the said *John Arden*, his Heirs and Assigns (any Thing in this Act contained to the contrary notwithstanding) in the same Manner to all Intents and Purposes, and from the same Township or Townships, Person or Persons, as if this Act had not been passed.

XLVIII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required, after making such Allotments as aforesaid, to set out and allot the Remainder or Residue of the said Forest unto the King's Majesty, his Heirs and Successors, in respect of the said ancient Inclosures, called *The Old and New Pales*, and unto and amongst the several Persons having Rights of Common or other Rights on the said Forest (other than and except the King's Majesty, his Heirs and Successors, in respect of his Rights over the said Forest hereinbefore compensated, and other than and except the said *John Arden*, in respect of his Rights hereinbefore compensated, in case he shall have substantiated such Rights to the Satisfaction of the said Commissioners) in such Quantities, Shares, and Proportions, as the said Commissioners shall in their Judgment deem to be in full Satisfaction of all their several and respective Estates, Rights, and Interests, in and upon the said Forest.

XLIX. And be it further enacted, That the several outermost or ring Fences of the said Moiety of the said Forest so to be allotted to His Majesty, his Heirs and Successors as aforesaid, and also of any or Allotments which shall be made to His said Majesty for and in respect of the said ancient Inclosures, called the *Old Pale and New Pale*, shall be made in such Manner as the said Commissioners shall direct and appoint; and such outermost or ring Fences shall be raised and made, and for ever hereafter maintained, supported, and kept in Repair, at the Expence, Costs, and Charges of His said Majesty, his Heirs and Successors; but in case the said outermost or ring Fences shall adjoin the Allotment or Allotments to be made to any other Person or Persons in pursuance of this Act, such last-mentioned Fences shall be made, supported, and kept in Repair, in such Manner and by such Persons as the said Commissioners shall by their Award direct and appoint; and all Fences, or such Part or Parts thereof as the said Commissioners shall direct, shall, for ever after the making thereof, be kept in Repair by the Person or Persons, who, for the Time being, shall be entitled to such Allotment or Allotments; and all Fences to be made in pursuance of this Act, for dividing and inclosing the Residue of the said Forest, shall be made, and at all Times for ever thereafter be repaired and maintained, by and at the Expence of the Proprietors interested in such Residue, in such Parts

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and Proportions, and within such Time and in such Manner, as the said Commissioners shall, in and by their said Award, direct and appoint.

Moss Pits and Turbaries incapable of being drained, to be left open for the Use of such Persons as have heretofore used or enjoyed the same.

L. And be it further enacted, That if the said Commissioners, or any Engineer to be by them employed under the Powers and Authorities of this Act, shall find it impracticable to drain any of the Moss Pits or Turbaries on the said Forest, so as to make the same sufficiently dry to be used as Arable or Pasture Land, then and in such Case it shall and may be lawful for the said Commissioners, and they are hereby authorized and empowered to leave such Moss Pits or Turbaries open and uninclosed, to be held and enjoyed by such Person or Persons as, before the passing of this Act, have of Right held, used, or enjoyed the same.

No Turf to be taken away after the passing of this Act, under the Penalty of 5l.

LI. And be it further enacted, That if any Person or Persons, after the passing of this Act, shall cut, dig, get, or take away any of the Turf or Soil of the Grounds or Lands to be inclosed by virtue of this Act, for any Use or Purpose whatsoever, or under any Right, Privilege, or Claim, or Pretence of Right, Privilege, or Claim whatever (other than and except any Person or Persons who may get any Turfs out of any of the Moss Pits or Turbaries which shall or may be left open and uninclosed by the said Commissioners as hereinbefore mentioned), upon due Proof made before the said Commissioners on Oath (which Oath the said Commissioners are hereby empowered to administer) the said Commissioners shall and they are hereby required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause any Sum or Sums of Money not exceeding the Sum of Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending in the Premises, rendering the Overplus (if any) on Demand, to the Person or Persons whose Goods and Chattels shall be so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as aforesaid, shall be applied towards the Payment of the Costs, Charges, and Expences of executing this Act.

After Allotments made, Rights of Common to cease.

LII. And be it further enacted, That immediately after all the Allotments to be made in pursuance of this Act shall, by Order of the said Commissioners, be marked or staked out, all the several Shares or Allotments to be set out as aforesaid, shall be, and be deemed and taken to be in Lieu of, and in full Compensation, Satisfaction, and Discharge of all Rights of Common whatsoever, which the said Proprietors, or any of them could or might have had or been entitled to, in, over, and upon the said Forest, and other the said Commonable Lands and Grounds, or any Part or Parts thereof respectively; and from that Time all Right of Common whatsoever in or upon the said Forest and Open Commonable Lands and Grounds shall cease and be for ever annulled, abolished, and extinguished.

Rights of Common may be suspended or extinguished before the Execution of the Award.

LIII. Provided nevertheless, That it shall be lawful for the said Commissioners, at any time before the Execution of their said Award, by Notice by Advertisement in One or more of the public Newspapers usually circulated in the County of *Chester*, to order and direct all or any Part of the Rights of Common in or over the said Open and Commonable Lands and Grounds, or any Part or Parts thereof, to be extinguished or the Exercise thereof suspended, for and during such Time or

Times as shall be expressed in such Writing; and 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 mentioned in such Writing, cease, determine, and be extinguished, and the Exercise thereof shall be suspended accordingly; any Law, Usage or Custom, to the contrary thereof in anywise notwithstanding.

LIV. And be it further enacted, That if any of the several Owners of Owners of ancient Messuages, Cottages, Scites or Homesteads, Lands, Tenements, Common or Hereditaments, shall be desirous that their respective Shares in the Rights may said Open Commonable Lands and Grounds so directed to be divided, have their Allotments laid together. belonging to such Messuages, Cottages, Scites or Homesteads, Lands, Tenements, or Hereditaments, should be allotted together in One or more Parcel or Parcels, and shall express their Desire in Writing to the said Commissioners, at such Time as the said Commissioners shall limit and appoint, then and in such Case the said Commissioners shall and they are hereby required to set out the several Parcels of Land to be allotted to such several Persons in one Allotment, and such Allotments shall be used and enjoyed by the several Proprietors thereof, in such Manner and under such Regulations as the said Commissioners shall in that behalf direct and appoint in their said Award.

LV. And be it further enacted, That when and so soon as the said Allotments to Commissioners shall have ascertained the respective Rights of the Persons be delineated interested in the said intended Inclosure, and also the respective Shares in a Plan, and Proportions by them proposed to be allotted to such Persons respectively in lieu thereof, they the said Commissioners shall give Notice by and shewn to the Proprietors. Advertisement in One or more of the public Newspapers usually circulated in the said County of *Chester*, of the Day or Days and Place where all Persons interested may peruse a Schedule of such intended Allotments, and inspect the Map or Plan whereon the same shall be delineated, and may have and receive a Copy of such Schedule so far as the same relates to each Person respectively; and as some Person may, upon Perusal of the said Schedule and Inspection of such Map or Plan, be dissatisfied with their intended Allotments, the said Commissioners shall give Notice of one Meeting at least to be held by them, for hearing Complaints and Objections against such intended Allotments, and for hearing and determining all such Objections, and their Determination in the Premises, as to Quantity and Situation, shall be binding, final, and conclusive, upon all Parties.

LVI. Provided always, and be it further enacted, That if any Person If any Person hath sold, or shall at any Time before the Execution of the final Award son sell his of the said Commissioners sell his or her Right, Interest, and Property, in Common a Right, the to, over, or upon the Lands hereby directed to be divided and allotted, Allotment is to be made to the Purchaser. or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, on Application made to them for that Purpose, by Writing under the Hands of the contracting Parties, to make any Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns, for and in Respect of such Right, Interest, and Property, fo

so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him, her, or them as aforesaid, in the same Manner as the Vendor in such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property, had been vested in such Vendor at the Time of making such Allotment as aforesaid.

The Lords Commissioners of His Majesty's Treasury empowered to purchase Lands.

LVII. And be it further enacted, That it shall and may be lawful for the Lords Commissioners of His Majesty's Treasury, on Behalf of His Majesty, to agree with and to purchase from any Person or Persons who shall be entitled to any Allotments of Land under this Act, all or any Part of their respective Lands, or the additional Allotments to be made to them under this Act, for the Use of the same to His Majesty, his Heirs and Successors, in his and their Right as of Fee, such Lands so purchased to be inclosed and appropriated in the same Manner as His Majesty's Allotments under this Act are directed to be, for the Growth and Preservation of Timber.

Allotments to remain in the same Tenure.

LVIII. And be it further enacted, That all Lands and Hereditaments which shall be allotted by virtue of this Act, shall be held by the same Tenures, under the same Rents, Customs, and Services, as the Lands and Hereditaments in respect whereof such Allotments shall be made, were respectively held before the passing of this Act, or would have been held in case this Act had not passed.

Separate Allotments to be made for Estates held by different Tenures.

LIX. Provided always, and be it further enacted, That when the Proprietor or Proprietors of any Lands or other Hereditaments which shall be allotted or exchanged by virtue of this Act, shall hold their respective Lands or Hereditaments by different Tenures or for different Estates, or under different Titles, the said Commissioners shall, upon the Request of such respective Proprietors in Writing under their Hands, ascertain and distinguish the Lands or other Hereditaments held by or under such respective Tenures, Estates, or Titles, and shall accordingly in their said Award, set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments.

The Forest disafforested.

LX. And be it further enacted, That after the final Award shall be made by the said Commissioners, all and every the Lands and Grounds lying and being within the Boundaries of the said Forest, as well those already inclosed as those intended to be inclosed under the Authority of this Act, shall be and the same are hereby disafforested, and shall be and continue exonerated and discharged for ever thereafter from all Forestial Rights, Jurisdictions, and Authorities whatsoever, if any such remain, which His Majesty, his Heirs and Successors, or any other Person or Persons, could otherwise claim therein (save only and except that the said *John Arden*, his Heirs and Successors, shall continue, in case he, she, or they shall think fit to retain the Title of Chief Forester, Bow-bearer, and Forest Bailiff, of the said Forest; and also save and except unto His Majesty, his Heirs and Successors, and to the said *John Arden*, his Heirs and Assigns, and all and every other Person and Persons whomsoever, all such Forest or other Rents as they or any of them may be entitled unto, and which are issuing out of or chargeable upon any Person or Persons, or any

any Messuages, Lands, Tenements, and Hereditaments, in any Townships, Hamlets, or Places, within the said County of *Chester*.

LXI. And be it further enacted, That from and immediately after the said first Award shall be made by the said Commissioners, no Rabbits shall be kept on any Part of the said Forest hereby directed to be divided, allotted, and inclosed by virtue of this Act, on any Account or Pretence whatsoever.

After first Award no Rabbits to be kept.

LXII. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award, any Messuages, Buildings, Lands, Tenements, or Hereditaments within the said Forest, either old Inclosures or new Allotments, in Lieu of and in Exchange for any other Messuages, Buildings, Lands, Tenements, or Hereditaments, within the said Forest, or within any adjoining Parish, Hamlet, Township, or Place; provided that all such Exchanges shall be ascertained, specified, and declared in the said final Award, and be made with the Consent of the Proprietor or Proprietors of the Premises which shall be so exchanged, whether such Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee-simple or for Life, or in Fee-tail general or special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, or Feoffees, for charitable, parochial, or other Uses, Husbands, Committees, or Attornies of or acting for any such Proprietor or Proprietors, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Idiots, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself (such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively); and all and every such Exchange and Exchanges so to be made shall be good, valid, and effectual in the Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Messuages, Buildings, Lands, Tenements, or Hereditaments, held in Right of any Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Lord Bishop of the Diocese in which such Messuages, Buildings, Lands, Tenements, and Hereditaments, shall be situate, and of the Patron of such Ecclesiastical Benefice: Provided also, that all Costs, Charges, and Expences, attending the making of any Exchanges and Partitions, shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioners shall by their Award order and direct.

For allowing Exchanges to be made.

LXIII. And be it further enacted, That all and every Lease and Leases at Rack or extended Rent now subsisting of any Messuages, Lands, or Tenements, within the said Forest, shall, as far as such Lease or Leases affect or concern any Allotment or Allotments to be made of any Part of the said Commons or Waste Grounds in respect of such Messuages, Lands, or Tenements, comprized in such Lease or Leases, be and the same is and are hereby declared to be null and void as to such Allotment and Allotments; and such Allotment and Allotments shall be made and assigned unto the Landlord or Landlords, and not to the Tenant or Tenants, Lessee or Lessees, and such Allotment and Allotments shall be

Leases at Rack Rent void as to Allotments of Common.

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freed and discharged from all Right and Interest which may or otherwise might be claimed in or to the same by virtue of such Lease or Leases; and the Person or Persons to whom the Messuages, Lands, or Tenements, comprized in such Lease or Leases, shall belong as Landlord or Landlords, shall make such Compensation to the Person or Persons entitled to the same under such Lease or Leases, as the said Commissioners shall by Writing under their Hands direct, for the Right of Common, or other Rights or Interests, in, over, or upon the said Commons or Waste Grounds, or any Part thereof, appendant or appurtenant to such Messuages, Lands, or Tenements, and which shall be extinguished by this Act; and if any Person or Persons shall refuse or neglect to make any such Compensation to the Person or Persons entitled thereto, within Twenty-one Days after Demand made thereof, then and in such Case it shall be lawful to and for the said Commissioners, and they are hereby authorized and required to raise and levy the same for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of executing this Act, or any Part thereof, can or may be raised or levied.

Wills and Settlements not to be affected.

LXIV. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to revoke, make void, alter, or annul, any Will, Settlement, or Surrender, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, or Incumbrance, out of, upon, or affecting any Messuages, Lands, Tenements, or Hereditaments, in the said Forest, or any adjoining Parish or Township or Place, which shall be allotted or exchanged by virtue of the said recited Act or this Act; but that each and every Proprietor shall stand and be seised of the Premises to be allotted to or given in Exchange to him or her as aforesaid, to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Deeds, Settlements, Surrenders, Debts, Charges, Rents, and Incumbrances (Right of Common and Common of Pasturage as aforesaid, and such other Exceptions and Provisions as are herein made, only excepted), and no other, as the Messuages, Lands, Tenements, or Hereditaments, whereof such Proprietor or Proprietors was or were seised or possessed at or immediately before the Execution of the said Award, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to, charged with, or affected by, in case this Act had not been passed.

For preventing Quicksets from being damaged by Sheep.

LXV. And be it further enacted, That no Sheep or Lambs shall be kept in any of the new Inclosures to be made by virtue of this Act, during the Space of Seven Years from the Execution of the said Award, unless the same shall be properly fenced, or the Person or Persons keeping such Sheep and Lambs shall and do at his, her, or their own Expence, fence or guard his, her, or their Neighbours Quicksets adjoining the Inclosures wherein such Sheep or Lambs shall be kept, so as to prevent any Damage being done to such Quicksets by such Sheep or Lambs; and it shall not be lawful for any Person or Persons to turn or put, or cause to be turned or put, any Sheep, Lambs, Horses, Asses, or other Beasts or Cattle, into any of the Ways, Lanes, or Roads, on either Side of which any new planted Fence shall be growing.

Satisfaction to be made for unequal

LXVI. Provided always, and be it further enacted, That if owing to the Situation or other Circumstances of any Allotment or Allotments, it shall happen that the Proprietor or Proprietors thereof shall not have a propor-

proportionable Share of Boundary Fencing thereto, it shall be lawful for the said Commissioners, where they shall judge reasonable, to ascertain and appoint any Sum or Sums of Money to be contributed and paid by such Proprietor or Proprietors, towards the Expence of the Boundary Fencing of such other or others of the said Proprietors, who may happen to have too great a Proportion thereof, in order that the Expences of the said Boundary Fencing may be brought as near as may be to a just and equal Proportion (Regard being had to the necessary Subdivision Fences within the respective Allotments); and the Money so to be ascertained and applied, shall be levied and recovered in the same Manner as the Expences of executing this Act are herein and by the said recited Act directed to be levied and recovered: Provided always, that it shall and may be lawful for the said Commissioners, at any Time before executing their final Award, to make any Alterations in the Allotments and Fences which they may have set out and ordered, or in any private Roads laid or to be laid over or to such Allotments, that they shall think right and expedient; provided, that no Alteration shall be made in any Thing directed by the said first Award, relating to the Allotments to be made to the King's Majesty, without the Consent in Writing of the Commissioners of His Majesty's Woods, Forests, and Land Revenues, first had and obtained; and in case any Person or Persons shall 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, her, or them, and shall direct by whom and in what Manner such Recompence shall be made.

LXVII. And be it further enacted, That the Costs, Charges, and Expences incident to and attending the passing of this Act, and of inclosing and draining the Allotment or Allotments which shall by virtue of this Act be allotted to the King's Majesty, shall be paid and borne by His said Majesty, his Heirs, and Successors, and that the Costs, Charges, and Expences of the Survey, Valuation, Allotting, and Draining of the Remainder of the said Forest hereby directed to be divided and allotted, and of preparing the said Awards, and all the Charges and Expences of the said Commissioners, their Surveyors and Assistants, and all other Persons employed by the said Commissioners in and about the Premises, and all other Expences whatsoever of carrying the said recited Act and this Act into Execution, shall be borne, defrayed, and paid, by the several Persons and Body or Bodies Politic, Corporate, or Collegiate, interested in the Premises, to whom any Allotment or Allotments shall be made by virtue of this Act, in such Shares and Proportions, at such Time and Place as the said Commissioners shall by their said Awards, or any Writing under their Hands appoint; and if any Person or Persons and Body or Bodies Politic, Corporate, or Collegiate, shall refuse or neglect to pay his, her, or their Share or Proportion of the said Costs, Charges, and Expences, to the Person or Persons authorized to receive the same, at the Time and Place which shall be appointed by the said Commissioners for the Payment thereof, then and in such Case the said Commissioners shall cause the same to be raised, levied, and recovered, in Manner directed by the said recited Act.

LXVIII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to set out, allot, and sell, at such Time or Times as the said Commissioners shall think proper, by public Sale, or Auction, to the best Bidder

Bidder or Bidders, in such Lot or Lots as the said Commissioners shall think proper, such Part or Parts of that Moiety of the said Forest which is hereinbefore directed to be divided amongst the several Persons claiming Rights and Interests therein, as the said Commissioners shall think necessary for raising a Sum or Sums of Money sufficient to pay all the Charges and Expences attending the carrying this Act into Execution, or incident thereto, they the said Commissioners causing at least Twenty Days previous Notice to be given of such Sale, in the said *Chester Chronicle* Newspaper, if then published, or if not, then in some other Newspaper usually circulated in the County of *Chester*; and the Person or Persons, Bodies Politic or Corporate, who shall be the best Bidder or Bidders for any Part of the said Forest so directed to be sold as aforesaid, shall immediately pay into the Hands of the said Commissioners, at least one full Seventh Part of the Purchase Money, as a Deposit, and shall also within Six Calendar Months next after such Sale or Sales, pay, or cause to be paid, the Residue of the said Purchase Money, into the Hands of the said Commissioners, and such Purchaser or Purchasers shall, from and immediately after such Payments being made respectively as aforesaid, be absolutely seised of or entitled to the Lands so by him, her, or them, respectively purchased in Fee-simple; but in case such Purchaser or Purchasers shall neglect to pay the said Purchase Monies at the respective Times before mentioned, then the Deposit of such one full Seventh Part of the Purchase Money shall be forfeited and applied towards defraying the Expence of carrying this Act into Execution, and such Purchase or Purchases, shall be, and hereby are made null and void, and the same Part or Parts of the said Forest shall be again put up to Sale upon the like previous Notice, and so from Time to Time in Manner before directed, until the same shall be sold and paid for, and the Money arising by such Sale or Sales shall be applied for and towards defraying the Expences of carrying this Act into Execution; and the Purchaser or Purchasers of the said Premises so directed to be sold as aforesaid, shall not in respect thereof, after the Payment of the said Purchase Money, be liable to pay any Part of the Expences of carrying this Act into Execution, or of making the said Roads which may be so directed to be made as aforesaid, but the said respective Purchaser or Purchasers, and others claiming under them, shall be obliged to fence out the Lands to be by them respectively purchased, and to keep in Repair such Fences, in such Manner as the said Commissioners shall direct, and the Money arising by such Sale or Sales shall be applied for and towards defraying the Expences of carrying this Act into Execution, and if any Surplus shall remain of the said Purchase Money, after all such Charges and Expences as aforesaid shall have been fully paid and satisfied, the same shall be applied by the said Commissioners, or by their Surveyor, from Time to Time, at the Discretion of the said Commissioners, in or towards the making, repairing, and amending such of the said Carriage or Horse Roads upon or over the said Forest, as the same Commissioners shall adjudge and direct to be made or repaired and amended at the general Expence of the Owners or Occupiers of the respective Shares or Allotments of the said Forest so intended to be divided and inclosed as aforesaid: Provided always, that the setting out of the said Allotment for Sale, as hereinbefore mentioned, shall not hinder or prevent the first Award of the said Commissioners being made within Two Years next after the passing of this Act.

The Deficiency to be

LXIX. Provided always, and be it further enacted, That if the Monies to be produced by such Sale or Sales, shall not be sufficient to defray all the

the Charges and Expences incident to and attending the Survey, Valuation, Division, Drainage, and Allotments of the Lands hereby directed to be divided and allotted, and of preparing the several Awards hereinafter directed to be made, and all the Charges and Expences of the said Commissioners, their Surveyors, Assistants, and Servants, and all other Persons employed by the said Commissioners in and about the Premises, and all other Expences whatsoever of carrying the said recited Act, and this Act into Execution, then such Deficiency shall be borne, defrayed, and paid, by the several Persons and Body and Bodies Politic, Corporate, or Collegiate, interested in the Premises, to whom any Allotment or Allotments shall be made by virtue of this Act (save and except the King's Majesty, his Heirs and Successors), in such Shares and Proportions, at such Time and Place as the said Commissioners shall, by any Writing or Writings under their Hands, appoint; and if any Person or Persons and Body or Bodies Politic, Corporate, or Collegiate, shall refuse or neglect to pay his or her or their Share or Proportion of the said Costs, Charges, and Expences, to the Person or Persons authorized to receive the same, at the Time and Place which shall be appointed by the said Commissioners for the Payment thereof, then and in such Case the said Commissioners shall cause the same to be raised, levied, and recovered, in Manner directed by the said recited Act.

made good
by the Pro-
prietors.

LXX. And be it further enacted, That the said Commissioners shall and may borrow and take up at Interest, of any Person or Persons willing to advance the same, such Sum or Sums of Money as shall from Time to Time be necessary for paying and defraying such Costs, Charges, and Expences as aforesaid, until the same shall be raised by such Sale or Sales as aforesaid; which said Sum or Sums of Money so to be borrowed, together with lawful Interest for the same from the Time of borrowing thereof, shall from Time to Time be a Charge on the said Moiety of the said Forest so intended to be divided and inclosed as aforesaid (save such Parts thereof as shall be so set out and allotted for Sale, or be sold and disposed of as hereinbefore mentioned), until the same Sum or Sums of Money and the Interest thereof shall be raised and repaid by such Sale or Sales as aforesaid; and the said Commissioners shall have Power, if they see Occasion, to grant a Term or Terms of Years of the said Moiety of the said Forest so intended to be divided as aforesaid, or any Part thereof (except such Part thereof as shall be so sold as aforesaid), for securing the said Monies so to be advanced, with lawful Interest for the same, from the Time each respective Sum shall be advanced.

Commission-
ers to raise
Money by
Mortgage,
until the
same can be
raised by
Sale.

LXXI. And be it further enacted, That it shall be lawful for the said Commissioners, on Application being made to them in Writing by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any of the said Proprietors or Persons interested in the Premises, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies respectively, or by any of the Proprietors of the Lands hereby directed to be divided and allotted, or any Part thereof, who are or shall be Tenant or Tenants in Tail, or for any Life or Lives, or on any other Contingency, to sell any Part of the Allotment or Allotments to be made by virtue of this Act, to such incapacitated Proprietor or Proprietors, or other Person or Persons by whom or in whose Behalf any such Application shall be made as aforesaid,

Power for
certain Per-
sons to sell
their Allot-
ments.

[Loc. & Per.]

32 Q

for

for the Purpose of raising a Sum of Money sufficient to defray the respective Shares and Proportions of the Costs, Charges, and Expences, of executing the said recited Act and this Act, which shall be charged upon, or payable by such incapacitated Proprietors, or other Person or Persons respectively, and of fencing and inclosing and subdividing his, her, or their Allotment or Allotments, and of making and completing such Sale, and such Sale shall be made by the said Commissioners in such and the like Manner, and subject to such and the like Rules and Regulations, as are mentioned and prescribed in and by the said recited Act, in respect to the Sale of any Lands authorized to be sold for paying the Expences of obtaining and carrying into Execution any Act for dividing, allotting, and inclosing any Lands and Grounds; and each and every Allotment for which the full Purchase Money shall be paid, shall be conveyed by the said Commissioners at the Expence of such Purchaser or Purchasers, unto and to the Use of, or in Trust for such Purchaser or Purchasers, and his, her, or their Heirs respectively, or as he, she, or they shall appoint, and shall be inclosed and held by such Purchaser or Purchasers respectively in Severalty; and the Receipt of the said Commissioners shall be a good and sufficient Discharge to such Purchaser or Purchasers for the said Purchase Money, which shall be applied by the said Commissioners in or towards defraying such last mentioned Costs, Charges, and Expences; and if any Surplus shall remain in the Hands of the said Commissioners, the same shall be applied and disposed of by them in Manner directed by the said recited Act, with respect to Money which is thereby directed to be paid into the Bank of *England*, for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, to be settled to the same Uses, or of any Timber or Wood growing thereon, and which ought to be laid out in the Purchase of other Lands, Tenements, and Hereditaments, as therein mentioned: Provided always, that it shall not be lawful to raise by such Sale any further or greater Sum of Money than the Person or Persons, Part of whose Allotment or Allotments shall be sold as aforesaid, would have been empowered or authorized to borrow or charge upon his, her, or their Estate or Estates, under or by virtue of the said recited Act: Provided always, that in all Cases where any Lands shall be sold for Payment of Expences as aforesaid, it shall not be lawful for the Proprietor or Person whose Lands shall be so sold, to charge the same by virtue of the said recited Act or this Act with any Money towards Payment of such Expences.

Final Award.

LXXII. And be it further enacted, That the said Commissioners shall, after having finished and completed such Subdivision and Allotments, of the said Second or remaining Moiety of the said Forest, draw up their final Award, and the same, when enrolled in Manner directed by the said recited Act of the Forty-first Year of the Reign of His present Majesty, shall be deposited and left with the Clerk of the Peace for the said County of *Chester*, where the same shall and may be inspected and perused at all seasonable Times in the Day-time for ever thereafter, by any Person or Persons whomsoever, paying the Sum of One Shilling and no more to the said Clerk of the Peace, or his Deputy, for every such Inspection and Perusal; and Two Copies of such Award shall be enrolled, one of them in the Court of Exchequer at *Westminster*, and the other of them in the Office of the Auditor of the Land Revenue, there to remain, and shall afterwards be filed and preserved amongst the Muni-ments of the Office of the Surveyor General of His Majesty's Woods, Forests,

Forests, and Land Revenues, such Award, or the Enrolment thereof, to be produced and read in Evidence on all Occasions where any Doubt or Controversy may arise, relating to, or affecting the Rights and Interests of His Majesty, his Heirs or Successors, in respect of any Allotment vested in His Majesty, his Heirs and Successors, by virtue of this Act.

LXXIII. And be it further enacted, That Once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of passing thereof), the said Commissioners shall and they are hereby required to make a true and just Statement or Account of any Sums of Money by them or either of them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be laid before any Two of His Majesty's Justices of the Peace for the said County of *Chester*, not interested in the said intended Division and Inclosure, to be by them examined and balanced, at a public Meeting (whereof Twenty-one Days Notice shall be given in the *Chester Chronicle* Newspaper), the said Justices being hereby authorized to take or call such Aid and Assistance in such Examination as they shall think fit, and to charge the incidental Expences; and the Balance shall be by the said Justices stated in the Books of Account to be kept in the Office of the Clerk of the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in the Law, unless allowed by the said Justices of the Peace as aforesaid.

LXXIV. And be it further enacted, That if any Person or Persons whomsoever shall advance and pay any Money towards the Expences of the Execution of this Act, the Money so advanced and paid shall be repaid and satisfied to him, her, or them, by the Direction of the said Commissioners, together with lawful Interest for the same from the Time of the Advancement thereof.

LXXV. And be it further enacted, That if any Person or Persons or Body or Bodies Politic, Corporate or Collegiate, shall think himself, herself, or themselves, aggrieved by any Thing done or omitted to be done in pursuance of the said recited Act or of this Act, (other than and except as to the said Claims, Matters, and Things, which shall be ascertained, settled, tried, or determined by the Verdict of a Jury, under the Power and Authority hereinbefore contained, or whereby any of the Provisions or Clauses of the said recited Act or this Act, the Determinations, Orders, Acts, or Proceedings of the said Commissioners are declared or directed to be final and conclusive,) then and in every such Case he, she, or they may appeal to the Justices at the General Quarter Sessions of the Peace which shall be held for the said County of *Chester*, within Three Calendar Months next after the Cause of Complaint shall have arisen, or giving to the said Commissioners or either of them, and to the Party or Parties concerned, Twenty-one Days Notice in Writing of such Appeal, and of the Matters thereof; and the Justices not interested in the Premises, in their said General Quarter Sessions, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels

of the Party or Parties liable to pay the same, rendering the Overplus, if any, upon Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive on all Parties concerned, and shall not be removed or removable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without sufficient Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to the said Justices shall seem reasonable, and to be levied in Manner aforesaid.

Saving His Majesty's Right to Mines.

LXXVI. Provided always, and be it further enacted, That this Act shall not defeat or prejudice the Right or Interest of the King's most Excellent Majesty, his Heirs and Successors, in or to any Mines of Coal, Lead, Ores, Metals, and Minerals, Rock Salt, and Brine Springs whatsoever, in or under the same Forest, or any Part thereof; but that His Majesty, his Heirs and Successors, and his or their Heirs, Lessee and Grantees, Agents, Servants, and Workmen, may search for, work, dig, raise, and carry away all Mines, Ores, and Minerals, Coal, Rock Salt, and Brine Springs, as freely and effectually, to all Intents and Purposes whatsoever, as if this Act had not been passed, save only that they shall respectively do as little Damage as possible in the Lands to be inclosed as aforesaid, and shall make reasonable Satisfaction and Recompence from Time to Time to the Person or Persons possessed thereof, for all Damage that shall be done thereto, or to any Part thereof, by searching for, working, digging, raising, and carrying away the said Mines, Minerals, Coal, Rock Salt, and Brine Springs, or any of them.

Saving the Profits of Stone Quarries to Persons entitled to Allotments under the Act.

LXXVII. Provided always, and be it further enacted, That this Act shall not defeat or prejudice the Right or Interest of any Person or Persons in or to any Quarries of Slate, Limestone, and other Stone whatsoever, in or under any Allotment which shall be made to him, her, or them, by virtue of this Act, but the same shall belong to them, and be the Property of the Person or Persons in Possession of any such Allotments in or under which any such Quarry or Quarries shall be.

General Saving.

LXXVIII. Saving always to the King's most Excellent Majesty, his Heirs and Successors, and to all Bodies Politic, Corporate, or Collegiate, and their Successors, and to all and every Person and Persons whomsoever, his, her, or their Heirs, Executors, Administrators, and Assigns, all such Estate, Right, Title, Interest, Claim, and Demand whatsoever (other than and except such as is and are hereby expressed, meant and intended to be barred, destroyed, or extinguished), as they, every or any of them had or enjoyed in, to, or out of the said Forest and Open Commonable Lands and Grounds, as they, every, or any of them now have or hath, or could have had and enjoyed therein, in case this Act had not been made.

Public Act.

LXXIX. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded.