



41 G. 3.

Commissioners.

severally and respectively entitled to the Lands in the said Open Arable Fields, and are also Owners or Proprietors of all the old inclosed Lands within the said Parish of *Whitwell*, in divers Proportions: 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 it would be of great Benefit and Advantage to all Persons interested therein, if all the Open Fields, Commons, Moors, Waste Grounds, and other uninclosed Lands within the said Parish of *Whitwell*, were divided and inclosed, and specific Parts thereof allotted to the several Persons entitled thereto or interested therein, according and in Proportion to their several and respective Properties, Shares, Rights of Common, and other Interests of and in the same; yet, as such Division, Inclosure, and Allotment, cannot be effected and carried into Execution without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *James Green* of *Lenton Abbey*, in the County of *Nottingham*, Gentleman, and *James Dowland* of *Cuckney*, in the said County of *Nottingham*, Gentleman, and their Successors, to be elected in Manner herein-after directed, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the Open Fields, Commons, Moors, and Waste Grounds, and all other the uninclosed Lands within the Parish of *Whitwell* afore-said, and for carrying this Act and the said recited Act into Execution, under and subject to such of the Regulations, Directions, and Restrictions contained in the said recited Act, as are not altered, varied, or otherwise provided for or controlled by or repugnant to the Powers and Provisions of this Act.

How new Commissioners shall be chosen, &amp;c.

II. And be it further enacted, That in case either of the said Commissioners hereby nominated and appointed, or any Commissioner or Commissioners who shall be elected in the Place or Stead of them, or either of them, in Manner herein-after mentioned, shall die or shall neglect to act for the Space of Two Calendar Months, when Occasion shall require his Attendance on the Business of the said Division and Inclosure, or shall refuse to act, or become incapable of acting therein by Sickness, or any other Cause whatsoever, before all the Powers hereby vested in him or them shall be fully carried into Execution, a new Commissioner or Commissioners (not interested in the said intended Division and Inclosure) shall be elected from Time to Time in Manner following; (that is to say,) in case of the Death, Neglect, Refusal, or Incapacity to act of the said *James Green*, it shall be lawful for the said Duke of *Rutland*, or the Person or Persons who for the Time being shall be Lord or Lords of the said Manor of *Whitwell*, within Two Calendar Months next after such Death, Neglect, Refusal, or Incapacity to act, shall be signified to him or them by the surviving or remaining Commissioner, by Writing under his or their Hand or Hands, to appoint another Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the Place and Stead of the said *James Green*, and so from Time to Time as often as any Commissioner so to be appointed by the Lord of the said Manor

Manor for the Time being shall die, neglect, refuse, or become incapable to act as aforesaid; and in case of the Death, Neglect, Refusal, or Incapacity to act of the said *James Dowland*, it shall be lawful on such Death, Neglect, Refusal, or Incapacity being signified or made known by Notice in Writing, affixed on the principal Outer Door of the Parish Church of *Whitwell* aforesaid, signed by the surviving or other Commissioner, or by the Clerk to the said Commissioners, for the several Proprietors of and Persons interested in the said intended Division and Inclosure, except only the said Duke of *Rutland*, or such other Person or Persons who for the Time being shall be Lord or Lords of the said Manor of *Whitwell*, (who shall in such Case have no Vote as Proprietor or Proprietors,) or the major Part in Value of them, (such Value to be ascertained by the Assessments to the Poor Rates of the said Parish for the then current Year,) their Heirs or Assigns, who shall be present in Person, or by their known Agents, from Time to Time, at any Meeting to be held for that Purpose, within Two Calendar Months next after such Death, Neglect, Refusal, or Incapacity to act as aforesaid, shall happen, (Ten Days Notice being first given of such Meeting by the surviving Commissioner, who is hereby required to give or cause the same to be given by the Clerk to the said Commissioners, before the same shall be held, by Writing to be affixed on the principal Outer Door of the Parish Church of *Whitwell* aforesaid, on some *Sunday* immediately before the Commencement of Divine Service,) by Writing under the Hands of such of the same Proprietors, or their Agents, to elect and appoint another Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the Place and Stead of the said *James Dowland*, and so from Time to Time as often as any Commissioner so to be appointed by the said Proprietors and Persons interested, their Heirs or Assigns, shall die, neglect, refuse, or become incapable to act as aforesaid; and in case the said respective Parties who are to have the Election of such new Commissioners as aforesaid, or any of them, shall make Default in appointing such new Commissioner, within Two Calendar Months next after any such Death, Neglect, Refusal, or Incapacity to act as aforesaid shall be made known, and signified to them as aforesaid, then the surviving Commissioner shall and he is hereby required from Time to Time, by Writing under his Hand, within One Calendar Month next after the Expiration of the said Two Calendar Months allowed to the respective Parties for electing such new Commissioner by them respectively as aforesaid, to appoint another Person (not interested in the said Division and Inclosure) to be a Commissioner in the Place and Stead of the said *James Green* and *James Dowland*, or such Commissioner for the Time being so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and every such Person and Persons, when so elected and appointed, shall (after taking the Oath prescribed in that Behalf) have the like Power and Authority, to all Intents and Purposes, for putting this and the said recited Act in Execution as the said Commissioner to whose Place he shall so succeed was vested with at the Time of the Death, Neglect, Refusal, or Incapacity to act of such Commissioner as aforesaid.

III. And be it further enacted, That *William Bailey* of *Halam*, in the said County of *Nottingham*, Gentleman, shall be and he is hereby appointed Umpire to act in the several Matters and Things hereinafter mentioned, Umpire appointed.

mentioned, under the several Powers, Authorities, and Restrictions herein and in the said recited Act contained; and that in case of his Death, Refusal, Neglect, or Disability to act, then it shall be lawful for the said *James Green* and *James Dowland*, or their Successors to be appointed as aforesaid, who shall then be the Commissioners acting under the Authority of this Act, and they are hereby authorized and required, within Two Calendar Months next after the Death, Refusal, Neglect, or Disability to act of the said *William Bailey*, or any succeeding Umpire shall happen, by any Writing under their Hands, to elect and appoint some other Person (not interested in the said Division and Inclosure) to be Umpire in the Place and Stead of the said *William Bailey*, or any succeeding Umpire so dying, neglecting, refusing, or becoming incapable to act as aforesaid.

Umpire empowered to act.

IV. And be it enacted, That in case the said Commissioners, or their Successors to be elected and appointed as aforesaid, shall at any Time or Times differ in Opinion respecting any Matter or Thing whatsoever to be done under this or the said recited Act, the same shall be determined by the said *William Bailey*, if he be then living, and shall not have neglected, refused, or become incapable of acting, or if he be then dead, or shall have neglected, refused, or become incapable of acting as Umpire as aforesaid, then the same shall be determined by any succeeding Umpire (then acting as such) to be appointed as aforesaid; and the said *William Bailey*, or such succeeding Umpire as aforesaid, is hereby authorized, empowered, and required to determine the same accordingly; and the Determination or Determinations from Time to Time of the said Umpire, or his Successors, (to be appointed as aforesaid,) shall be conclusive upon and be adopted by the said Commissioners, and all succeeding Commissioners to be appointed under or by virtue of this Act, subject to such Appeal as is herein-after mentioned.

V. Provided always, and be it further enacted, That no Person shall be capable of acting as an Umpire in the Execution of this or the said recited Act until he shall have taken, before the Commissioners for this Division and Inclosure, and subscribed, an Oath in the Form or to the Effect following; (that is to say,)

Umpire's Oath.

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

‘ So help me GOD.’

Surveyors appointed.

VI. And be it further enacted, That *William Fairbank* and *Josiah Fairbank* of *Sheffield*, in the County of *York*, Land Surveyors, shall be and they are hereby appointed Surveyors for executing the several Powers and Authorities hereby vested in them, as Surveyors in this Inclosure, by virtue of this Act and of the said recited Act; and in case of the Death of both of them, or Refusal, Neglect, or Incapacity to

to act of them both, then such other Person or Persons as the said *John Henry Duke of Rutland*, or his Heirs, Lord or Lords of the said Manor of *Whitwell*, shall direct or appoint to act in their Stead, shall be Surveyor or Surveyors for the Purposes of this and the said recited Act, such Appointment to be in Writing, and signed by the Persons making the same, and so from Time to Time as often as a like Occasion shall require.

VII. Provided always, and be it further enacted, That no Person or Persons so to be appointed Surveyor as aforesaid shall be capable of acting in the Execution of this or the said recited Act as a Surveyor, until he or they shall have taken and subscribed the Oath or Affirmation following; (that is to say,)

‘ I do swear, [or, being one of the People called *Quakers*, do  
‘ solemnly declare and affirm,] That I will faithfully, impartially, and  
‘ honestly, according to the best of my Skill and Ability, execute and  
‘ perform the several Duties incumbent on me as a Surveyor, by virtue  
‘ of an Act, passed in the Fifty-third Year of the Reign of His Majesty  
‘ King *George* the Third, intituled [here repeat the Title of this Act],  
‘ according to Equity and good Conscience, and without Partiality,  
‘ Favour or Affection, Prejudice or Malice, to any Person or Persons  
‘ whomsoever.

Surveyor's  
Oath.

‘ So help me GOD.’

Which Oath or Affirmation it shall be lawful for the said Commissioners to administer to each and every Surveyor as aforesaid; and such Oath so taken and subscribed shall be inrolled, annexed to, and deposited with the Award of the said Commissioners.

VIII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause public Notice in Writing to be given by affixing it upon one of the principal Doors of the Parish Church of *Whitwell* aforesaid on some *Sunday*, and also by Advertisement in the Newspaper called *The Derby Mercury*, if then published, and if not, then in some other Newspaper usually circulated in the said County of *Derby*, of the Time and Place of their First and every subsequent Meeting for the Execution of this and the said recited Act, at least Ten Days before any such Meeting shall be held, (Meetings by Adjournment only excepted,) and such Commissioner shall and may adjourn such Meetings from Time to Time to such Place or Places as they shall think proper, so as such First and adjourned Meetings be held in the Parish of *Whitwell* aforesaid, or within Eight Miles of the same Parish, and all other Notices necessary to be given by the said Commissioners shall be given in like Manner.

Notice of  
Time and  
Place of  
Meeting.

IX. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, as soon as conveniently may be after the passing of this Act, to examine into and determine the several and respective Estates entitled to Right of Common upon the said Commons, Moors, and Waste Grounds; and if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said intended Division and Inclosure, touching or concerning the respective Rights and Interests which they, or any of them, shall have or

Commission-  
ers to ascer-  
tain Common  
Rights, and  
settle Dis-  
putes.

[Loc. & Per.]

28 X

claim

claim to have in the same, or touching or concerning any Matter or Thing relating to the said Division and Inclosure, it shall be lawful to and for the said Commissioners and they are hereby authorized and empowered to examine into, hear, and determine the same.

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

X. And provided further, and be it enacted, That nothing in this Act contained shall extend to enable or authorize the said Commissioners or Umpire to determine the Title to any Messuages, Cottages, Lands, Tenements or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments); 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 by such Person or Persons, or recovered from such Person or Persons by Ejectment, or other due Course of Law.

Power to assess Costs, and on Non-payment thereof to levy same by Distress, &c.

XI. And be it further enacted, That in case the said Commissioners or Umpire (as the Case may be) shall upon the Hearing and Determination of any Claim or Claims, Objection or Objections to Claims, or on any other lawful and reasonable Occasion in the carrying of this and the said recited Act into Execution, see cause to award any Costs, it shall be lawful for the said Commissioners or Umpire, (as the Case may be,) and they and he are and is hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they or he 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 whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled, or who shall have occasioned such Costs; and in case the Person or Persons liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners or Umpire, (as the Case may be,) and they and he are and is hereby authorized and required, by Warrant under their or his Hands or Hand, directed to any Person they or he may think fit, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus of such Sale (if any) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the reasonable Costs, Charges, and Expences attending such Distress and Sale.

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

XII. Provided always, and be it further enacted, That in case any Person or Persons interested, or claiming to be interested in the said intended Division and Inclosure shall be dissatisfied with any Determination of the said Commissioners or Umpire, touching or concerning any Claims, Rights, or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, or touching or concerning any other Matter or Thing relating to the said intended Division and Inclosure, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioners or Umpire, (as the Case may be,) at the then next or at the following Assizes to be holden for the said County of  
Derby,

*Derby*, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners or Umpire shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Six Calendar Months next after the Determination of the said Commissioners or Umpire; and the Defendant or Defendants in such Action or Actions shall and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim, or Claims, and the Right or Rights thereby insisted on, shall be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive to and upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had thereon, which it shall be lawful for the Court to do as is usual in other Cases; and that after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners and Umpire shall and they and he are and is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined according to the Event of such Trial or Trials.

XIII. Provided always, and be it further enacted, That the Determination of the said Commissioners or Umpire, (as the Case may be,) touching such Claim or Claims to such Common Rights, or other Rights or Interests, in, over, or upon the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or to any Part thereof, which shall not be objected to within Two Calendar Months next after such Determination shall have been made, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive to and upon all Parties.

Determina-  
tion of Com-  
missioners or  
Umpire not  
objected to,  
to be final.

XIV. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, 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 or Clerks to the said Commissioners with Process for commencing such Action or Actions, in like 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 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

In case of  
Death of Par-  
ties before  
Actions  
brought, the  
same to be  
carried on  
and defended  
in their  
Names.

be equally bound and concluded by the Event of such Action or Actions.

If any of the Parties die, Proceedings not to abate.

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

Trials not to suspend the Execution of the Powers of this Act.

XVI. Provided always, and be it further enacted, That no such Difference, Dispute or Proceeding, touching the Title 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 Inclosure hereby directed to be made shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding.

For compelling Attendance of Witnesses.

XVII. And be it further enacted, That in case any Person or Persons shall neglect or refuse to attend the said Commissioners or Umpire to give Evidence in any Disputes or Differences as aforesaid, then the said Commissioners or Umpire (as the Case may be) shall and may, and they and he are and is hereby authorised and required, by Writing under their or his Hands or Hand, directed to such Person or Persons so neglecting or refusing as aforesaid, to require such Person or Persons to attend them or him at such Time and Place as shall be specified in such Writing, to give Evidence in the Matters aforesaid; and all and every Person and Persons upon being served with a Copy of such Summons, or having a Copy thereof left at his, her, or their respective Place or Places of Abode Seven Days at the least before the Time to be appointed for such Attendance, (having been paid or tendered a reasonable Sum for their Costs, Charges, and Expences,) is and are hereby required to attend the said Commissioners or Umpire by whom such Summons or Summonses shall have been so signed accordingly, and give Evidence to the best of his, her, or their Knowledge, touching such Disputes and Differences as aforesaid; and upon such Person or Persons not complying with or not obeying such Summons or Summonses as aforesaid, without assigning some reasonable Cause for not appearing, such Commissioners or Umpire are and is hereby authorised and empowered to levy or cause to be levied such Penalty as they or he shall think proper, not exceeding the Sum of Ten Pounds, upon the Goods and Chattels of every Person so refusing to obey such Summons as aforesaid, and to apply the same in such Manner, and in such Proportion, as, in the Judgment of such Commissioners or Umpire, shall be most proper and advantageous for the Person or Persons on whose Behalf such Person or Persons was or were summoned as a Witness or Witnesses as aforesaid; and if the Person or Persons neglecting or refusing to comply with such Summons or Summonses as aforesaid shall not have sufficient Goods and Chattels whereon to levy the said Penalty, then and in such Case it shall be lawful for any One of His Majesty's Justices of the Peace for the said County of *Derby*, (not interested in the said Division and Inclosure,) upon Application to him for that Purpose made, and a Certificate under the Hands of such Commissioners or Umpire, laid before him, setting forth the Name or Names of the Person or Persons so summoned as a Witness or Witnesses, and his or their Non-compliance with or Disobedience of such Summons or Summonses, and not having sufficient Goods or Chattels whereon to levy such



such Penalty, to issue his Warrant for apprehending such Offender or Offenders, and upon his, her, or their Refusal or Neglect to pay the said Penalty, and all incidental Costs, Charges, and Expences, to commit such Offender or Offenders to the House of Correction for any Time not exceeding the Space of Three Calendar Months: Provided always, that no Witness summoned to attend the said Commissioners shall be obliged to travel above Eight Miles from the Boundary of the said Parish.

XVIII. And be it further enacted, That in order to shorten the Boundary Fences, Brooks or Drains, between the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and any adjoining Parish, Township or Place, it shall be lawful 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 such Land is situate, or his or their known Agent, and of the Owner or Owners of the Lands upon which such Fence, Brook or Drain shall adjoin,) and of the major Part in Value (to be ascertained by the Poor Rate Assessment of the current Year) of the Land Owners in such adjoining Parish, Township or Place, to ascertain and set out, or to straighten and determine, such Boundary Fences, Brooks or Drains, between the Lands and Grounds so hereby directed to be divided, allotted, and inclosed, and the Lands in any adjoining Parish, Township or Place, in such Manner as they the said Commissioners shall judge proper for the Purposes aforesaid; and after such Boundary Fences, Brooks or Drains, shall be so ascertained, straightened, and determined as aforesaid, the same shall be fenced or made by such Person or Persons, in such Manner, and at such Time or Times, as such Commissioners shall order and direct in and by their Award, and shall for ever thereafter be deemed and taken to be the Boundaries between the Lands and Grounds so hereby directed to be divided, allotted, and inclosed, and such adjoining Parish, Township or Place; any Law, Usage, or Custom to the contrary notwithstanding.

Commissioners may alter Boundary Fences, &c.

XIX. And be it further enacted, That it shall and may be lawful for the said Commissioners or Umpire, by and with the Concurrence and Order of Two Justices of the Peace acting in and for the Division of the said County of *Derby*, in which the said Parish of *Whitwell* is situate, (subject to such Appeal as in the said recited Act is mentioned,) to stop up, turn, widen or alter, any old public or private Roads or Ways within any Part of the said Parish of *Whitwell*, as they shall deem unnecessary to be continued, or necessary to be turned, widened or altered, or as they shall think proper, save and except Turnpike Roads; and further, that the Grass or Herbage to grow or arise on all the public and private Roads or Ways, and the Soil of such Roads or Ways to be set out by virtue of this or the said recited Act, shall at all Times from and after the setting out the same be and remain for the Use and Benefit of such Person or Persons whose Lands or Grounds shall lie on each Side of and adjoin upon such private Roads or Ways.

Commissioners may stop up, widen, or divert Roads through Inclosures, &c.

XX. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend in anywise to prejudice, lessen or defeat, the Right, Title, or Interest of the said Reverend *George King*, or his Successors Rectors of *Whitwell* as aforesaid, or any Person or Persons whomsoever, who are or shall be entitled to any Great

Tithes not to be affected.

or Small Tithes growing, arising or renewing, or to grow, arise, or renew out of all or any Part of the Lands or Grounds directed by this Act to be divided, allotted or inclosed, or out of any Messuages, or old inclosed Lands or Grounds, or any other Tenements or Hereditaments within the Manor or Parish of *Whitwell* aforesaid.

Encroachments which have been made within a certain Time, to be deemed Part of the Commons.

XXI. And be it further enacted, That all Encroachments which shall have been made upon the Commons, Moors, and Waste Grounds hereby intended to be divided, allotted, and inclosed, within the Space of Sixty Years next before the passing of this Act, (save and except only Improvements by the Lord of the said Manor,) shall be deemed Part of the Commons, Moors, and Waste Grounds to be divided, allotted, and inclosed by virtue of this Act, and the same shall be thrown open and divided, allotted, and inclosed accordingly: Provided nevertheless, that all and every such Encroachments shall be allotted to the Person or Persons who shall at the Time of making the said Allotments be in the Possession of or Receipt of the Rents and Profits of such Encroachments, (if such Person or Persons shall be entitled to Right of Common upon the same Commons, Moors, and Waste Grounds, but not otherwise,) as the Whole or Part of the Share or Proportion of such Commons, Moors, and Waste Grounds to which such Person or Persons shall be entitled by virtue of this Act, without considering the Value of any Buildings thereon or Improvements made thereto, unless the same shall be more in Value than such whole Part, Share or Proportion, in which Case the same shall be proportionably lessened or diminished, and the Surplus allotted along with the Rest of the said Commons and Waste Grounds.

Allotment for public Watering Places and for Repairs of Roads, &c.

XXII. And be it further enacted, That the said Commissioners shall and may, and they are hereby authorized and required (after setting out the Roads and Ways under the Directions of the said recited Act) to set out, appoint, allot, and award unto the Surveyor of the Highways of the said Parish of *Whitwell*, and their Successors, such Parcel or Parcels of Land, Part or Parts of the Lands and Grounds hereby intended to be divided, allotted, and inclosed, as they the said Commissioners shall think fit, and in such Situation or Situations as they shall deem most proper, within the said Parish of *Whitwell*, not exceeding Five Acres in the Whole, to be used for the Purpose of a public Watering Place or public Watering Places for Cattle; and also for the digging for and getting Stone, Gravel, and other Materials for repairing the public and private Roads and Ways to be set out and made in, over, and upon the Lands and Grounds hereby intended to be divided, allotted, and inclosed, or any ancient Roads within the said Parish of *Whitwell*.

Allotment to the Duke of Rutland for Manorial Rights.

XXIII. And be it further enacted, That after the several Roads under the Directions of the said recited Act in the said Parish of *Whitwell*, and such Allotment or Allotments unto the Surveyors of the Highways of the said Parish of *Whitwell* for the Purposes aforesaid, shall have been set out, the said Commissioners shall in the next Place set out, allot, and award unto the Lord of the Manor of *Whitwell* aforesaid for the Time being, (exclusive of all other Allotments to him for or in respect of his other Properties there,) such Parcel or Parcels of the Residue of the said Commons, Moors, and Waste Grounds within and Parcel of the said Manor of *Whitwell*, as, in the Judgment of the said Commissioners, (Quantity, Quality, and Situation considered,)

considered,) shall be equal in Value to One-eighteenth Part thereof, in lieu of and as a full Compensation and Satisfaction for the Rights and Interests of the Lord of the said Manor for the Time being, in or to the Soil of all and every the Commons, Moors, and Waste Grounds within the Manor and Parish of *Whitwell* aforesaid, and which Allotment or Allotments shall be so taken and accepted accordingly.

XXIV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered (after all requisite Highways and private Roads, and public Drains, shall have been taken thereout) to divide, assign, set out, and allot the Residue of all the Open Arable Fields within the said Parish of *Whitwell*, unto and amongst the several Persons interested therein at the Time of such Division, in Proportion (Quantity, Quality, and Situation considered) to their several and respective Shares, Parts, and other Rights and Proportions therein respectively.

Allotments  
of the Fields.

XXV. And be it further enacted, That after the Allotment hereinbefore directed shall have been made out of the said Commons, Moors, and Waste Grounds, to the Lord of the said Manor as aforesaid, and the several Roads shall have been set out as aforesaid, the said Commissioners shall and they are hereby directed and required to assign, set out, and allot all the Rest, Residue and Remainder of the Commons, Moors, and Waste Grounds within the same Parish of *Whitwell*, unto and amongst the several Persons and Bodies Politic, Corporate and Collegiate, interested therein, in such Quantities, Shares, and Proportions as the said Commissioners shall adjudge and determine to be a full Equivalent, Satisfaction, and Compensation for their several and respective Rights and Interests in, over, or upon the same.

Allotment of  
the Residue  
of the Com-  
mons.

XXVI. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and allot, unto the Lord of the said Manor of *Whitwell* for the Time being, and to such other Person or Persons who is, shall, or may be entitled to any Chief Rents, Fee-Farm Rents, Out-Horn Rents, or other Quit Rents, payable out of or from any Messuages, Cottages, Tofts, Toftsteads, Lands, Tenements or Hereditaments, within the Parish of *Whitwell* aforesaid, his, her, or their Heirs and Assigns, such Parcel or Parcels of Land, Part of the said Commons, Moors, and Waste Grounds hereby directed to be divided, allotted, and inclosed, and in such particular and relative Situation or Situations (attending to the Convenience of the several Parties interested) as they the said Commissioners shall think proper, and as shall in their Judgment be an Equivalent for or equal in Value to all such Rents as are now due and payable out of, or from, or for or in respect of any such Messuages, Cottages, Tofts, Toftsteads, Lands, Tenements or Hereditaments within the said Parish of *Whitwell*, and which Land so to be set out and allotted shall be deducted out of or taken from the several and respective Allotments of those Persons who now pay such Rents, in Proportion to the Amounts of such Rents respectively.

Allotments  
in lieu of  
Chief Rents,  
&c.

XXVII. And be it further enacted, That in case the Rights and Interests of any of the Proprietors or Persons interested in the Division and Inclosure shall be so inconsiderable, or in any Manner so circumstanced as that the same cannot be set out or inclosed in separate Allotments

Commission-  
ers may put  
several Al-  
lotments  
together.

ments to the Advantage of the Proprietors; or if any Two or more of the Proprietors shall choose to have their several Shares in the said Commons, Moors, and Waste Grounds, united and laid together in One Allotment or Parcel, or in Two or more Allotments or Parcels, and shall request the same may be so united and laid together, either personally in the Presence of the said Commissioners, or otherwise by some Note in Writing, signed by them, or their known Agents or Attornies, it shall and may be lawful to and for the said Commissioners, upon the Request of such Proprietors to be so made, to assign and allot the same, either all together in One Allotment or Parcel, or in Two or more distinct Allotments or Parcels, according to the Discretion of the said Commissioners, and as may best suit the Conveniency of the Proprietors thereof, and which Allotment or Allotments so to be made as last mentioned shall be used and enjoyed by the several Proprietors thereof in such Manner, and shall be subject to such Rules and Regulations, as the said Commissioners shall in that Behalf in and by their said Award direct or appoint.

Fencing of  
the Rectors  
Allotments.

XXVIII. And be it further enacted, That the Allotment or Allotments of the Lands and Grounds by this Act directed to be inclosed which shall be made to the said *George King* as Rector as aforesaid, and his Successors in Right of his Parsonage House, and other Common-right Houses, (if any other he hath,) and his Glebe Lands, shall be fenced against all public Roads, and on all such Parts and Sides as shall not be ordered by the said Commissioners to be fenced by any other Proprietor in such Manner, by such Time, and by such Person or Persons (except the said *George King*, and his Successors Rectors as aforesaid) as the said Commissioners shall appoint to make and complete the same; and that the Charges and Expences of making all such Fences shall be paid by the rest of the Proprietors of or Persons interested in the said Commons, Moors, and Waste Grounds hereby intended to be divided and inclosed, in such Proportions, Manner and Form, as the said Commissioners by any Writing under their Hands, or by their Award, shall order, direct or appoint.

For inclosing  
the Allot-  
ments of the  
other Pro-  
prietors.

XXIX. And be it further enacted, That all the several Allotments, Pieces or Parcels of Land, which shall be set out and allotted by virtue of this Act, (except such Allotment or Allotments as shall be made to the said Rector in respect of his Common Rights and Glebe Lands, as last aforesaid,) shall be inclosed and fenced in such Manner and within such Time or Times as the said Commissioners, or their Successors, (to be elected and appointed as aforesaid,) by any Writing or Writings under their Hands previous to the Execution of their Award, or by their Award, shall direct or appoint; and such Fences shall be made and at all Times hereafter supported, maintained, and kept in Repair by such Person or Persons, and in such Manner as such Commissioners shall direct or appoint in and by any such Writing or Writings, or in or by their said Award: Provided always, that convenient Gaps or Openings shall be left in the Fences to be made by virtue of this Act, for the Space of Six Calendar Months next after the executing of the Award of the said Commissioners, for the Passage of Cattle, Carts, and Carriages in and through the same, unless the said Commissioners shall by their Award, or by any other Writing or Writings under their Hands previous to the Execution thereof, order the same to be sooner fenced up.

Openings to  
be left.

XXX. And

XXX. And be it further enacted, That if any Person hath sold, or shall at any Time, Two Calendar Months or more next before the Execution of the Award of the said Commissioners, sell his or her Right, Interest, or Property in, over, and upon the said Commons and Waste Grounds, 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 empowered, upon Notice and Request in Writing being given and made to them thereof, signed by the Parties or their Agents making such Request, to make an Allotment of Land unto the Vendee or Purchaser in such Sale, or to his or her Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold; and every such Vendee or Purchaser, and his and her Heirs and Assigns shall and may, from and after the Execution of the said Award, hold and enjoy the Lands so to be allotted to him, her or them, as aforesaid, in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made.

In case any Person shall sell his Common Right, the Allotment to be made to the Purchaser.

XXXI. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements or Hereditaments, within the said Parish of *Whitwell*, in lieu of and in Exchange for any other Lands, Tenements, and Hereditaments within the said Parish, or within any adjoining Parishes, Hamlets, Townships or Places; provided that such Exchanges be ascertained, specified, and described in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements or Hereditaments which shall be so exchanged, whether such Owner or Owners, 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 a Lessee or Lessees for a Life or Lives, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for Charitable or other Uses, Husbards, Committees, or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, 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, or their respective Agents or Attornies; and all and every such Exchange and Exchanges so to be made shall be valid and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements or Hereditaments, held in Right of the Parish Church of *Whitwell* aforesaid, or any other Church or Chapel, without the Consent (testified as aforesaid) of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements or Hereditaments, so to be exchanged shall lie and be situate.

Exchanges may be made.

XXXII. And be it further enacted, That all and every Tenant and Occupier under any Lease or Agreement for any Term of Years, or any Tenant at Will of any old Inclosure, or Open Field Land within the said

Tenants to give up exchanged Lands, hav-

[*Loc. & Per.*]

28 Z

Parish,

ing Satisfac-  
tion for them.

Parish, which shall be exchanged by virtue of this or the said recited Act, shall immediately after the Execution of the Award of the said Commissioners, or within such further Time as the said Commissioners shall appoint, (and whereof Notice in Writing shall be given for that Purpose,) give up and resign the actual, full, and peaceable Possession of such exchanged Lands to the Person or Persons to or with whom the same shall be exchanged, such respective Tenants and Occupiers of such exchanged Lands receiving from the said respective Owners or Proprietors thereof such Satisfaction as the said Commissioners shall ascertain, order, direct, or appoint to be paid to such Tenant or Tenants respectively on account thereof, or as an Equivalent for the Loss or Losses he, she, or they shall respectively sustain thereby; and if the Money so to be ascertained as aforesaid shall not be paid to the Person or Persons entitled to receive the same, within Twenty-one Days after Demand made thereof, it shall be lawful for the said Commissioners and they are hereby 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 obtaining and executing this Act can or may be raised or recovered: Provided always, that if there shall be any Lease of Lands, Part of which shall lie in the said Parish of *Witwell*, and Part in any adjoining Parish, all and every such Lease and Leases may be vacated in Manner aforesaid; but where any Lands shall be taken in Exchange, which Lands shall be under Lease, and wholly situated in any adjoining Parish, the Lease of such last-mentioned Lands shall not be vacated.

Expences of  
Exchanges.

XXXIII. And be it further enacted, That all Costs, Charges, and Expences attending the making of any Exchanges or Partitions to be made under or by virtue of this or the said recited Act, shall be borne, defrayed, and paid by the several and respective Persons making such Exchanges and Partitions, in such Proportions and in such Manner as the said Commissioners shall order and direct.

No Settle-  
ment or Will  
to be af-  
fected.

XXXIV. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed, deemed, adjudged, or taken to revoke, make void, alter, or annul any Settlement, Deed or Will, or to prejudice any Person or Persons having or claiming any Jointure, Dower, Portion, Rent, Service, Mortgage, Debt, Charge, or Incumbrance in, out of, upon, or affecting any of the Lands and Grounds to be divided, allotted, and inclosed as aforesaid, or any Messuages, Lands, Tenements or Hereditaments, which shall be exchanged, partitioned, or divided by virtue of this or the said recited Act, or any Part or Parcel thereof respectively; but that the several Messuages, Lands, Tenements or Hereditaments, so to be assigned, allotted, exchanged, partitioned, or divided as aforesaid, shall, immediately after making such Allotment, Exchanges, Partitions, or Divisions respectively, be, remain, and enure, and be held and enjoyed, and the several Persons to whom the same shall be assigned and allotted, or given in Exchange, shall from thenceforth stand and be seised and possessed thereof respectively, to such and the same Uses, and to and for such and the same Estates, and with and under such and the same Powers and Authorities, and subject to the same Wills, Limitations, Conditions, Settlements, Provisoos, Remainders, Reversions, Mortgages, Debts, Charges, and Incumbrances, as the several Messuages, Lands, Hereditaments, and Common Rights, in lieu or in respect

respect whereof such Allotments, Exchanges, Partitions or Divisions shall be made, now stand limited, or liable to or would have been liable to, in case this Act had not been made.

XXXV. And be it further enacted, That all the Costs, Charges, and Expences incident to the obtaining and passing of this Act, and carrying the same into Execution, the surveying, measuring, dividing, and allotting the said Lands and Grounds, and of making, preparing, executing, inrolling, and depositing the Award of the said Commissioners, and all other necessary Costs, Charges, and Expences in and about the Premises, shall be paid, borne, and defrayed by the Owners and Proprietors of and Persons interested in the Lands, Grounds, and Hereditaments to be divided, allotted, and inclosed by virtue of this Act, in such Shares and Proportions as the said Commissioners shall appoint, by any Rate or Rates to be made by them for that Purpose; and the several Sums of Money thereby rated shall be paid to such Person or Persons, and at such Time and Place as the said Commissioners shall in and by their Award, or any other Writing to be by them signed, either before or after the Execution thereof, award, order, and direct: Provided always; that no Charge whatsoever shall be made upon the said *George King*, or his Successors Rectors as aforesaid, but that they shall be at no Expence whatsoever relative to the said Division and Inclosure.

Expences of this Act.

Except the Rector.

XXXVI. And be it further enacted, That the Proprietors and Persons interested in the said Division and Inclosure, their Attornies and Agents, shall respectively pay their own Expences when they, or any of them, shall attend the said Commissioners at any of their Meetings for putting this and the said recited Act into Execution.

Proprietors to pay their own Expences.

XXXVII. And be it further enacted, That if any of the Proprietors, or any other Person or Persons, shall advance any Money for the Purpose of defraying the Expences of applying for and obtaining this Act, such Person or Persons shall be repaid the same, with lawful Interest, out of the first Money to be raised by virtue of this Act.

Money borrowed for obtaining this Act to be first paid.

XXXVIII. And be it further enacted, That out of the Money to be raised for defraying the Expences of obtaining, passing, and executing this Act, there shall be paid to each and every of them the said Commissioners and Umpire, as a Recompence for his and their Pains and Trouble, the Sum of Three Pounds and Three Shillings, and no more, for each and every Day which he and they shall be employed in travelling to or returning from and attending in the Execution of this Act (including also the customary Allowance for Fees given by them to Servants at their Meeting); and that at all Meetings to be held in pursuance of this Act the Commissioners and Umpire shall out of such Allowance pay and defray their own Charges and Expences, except Expences at Meetings for the receiving of Claims, and hearing Objections to Claims, and for the hearing of Evidence thereon.

Commissioners Allowance.

XXXIX. 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 of this Act,) the said Commissioners shall and they are hereby required to make a true and just Statement or Account of

Commissioners to lay Accounts before Auditors.

of

of all Sums of Money by them received and expended, or due to them for their own Trouble or Expences in the Execution of this Act, and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before *D'Ewes Coke* of *Brookhill*, in the County of *Derby*, and *John Froggatt* of *Workfop* Manor, in the said County of *Nottingham*, Esquires, and be by them examined and balanced, and such Balance shall be by the said *D'Ewes Coke* and *John Froggatt* stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioners; and the said *D'Ewes Coke* and *John Froggatt* shall have full Power and Authority, and they are hereby required, in the Examination of such Accounts, totally to disallow and expunge all and every such Items or Charges therein (if any) as shall in their Judgment be an improper Expenditure of Money; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by the said *D'Ewes Coke* and *John Froggatt*.

In case of the Death of Referees, others to be appointed.

XL. Provided always, and be it further enacted, That in case the said *D'Ewes Coke* and *John Froggatt*, or either of them, shall die, or refuse to act as a Referee or Referees as aforesaid, before the Matters and Things to be done by virtue of this Act shall be entered upon or fully performed or finished, it shall be lawful for the Proprietors, or the major Part in Value (such Value to be ascertained by the Assessment to the Poor Rates of the said Parish for the then current Year) of the Lands and Grounds hereby intended to be divided and inclosed, assembled at a Meeting specially to be convened for that Purpose, by Notice to be affixed on the principal Outer Door of the said Parish Church of *Whitwell*, Ten Days at the least before the Time appointed for holding such Meeting, by Writing under their Hands, to appoint some other fit and proper Person or Persons (not interested in the said Division and Inclosure) to be a Referee or Referees in the Place and Stead of the said *D'Ewes Coke* and *John Froggatt*, or either of them, and so as often as for the Reasons aforesaid, or any other Cause, Occasion may require; and the Person or Persons so to be from Time to Time nominated and appointed as Referee or Referees shall have the like Power and Authority for executing the Purposes aforesaid.

Award to be inrolled and deposited.

XLI. And be it further enacted, That the said Commissioners shall and may and they are authorized and required to cause the Award to be made by them to be inrolled in His Majesty's Court of Common Pleas at *Westminster*, or with the Clerk of the Peace for the said County of *Derby*; and such Award shall, together with a Plan annexed, immediately after such Inrolment be deposited in a Chest or Box to be provided for that Purpose, and placed in the Parish Church of *Whitwell* aforesaid.

Persons aggrieved may appeal to the Quarter Sessions.

XLII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done, or omitted to be done in pursuance of this Act or of the said recited Act, then and in every such Case (except in such Cases wherein the Determination of the said Commissioners is herein declared to be final, binding, and conclusive, and also except in such Cases where an Issue at Law shall be tried as herein-before mentioned) he, she, or they may appeal to the next General Quarter Sessions of the Peace which shall be holden in and for the



the County of *Derby*, within Three Calendar Months next after the Cause of Complaint shall have arisen; and the Justices in such General Quarter Sessions are hereby authorized, empowered, and required to hear and determine the Matter of every such Appeal, and to make such Order therein, and award such Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such Distress and Sale, and which Determination of such Justices shall be final and conclusive, and shall not be removable or removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

XLIII. And be it further enacted, That nothing in this or the said recited Act contained shall defeat, lessen, or prejudice the Right, Title, or Interest of the Lord of the said Manor of *Whitwell* for the Time being, of or to the Mines, Beds, and Seams of Coal, Ironstone or other Minerals, in or under the said Open Fields, Commons, Moors, and Waste Grounds hereby intended to be divided, allotted, and inclosed, or to any Seignories or Royalties incident and belonging to the said Manor, the same being hereby reserved to the Lord of the said Manor for the Time being, with full Power for him at all Times to hold and enjoy all Quit Rents, Free Rents, and other Rents, (save and except such Rents as shall be compensated for under or by virtue of this Act,) Reliefs, Duties, Customs, and Services, and all Courts, Perquisites and Profits of Courts, and all other Rights, Royalties, Jurisdictions, Franchises and Privileges whatsoever, to the said Manor incident or appertaining, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as if this Act had not been made; and that the Lord of the said Manor for the Time being shall and may at all Times hereafter have, hold, win, work, and enjoy, all Mines of Coal, Ironstone, and other Minerals of what Kind or Nature soever (except Quarries of Stone), under the said Open Fields, Commons, Moors, and Waste Grounds, and the Allotments to be made therefrom, together with all convenient and necessary Ways, Roads, and Passages, and Liberty of laying, making, and repairing Waggonways and other Ways, in, under, and along the same, or any of them, or any Part thereof, and searching for, winning, and working the said Mines and Minerals, and getting and leading and carrying away the Coals, Ironstone, Minerals, and other Produce thereof, and of making Pits, Shafts, Pit-rooms, Ait-pits, Heap-rooms, Stand-yards, Drifts, Levels, Ways and Watercourses, and of erecting and using Fire-engines and other Engines and necessary Buildings, and of altering, changing, pulling down, and carrying away the same or any Part of the Materials thereof, at his and their own free Will and Pleasure, and doing all such other Acts, Matters, and Things as may be necessary and convenient for the full and complete Enjoyment thereof, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as they could or might have done in case this Act had not been made; and also that it shall and may be lawful to and for the Lord or Lady of the said Manor for the Time being, at all Times for ever hereafter, to make or cause to be made any Soughs, Drains, or other covered or open Water-

Saving  
Manorial  
Rights.

courses, to run and pass in, through, and over any Part or Parts of the said Open Fields, Commons, Moors, and Waste Grounds, hereby intended to be divided, allotted, and inclosed, for the Purpose of draining and carrying away the Water from, and the more convenient winning and working any Coals, Coal-pits, or other Pits, now open and working, or hereafter to be opened and worked in the ancient Fields, Closes and Inclosures, of such Lord or Lady, situate within and Parcel of the said Manor, in such and the like Manner as if this Act had not been passed: Provided always nevertheless, that the Lord or Lady of the said Manor for the Time being shall be obliged to pay, and shall pay to the respective Owners or Occupiers of such Allotments respectively, a reasonable and adequate Recompence and Satisfaction for all such Damages as shall from Time to Time be thereby done, in Proportion to the Loss sustained by such Owners or Occupiers respectively, according to their respective Rights and Interests therein: Provided also, that nothing herein contained shall authorise or empower the Lord or Lady of the same Manor for the Time being, or any of them, to sink any Pit or Shaft, Quarry or other Works, or to break, spoil or damage the Surface of or in any Garden, Orchard or Plantation, which may be made or taken, in, upon, or from the said Open Fields, Commons, Moors, and Waste Grounds, or any Allotment or Allotments thereof, or in anywise to damage any House, Building, Court-yard or Avenue, by sinking for, getting or carrying away any of the Mines, Minerals, or Ironstone aforesaid.

General  
Saving.

XLIV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Body or Bodies Politic, Corporate or Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, (except the several Persons to whom any Allotment or Allotments shall be made in pursuance of this Act, for and in respect of such Rights and Interests as are meant and intended to be hereby compensated, barred, destroyed, and extinguished, and all Persons respectively claiming under him, her or them, or in Remainder after them,) all such Right, Title, and Interest as he, they, every, or any of them, could or ought to have had and enjoyed, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, before the passing of this Act, or would or ought to have had and enjoyed in case this Act had not been made.

To be printed  
by the King's  
Printers.

XLV. And be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty, duly authorised to print the Statutes of the United Kingdom; and a Copy thereof, so printed by any of them, shall be admitted as Evidence thereof by all Judges, Justices, and others.

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LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1813.