



ANNO SECUNDO

# VICTORIÆ REGINÆ.

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## Cap. 9.

An Act for inclosing Lands in the Manor and Township of *Totley* in the Parish of *Dronfield* in the County of *Derby*. [4th June 1839.]

**W**HEREAS there are within the Manor and Township of *Totley* in the Parish of *Dronfield* in the County of *Derby* several Heaths, Commonable Lands, Commons, and Waste Grounds, containing in the whole Twelve hundred Acres or thereabouts: And whereas the Population of the said Manor and Township is Four hundred Persons or thereabouts; And whereas the Right Honourable *Digby Lord Middleton* is or claims to be Lord of the Manor of *Totley* aforesaid, and as such is or claims to be entitled to the Soil of the said Commons and Waste Grounds: And whereas the said *Digby Lord Middleton, D'Ewes Coke, Offley Shore, George Greaves, John Waterfall, John Dyson*, and divers other Persons, are Owners and Proprietors of or otherwise interested in the said several Heaths, Commonable Lands, Commons, and Waste Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King George the Third, 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 an Act was

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For appoint-  
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missioners.

passed in the First and Second Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Common and Waste Lands in England*: And whereas the said Commons and Waste Grounds in their present State yield comparatively little Profit, but are capable of considerable Improvement; and it would be advantageous if the same were divided and allotted unto and amongst the several Proprietors thereof and Persons interested therein according to their several and respective Estates, Rights, and Interests, and such Allotments inclosed and held in Severalty; but such beneficial Purposes cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen'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 *George Clark* of *Barnby Moor* in the County of *Nottingham*, Gentleman, and *John Wright* of *Romeley* in the County of *Derby*, Gentleman, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said several Commons and Waste Grounds, and for carrying this Act into execution, subject to the Rules, Orders, and Directions in this Act contained, and also subject to the Powers and Provisions of the said recited Acts, except where the same are hereby varied or altered.

II. And be it further enacted, That if either of the said Commissioners herein named or to be appointed by virtue of this Act shall, before the Execution of all the Powers and Authorities hereby vested in them, die, or refuse or become incapable, or for the Period of Three Calendar Months neglect, to act in the Execution of this Act, then and in every such Case, if such Commissioner so dying, or refusing, becoming incapable, or neglecting to act, shall be the said *George Clark*, or any Commissioner to be appointed in his Stead as herein-after mentioned, it shall be lawful for the said *Digby Lord Middleton*, or the Lord or Lady of the said Manor of *Totley* for the Time being, by Writing under his, her, or their Hand and Seal or Hands and Seals, to nominate and appoint another Person to be a Commissioner in the Place and Stead of the said *George Clark*; and in case such Commissioner so dying, or refusing, becoming incapable, or neglecting to act, shall be the said *John Wright*, or any Commissioner to be appointed in his Stead as herein-after mentioned, it shall be lawful for the major Part in Value of the Proprietors of Estates in the said Manor or Township of *Totley*, to be ascertained by the then last Land Tax Assessment for the said Township, who shall assemble at a Meeting to be called for that Purpose by the surviving or other Commissioner within Twenty-one Days after the Death, or Refusal, Incapacity, or Neglect of the said *John Wright*, or of any Commissioner to be appointed in his Stead, shall be known to him, and of which Meeting at least Eight Days previous Notice shall be given by advertising the same in the Newspapers called "*The Derbyshire Courier*" and "*The North Derbyshire Chronicle*," or in one of them, or in some other public Newspaper circulating in the said County of *Derby*, and by affixing the same Notice on One of the principal

outer Doors of the Parish Church of *Dronfield* aforesaid, to elect, nominate, and appoint, by Writing under their Hands, another Person to be a Commissioner in the Place or Stead of the said *John Wright*; and in case the said *Digby Lord Middleton*, or the Lord or Lady for the Time being of the said Manor of *Totley*, or the said other Proprietors, as the Case may be, shall neglect or refuse to nominate and appoint another Commissioner in the Place and Stead of the Commissioner so dying, or refusing, becoming incapable, or neglecting to act, in manner herein-before directed and authorized, within the said Twenty-one Days next after the Death of such Commissioner, or his Refusal or becoming incapable or neglecting to act, being known to him or them, then and in every such Case it shall be lawful for the surviving or remaining Commissioner, and he is hereby required, at any Time after the Expiration of the said Twenty-one Days, by Writing under his Hand and Seal, to appoint another Person to be a Commissioner in the Place of every Commissioner so dying, or refusing, becoming incapable, or neglecting to act, and so as often as Occasion shall require; provided that no Person interested in the said intended Division and Inclosure, or the Agent ordinarily intrusted with the Care, Superintendence, or Management of the Estate of any Person so interested, shall be capable of being appointed a Commissioner; and every Commissioner so to be appointed shall, after making the Declaration to be prescribed in that Behalf, have the like Powers and Authorities for carrying this and the said recited Acts into execution in all respects as if he had been originally named and appointed a Commissioner in and by this Act.

III. Provided always, and be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act until he shall have made and subscribed the following Declaration; (that is to say,) Declaration to be made by Commissioners.

‘ I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the Second Year of the Reign of Queen *Victoria*, intitled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.’

Which Declaration it shall be lawful for any Justice of the Peace acting for the said County of *Derby* to receive, and he is hereby empowered and required to receive the same; and which Declaration shall be in lieu of and as a Satisfaction for the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds, and such Declaration shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

IV. And

For appoint-  
ing Umpire.

IV. And be it further enacted, That the said Commissioners shall (after having made and subscribed the said Declaration, and before they proceed to any other Business touching the Execution of this Act or the said recited Acts,) and they are hereby authorized and required to appoint some fit and proper Person (not interested in the said intended Division and Inclosure, nor the Agent ordinarily intrusted with the Care, Superintendence, or Management of the Estate of any Person so interested,) to be an Umpire between them; and in case such Person, or any other Person to be appointed as Umpire for the Purposes of this Act or the said recited Acts, shall die, or refuse or neglect for the Space of Thirty Days to act, or shall become incapable of acting as such Umpire, the said Commissioners shall and they are hereby required forthwith to nominate and appoint another Person (not interested or intrusted as aforesaid) to be an Umpire for the Purposes of this Act and the said recited Acts; and when the said Commissioners shall differ or disagree in Opinion touching any Matter or Thing to be done in the Execution of this Act or the said recited Acts, then the Matter upon which such Difference shall or may arise shall be settled and determined by such Umpire, whose Determination in Writing shall be binding and conclusive on the said Commissioners, and on all others, as far as the Judgment and Determination of the said Commissioners would in such Case have been binding and conclusive; and in case any such Umpire shall neglect to settle and determine any such Difference after the same shall have been referred to him by the said Commissioners, and a written Notice under the Hands of the said Commissioners, or One of them, shall have been delivered to him, or at his last or usual Place of Abode, requiring him to settle such Difference within Thirty Days from the Delivery of such Notice, such Neglect shall be and be deemed and taken to be a Refusal to act within the Intent and Meaning of this Act; and for the Purposes aforesaid, but not for any other Purpose, such Umpire shall have and he is hereby invested with the same Powers and Authorities as by this Act and the said recited Acts, or any of them, are given to or vested in the said Commissioners.

Declaration  
to be made  
by Umpire.

V. Provided always, and be it further enacted, That no Person shall be capable of acting as such Umpire until he shall have made and subscribed the Declaration following; (that is to say,)

‘ I *A.B.* do solemnly and sincerely declare, That I will faithfully,  
‘ impartially, and honestly, according to the best of my Skill and  
‘ Ability, 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 Second Year of the Reign of Queen *Victoria*  
‘ [*here set forth the Title of this Act*], according to Equity and good  
‘ Conscience, and without Favour or Affection, Prejudice or Partiality,  
‘ to any Person or Persons whomsoever.’

Which Declaration it shall be lawful for the said Commissioners, or either of them, or any Justice of the Peace for the said County of *Derby*, to receive, and he is hereby required to receive the same; and such Declaration so made and subscribed, and also the Appoint-  
ment

ment of every such Umpire, shall be annexed to and deposited with the Award of the said Commissioners.

VI. And be it further enacted, That it shall be lawful for the said Commissioners (if they shall think fit) to appoint a Surveyor for the Purposes of this Act and the said recited Acts; and in case of the Death, Refusal, Neglect, or Incapacity of the Person so appointed to act as such Surveyor whilst the Powers of this Act and the said recited Acts are carrying into execution, then the Commissioners for the Time being shall be and they are hereby authorized to appoint another Surveyor in his Stead, and so from Time to Time to make a new Appointment as often as the said Office shall be vacant by reason of the Death, Refusal, Neglect, or Incapacity to act of any Surveyor.

Appoint-  
ment of  
Surveyor.

VII. And be it further enacted, That it shall be lawful for the Commissioners for the Time being to allow the Surveyor for the Time being acting under this Act, for his Time and Trouble, any Sum not Nine-pence *per* Acre of inclosed and uninclosed Lands, for surveying, measuring, mapping, and planning the said Lands, and also any Sum not exceeding Two Pounds and Two Shillings for each and every Day he shall be actually and wholly employed in the Business of the said Division, Allotment, and Inclosure (except such surveying, measuring, mapping, and planning); and which said several Allowances shall be in full Satisfaction for the Time, Trouble, and all the travelling and other Expences of such Surveyor in and about the Execution of this Act and the said recited Acts.

Allowance  
to Surveyor.

VIII. And be it further enacted, That no Person shall be capable of acting as Surveyor in the Execution of this Act until he shall have made and subscribed a Declaration before the said Commissioners, or One of them (who are and is hereby empowered to administer the same), in the Words or to the Effect following; (that is to say,)

Surveyor to  
make a  
Declaration.

‘ I do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as Surveyor by virtue of an Act passed in the Second Year of the Reign of Her Majesty Queen Victoria, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person whomsoever.’

IX. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, knowing the Allegations thereof, or any of them, to be untrue, shall be subject to the like Pains and Penalties to which Persons guilty of a Misdemeanor are or may be liable.

Penalty on  
making false  
Declaration.

X. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered to appoint a Clerk to assist them in the Execution of the Powers of this Act and the

Commis-  
sioners to  
appoint a  
Clerk.

[*Private.*]

said recited Acts, and, if Occasion shall require, to remove from Time to Time any such Clerk, and to appoint another in his Stead, as to them shall seem right and proper.

Allowance  
to Commis-  
sioners,  
Umpire, and  
Clerk.

XI. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act and executing the same and the said recited Acts the said Commissioners; and the Umpire and Clerk to be appointed by the said Commissioners as herein-before directed; shall respectively be paid for each and every Day they shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts, during the first Two Years next after the passing of this Act, the Sum of Three Pounds and Three Shillings, and no more, and after the Expiration of the said Two Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, for each and every Day they shall be respectively employed as aforesaid, and in full Satisfaction for their Time and Trouble, and for the several Expences which they shall be put into during their several Journies and Attendances in the Execution of this Act or the said recited Acts, other than and except the Expences for the Use of the Room in which the Meetings of the Commissioners or Umpire shall be holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of Agreements and Notices, and of drawing, preparing, copying, engrossing, and enrolling the Award of the said Commissioners, and of Advertisements, Printing, and Stationery.

Notice and  
Adjourn-  
ment of  
Meetings.

XII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice to be given in the Newspapers called "The *Derbyshire Courier*" and "The *North Derbyshire Chronicle*," or one of them, or in some other Newspaper circulated in the said County, and also by Notice affixed on One of the public outer Doors of the Parish Church of *Dronfield* aforesaid whereon Notices are usually affixed on some *Sunday* before Divine Service, of the Time and Place of their First and every subsequent Meeting for executing the Powers hereby and by the said recited Acts vested in them, at least Seven Days before every such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioners shall and may adjourn such Meetings from Time to Time as they shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings of the said Commissioners for executing this Act shall be held at some convenient Place in the said Manor and Township, or within Two Miles thereof.

How other  
Notices are  
to be given.

XIII. Provided always, and be it further enacted, That all Notices necessary to be given by the said Commissioners, in Cases not hereby or by the said recited Acts or otherwise provided for or directed; shall be given by Advertisement to be inserted in the *Derbyshire Courier* or the *North Derbyshire Chronicle*, or one of them, or in some other Newspaper published and circulating in the said County of *Derby*.

XIV. And

XIV. And for regulating the Duration of all Meetings or Attendances to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that any Meeting to be holden for the Purposes of this Act (including the Time actually occupied in travelling to and from the said Meeting) of a less Duration than Eight Hours or Six Hours (as the Case may be) shall be charged as only Half a Day, and the said Commissioners, Umpire, and Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk in which shall be entered the several Days on which the said Commissioners or Umpire shall hold their Meetings, and in such Book shall also be entered at what Hours the said Commissioners and their Clerk or the Umpire were respectively present at such Meetings, and at what Hour they respectively left the same; and such Book shall be signed by such Commissioners and their Clerk, or by the said Umpire, at the Termination of each Meeting, and shall be open for the Inspection of any Person interested in the said Inclosure, or his Agent or Attorney, during all the Meetings to be held in pursuance of this Act; and every such Person shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioners to retain or to pay themselves or such Clerk, out of any Monies to be received by them or over which they may have any Control in the Execution of this Act, any Sum of Money, on account of the Allowance herein-before directed to be made to such Commissioners and Clerk respectively, beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the said Award, or in case the Accounts of the said Commissioners shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioners or of the said Clerk previous to the Execution of the said Award, the Commissioners for the Time being shall, after the Expiration of the Period allowed for Appeal against the said Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioners or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due to them.

For regulat-  
ing the  
Duration of  
Meetings.

XV. And be it further enacted, That all the Proprietors and Persons interested in the said Allotment and Inclosure, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend any of the Meetings to be held in pursuance of this Act and the said recited Acts.

Proprietors  
to pay their  
own Expences  
at Meet-  
ings.

XVI. And be it further enacted, That all Orders, Proceedings, and Determinations of the said Commissioners at any of their Sittings to be held in pursuance of this Act or of the said recited Acts shall be entered in a Book or Books to be provided for that Purpose, and kept by the Clerk to the said Commissioners, and shall be signed by the said Commissioners; and such Orders, Proceedings, and Determinations,

Proceedings  
to be entered  
in a Book,  
and to be  
Evidence.

minations, when so entered and signed, shall be deemed and taken as Originals; and the same, or Copies thereof, certified under the Hands of the said Commissioners, shall be read and received as Evidence of such Orders, Proceedings, and Determinations in all Suits or Actions touching or concerning any thing done in relation to or in the Execution of this Act or the said recited Acts, and before all Judges, Justices, and others.

Commis-  
sioner to  
settle Dis-  
putes, but  
not to deter-  
mine Titles  
nor molest  
Possession.

XVII. And be it further enacted, That in case any Dispute shall arise between any of the Parties interested or claiming to be interested in the said Division or Inclosure, touching their Rights or Claims, Estates or Interests, the said Commissioners are hereby authorized to inquire into, hear, and determine the same: Provided always, that nothing herein contained shall authorize or empower the said Commissioners to determine any Dispute that shall affect the Title to any Lands whatsoever, nor to determine any Right between any of the Parties interested in the said Commons and Waste Grounds contrary to the Possession of any such Parties (except in Cases of Encroachment within Twenty Years as herein-after mentioned); but in case the said Commissioners shall be of opinion against the Right of the Person so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person, or recovered from such Person by Ejectment or other due Course of Law.

Power to  
award Costs.

XVIII. 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 Acts or of 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 and Charges as they shall think reasonable to be paid to the Party in whose Favour any Determination of the said Commissioners shall be made, by the Person or Corporation whose Claim or Objection shall be thereby disallowed or overruled; and in case the Person or Corporation who shall be 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, and they are hereby authorized and required, by Warrant under their Hands and Seals directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Corporation so neglecting or refusing to pay the same, rendering the Overplus, if any, upon Demand, to the Person or Corporation whose Goods and Chattels shall have been so distrained and sold, after the Costs and Charges attending such Distress and Sale.

Persons dis-  
satisfied may  
try their  
Rights at  
Law.

XIX. Provided always, and be it further enacted, That in case any Person or Corporation interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Claim of Right of Common or other Right or Interest in, over, or upon the Commons and Waste Grounds hereby directed to



be divided, allotted, and inclosed, or any Part thereof, or any Objection to such Claim, it shall be lawful for the Person or Corporation so dissatisfied to cause an Action to be brought upon a feigned Issue against the Person or Corporation in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioners shall have been notified in Writing to the Party against whom such Determination shall have been made, or his known Agent or Attorney, and thereupon the Party so dissatisfied shall proceed to a Trial at Law at the then next or at the Assizes immediately following the next to be holden for the said County of *Derby* after such Action shall have commenced; and the Defendant in such Action shall and he is required to appoint any Attorney, who shall appear thereto, or file Common Bail, and accept One or more Issue, whereby such Claim, and the Right thereby insisted on, may be tried and determined, such Issue to be settled by the proper Officer of the Court in which such Action shall be commenced in case the Parties shall differ about the same; and the Verdict which shall be given in any such Action shall be final and conclusive upon all the Parties thereto, unless the Court in which such Action shall be brought shall set aside the Verdict, and order a new Trial to be had therein, which it shall be lawful for the Court to do as in other Cases; and after such Verdict shall have been obtained, and not set aside by the said Court, the said Commissioners shall and they are hereby authorized to act in conformity thereto, and to allow or disallow the Claims thereby determined according to the Event of such Trial.

XX. Provided always, and be it further enacted, That the Determination of the said Commissioners touching any such Claim or other Right or Interest as aforesaid which shall not be objected to in due Time, or, being objected to, the Party objecting not causing such Action at Law to be so brought within the Time herein-before limited, or not proceeding therein as aforesaid, shall be final, binding, and conclusive on all Parties: Provided also, that no such Difference, Suit, or Proceeding as aforesaid, nor any Difference or Dispute touching the Title to any Lands, shall impede or delay the said Commissioners in the Execution of this Act, but the Division, Allotment, and Inclosure thereby directed to be made shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding.

Determina-  
tion of Com-  
missioners to  
be final.

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

XXI. Provided always, and be it further enacted, That if any of the Parties, Plaintiffs or Defendants 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; and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Person or Corporation who might have brought such Action against the Person so dying to bring the same within the Time so limited as aforesaid against such Person as if actually living,

Actions not  
to abate by  
the Death of  
Parties.

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and to serve the Clerk of the said Commissioners with Process for commencing such Action in the same Manner as the Party so dying might have been served therewith if living; and such Clerk shall serve the Heir or other Person forthwith, or as soon as he may be ascertained or known; and it shall thereupon be incumbent on the Heir or other Person who shall claim the Benefit of such Determination as aforesaid to appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had therein in the same Manner as if such Person had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action.

Deaths not to impede Execution of the Act.

XXII. And be it further enacted, That if any Person interested in the said intended Division, Allotment, and Inclosure, shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioners shall not be thereby determined or suspended, but the said Commissioners shall proceed in the Execution of the Powers given to them by this Act and the said recited Acts in such Manner as they might have done in case such Person were still living; and the Share of the Person so dying shall be allotted to the Person who by Law shall become entitled to the same, and shall be accepted and taken by him according to the Directions of this Act or the said recited Acts, and he shall be liable to the Charges and Expences and other Provisions of this Act and the said recited Acts.

Extinguishment of Common Right.

XXIII. And be it further enacted, That it shall be lawful for the said Commissioners, at any Time after the Meeting herein directed to be held by them for giving Information and of hearing Objections to Allotments, by Notice for that Purpose under their Hands to be affixed on One of the public outer Doors of the Parish Church of *Dronfield* aforesaid whereon Notices are usually affixed, to order any Rights of Common, Rights of Sheepwalk, or other Commonable Rights in, upon, or over the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to be extinguished, and after the Time or respective Times mentioned and fixed in any such Notice all such Rights of Common, Rights of Sheepwalk, and other Commonable Rights as shall be thereby directed to be extinguished shall cease and be extinguished accordingly, any Law, Usage, or Custom to the contrary thereof notwithstanding.

Allotments for public watering Places, and for getting Materials for Roads, &c.

XXIV. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and appoint One or more Piece or Pieces of Ground (Part of the Commons and Waste Grounds hereby intended to be divided, allotted, and inclosed,) in such convenient Situation as they shall think proper within the said Manor and Township of *Totley*, not exceeding Five Acres in the whole, to be used for the Purposes of public watering Places for Cattle, and also for getting Stone, Gravel, Sand, and other Materials for building or repairing any Houses or other Buildings, Bridges, Walls, Fences, Drains, Watercourses, and other Conveniences, and for repairing the Highways and Roads within the said Manor and Township

Township of *Totley*, and for such other Uses and Purposes for the general Benefit and Advantage of the Inhabitants within the said Manor and Township of *Totley* as the said Commissioners shall direct; and that as well the said Lands so to be set out, and the Herbage growing and renewing in and upon the same, as also all and every the private Lanes, Roads, and Ways within the said Manor and Township of *Totley*, and the Herbage thereof, shall be vested in such Person, and applied to such Uses as the said Commissioners shall in and by their said Award order or appoint.

XXV. And be it further enacted, That in setting out and appointing any public Carriage Roads, Highways, Bridle Roads, and Footways, in pursuance of this Act or either of the said recited Acts, the said Commissioners for executing this Act are hereby authorized and empowered (with the Consent and with the Order in Writing of any Two Justices of the Peace of the said County of *Derby*), if they shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter any of the public Carriage Roads, Highways, Bridle Roads, or Footways passing or leading through or over any of the Lands or Grounds intended to be divided and allotted by virtue of this Act, or passing or leading through or over any of the old Inclosures within the said Manor and Township of *Totley*; and the Soil of the Roads and Ways so to be discontinued and stopped up shall, in all Cases where such Roads and Ways pass through or over any allottable Lands or Grounds, be deemed and taken to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act.

Power to  
stop up  
Roads.

XXVI. And be it further enacted, That it shall be lawful for the said Commissioners, when they shall see necessary, to widen any of the Highways within the said Manor and Township of *Totley*, and for that Purpose to take a sufficient Quantity of the inclosed Lands adjoining to such Highways (the same not being a Yard, Garden, Orchard, Paddock, Plantation, or Avenue to any House), and to make a full Compensation for the Value of the Land so to be taken for the widening of such Highway by a Payment in Money, or by allotting and awarding unto the Person from whom such ancient inclosed Land shall be so taken an adequate Part of the said Commons and Waste Grounds, at the Option of the Person whose Land shall be so taken, and also to make good and substantial Fences on each Side of all such widened Highways for or in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to  
widen High-  
ways, making  
Compensa-  
tion.

XXVII. Provided always, and be it further enacted, That before any Order shall be made by such Two Justices as aforesaid, or any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, diverted, stopped up, or altered by the said Commissioners, they shall cause to be affixed at each End of the said public Carriage Road, Highway, Bridle Road, or Footpath so proposed to be discontinued, diverted, stopped up, or altered a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footpath is intended to be discontinued, stopped up, diverted, or altered (as the Case may be), and the said Commissioners shall also

Proceedings  
previously to  
stopping up  
and diverting  
Highways,  
&c.

cause

cause the same Notice to be inserted in some One Newspaper published or generally circulated in the said County of *Derby* for Three successive Weeks, and shall also cause a like Notice to be affixed on One of the public outer Doors of the Parish Church of *Dronfield* aforesaid whereon Notices are usually affixed on Three successive *Sundays*; and after the said several Notices shall have been so affixed and published as aforesaid, and after such Order as aforesaid shall have been made, the said public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered (as the Case may be), subject however to such Appeal to the Court of General Quarter Sessions for the County of *Derby* as is herein-after mentioned.

Persons who may think themselves aggrieved if any Highway should be ordered to be stopped up may appeal.

XXVIII. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footpath should be discontinued, stopped up, diverted, or altered (as the Case may be), within Four Calendar Months after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the said Commissioners or their Clerk Ten Days Notice in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any Hearing of Appeal to go in or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of Appeal, Jury at Sessions to determine whether old Highway shall be discontinued.

XXIX. And be it further enacted, That in case of such Appeal, the Justices at such Quarter Sessions shall, for the Purpose of determining whether the said public Carriage Road, Highway, Bridle Road, or Footpath, so intended to be discontinued, stopped up, diverted, or altered, ought to be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be injured or aggrieved, impanel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may be beneficially to the Public discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioners, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act of the Forty-first Year of His Majesty King *George* the Third; but if the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, altered, or diverted is not unnecessary, or that the same could not beneficially to the Public be so discontinued, stopped up, or altered (as the Case may be), the said Court of Quarter Sessions shall allow such Appeal, and such public Carriage Road, Highway,

Highway, Bridle Road, or Footpath shall not be discontinued, stopped up, diverted, or altered, or in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring such public Carriage Road, Highway, Bridle Road, or Footpath to its original State, and in that Case the said Court of Quarter Session is hereby authorized and required to award to the Party giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal; and such Costs and Expences shall be paid by the said Commissioners, and shall be raised by them in such and the same Manner as they are hereby directed or empowered to raise the Money for discharging the Costs, Charges, and Expences of this Act.

XXX. Provided always, and be it further enacted, That from and after the Dismissal of any such Appeal as aforesaid the Order or Award of the said Commissioners for discontinuing, stopping up, diverting, or altering any such Roads or Highways shall be final and conclusive, and be of full Force and Effect.

On Dismissal of Appeal, Order of Commissioners to be final.

XXXI. And be it further enacted, That the Charges and Expences attending or occasioned by the stopping up, discontinuing, diverting, or altering such Roads shall be raised and paid in such and the like Manner as the Expences of passing and executing this Act are hereby directed to be raised and paid.

Expences of discontinuing or altering Roads provided for.

XXXII. And be it further enacted, That when and so soon as any Two or more of Her Majesty's Justices of the Peace for the said County of *Derby*, at any Special Sessions of the Peace, shall certify under their Hands and Seals that any public Carriage Road set out or made under the Authority of this Act or either of the said recited Acts has been fully and sufficiently formed and completed, such Road or Roads, or so much thereof as shall in any such Certificate be described or certified, shall thenceforth be supported and kept in repair by such Persons and in like Manner as the public Roads within the said Manor and Township of *Totley* are or ought to be by Law amended and kept in repair; and every such Certificate shall, at the General Quarter Sessions of the Peace to be holden for the County of *Derby* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County, and be valid and effectual to all Intents and Purposes.

Justices may certify Roads in Part.

XXXIII. And be it further enacted, That the said Commissioners shall and they are hereby empowered and required to set out and appoint such private Roads, Bridle Ways, and Footpaths through and over the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as they shall think requisite, giving such Notice and subject to such Examination as is required by the hereinbefore recited Act of the Forty-first Year of the Reign of King *George* the Third in the Case of public Roads; and any Charges and Expences which the said Commissioners may think fit to incur or direct to be incurred prior to the Time of making their Award relative to the setting out, or the Formation or Completion of such private Roads, Bridleways, and Footpaths, or any of them, shall be raised in like Manner as the Charges and Expences of obtaining and

Commissioners to appoint private Roads.

[*Private.*]

passing this Act and carrying the same into execution ; and the said private Roads, Bridleways, and Footpaths shall thereafter be made, supported, and kept in repair by and at the Expence of the Owners and Proprietors for the Time being of any of the Lands and Grounds within the said Manor and Township of *Totley*, in such Shares and Proportions, and in such Manner, as the said Commissioners shall in and by their Award order and direct, or by the Inhabitants of the said Township in such Manner as the public Roads within the same are by Law liable to be supported and kept in repair, if the said Commissioners shall by their Award so direct.

To allot the  
Herbage of  
private  
Roads.

XXXIV. And be it further enacted, That the said Commissioners shall in and by their Award order and appoint the Grass and Herbage growing and renewing upon all and every the private Roads to be set out by them by virtue of this Act to and for ever thereafter to remain to and for the Use and Benefit of such Persons as the said Commissioners shall in their Judgment think best entitled to the same.

Encroach-  
ments.

XXXV. And be it further enacted, That all Encroachments or Inclosures which have been made at any Time within the Space of Twenty Years previous to the passing of this Act, from, in, or upon the said Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed, shall be deemed and considered to be Part of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act ; and in case any Difference or Dispute shall arise touching any such Encroachments or Inclosures, or the Extent thereof, every such Difference or Dispute shall be determined by the said Commissioners : Provided that where any such Encroachment or Encroachments shall have been made by any Proprietor or Person who shall be entitled to any Allotment upon the said Commons and Waste Grounds intended to be allotted and inclosed, and which shall adjoin to any ancient Inclosure of the same Proprietor, then and in all such Cases the said Commissioners shall and they are hereby required to allot and award such Encroachment so circumstanced unto the Proprietor to whose ancient Inclosures the same shall adjoin, in part Satisfaction of his Rights of Common and other Rights in or upon the said Commons and Waste Grounds ; and in case such Encroachment shall exceed in Value the Allotment to which such Proprietor shall in the Judgment of such Commissioners be entitled, or in case the Person in possession or entitled to the Rents and Profits of such Encroachment shall be entitled to no Allotment, then the said Commissioners shall and they are hereby authorized and required to fix a Sum of Money which shall in their Judgment be a full Equivalent for the Value of such Encroachment, independent of the Value of any Improvements thereon, over and above the Value of the Allotment to which such Proprietor shall appear to them to be entitled in lieu of his Rights of Common and other Rights in or upon the said Commons and Waste Grounds respectively, if any, and shall deliver to the Proprietor or Person in possession of or in the Receipt of the Rents and Profits of such Encroachments a Notice in Writing signed by the said Commissioners, specifying the Amount of such Equivalent in Money as aforesaid, and requiring such Proprietor or Person to pay the same to the said

Commissioners, to be applied by them towards the Expences of obtaining this Act, and of carrying the same and the said recited Acts into execution, within Three Calendar Months next after the Date of such Notice; and in case the Proprietor or Person to or for whom such Notice shall be given shall neglect or refuse to pay the Sum of Money therein to be specified, agreeably to the Terms and Directions of such Notice, then and in such Case (but not otherwise) it shall be lawful for the said Commissioners to allot and award the Whole or any Part of such Encroachment of such Proprietor or Person to any other Proprietor interested in the said Commons and Waste Grounds, or to sell and dispose of the same towards defraying the Expences of this Act and carrying the same and the said recited Acts into execution, in like Manner as any other Parts of the said Commons and Waste Grounds.

XXXVI. And be it further enacted, That it shall be lawful for the said Commissioners to make use of, for the Purposes of the said Division, Allotment, and Inclosure, any Surveys, Maps, or Plans of the said Commons and Waste Grounds, or of the old inclosed Lands, within the said Manor and Township of *Totley*, or any of them, provided such Surveys, Maps, or Plans be properly authenticated to the Satisfaction of the said Commissioners.

Surveys, &c. already made may be used, if authenticated.

XXXVII. And be it further enacted, That all Patches and small Parcels of uninclosed Waste Land lying by the Sides of any Turnpike Roads or other public Roads or Lanes within the said Manor and Township of *Totley*, which in the Judgment of the said Commissioners may be conveniently inclosed without incommoding the public Intercourse on such Roads or Lanes, or rendering such Turnpike and other public Roads or Lanes of less Breadth than, according to the existing Laws for the Regulation of Turnpike and other public Roads and Ways, they ought to be maintained and kept, shall be deemed and are hereby declared and recognized to be Part of the Lands and Grounds intended to be divided, allotted, and inclosed under and by virtue of this Act.

Patches of Land by the Side of Roads may be allotted.

XXXVIII. And be it further enacted, That the Commissioners shall appoint a Meeting for receiving Applications from the several Proprietors of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, touching the Situations in which they may be desirous of having their Allotments set out and allotted, and shall give Ten Days Notice of the Time and Place of such Meeting by Writing to be affixed upon One of the public outer Doors of the Parish Church of *Dronfield* aforesaid whereon Notices are usually affixed.

Meetings to be appointed for Applications for Situations of Allotments.

XXXIX. And be it further enacted, That the said Commissioners shall in the next place and they are hereby empowered and required to set out, allot, and award unto the said *Digby Lord Middleton*, as Lord of the Manor of *Totley*, for and in lieu and satisfaction of and as a Compensation for all his Right, Title, and Interest in and to the Soil of the said Commons and Waste Grounds, so much and such Part of the same Commons and Waste Grounds as by the said Commissioners shall be deemed, declared, and adjudged equal in Value (Quality and Situation considered) to One Sixteenth Part thereof,

Allotment to the Lord of the Manor.

in

in which One Sixteenth Part shall be included from Thirty-five to Forty Acres of available Land as Part of his Proportion.

Open Space  
to be left for  
Recreation.

XL. Provided always, and be it further enacted, That the said Commissioners shall and they are hereby required to set out a Portion (not less than Five Acres) of the Commons and Waste Grounds hereby directed to be inclosed to be for ever left open for the Purposes of Exercise and Recreation of the Inhabitants of the Manor and Township of *Totley* and the neighbouring Population, and such Portion of Land shall be vested in the Churchwarden and Overseer for the Time being of the said Manor and Township of *Totley* for the Purposes aforesaid.

Allotment of  
Residue.

XLI. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next place, to set out and allot the Residue and Remainder of the said Commons and Waste Grounds hereby intended to be divided, allotted, and inclosed unto, between, and amongst the several Persons and Corporations who at the Time of making such Division, Allotment, and Inclosure shall be entitled thereto or interested therein, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportionate to the Value of and a full Satisfaction and Compensation to such Persons and Corporations for their several and respective Shares, Estates, Rights, Properties, and Interests in, upon, or over such Commons and Waste Grounds; and in making the several Allotments to be made under and by virtue of this Act the said Commissioners shall and they are hereby required to have Regard to the Situation and Convenience as well as to the Quantity and Quality of the Land to be allotted, so as that the Allotment of each Person be laid as near together, and as contiguous to their several Dwelling and Farm Houses and Estates as conveniently may be, consistently with the general Convenience of the Parties interested in the said Division, Allotment, and Inclosure: Provided always, that it shall be lawful for the said Commissioners, at any Time before executing their final Award, to make any such Alterations in the Allotments or in the Fences which they may have set out and ordered, or in any of the Orders and Directions relating thereto which they may have made in pursuance of this or the said recited Acts, as they may think right and expedient; and in case any Person be injured by such Alterations, on account of any Expences he or they may have been at or otherwise, the said Commissioners shall ascertain and determine what Recompence shall be made to him for such Injury, and shall order and direct by whom and in what Manner such Recompence shall be made and paid.

Allotment  
to the Lord  
to be fenced  
at the gene-  
ral Expence.

XLII. And be it further enacted, That the Allotment so to be set out by the said Commissioners for the said *Digby Lord Middleton* as Lord of the said Manor of *Totley*, and also the Allotment before mentioned for the Purposes of Exercise and Recreation, shall be fenced in such Manner as the said Commissioners shall deem expedient and direct; and the Costs, Charges, and Expences of such fencing shall be paid by the said Commissioners out of the general Funds to be raised for the Purpose of passing this Act and carrying the same into execution.

XLIII. Pro-



XLIII. Provided also, and be it further enacted, That the Allotment so to be made to the said *Digby Lord Middleton* as Lord of the said Manor shall not be deemed an Allotment in respect of which any Liabilities to any Share of the Costs and Charges of this Act shall be incurred by the Proprietors or Parties claiming to be Proprietors thereof, any thing in this Act to the contrary in anywise notwithstanding.

Such Allotment not to be liable to any Part of the Expences of this Act.

XLIV. And be it further enacted, That the several and respective Allotments (excepting the Allotment so directed to be set out for the said *Digby Lord Middleton* as aforesaid) to be made in the several Commons and Waste Grounds within the said Manor and Township of *Tolley*, after the Division thereof, shall, within Twelve Calendar Months, to be computed from the signing and sealing the Award of the said Commissioners, or within any shorter Space of Time to be appointed by the said Commissioners, either before or after the Execution of their Award, be inclosed, ditched, and fenced at the Expence of the several Persons to whom the same shall be respectively allotted (except as aforesaid), and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the said Commissioners shall by their Award order and direct; and such Fences, where the same shall adjoin upon any public or private Road or Way, and in such other Place as the said Commissioners shall think fit, shall be guarded in such Manner and with such Ditches on either or each Side thereof, as the said Commissioners shall direct and appoint, and also with good and substantial Gates and Stiles to be made where necessary in the said Fences; all which said Fences shall be so guarded as aforesaid, and the Gates and Stiles made, by and at the proper Costs and Charges of the respective Person to whom the same shall be respectively allotted, in such Manner, Shares, and Proportions as the said Commissioners shall in and by their said Award order and direct.

Directions for fencing Allotments.

XLV. And be it further enacted, That it shall be lawful for any Person entitled to any Rights of Common or other Rights on the said Commons and Waste Grounds hereby directed to be divided and allotted, at any Time before the Execution of the Award of the said Commissioners, to sell, exchange, convey, and dispose of such Rights of Common or other Rights, or any Allotment to be set out in lieu thereof, separate and apart from the Property to which the same are appurtenant, and upon Production of the Conveyance thereof to the said Commissioners they shall award the Allotment so sold or disposed of to the Purchaser thereof; and it shall be lawful for any Person who shall be entitled to any Allotment under this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same, or all or any Part of his Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award.

Common Rights may be sold or mortgaged before the Execution of the Award.

XLVI. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements,

Exchanges.

[Private.]

ments, or Hereditaments within the said Manor and Township of *Totley* in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Manor and Township, or within any adjoining Parish, Hamlet, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made at the Request in Writing 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 for Years determinable on any Life or Lives, or at the Request of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, and Committees or Attornies of or acting for any such Owners or Proprietors as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females 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 Request to be made in Writing under the Common Seal or Seals of the Body or Bodies Politic, Corporate, or Collegiate, and under the Hands of the other Parties respectively; and all and every such Exchange or Exchanges so 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 Lands, Tenements, or Hereditaments held in right of any Church, Chapel, or other Ecclesiastical Benefice, 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 or be situate.

Expences of Exchanges.

XLVII. And be it further enacted, That all Costs, Charges, and Expences attending any Exchanges to be made by virtue of this Act or the said first-recited Act shall be paid, borne, and defrayed by the several Persons whose Estates shall be exchanged, in such Manner, Shares, and Proportions as the said Commissioners shall by their Award or any other Writing under their Hands order and direct; and such Costs, Charges, and Expences, in case of Nonpayment thereof, may be recovered in the same Manner as the Costs, Charges, and Expences of enclosing and fencing Allotments can or may be recovered under and by virtue of the first-recited Act or of this Act.

Commissioners to hold a Meeting at which a Map of the Allotments shall be exhibited.

XLVIII. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the several Proprietors in the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively in lieu thereof, they the said Commissioners shall hold a Meeting at some convenient Time and Place, and give Information of the said Allotments to the several Proprietors, and exhibit the same upon a Map or Plan to be produced for their Inspection; and if any of the said Proprietors shall be dissatisfied with the proposed Allotments the said Commissioners shall, at such Time and Place aforesaid, or at some other Time and Place to be appointed by them for that Purpose, receive Statements in Writing

of the Complaints and Objections of any Proprietor against any Allotment, and shall forthwith, or so soon after as conveniently may be, determine the same, and such Determination shall be binding and conclusive on all Parties interested in such Allotment.

XLIX. Provided always, and be it further enacted, That if, from Situation or any other Circumstances, it shall happen that any of the Proprietors of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, or any Person to whom any Allotments shall be made, shall not have a proportionate Share of the Boundary Hedges, Walls, Ditches, Mounds, or Fences assigned to him to make by virtue of this Act, it shall be lawful for the said Commissioners to ascertain and appoint what Sum of Money shall be paid and contributed by such Proprietor and Person towards making the Boundary Hedges, Walls, Ditches, Mounds, and Fences of the Allotments of such other of the said Proprietors and Persons as shall have too great a Proportion thereof to make, and such Money shall be paid to such Persons and in such Manner as the said Commissioners shall by any Writing under their Hands direct or appoint; and the same shall and may be received and recovered by all or any of the Ways and Means which by the said first-recited Act are given or provided for raising and recovering the Expences of obtaining and executing Acts of Inclosure in Cases where such Expences are directed to be paid in proportion by the Proprietors of Lands to whom any Allotments shall be made; and every such Order of the said Commissioners shall be final, binding, and conclusive on all Parties interested and concerned therein.

For apportioning or equalizing the Expences of Boundary Fences, &c.

L. And be it further enacted, That no Person shall graze or keep any Sort of Beast or Cattle in or upon any of the Roads or Ways which the said Commissioners shall order and direct to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the making and executing of their Award; and any Owner of Land within the said Manor and Township, his Servants and Labourers, and also the Pinder, Peace Officer, and Parish Officers of the said Manor and Township of *Totley* for the Time being, are hereby respectively empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid as Cattle Damage feasant.

Cattle not to be pastured in the Roads or Ways for Seven Years.

LI. And be it further enacted, That all such Lands as shall be allotted by virtue of this Act shall be held by the Persons or Corporations to whom they are allotted by and under the same Tenures, and subject to the same Rents, Payments, Heriots, Fines, Customs, and Services, by, under, and subject to which the several Lands in lieu or in respect of which the same Lands shall be so allotted and awarded were respectively held immediately before the passing of this Act, and all such Allotments shall thereupon become Freehold, Copyhold, or Leasehold (as the Case may be), and shall be so distinguished in the Award to be made by the said Commissioners, any Law or Custom to the contrary notwithstanding.

Tenure of Allotments to be the same as of the Lands in lieu of which they are allotted.

LII. And be it further enacted, That the Costs, Charges, and Expences of obtaining and passing this Act, and the Costs and Charges

Expences of obtaining and executing the Act.

Charges of the said Commissioners, Umpire, and Clerk, and of preparing and enrolling the Award, and all other Charges and Expences to be incurred in the Execution of this Act and the said recited Acts, or in anywise incidental thereto, shall from Time to Time be borne and paid by the several Proprietors and Owners of the said Commons and Waste Grounds in the Manor and Township of *Totley* aforesaid intended to be divided, allotted, and inclosed by virtue of this Act, by an equal Acre Rate or Tax to be made by the said Commissioners upon all the Lands to be divided, allotted, and inclosed by virtue of this Act, (save and except the Allotments to be set out for the said *Digby Lord Middleton* as Lord of the Manor, as herein-before mentioned,) not exceeding in the whole the Sum of Five Pounds for each and every Acre of such Lands; and the said several Sums thereby rated shall be paid to such Person, in such Manner and Proportion, and at such Time as the said Commissioners shall by Writing under their Hands direct or appoint; and in case any Proprietor or Owner shall refuse or neglect to pay his Share or Proportion thereof within the Time respectively for that Purpose to be limited by the said Commissioners, then it shall be lawful for the said Commissioners, or any Person to be authorized by them, to enter into and upon the Part or Share of the Commons and Waste Grounds to be allotted to such Person so refusing or neglecting, and the Rents, Issues, and Profits thereof to receive and take, until thereby or otherwise his said Share or Proportion of the said Costs, Charges and Expences, together with all the Costs, Charges, and Expences occasioned by and attending such Entry upon and Receipt of the Rents and Profits of the same Premises respectively, and also Interest for such Shares and Proportions from the Time the same shall be made payable by the said Commissioners, shall be fully satisfied and paid; or it shall be lawful for the said Commissioners, or any Person authorized by them, in case any Person shall refuse or neglect to pay his Proportion of such Costs, Charges, and Expences as aforesaid within the Time and to such Person as the said Commissioners shall appoint, to recover the same, with lawful Interest, to be computed from the Day on which the same ought to have been paid as aforesaid, by Action at Law in their or his own Names or Name in any of Her Majesty's Courts of Record at *Westminster*; or it shall be lawful for the said Commissioners, by Warrant under their Hands and Seals directed to any Person whomsoever, to cause the same, with such Interests thereupon as aforesaid, to be levied by Distress and Sale of the Goods and Chattels of the Persons so neglecting or refusing to pay the same, rendering the Overplus, if any, on Demand, to the Owner of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale.

Power to borrow Money for Expences of the Act.

Money borrowed to be repaid with Interest.

LIII. And be it further enacted, That it shall be lawful for the said Commissioners to borrow and take up at Interest, of any Person willing to advance or lend the same, such Sum of Money as shall from Time to Time be necessary for defraying the Costs, Charges, and Expences of obtaining, passing, and executing this Act; and the Person who shall lend, advance, or pay any such Sum of Money shall be repaid the same out of the first Monies which shall be raised or collected in pursuance of this Act, with Interest for the same, not exceeding

exceeding Five Pounds *per Centum per Annum*, from the Time of lending, advancing, or paying each such Sum respectively as aforesaid.

LIV. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said first-recited Act or this Act, to be paid for the Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, Tenant for Life or in Tail, or to any Feoffee in Trust, Executors, or Administrator, Husband, Guardian, or Committee or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person whose Lands are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands to be settled to the same Uses, it shall and may be lawful to and for the said Commissioners out of such Money to defray such Proportion of the Expence of passing this Act, and of carrying the same and the said recited Acts into execution, as shall (if any) be charged upon any of the Lands of the Person or Corporation, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee, in possession of the Lands so exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioner be proper to be made, and shall be made under his Direction, upon any Land to be by virtue of this Act allotted to such Person or Corporation, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee respectively; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward; and shall, when so paid in, there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Corporation who would have been entitled to the Rents and Profits of the said Lands, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debts or other Incumbrances affecting the same Lands, or affecting other Lands belonging to such Person or Corporation, or settled therewith to the same Uses, as the said Court of Exchequer shall authorize to be purchased, redeemed, paid, or discharged, or such Part thereof as shall be necessary; or until the same shall, upon the like Application in a summary Way, be laid out, by Order of the said Court, in the Purchase of other Lands, which shall be conveyed,

Application of Monies paid for Exchange, if amounting to 200*l*.

1 G. 4. c. 35.

[*Private.*]

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limited,

limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes and in the same Manner as the afore-mentioned Lands stood limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime, until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purpose aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by Order of the said Court, to the Person or Corporation who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, or settled.

When less than 200*l.* and amounting to 20*l.*

LV. And be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Corporation for the Time being entitled to the Rents and Profits of the Lands so exchanged, or of his Guardian or Committee in case of Infancy, Idiocy, Lunacy, or other Incapacity, with the Approbation of the said Commissioners, to be signified in Writing under their Hands, be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the said Court of Exchequer, and be placed in to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Person or Corporation who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the said Commissioners, and such Nomination and Approbation to be signified in Writing under the Hands or Common Seal (as the Case may be) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

LVI. And be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Corporation who would for the Time being have been entitled to the Rents and Profits of the Lands so exchanged, for his own Use and Benefit, or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to his Guardian, Committee, or Trustee, to and for the Use and Benefit of such Person entitled thereto.

LVII. And

LVII. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees, or Committees of such of the Proprietors of any of the Lands or Grounds to be by virtue of this Act divided, allotted, and inclosed as shall be under Coverture, Infants, Lunatics, Idiots, or Persons beyond the Seas, or otherwise incapacitated, and also for any Tenants in Tail or for Life only, or Feoffees for charitable or other Uses, or any of them, by and with the Consent of the said Commissioners (testified in Writing under their Hands and Seals), from Time to Time to charge the Lands and Grounds which shall be so set out and allotted to them respectively by virtue of this Act with any Sum of Money which the said Commissioners shall in their Discretion judge necessary (not exceeding Five Pounds for every Acre of such Lands and Grounds respectively) for or towards their respective Proportions of the Expences occasioned by obtaining and carrying this Act into execution, and for securing the Repayment of such Money, with Interest, to grant, mortgage, lease, or demise the Lands and Grounds so to be set out and allotted as aforesaid, or any Part thereof, to any Person who shall advance and lend the same respectively for any Term or Number of Years; but so that such Grant, Demise, Lease, or Mortgage be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby secured, with the Interest thereof, shall be fully paid and satisfied; and so that in every such Grant, Demise, Lease, or Mortgage which shall be made by or on behalf of any Person interested or entitled to any such mortgaged Premises for the Term of his natural Life, there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his Life in such Manner as that no Person afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title of such Possession shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Persons having limited Interests may raise Money by Mortgage to defray Expences.

LVIII. And be it further enacted, That every Person to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum of Money by him lent and advanced on the Credit of and for the Purposes mentioned in this Act, or who shall be entitled to the Money thereby secured, shall and may from Time to Time, by any Deed, Surrender, or Writing under his Hand and Seal, to be executed in the Presence of and attested by some credible Witness, assign and transfer the same Security, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his Estate, Right, Title, or Interest and Term of Years then to come and unexpired of, in, and to the same, unto any Person whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Assignee, his Executors or Administrators, and all Persons claiming under him or them, shall and may use, take, and pursue all such lawful Methods, Causes, and Expedients in Law or Equity, for recovering or obtaining Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Nonpayment of the Principal Money and Interest to be thereby secured, or any Part thereof respectively, as is or are used, taken, and pursued in Cases of the like Nature.

Mortgages may be assigned.

LIX. And

Leases at  
Rack Rent  
to be void.

LIX. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall be marked and staked out, and the Commissioners shall have directed the same to be entered upon by the Persons respectively to or for whom the same shall be intended, every Lease and other Agreement at Rack Rent subsisting of all or any Part of the said Lands hereby directed to be divided, allotted, and inclosed, and of any Right of Common thereon, and of the Lands and Homesteads belonging thereto, for any Term of Years not exceeding Twenty-one Years, save and except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure, shall cease, determine, and be void as to all such Lands and Rights of Common respectively, but not as to any other Hereditaments comprised therein, such Compensation being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated as the said Commissioners shall by Writing under their Hands order and direct in that Behalf; and if any such Compensation shall not be paid to the Party entitled to receive the same within One Calendar Month after Demand made in Writing under the Hand or Common Seal (as the Case may require) of the Party to whom the same shall be payable, the said Commissioners are hereby required to raise and levy the same, for the Use and Benefit of the Party entitled thereto, by such Ways and Means as the Rates to be levied for defraying the Costs, Charges, and Expences of obtaining and executing this Act are directed to be raised and recovered.

Beneficial  
Leases not  
to be set  
aside, &c.

LX. Provided always, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Leases from any Corporation or Person of any Lands in the said Manor and Township of *Tolley*, but the Person entitled to such beneficial Lease shall and may hold and enjoy his Term under the same Rents and Covenants as are specified in his Lease.

Deeds,  
Wills, &c.  
not to be  
affected.

LXI. Provided always, and be it further enacted, That nothing in this Act contained shall extend to revoke, annul, make void, or alter any Deed, Will, or Instrument, or to prejudice any Person having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Rent, or Incumbrance, out of, upon, or affecting any of the Lands or Grounds hereby directed to be divided, allotted, and inclosed, or any of the Lands which may be exchanged or parted with in pursuance of this Act, but that as well the Lands allotted and exchanged as the Lands which shall be assigned in compensation for any other Estate or Right by virtue of this Act shall, immediately after such Allotment, Exchange, or Assignment, remain and enure, and the several Persons to whom the same shall be so allotted, assigned, or given in exchange as aforesaid shall be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes, and subject and liable to such and the same Wills, Settlements, Limitations, Remainders, Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Assignments shall have been made should or would have stood severally limited, settled, vested, or been subject or liable to, or been held by, in case the same respectively had not been allotted, exchanged, parted with, or assigned as aforesaid, and this Act had not been passed, and



subject nevertheless to all such Mortgages as shall be made by virtue of this Act, and to all the other Provisions of this Act.

LXII. And be it further enacted, That once in every Year during the Execution of this Act the said Commissioners shall and they are hereby required to make a true and just Statement and Account of all Monies by them received and expended, or due to them or to their Clerk for their respective Trouble and Expences, in the Execution of this Act or the said recited Acts, and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before any One of Her Majesty's Justices of the Peace for the said County of *Derby*, who shall not be interested in the said Commons and Waste Grounds, or the Division, Allotment, or Inclosure thereof, to be by him examined and balanced, and such Balance shall be by such Justice stated in the Books of Accounts to be kept in the Office of the Clerk to the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned or valid in Law until the same shall have been duly allowed by such Justice, subject nevertheless to the Power of Appeal herein-after contained.

Commissioners to lay Accounts before a Justice.

LXIII. And be it further enacted, That the Award to be made by the said Commissioners under the Authority of this Act and the said first-recited Act shall be executed and published within Three Years from the passing of this Act, and, together with a proper Map or Plan of the said Commons and Waste Grounds thereto annexed, shall, within Fourteen Days next after the Execution thereof, be delivered to the Clerk of the Peace for the said County of *Derby*, who is hereby required to deposit and keep the same among the Records of the said County, so that recourse may be had thereto by any Person interested in the Premises, for the Reception whereof the Fee of Two Guineas shall be paid, and no more, and for the Inspection and Perusal whereof the Sum of One Shilling and no more shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said recited Act; and a Copy of the said Award, fairly transcribed in a Book, with a proper Map or Plan of the Allotments to be set out to the Proprietors of Estates in the said Township, attested and signed by the said Commissioners, shall within the Time aforesaid be deposited in the Parish Church of *Dronfield* aforesaid, and there kept in a proper Box to be provided for that Purpose, and a similar Copy shall within the Time aforesaid be deposited in the Hands of the Lord of the said Manor of *Totley*; and the said Award, and each Copy thereof, so attested, and any other Copy of the said Award, or of any Part or Parts thereof, attested by the said Clerk of the Peace for the Time being of the said County of *Derby*, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence and no more shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Award to be deposited with the Clerk of the Peace, and a Copy thereof in the Parish Church of *Dronfield*.

[*Private.*]

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LXIV. And

Allowing an Appeal to the Quarter Sessions.

LXIV. And be it further enacted, That if any Person or Corporation shall think himself aggrieved by any thing done or omitted to be done in pursuance of this Act or the said recited Acts, (other than and except as to such Claims, Matters, and Things as shall be ascertained, settled, tried, or determined by the Verdict of a Jury under the Power and Authority herein-before contained, or where by any of the Provisions or Clauses of the said recited Acts or this Act the Determinations, Orders, Acts, and Proceedings of the said Commissioners are declared or directed to be final and conclusive,) then and in every such Case he may appeal to the Justices at the General Quarter Sessions of the Peace which shall be holden for the said County of *Derby* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Clerk of the said Commissioners and the Party concerned Fourteen Days Notice in Writing of such Appeal, and of the Matter thereof (except with respect to the Accounts of the said Commissioners, which, notwithstanding the same shall have been examined and balanced and published as aforesaid, may be appealed against at any Time within Six Calendar Months after the Delivery of the said Award in manner aforesaid to the Clerk of the Peace for the said County of *Derby*, on giving to the Commissioners such Notice as last aforesaid); and the Justices (not interested in the Premises) at the 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 liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of such Justices shall be final and conclusive on all Parties concerned, and shall not be removed or removeable, by Certiorari or any other Writ or Process whatsoever, into any of Her 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 as to the said Justices in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

Power to make additional Rate in case of Deficiency.

LXV. Provided always, and be it further enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the said Commissioners, either before or after the Execution of their Award, that the Money to arise by any previous Rates shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Rate to be made and levied upon the several Persons interested in the said Lands and Grounds (save and except the said *Digby Lord Middleton*) hereby authorized to be divided, allotted, and inclosed, in such Shares and Proportions, within such Time, and to be paid to such Persons as the said Commissioners shall from Time to Time direct and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid shall neglect or refuse to

pay his Share or Proportion of any such Rate within the Time to be respectively appointed as aforesaid, or at any Time after, upon Demand; the same shall and may be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

LXVI. Provided also, and be it further enacted, That if at the Time of the Execution of the said Award, there shall remain due from any Person any Sum of Money which shall have been adjudged, ordered, or directed to be paid by virtue of this Act, it shall be lawful for the said Commissioners and they are hereby authorized and required to levy and raise the same in like Manner as they might or could have done before the Execution of their Award.

Monies may be recovered after the Execution of the Award.

LXVII. And be it further enacted, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King George the Third and in the First and Second Years of the Reign of King George the Fourth, and the several Enactments and Provisions thereof, shall be deemed and taken to be and be applied and executed as Part of this Act, except in Cases wherein the same are hereby respectively repealed or varied, or become inapplicable to any of the Purposes of this Act.

Recited Inclosure Acts to form Part of this Act.

LXVIII. And be it further enacted, That in the Construction of this Act every Word importing the Singular Number only shall or may mean and include several Persons or Parties as well as one Person or Party, and several Things as well as one Thing respectively, and the converse; and every Word importing the Masculine Gender only shall or may mean and include a Female as well as a Male; and the other Word "Lands" shall or may mean and include every Species of Land or Ground, whether Arable, Meadow, Pasture, or Wood, and whether Freehold, Copyhold, or Customary, or any other Tenure, and any Messuage, Cottage, Building, Tenement, or Hereditaments; and the Words "Common and Waste Grounds" shall mean and include the several Heaths, Commonable Lands, Commons, and Waste Grounds intended to be divided, allotted, and inclosed by virtue of this Act or the said recited Acts; and the Word "Corporation" shall be understood to mean and include any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; and the Word "Commissioners" to mean and include any Commissioners for the Time being executing this Act; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Meaning of certain Words in this Act.

LXIX. Provided always, and be it further enacted, That nothing in this Act contained shall prejudice, lessen, or defeat the Right, Title, or Interest of the Lord of the said Manor of *Tolley* for the Time being of, in, and to any Mines of Coal and Ironstone lying and being within or under the said Commons and Waste Grounds to be inclosed by virtue of this Act; and that the Lord of the said Manor for the Time being shall and may, from Time to Time and at all Times for ever hereafter, have, hold, and enjoy all Services, Courts, and all Profits and Perquisites of Courts, and all other Royalties, Jurisdictions,

Saving certain Rights of the Lord of the Manor.

Jurisdictions, Pre-eminences, and Privileges whatsoever, to the said Manor or to the Lord thereof for the Time being incident, belonging, or appertaining, (other than and except such Rights of, in, or to the Soil of the said Commons and Waste Grounds as are intended to be barred or extinguished by this Act,) in as full, ample, and beneficial a Manner, to all Intents and Purposes, as the said Lord could or might have held or enjoyed the same if this Act had not been passed; and that the said Lord of the said Manor, his Heirs and Assigns, shall from Time to Time and at all Times hereafter have, hold, work, and enjoy exclusively all Mines of Coal and Ironstone within and under the said Commons and Waste Grounds and every Part thereof, and the several Allotments thereof to be made in pursuance of this Act, together with all convenient Liberty for working the said Mines, and loading and carrying away Coal and Ironstone to be gotten thereout, and of making Pits, Shafts, Drifts, Levels, and Watercourses, and of repairing, amending, and upholding the same, and of doing, executing, and performing all such other Works, Acts, Deeds, Matters, and Things, either now in use or hereafter to be invented, or shall or may be necessary or convenient for the full and complete working, Use, and Enjoyment of such Mines hereby reserved, in as full, ample, and beneficial a Manner to all Intents and Purposes as he could or might have done in case this Act had not passed: Provided always, that the Lord of the said Manor or his Lessee shall be obliged to pay, and shall from Time to Time pay, to the respective Owner and Occupier of such Allotments respectively, such Sum of Money as shall be a reasonable and adequate Recompence and Satisfaction for all such Damages as shall from Time to Time be done to the Herbage or Soil of such Allotments in the working of any such Mines: Provided also, that all Quarries or Pits of Stone, Slate, Clay, or Gravel in, under, or upon any or either of such Allotments shall be the Property of and belong to the Persons to whom such Allotments shall be respectively made.

General  
Saving.

LXX. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to every Person and Corporation, his, her, and their Heirs, Executors, Administrators, and Successors respectively, all Royalties, Liberties, Franchises, Rights, Titles, and Interest (other than and except such as are meant and intended to be by this Act barred, destroyed, and extinguished,) which they, every or any of them, respectively, could or ought to have had and enjoyed, in, to, or in respect of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been passed.

Act as  
printed by  
the Queen's  
Printers to  
be Evidence.

LXXI. And be it further enacted, That this Act shall be printed by the several Printers to the Queen's most Excellent Majesty duly authorized 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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Printers to the Queen's most Excellent Majesty. 1839.