

Value to the Owners thereof and Persons interested therein, but are capable of considerable Improvement; and it would be very advantageous to such Owners and Persons interested if Part of the same were sold for the Purpose of raising Money to defray the Expences of obtaining and carrying this Act into execution, and the Residue were divided, and specific Shares thereof allotted to the Owners thereof and several Persons interested therein according to their several Estates, Rights, and Interests, and if all such Allotments were inclosed: 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 another Act was passed in the First and Second Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Joseph Lee* of *Redbrook* in the County of *Salop*, Gentleman, shall be and he is hereby appointed sole Commissioner for dividing, allotting, and inclosing the said Commons and Waste Lands, and for carrying this Act and the said recited Acts into execution, subject to the Directions, Powers, and Provisions contained in the said recited Acts, or such of them as are not varied or altered by or repugnant to any of the Provisions of this Act.

41G.3.c.109.

1 & 2 G. 4.
c. 43.Commis-
sioner.Appointing
a new Com-
missioner.

II. And be it further enacted, That when and as often as the said Commissioner, or any other Commissioner to be hereafter appointed by virtue of this Act, shall die, or refuse to act, or become incapacitated, or neglect for the Space of Three Calendar Months to act as such Commissioner, then and in such Case the major Part in Value (to be ascertained by the then last Poor-rate Assessment) of the several Owners and Proprietors of the said Estates and Hereditaments interested in the said Commons or Waste Lands for the Time being present at some public Meeting to be holden in the said Parish of *Acton*, of which Meeting and the Purpose thereof Notice shall be given by any Two or more of the said Owners or Proprietors at least Twenty-one Days previous to such Meeting by affixing such Notice on the principal outer Door of the Parish Church of *Acton* aforesaid, and by inserting the same in One of the *Chester* Weekly Newspapers, shall and they are hereby empowered from Time to Time by Writing under their Hands to appoint some other Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the Room and Stead of such Commissioner so dying or refusing or neglecting to act or becoming incapable of acting as aforesaid; and any Commissioner so to be appointed, after taking the Oath or Affirmation prescribed by the said first-recited Act in that Behalf, shall have the like Power for carrying this Act and the said recited Acts into execution, and shall be subject and liable to the like Rules, Regulations, and Restrictions, as if he had been nominated a Commissioner in and by this Act.

Surveys and
Surveyors.

III. And be it further enacted, That such Survey and Admeasurement of the said Common or Waste Lands, or any of the said ancient Estates,
or

or any Part or Parts thereof, as in the Judgment of the said Commissioner shall be requisite for the Purposes of this Act, shall be made, and it shall be lawful for the said Commissioner by Writing under his Hand to appoint any Person (not interested in the said Inclosure) to be a Surveyor: Provided always, that it shall be lawful for the said Commissioner to adopt any Survey, Admeasurement, and Plan already made, without causing a new Survey and Admeasurement to be made thereof as authorized by the said first-recited Act, and out of the Money to be raised by virtue of this Act to make such Satisfaction to the Person or Persons producing such approved Survey, Admeasurement, or Plan as the said Commissioner shall think reasonable: Provided also, that nothing in the said first-recited Act or this Act contained shall extend to require the said Commissioner to make any Admeasurement, Plan, or Valuation of the said ancient Estates or any of them, unless the said Commissioner shall deem such Admeasurement, Plan, or Valuation expedient for the Purposes of this Act.

IV. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to appoint a Clerk to assist him in the Execution of this Act, and from Time to Time to remove such Clerk and appoint another in his Stead, as to such Commissioner shall seem meet. Commissioner to appoint a Clerk.

V. And be it further enacted, That the said Commissioner shall and he is hereby required to give or cause to be given public Notice in One of the *Chester* Papers, and also Notice in Writing by affixing the same on the principal Door of the Parish Church of *Acton* aforesaid on some *Sunday* immediately before Divine Service, of the Time and Place of the first and every subsequent Meeting for the Execution of this Act, Seven Days at least before every such Meeting (Meetings by Adjournment only excepted), which said Meeting shall be held within the said Parish of *Acton*, or within Three Miles from the Boundary thereof; and if the said Commissioner shall not attend at the Time and Place appointed for any such Meeting, or to which any such Meeting shall be adjourned, it shall be lawful for the Clerk or Clerks of the said Commissioner to adjourn such Meeting to any future Day not exceeding Fourteen Days from the Day of such Adjournment, to be holden at the same Place, and the said Clerk is hereby required to give Notice of such Adjournment to the said Commissioner Three Days at least before the Day appointed for such Meeting. Commissioner to give Notice of his Meetings.

VI. And for regulating the Duration of all Meetings to be holden for the Purposes of this Act, be it further 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 any Meeting to be holden for the Purposes of this Act of less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged as only Half a Day, and the said Commissioner and his Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioner or his Clerk, in which shall be entered the several Days on which the said Commissioner shall hold his Meetings, and in such Book shall also be entered at what Hour the said Commissioner Regulating the Duration of Meetings.

sioner and his Clerk were respectively present at such Meeting, and at what Hour they respectively left the same, and such Book shall be signed by the Commissioner and his Clerk at the Termination of each Meeting, and shall be open to the Inspection of any Person or Persons interested in the said Division, Allotment, and Inclosure, or his, her, or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided always, that it shall not be lawful for the said Commissioner to retain or pay to himself or his Clerk, out of any Monies to be received by him or over which he may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-before directed to be made to the Commissioner and his 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 Day of the Delivery of the Award herein-after directed to be made to the Clerk of the Peace of the said County of *Chester*, or in case the Accounts of the said Commissioner 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 Commissioner or his Clerk previous to the Execution of the Award herein-after directed to be made, the Commissioner for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due.

Other Notices how to be given.

VII. Provided always, and be it further enacted, That all other Notices necessary and requisite to be given by the said Commissioner in pursuance of this Act or the said recited Acts (the Manner of giving which is not hereby or thereby otherwise particularly directed) shall be given by Advertisement in any of the *Chester* Newspapers.

Proceedings to be entered.

VIII. And be it further enacted, That all Orders and Proceedings of the said Commissioner shall be entered in a Book or Books to be provided for that Purpose, and shall be signed by the said Commissioner; and all such Orders shall and may be read in Evidence in all Suits and in all Proceedings whatsoever concerning any thing done in relation to the Execution of this Act.

Commissioner may settle Disputes;

IX. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties who now are or shall before the Execution of the Award of the said Commissioner be interested, or who may claim to be interested, in the said Manors, or in the said intended Division or Allotment, touching or concerning their respective Shares, Rights, and Interest in the Lands and Grounds to be divided and allotted by virtue of this Act, or any other Matter or Thing relating to the said intended Division or Allotment, it shall and may be lawful for the said Commissioner and he is hereby authorized and empowered to hear and determine the same.

but not determine Titles;

X. Provided always, and be it further enacted, That nothing herein contained shall authorize and empower the said Commissioner to determine

mine any Title to any Estates, Messuages, Cottages, Tenements, or Hereditaments whatsoever.

XI. Provided always, and be it further enacted, That nothing in this Act contained shall authorize and empower the said Commissioner to determine any Right between any Parties contrary to the Possession of any such Parties (except as to Encroachments, Inclosures, or Erections made within the Period of Twenty Years); but in case the said Commissioner shall be of opinion against the Right of the Person or Persons so in Possession he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or shall have been recovered from him, her, or them by Ejectment or other due Course of Law. nor molest Possession.

XII. And be it further enacted, That in case the said Commissioner shall, upon the hearing or determining of any Claim or Claims, or Objection or Objections, to be delivered to him in pursuance of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made by the Party or Parties whose Claim or Claims or Objection or Objections shall be thereby disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs or Charges shall refuse or neglect to pay the same on Demand, then it shall be lawful for the said Commissioner and he is hereby authorized and required, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Party or Parties refusing or neglecting to pay the same, together with the Costs and Charges of such Distress and Sale, rendering the Overplus (if any), on Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold. Commissioner may award Costs.

XIII. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said Commons and Waste Grounds shall be dissatisfied with any Determination of the said Commissioner touching or concerning any Claim or Claims to the Right of Soil, or any Rights of Common, or other Rights or Interests, in, over, upon, or out of the same Lands or Grounds, or any Part or Parts thereof, it shall be lawful for the Person or Persons so dissatisfied to cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioner shall have been notified in Writing to the Person or Persons against whom such Determination shall have been made, or to his, her, or their known Agent or Attorney; and the Person or Persons so dissatisfied as aforesaid shall proceed to a Trial at Law of the Matter so determined by the said Commissioner at the next or at the second Assizes to be holden for the County of *Chester* after such Action or Actions shall have been so commenced; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they are and is hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, Allowing Rights to be tried by an Action at Law.

[*Private.*]

and accept One or more Issue or Issues, whereby such Claim or Claims, Objection or Objections, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon and to all and every Person or Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial or Trials to be had therein, which it shall be lawful for the Court to do in case the said Court shall think proper; and after such Verdict or Verdicts shall be obtained and not set aside by the Court the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims, Right or Rights, or Interest or Interests thereby determined, according to the Event of such Trial or Trials: Provided always, that if no Action at Law shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial, within the Time and in the Manner herein-before for that Purpose mentioned, then the Determination of the said Commissioner shall be binding, final, and conclusive to all Intents and Purposes whatsoever.

Actions not to abate by the Death of the Parties, &c.

XIV. Provided always, and be it further enacted, That if any of the Parties in any Action or Actions to be brought or prosecuted in pursuance of this Act shall die pending the same, such Action or Actions shall not abate by reason thereof, but shall be proceeded in as if no such Even had happened; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons who might have brought such Action or Actions against the Person or Persons so dying to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioner with Process for commencing such Action or Actions in the same Manner as the Party or Parties so dying might have been served therewith if living; and it shall thereupon be incumbent on the Heirs or Heirs, or any other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Suits not to impede the Execution of the Act,

XV. Provided always, and be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching or concerning the Right, Title, or Interest of any Person or Persons in or to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever for or in respect of which any Right of Common or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, or hinder the said Commissioner from proceeding in the Execution of the Powers vested in him by this Act or the said

recited Acts, but the said Division, Allotment, and Inclosure shall be proceeded in notwithstanding such Suit or Suits; and the said Commissioner shall award the Allotment or Allotments in respect of the Hereditaments to which such Suit or Suits shall relate to the Person or Persons or Party or Parties who shall be in the actual Possession or Enjoyment of such Hereditaments, and the same Allotment or Allotments shall follow the Event of any such Suit or Suits, and may be had and taken by the Person or Persons or Party or Parties who, upon the Determination of such Suit or Suits, shall become entitled to the same.

XVI. And be it further enacted, That if any of the Parties 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 Commissioner shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers given to him by this Act or the said recited Acts in such Manner as he might have done in case such Party or Parties were still living; and the Share or Shares of the Person or Persons so dying shall be allotted to the Person or Persons who by the Law shall become entitled to the same, and shall be accepted, fenced, and taken by him, her, or them according to the Directions of this Act or the said recited Acts, and he, she, or they shall be liable to the Charges and Expences under the several Provisions of this Act and the said recited Acts.

nor Deaths
of Parties
interested.

XVII. And be it further enacted, That all Encroachments, Inclosures, and Erections upon or from the said Commons or Waste Lands intended to be divided, allotted, or inclosed by virtue of this Act, which have been made by any Person or Persons within Twenty Years next before the passing of this Act, shall be deemed a Part of such Commons or Waste Lands: Provided always, that all such Encroachments as shall be in the Possession of or shall belong to any Person or Persons entitled to any Allotment under or by virtue of this Act of equal or greater Value than such Encroachments shall, with the Buildings thereon, subject to any Right of Way leading through the same, be allotted to such Person and Persons as and for the Whole or Part (as the Case may be) of his, her, or their Share or Proportion of the said Commons or Waste Lands, estimating the Value of such Encroachment according to the original State when inclosed or the Value of the Waste Lands adjoining; and in case any such last-mentioned Encroachments shall, in the Judgment of the said Commissioner, exceed in Value the Allotment to which such Person or Persons shall be so entitled, then and in such Case such Person or Persons shall pay to the said Commissioner such Sum or Sums of Money as the said Commissioner shall consider to be equal to such Excess, and the said Commissioner shall apply such Sum or Sums to be paid to him as aforesaid as Part and in aid of the Monies to be raised for defraying the Costs, Charges, and Expences in manner provided for by this Act; and if any Surplus Money shall remain, such Surplus shall be divided and apportioned between and amongst the several Proprietors and other Persons interested of and in the Lands hereby directed to be divided, allotted, and inclosed (except such of the said Proprietors who shall have a larger Allotment of Land made to them in consideration of their paying their Proportions of the said Costs, Charges, and Expences as herein-after mentioned,) according to their several and respective Interests therein,

Encroach-
ments.

therein, and paid to them in case they shall be seised in Fee Simple of their several Allotments, or otherwise such Surplus Money shall be paid and applied in the Manner herein-after directed in Cases wherein any Money is to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, and Hereditaments to be settled to the same Purposes: Provided always, that if any such Person or Persons shall refuse or neglect to pay such Sum or Sums of Money at such Time or Times as the said Commissioner shall appoint, then such Encroachment shall be divided and allotted according to the Provisions of this Act; and in case any Dispute or Difference shall arise touching any such Encroachments or the Extent thereof, such Dispute or Difference shall be finally determined by the said Commissioner.

Lands to be set out for Sale to defray Expences of Act.

XVIII. And be it further enacted, That the said Commissioner shall set out and allot such Parts and Parcels of the said Commons or Waste Lands from Time to Time as he shall judge sufficient in Value when sold to defray the necessary Expences attending the applying for and obtaining and passing this Act, and carrying the same and the said recited Acts into effect, and of surveying, measuring, planning, valuing, dividing, and allotting the said Commons or Waste Lands, and of preparing and depositing his Award, and all other the necessary Charges and Expences arising and accruing in the course of carrying the Powers in this Act and the said recited Acts into full and complete Execution and Effect, and shall sell such Allotment or Allotments in the Manner and subject to the Regulations mentioned and contained in the said first-recited Act; and the said Commissioner shall, on Payment of the Purchase Money for such Allotment or Allotments so to be sold for the Purposes aforesaid, and he is hereby authorized and empowered, by Indenture or Indentures under his Hand and Seal duly executed and attested (to be prepared at the Expence of the Purchaser or Purchasers), to convey, assure, and confirm the same Allotment or Allotments, free from all Claims, Incumbrances, and Demands, by way of Lease and Release, or by Deed of Feoffment, to the Use of the Purchaser or Purchasers thereof, his, her, and their Heirs and Assigns for ever, or unto such Person or Persons, and to or for such Uses, Intents, and Purposes, and upon and for such Trusts or such Purchaser or Purchasers shall, by such Deeds of Lease and Release, or Deed of Feoffment, direct or appoint; and every such Conveyance shall be valid and effectual in the Law according to the Form and Effect of such Conveyance or Conveyances, any thing in the first-recited Act to the contrary notwithstanding.

Allotment of Gravel Pits.

XIX. And be it further enacted, That it shall be lawful for the said Commissioner and he is hereby required (after he has set out the various Allotments for the Purposes aforesaid, and previously to the Division and Allotment herein-after directed to be made,) to set out, allot, and award so much and such Part of the said Commons or Waste Lands intended to be divided and allotted as aforesaid, not exceeding in the whole Three Acres; as he shall think proper, as and for public Stone, Gravel, or Sand Pits, with convenient Ways to and from the same, for the Use of the public Roads within the Manors of *Burland* and *Baddiley* aforesaid; and such Allotments respectively shall be vested in the Surveyor of the Highways

Highways thereof in Trust to be used as aforesaid, and, subject thereto, to let the Herbage thereof for the most Money that can be reasonably had for the same, and to apply the Rents and Profits arising therefrom towards the Repairs of the said public Highways, free from all Claims, Demands, and Incumbrances.

XX. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, after he shall have set out the several Allotments as aforesaid; to divide, set out, allot, and award the Residue and Remainder of the said Commons and Waste Lands intended by this Act to be divided, allotted, and inclosed unto and amongst the said *John Richard Delap Tollemache, Charles Wicksted, James Tomkinson,* and all other Owners and Proprietors of ancient Messuages, Lands, Tenements, and Hereditaments within the said Manors of *Burland* and *Baddiley*, and other Places near or adjoining thereto, who shall establish any Right or Title to or in the said Commons or Waste Lands, or the Herbage thereof, to the Satisfaction of the said Commissioner, in such Quantities, Shares, and Proportions as the said Commissioner shall deem and adjudge to be a fair Compensation and Satisfaction to him, her, or them respectively for his, her, and their several and respective Estates, Rights, Shares, and Interests, whether manorial or otherwise, in the said Commons or Waste Lands, according to the Provisions of this Act and the said recited Acts, and in such Manner as the said Commissioner shall in his Judgment think just and equitable, due Regard being had as well to Quality and Situation as to the Quantity of the same respectively.

Allotments
of Residue.

XXI. And be it further enacted, That when and as soon as the said Commissioner shall have ascertained the respective Rights, Shares, and Interests of all the Persons interested of and in the said Commons and Waste Lands to be divided, allotted, and inclosed by virtue of this Act, and also the respective Shares and Proportions by him proposed to be allotted to such Persons respectively in lieu thereof, he the said Commissioner shall give Notice in manner herein-before directed of some convenient Time and Place when and where all Persons interested therein may inspect the Plan whereon the same shall be delineated; and as some Persons may on such Inspection be dissatisfied with the Situation of the said intended Allotments the said Commissioner shall give Notice of One Meeting at least to be held by him for receiving Complaints and Objections concerning the same, but the Determination of the said Commissioner with respect to the Situation of such Allotments shall be binding, final, and conclusive upon all Parties.

Plan of
Allotments
to be made
and shown to
Proprietors.

XXII. And be it further enacted, That all and every Person and Persons to whom any such Allotment or Allotments shall be made and set out shall, at his, her, and their own Costs and Charges, fence in the same within such Time and in such Manner as the said Commissioner shall by his Award or any other Writing under his Hand direct.

Fences.

XXIII. And be it further enacted, That the said Commissioner shall and may from Time to Time, as he shall find convenient, deliver to the several Persons who may become entitled to the Allotments hereby directed to be made, set out, or sold, the Possession of their respective Allotments, in manner and subject to the Provisions mentioned or contained in the

Delivering
Possession.

[*Private.*]

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said

said recited Act of the First and Second Years of the Reign of His late Majesty.

Commis-
sioner may
alter Allot-
ments before
Delivery of
Possession.

XXIV. Provided always, and be it further enacted, That it shall be lawful for the said Commissioner to make any Alterations in all or any of the Allotments and Fences which he may have set out and ordered, or of the private Roads laid or to be laid over any such Allotment or Allotments, as he shall think right, at any Time before giving Possession of any such Allotments; and in case any Person or Persons shall, in the Judgment of the said Commissioner, be injured by any such Alterations on account of any Expences he, she, or they may have been at, the said Commissioner shall ascertain and determine what Recompence shall be made, and such Recompence is hereby directed to be made accordingly, and to be raised and paid as the said Commissioner shall by any Writing under his Hand direct and appoint, and to be levied and recovered, in case of Nonpayment, by the same Ways and Means and in the same Manner as is herein-before directed respecting the Recovery of any Sum or Sums of Money which may be awarded by the said Commissioner as Costs.

Allotments
may be sold
before the
Execution of
the Award.

XXV. And be it further enacted, That it shall and may be lawful for any Person or Persons interested in the said Commons or Waste Lands to be inclosed by virtue of this Act, or of any Part thereof, at any Time before the Execution of the Award of the said Commissioner, to sell and dispose of all such Right, Title, Interest, and Property which he, she, or they now hath or have, or shall or may hereafter have, in or to the said Commons or Waste Lands, or any of them, or in or to any Allotment or Allotments to be made in respect thereof by virtue of this Act; and in case of such Sale prior to any such Allotment or Allotments being set out it shall and may be lawful for the said Commissioner, and he is hereby authorized and required, to allot the same to the Purchaser or Purchasers thereof respectively, who shall or may immediately after the Execution of the said Award have, hold, and enjoy such Allotment and Allotments, and shall and may have, use, and exercise every Act of Ownership in, upon, over, and to the same, in as full, ample, and beneficial Manner, to all Intents and Purposes whatsoever, as the former Proprietor or Vendor thereof could or might have done in case such Sale or Sales had not been made, but subject nevertheless to the several Rules, Orders, Conditions, and Directions mentioned and contained in this Act.

Tenure of
Allotments.

XXVI. And be it further enacted, That all and every the Allotment and Allotments to be made by virtue of this Act shall, from and after the making and executing the said Award, be held under and subject to the same Titles, Tenures, Services, Rents, Chief Rents, Quit Rents, Covenants, and Provisoos as the Lands and other Property in respect of which they were so respectively allotted are or may be held and enjoyed; any Law, Custom, or Usage to the contrary notwithstanding.

Exchanges.

XXVII. And be it further enacted, That it shall and may be lawful for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Manors of *Burland* and *Baddiley* in lieu of or in exchange for any other Lands, Tenements, or Hereditaments within the said Manors, or within any adjoining Parish, Township,
Hamlet,

Hamlet, or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners 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 by Copy of Court Roll, or for Years determinable for any Life or Lives, by and with the Consent of the Lessor or Lessors, but not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or for any such Proprietors or Owners as aforesaid who, at the Time of making such Exchange or Exchanges, shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Incapacity, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other Party respectively; and all and every such Exchange and Exchanges so to be made shall be good, valid, and effectual in the Law, and 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 or 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, and Hereditaments so to be exchanged shall lie or be situate.

XXVIII. Provided always, and be it further enacted, That the Costs, Charges, and Expences attending the making and completing of any Exchanges or Partitions, and the Powers and Authorities of this Act or the said first-recited Act, or either of them, contained, shall be paid and borne by the several Persons, Bodies Politic, Corporate, or Collegiate, making such Exchanges or Partitions, and in such Manner and in such Proportions as the said Commissioner shall direct.

Costs of Exchanges.

XXIX. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be deemed or taken to extend to revoke, make void, alter, or annul any Will, Deed, or Settlement, or to prejudice any Person having or claiming any Estate, Right, Title, or Interest, or Jointure, Dower, Portion, Debt, or Incumbrance, out of, upon, or affecting any of the Lands to be divided, allotted, or exchanged in pursuance of this Act, or any Part thereof respectively, but that the several Lands so to be allotted upon the said Division to the several Parties concerned or their Trustees respectively, in pursuance of this Act, shall, immediately after the making of such Allotments, be, remain, and enure, and the several Persons to whom the same shall be awarded and allotted as aforesaid shall from thenceforth stand and be seised and possessed thereof, to such and the same Uses, Estates, Trusts, and Purposes, and subject to such and the same Deeds, Wills, and Settlements, Limitations, Powers, Remainders, Charges, Rents, and Incumbrances, as the several Lands, Grounds, Tenements, and Hereditaments in respect or in lieu whereof such Allotments shall be awarded and made as aforesaid now are or should or would have been subject or liable to or charged with or affected

Wills and Settlements not to be affected.

affected by in case the same had remained undivided, or this Act had not passed.

Application
of Compensa-
tion Mo-
ney when
amounting
to 200*l*.

XXX. And be it further enacted, That when any Sum of Money is, under the Provisions of the said recited Act of the Forty-first Year of the Reign of His late Majesty, or this Act, to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, or Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses, it shall and may be lawful to and for the said Commissioner out of such Sum 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, Tenements, or Hereditaments of the Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, or Executor, Administrator, Husband, Guardian, Committee, or Trustee in Possession of the Lands, Tenements, or Hereditaments so purchased or exchanged, or on which such Timber 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 Lands to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee respectively; and in case the Surplus 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, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled *An Act for 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 Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith or to the same or the like Uses, Trusts, Intents, and

1 G. 4. c. 35.

and Purposes, as the said Court of Exchequer shall authorize to be purchased or redeemed or paid or discharged, or Part or Parts thereof as shall be necessary; or until the same shall, upon the like Application, be laid out in a summary Way, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the aforesaid Lands, Tenements, or Hereditaments stood limited or settled, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime until such Order can 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, and until the said Bank Annuities, or Government or Real Securities, shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interest or 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 Persons who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

XXXI. Provided always, and be it further enacted, That in case the Surplus of such Money shall be less than 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 Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiocy, Lunacy, or any other Incapacity, with the Approbation of the said Commissioner to be signified in Writing under his Hand, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed 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 Persons who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments, such Nomination to be approved of by the said Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands of the nominating or 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 so 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
200*l.* and
amounting
to 20*l.*

XXXII. Provided also, 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 Persons who would for the Time being have been entitled to the Rents and Profits of the

When under
20*l.*

[*Private.*]

Lands,

Lands, Tenements, and Hereditaments so purchased or exchanged, for his or their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or any other Incapacity, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person and Persons respectively entitled thereto.

Expences of Act to be paid out of Money arising by Sale of Land.

Application of Surplus.

XXXIII. And be it further enacted, That the Expence of and attending the obtaining of this Act, and also of carrying the same fully into effect and execution, and of surveying, admeasuring, planning, dividing, and allotting the said Commons and Waste Lands hereby intended to be divided, allotted, and inclosed, and of preparing and depositing the Award or Instrument to be made in pursuance of this Act or the said first-recited Act, and all other the necessary Charges and Expences of the said Commissioner, Clerk, and others employed in, about, or concerning the carrying of this Act and the said recited Acts into execution, shall be borne, paid, and defrayed by and out of the Money which shall be raised by Sale of Lands as herein-before mentioned: Provided always, that in case any Part or Parts of the said Commons or Waste Lands shall be sold for more Money than will be required to defray such Charges and Expences as aforesaid, then and in such Case such Surplus Money shall be divided and apportioned between and among the several Proprietors and other Persons interested of and in the Lands hereby directed to be divided, allotted, and inclosed, (except such of the said Proprietors who shall have a larger Allotment of Land made to them in consideration of their paying their Proportion of the said Costs, Charges, and Expences in Money as herein-before mentioned,) according to their several and respective Interests therein, and be paid to them in case they shall be seised in Fee Simple of their several Allotments, or otherwise such Surplus Money shall be paid and applied in the Manner herein-before directed in Cases where any Money is to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses.

Parties may pay their Shares of Costs in Money instead of its being paid by the Sale of Land.

XXXIV. Provided always, and be it further enacted, That in case any Proprietor or Proprietors of the said Commons or Waste Lands shall be desirous of paying his, her, or their respective Shares of the said Expences in Money instead of sustaining a Loss of Land for that Purpose, and shall give Notice to the Commissioner in Writing of such his, her, or their Desire, then and in all such Cases such Expences shall be paid, borne, and defrayed by such respective Proprietor or Proprietors and Persons interested in the said Lands so allotted, in and by such Shares and Proportions, and at such Time or Times, and to such Person or Persons, as the said Commissioner shall, by Writing under his Hand to be given to such Proprietor or Proprietors, or left for him, her, or them at his, her, or their last or usual Place of Abode, at least Ten Days before such Time or Times of Payment, order and direct, the Commissioner nevertheless keeping a separate Account of the Expences which may be occasioned by the dividing and allotting the said Pieces or Parcels, and rating the respective Proprietors thereof proportionably.

XXXV. And

XXXV. And be it further enacted; That if the Monies to be produced by such Sale or Sales as aforesaid shall not be sufficient to pay all the Charges and Expences aforesaid, then the Deficiency shall be borne, paid, and defrayed by the respective Persons to whom the Lands and Grounds hereby directed or intended to be divided, allotted, and inclosed shall be divided and allotted (except such of the said Persons who shall have paid the whole of their Proportion of such Expences in Money in lieu of sustaining a Loss of Land as herein-before mentioned), in proportion to the real Value of their respective Divisions and Allotments, such Proportion to be settled and ascertained by the said Commissioner, and shall be raised by a Rate or Rates (not exceeding in the whole the Sum of Two Pounds for every Acre of the Lands so to be allotted), and be paid to such Person or Persons and at such Time or Times as the said Commissioner shall by Notice in Writing, to be affixed on the outer Door of the Parish Church of *Acton* aforesaid at least Seven Days previous to the Day of Payment, order and direct; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share or Proportion of the said Deficiency as aforesaid, then the same shall and may be levied and recovered by the same Ways and Means as such Costs, Charges, and Expences could be or might have been levied and recovered under the Provisions of the said recited Act of the Forty-first Year of the Reign of His late Majesty, in case the Expences of obtaining and executing this Act had been directed to be paid in proportion by the Proprietors of Lands or Grounds to whom Allotments shall be made, instead of being raised by the Sale of Land as by this Act is directed.

If Land sold is not sufficient to pay Expences, they may be raised by a Rate.

XXXVI. Provided always, and be it further enacted, That the said Proprietors and their Attornies and Agents shall pay their own Expences when they or any of them shall attend the said Commissioner at any Meeting to be holden in pursuance of this Act.

Proprietors to pay their own Expences at Meetings.

XXXVII. And be it further enacted, That if any Person or Persons shall advance any Sum or Sums of Money for defraying the Expences of obtaining and passing this Act, or for carrying the same into execution, every such Person shall be repaid the same, with Interest after the Rate of Five Pounds *per Centum per Annum*, out of the first Monies which shall be raised or received by the said Commissioner by virtue of this Act or the said recited Acts.

Money advanced to be repaid with Interest.

XXXVIII. And be it further enacted, That the said Commissioner and Clerk, and every other Commissioner and Clerk to be appointed by virtue of this Act, shall respectively be entitled to and receive the Sum of Three Pounds and Three Shillings *per Diem* each, and no more, for each and every Day they shall be actually employed in the Execution of the Powers and Provisions of this Act, including One Day in going to and returning from the Sittings or Meetings, such Sum to include every Expence and Charge for his and their Trouble and Attendance at such Sittings or Meetings, and also for all his and their travelling Charges and Expences, and all other his and their Charges and Expences whatsoever (except the Money to be paid for the Use of the Rooms in which the Business shall be transacted).

Commissioner's and Clerk's Allowance.

XXXIX. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act,

Allowance to Surveyor.

Act, and executing the same and the said recited Acts, the said Commissioner may pay and allow to the Person for the Time being employed as Surveyor for the Purposes of this Act (if any) any Sum which he shall think proper, not exceeding One Shilling *per* Acre, for his Time and Trouble in surveying, measuring, mapping, or planning the Lands and Grounds necessary to be surveyed for the Purposes of this Act, or any Sum not exceeding Two Pounds and Two Shillings for each and every Day he shall be actually and wholly employed, either in surveying, measuring, mapping, or planning, or otherwise as a Surveyor for the Purposes of this Act; which said Sums of One Shilling *per* Acre or Two Pounds and Two Shillings *per* Day shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by him as such Surveyor in and about the Execution of this Act.

For auditing
Accounts.

XL. And be it further enacted, That once at least in every Three Calendar Months during the Execution of this Act (to be computed from the Day of the passing thereof) the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended or due to him for his Trouble and Expences in the Execution of this Act; and such Statement or Account when so made, together with the Voucher relating thereto, shall be by him laid before some Justice or Justices of the Peace acting for the said County of *Chester* who shall not be interested in the said Commons or Waste Lands intended to be divided, allotted, and inclosed under this Act, to be by him or them examined and balanced; and such Balance shall be by such Justice or Justices stated in the Book of Accounts to be kept by the Clerk of the said Commissioner; and no Charge or Item in such Account shall be binding on the Parties concerned, or valid in the Law, unless the same shall have been duly allowed by such Justice or Justices.

Award.

XLI. And be it further enacted, That as soon as conveniently may be after the Division and Allotment of the said Commons or Waste Lands shall have been made and completed, pursuant to the Directions of this Act, the said Commissioner shall form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, with One or more proper Plan or Plans thereto annexed, in the Manner prescribed by the said recited Act of the Forty-first Year of the Reign of His late Majesty, which said Award or Instrument shall be fairly engrossed or written on Parchment, and shall be signed by the said Commissioner, and shall, within Three Calendar Months next after the same shall have been signed as aforesaid, be deposited with the Clerk of the Peace for the said County of *Chester*, who is hereby required to receive, keep, and deposit the same amongst the Records of the said County (for the depositing of which the Sum of Ten Shillings, and no more, shall be demanded or paid), to the end that free Recourse may be had thereto by all Persons interested in the said Division, Allotment, and Inclosure, for the Inspection of which said Award Five Shillings shall be paid, and no more; and a true Copy thereof or of any Part thereof, when and as often as the same shall be required, shall be delivered to any Person or Persons, signed by the Clerk of the Peace or his Deputy for the Time being, purporting the same to be a true Copy, for which no more than Sixpence *per* Sheet, reckoning

reckoning Seventy-two Words to each Sheet, shall be paid; which said Copy, as also the original Award or Instrument, and the Copy hereinafter directed to be written on Parchment and signed by the said Commissioner, shall at all Times hereafter be admitted as legal Evidence in all Courts whatsoever; and the said Commissioner is hereby directed and required to deliver a Copy of the Award or Instrument fairly written on Parchment, with a proper Plan or Plans thereto annexed, signed by the said Commissioner as aforesaid, unto the Churchwardens of the Parish of *Acton* aforesaid for the Time being, to be by them deposited in the Parish Chest of the said Parish Church, to the end that Recourse may be had thereto by the several and respective Proprietors and Parties interested therein at all seasonable Times on Payment of Five Shillings for each Inspection: Provided always, that the said Commissioner shall and he is hereby required to finish the Division and Allotment of the said Commons or Waste Lands hereby directed to be divided and allotted, so that his Award, as directed by this Act or the first-recited Act, may be sealed and executed within the Space of Two Years from the passing of this Act, unless any Suits, Actions, or Controversies at Law or in Equity be brought, commenced, or agitated by any Person or Persons touching any Right, Claim, or Interest in or to the said Commons or Waste Lands, be then depending, in which Case the said Commissioner shall and he is hereby required to seal and execute his said Award within Three Calendar Months next after the Determination or Adjustment of such Suits, Actions, or Controversies.

XLII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done in pursuance of this Act or the said recited Acts or either of them, then and in every such Case (except in such Cases where the Orders and Determinations of the said Commissioner are by this Act or the said recited Acts directed to be final, binding, and conclusive upon all Parties, and except in such Case where an Issue at Law shall be tried as herein-before mentioned,) he, she, or they may appeal to the General or Quarter Sessions of the Peace which shall be held for the said County of *Chester* within Three Calendar Months next after the Cause of Complaint shall have arisen, on giving Twenty-one Days Notice in Writing of such Appeal, and the Cause and Matter thereof, to the said Commissioner; and the Justices in the General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and to award such Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels after deducting the reasonable Charges of Distress and Sale; which Determination of the said Justices shall be final and conclusive on all Parties concerned, and shall not be removed or removable by Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere. Appeal.

XLIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and all and every other Person and Persons, Bodies Politic, [Private.] 3 0 Corporate, General Saving.

Corporate, or Collegiate, and his, her, and their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest (other than and except such as is and are hereby intended to be barred, destroyed, and extinguished,) as he, they, every or any of them, could or ought to have had and enjoyed in, to, or out of the said Commons or Waste Lands hereby directed to be divided, allotted, and inclosed, in case this Act had not been passed.

Act to be
printed by
the King's
Printers.

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

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1835.