



ANNO QUADRAGESIMO OCTAVO

GEORGI II. REGIS.

Cap. 129.

An Act for inclosing Lands in the Parish of *Hathersage* in the County of *Derby*.

[18th June 1808.]

WHEREAS there are within the Townships or Hamlets of *Hathersage*, *Hathersage Outseats*, and *Derwent*, in the Parish of *Hathersage* in the County of *Derby*, divers Open and Common Fields, Meane Inclosures, Wastes, Moors, Commons, and other uninclosed Lands, containing by Estimation Ten thousand Acres, or thereabouts: And whereas the most Noble *William Duke of Devonshire* is Lord of the Manor of *Hathersage* aforesaid: And whereas *Ashton Ashton Shuttleworth* Esquire is or claims to be Lord of the Manor or reputed Manor of *Upper Padley* in the Township or Hamlet of *Hathersage* aforesaid: And whereas the King's most Excellent Majesty, in Right of His Duchy of *Lancaster*, is entitled to a certain Rent or Fee called *Palfrey Silver*, payable by the Inhabitants of *Hathersage* aforesaid: And whereas the said *William Duke of Devonshire* is entitled to the Tythes of Corn, and of Wool and Lamb, arising within the said Townships or Hamlets of *Hathersage* and *Hathersage Outseats*, and to the Tythes of Wool and Lamb arising within the said Township or Hamlet of *Derwent*, or to certain Modules in lieu thereof: And whereas the said *William Duke of Devonshire* is Patron of the Vicarage of *Hathersage* aforesaid, and the Reverend *John Cornu* is Vicar of the Parish Church of *Hathersage* aforesaid,

[Loc. & Per.]

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said,

saïd, and entitled to certain Glebe Lands in respect thereof, and also to the Vicarial and Small Tythes within the saïd Parish, or to certain Moduses or Payments in-lieu thereof: And whereas *Joseph Denman*, Doctor of Medicine, is Owner, and the saïd *John Cornish* is Curate of the Perpetual Curacy of *Derwent* aforesaid, and entitled to certain Glebe Lands in respect thereof: And whereas the saïd *William Duke of Devonshire*, and *Ashton Ashton Shuttleworth*, and also *Marmaduke Middleton Middleton*, *John Balguy*, and *William Longsdon*, Esquires; *Richard Oliver*, *James Brightmore*, *George Morton*, and several other Persons, are respectively Owners and Proprietors of or otherwise interested in the saïd Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other uninclosed Lands: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas it would be for the Advantage of the saïd Owners and Proprietors, and other Persons interested as aforesaid, if the saïd Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other uninclosed Lands, were divided and inclosed, and specifick Allotments made to the several Owners, Proprietors, and Persons interested therein, according to their respective Properties, Rights, and Interests, and a Commutation made for the Great and Small Tythes within the saïd Townships or Hamlets; but such Division, Allotment, and Inclosure, and other Purposes, cannot be made and effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the saïd Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other uninclosed Lands, shall be divided, allotted, and inclosed in Manner herein-after mentioned; and that *James Dowland* of *Cuckney* in the County of *Nottingham*, and *John Nuttall* of *Matlock* in the saïd County of *Derby*, Gentlemen, and their Successors to be elected and appointed in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for the Purposes aforesaid, and for carrying this and the saïd recited Act into Execution, subject to the Rules, Orders, and Directions contained in the saïd recited Act, except in Cases where the same are hereby varied or altered.

Commission-
ers.

Umpire.

II. And be it further enacted, That *William Gauntley* the elder of *Bakewell* in the saïd County of *Derby* Gentleman, and his Successor for the Time being, to be appointed as herein-after mentioned, shall be and he is hereby appointed to act as an Umpire touching any Difference of Opinion which shall arise between the saïd Commissioners in the Execution of this Act; and that all such Difference of Opinion (if any shall arise) shall be stated in Writing, and referred by the saïd Commissioners to the saïd *William Gauntley*, within Twenty-one Days next after any such Difference shall have arisen, who shall determine the same, and deliver to the saïd Commissioners, or One of them, such his Determination in Writing (the Name of the saïd Umpire being thereto signed) within Three Calendar Months from the Time any such Difference shall be referred to him; and the Judgement and Determination of the saïd

William

William Gauntley therein, in all Cases so referred to him, shall be deemed and taken to be the Judgement and Determination of the said Commissioners; and they the said Commissioners shall and they are hereby required to conform thereto; and such Determination shall be inrolled and recorded with, and in the same Manner, as the other Proceedings of the said Commissioners under this Act.

III. And be it further enacted, That if the said *James Dowland*, or any other Commissioner to be appointed in his Stead as herein-after mentioned, shall, before the Execution of all the Powers and Authorities hereby vested in him, die, refuse, or become incapable of acting in the Premises, then and in every such Case and so often, it shall and may be lawful to and for the said *William Duke of Devonshire*, his Heirs or Assigns, by any Writing under his or their Hand or Hands, within Thirty Days next after such Death, Refusal, or Incapacity to act, shall be made known to him or them by Notice in Writing from the surviving or remaining Commissioner (which Notice such Commissioner is hereby required to give) to appoint One other Commissioner (not interested in the said Inclosure) in the Stead of the said *James Dowland*, or such other Commissioner so dying, refusing, or becoming incapable of acting as aforesaid; and if the said *John Nuttall*, or any other Commissioner to be appointed in his Stead as herein-after mentioned, shall, before the Execution of all the Powers and Authorities hereby vested in him, die, refuse, or become incapable of acting in the Premises, then and in every such Case it shall and may be lawful to and for a Majority in Value (to be ascertained by the Land Tax Assessment) of the Proprietors or Persons interested in the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other uninclosed Lands hereby directed to be divided, allotted, and inclosed, or their known Agents or Attornies, or Persons to be appointed for that Purpose by Writing under their respective Hands (except and exclusive of the said *William Duke of Devonshire*, his Heirs or Assigns), who shall be present at a publick Meeting to be appointed for that Purpose by the surviving or remaining Commissioner, within Thirty Days next after such last-mentioned Death, Refusal, or Incapacity to act as aforesaid, of which Meeting Ten Days Notice at the least shall be given in Writing by him, to be affixed on One of the most publick outer Doors of the Parish Church of *Hathersage* aforesaid, and also by Advertisement to be inserted in the Newspaper called *The Derby Mercury*, or in some other Newspaper circulated in the said County of *Derby*, to appoint One other Commissioner (not interested in the said Inclosure) in the Stead of the said *John Nuttall*, or such other Commissioner to be appointed in his Stead so dying, refusing, or becoming incapable of acting as last aforesaid; and in case the said *William Duke of Devonshire*, his Heirs or Assigns, or the said Parties last aforesaid (as the Case may be), shall at any Time make Default in appointing any such new Commissioner within Thirty Days next after the Death of any Commissioner, or his Refusal or Incapacity to act shall be made known as aforesaid, and of which such Notice shall have been given respectively as aforesaid, then the surviving or remaining Commissioner shall and he is hereby required, from Time to Time, by Writing under his Hand, within Thirty Days next after the Expiration of the said Thirty Days allowed to the respective Parties for naming such new Commissioner as aforesaid, to appoint One other Commissioner (not interested in the said Inclosure) in the Room of any such Commissioner

Appointment
of new Com-
missioner and
Umpire.

Commissioner so dying, refusing, or becoming incapable to act as aforesaid; and if the said *William Gauntley*, or any Umpire to be appointed in his Stead as herein-after mentioned, shall, before the Execution of all the Powers and Authorities hereby vested in him, die, refuse, or become incapable of acting in the Premises, then and in every such Case One other Person as Umpire, not interested in the said Inclosure, shall be appointed in the Stead of the said *William Gauntley*, or such other Umpire so dying, refusing, or becoming incapable of acting as aforesaid, by a Majority in Value (to be ascertained by the Land Tax Assessment) of the Proprietors or Persons interested in the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other uninclosed Lands hereby directed to be divided, allotted, and inclosed (including the said *William Duke of Devonshire*, his Heirs or Assigns), or their known Agents or Attornies, or Persons to be appointed for that Purpose by Writing under their respective Hands, who shall be present at a publick Meeting to be appointed for that Purpose by the said Commissioners within Thirty Days next after such last-mentioned Death, Refusal, or Incapacity to act as aforesaid, of which Meeting Ten Days Notice at the least shall be given in Writing to be affixed on one of the most publick outer Doors of the Parish Church of *Hathersage* aforesaid, and also by Advertisement to be inserted in the said Newspaper called *The Derby Mercury*, or in some other Newspaper circulated in the said County of *Derby*; and every Appointment of a Commissioner or Umpire in pursuance of this Act shall be reduced into Writing, and signed by the Person or Persons making the same; and every new Commissioner or Umpire, to be appointed as aforesaid, shall have the like Powers and Authorities as if he had been named a Commissioner or Umpire in this Act.

Umpire to
take an Oath.

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

‘ I do swear [or, being One of the People called *Quakers*,
‘ I do solemnly affirm], 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 for inclosing Lands in the Parish of
‘ *Hathersage* in the County of *Derby*, according to Equity and good
‘ Conscience, and without Favour or Affection, Prejudice or Partiality
‘ to any Person or Persons whomsoever.

‘ So help me GOD.’

Which Oath or Affirmation either of the said Commissioners is hereby empowered and required to administer; and the said Oath or Affirmation so to be taken and subscribed by such Umpire, and also the Appointment of every new Umpire or Commissioner, shall be annexed to and inrolled with the Award of the said Commissioners, and a Copy of the Enrolment thereof shall be admitted as legal Evidence.

Allowance to
Commission-
ers and Um-
pire.

V. And be it further enacted, That each of the said Commissioners and Umpire shall be allowed and paid by the said Proprietors the Sum of Two Pounds and Two Shillings, and no more, for every Day which he shall attend and be employed at any Meeting or Meetings, or in going
to

to or returning from thence, or otherwise howsoever, in executing the Powers and Authorities hereby given to them, which said Sum of Two Pounds and Two Shillings shall include all Expences whatsoever incurred by going to, returning from, or attending at any such Meeting or Meetings.

VI. And be it further enacted, That the said Commissioners shall and they are hereby required to cause publick Notice to be given by Writing under their Hands, to be affixed on one of the most publick outer Doors of the Parish Church of *Hathersage* aforesaid, and also by Advertisement to be inserted in the said Newspaper called *The Derby Mercury*, or in some other Newspaper published or circulated in the said County of *Derby*, of the Time and Place of the First and every other Attendance for the Execution of this Act, Seven Days at the least before any such Attendance shall be held, Attendance by Adjournment (which it shall be lawful for the said Commissioners or either of them to make) only excepted: Provided always, that all Attendances of the said Commissioners and Umpire in the Execution of this or the said recited Act shall be held within Eight Miles of the said Parish of *Hathersage*.

Notice of Meetings.

VII. Provided always, and be it further enacted, That all other Notices necessary or requisite to be made or given by the said Commissioners shall be made and given by Writing, to be affixed upon one of the most publick outer Doors of the said Parish Church of *Hathersage* aforesaid, or by Advertisement in the said Newspaper, or in some other Newspaper published or circulated in the said County of *Derby*.

Other Notices, how to be given.

VIII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, before they proceed to the Allotments herein-after mentioned, to set out and appoint and direct, or cause to be made, erected, and completed, such publick and private Roads and Ways, and also such Bridges, Banks, Ditches, Drains, Watercourses, and other Conveniencies, in, over, and within the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and uninclosed Lands, intended to be divided, allotted, and inclosed, and also in, over, and within any of the old Inclosures within the said Townships or Hamlets, as the said Commissioners shall judge necessary or proper; and that as well all such private Roads and Ways, as also all such Bridges, Banks, Ditches, Drains, Watercourses, and other Conveniencies, shall respectively be made, erected, and completed, and at all Times thereafter kept in Repair in such Manner, and by such Person or Persons, and the Grass, Herbage, and Soil of such private Roads and Ways, and other Conveniencies, shall appertain and belong to such Person or Persons, and for such Purposes as the said Commissioners in and by their Award shall direct, and in the mean Time, and until their said Award shall be made and executed, as the said Commissioners, in and by any Writing under their Hands, shall order, direct, or appoint; and the said Commissioners shall and may order and award, issue and pay such Satisfaction and Recompence as they shall think reasonable to any Owner or Owners of Lands or Hereditaments which may be damaged or destroyed by making or repairing any such Roads or Ways, or any such Bridges, Banks, Ditches, Drains, Watercourses, or other Conveniencies as aforesaid.

Roads, Bridges, and other Conveniencies to be made and repaired as Commissioners shall appoint.

[*Loc. & Per.*]

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IX. And

For stopping
up Roads.

IX. And be it further enacted, That it shall be lawful to and for the said Commissioners, with the Concurrence and Order of Two Justices of the Peace acting in and for the said County, subject to Appeal as in the said recited Act is mentioned, to divert, stop up, discontinue, alter or change any old publick Carriage or private Roads or Footways, leading into, through, over, or upon the said Open or Common Fields, Mesne Inclosures, Wastes, Moors, or other uninclosed Lands, or the old Inclosures lying within the said Townships or Hamlets; and that such publick Carriage Roads as shall be so stopped up and discontinued shall be deemed Part of the Lands and Grounds to be sold or divided, allotted, and inclosed pursuant to this Act.

Allotment for
publick Wa-
tering Places,
&c.

X. 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 Wastes, Moors, Commons, and uninclosed Lands, hereby intended to be divided, allotted, and inclosed) in such convenient Situation or Situations as they shall think proper within the said Townships or Hamlets, not exceeding Ten Acres in the Whole, to be used for the Purposes of publick Watering Places for Cattle, and for getting and burning Limestone, 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 Townships or Hamlets, and for such other Uses and Purposes for the general Benefit and Advantage of the Inhabitants of the said Townships or Hamlets, as the said Commissioners shall direct; and that the Herbage growing and renewing as well in and upon the Land so to be set out as aforesaid, as also in and upon all and every the private Lanes, Roads, and Ways within the said Townships or Hamlets, shall be vested in such Person or Persons, and applied to such Uses as the said Commissioners shall in and by their said Award direct or appoint.

Allotment to
His Majesty
and other
Persons, in
lieu of Quit
Rents, &c.

XI. And be it further enacted, That the said Commissioners shall and they are hereby required to set out, allot, and appoint unto the King's most Excellent Majesty, His Heirs and Successors, in Right of His Duchy of *Lancaster*, or to any other Person or Persons, such Parcel or Parcels of Land out of and from the said Wastes, Moors, Commons, and uninclosed Lands hereby directed to be divided, allotted, and inclosed, as shall in the Judgement of the said Commissioners be equal in Value to or an Equivalent for the said Rent or Fee called *Palfrey Silver*, or any other Rents, Quit Rents, Fee Farm Rents, or other dry or unimprovable Rents which are now respectively due and payable to the said King's Majesty, His Heirs and Successors, in Right of His said Duchy, or to any other Person or Persons, from the Inhabitants of the said Townships or Hamlets respectively, or out of, from, or in respect of the said Wastes, Moors, Commons, and uninclosed Lands, or any Part thereof, or out of, from, or in respect of any Messuages, Cottages, Lands, or Hereditaments, situate, lying, and being within the said Townships or Hamlets which belong to Persons having Right of Common in and upon the said Wastes, Moors, Commons, and uninclosed Lands: Provided nevertheless, that the Lands so to be set out, allotted, and appointed as a Compensation or Equivalent for any Rents in respect of any such Messuages, Cottages, Lands, or Hereditaments as last mentioned, shall be deducted out

of or taken from the several or respective Allotments of the Person or Persons who now pay, or shall or may at the Time of such Allotment be liable to pay such respective Rents.

XII. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next Place, to set out and allot unto the said Vicar of *Hathersage* and Curate of *Derwent* aforesaid respectively, and their respective Successors, such Parcels of Land, Part of the said Wastes, Moors, Commons, and uninclosed Lands intended by this Act to be inclosed, as in the Judgement of the said Commissioners shall be a full Equivalent and Compensation for their respective uninclosed Lands and Rights of Common for and in respect of the Glebe Lands to which they are severally entitled as aforesaid.

Allotments for
Glebe Lands.

XIII. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next Place, to set out and allot unto and for the said *William Duke of Devonshire*, his Heirs and Assigns, and the said Vicar of *Hathersage* and his Successors, such Part or Parts of the said Wastes, Moors, Commons, and uninclosed Lands intended by this Act to be inclosed, as shall in the Judgement of the said Commissioners be equal in Value to One-eighth Part of the Whole of the inclosed Lands within the said Townships or Hamlets (except such Lands, Part of the said inclosed Lands, as shall be covered by any Modus or Moduses in respect of which no greater Allotment or Allotments than the Value of such Modus or Moduses shall be made or allotted), and also to One-ninth Part of the Whole of the said Wastes, Moors, Commons, and uninclosed Lands within the said Townships or Hamlets, the same Allotments to be taken from such Part or Parts of the said Wastes, Moors, Commons, and uninclosed Lands, intended by this Act to be inclosed, as shall in the Judgement of the said Commissioners be of an average Value *per Acre* with the Residue thereof; and that the said Allotments respectively shall, by the said Commissioners, be divided and allotted unto and between the said *William Duke of Devonshire*, his Heirs and Assigns, and the said Vicar of *Hathersage* and his Successors, in Proportion to their respective Rights and Interests, and in such Manner as the said Commissioners shall adjudge right, and which said Allotments respectively shall be and be taken in lieu of and in full Satisfaction of and for all Tythes both Great and Small, and Moduses or other Payments in lieu of Tythes (Mortuaries, *Easter Offerings* and Surplice Fees excepted) arising or payable, or which might arise or become payable within the said Townships or Hamlets, or any of them.

Allotments
for Tythes.

XIV. And be it further enacted, That if it shall happen that any Proprietor or Proprietors of inclosed Lands shall not have or be entitled to a sufficient Quantity of Land on the said Wastes, Moors, Commons, or uninclosed Lands, to make Compensation for the Tythes of his, her, or their inclosed Lands, in Manner aforesaid, such Deficiency shall be made up by and out of the other Part of the said Wastes, Moors, Commons, or uninclosed Lands, and such Proprietor or Proprietors shall pay such Sum or Sums of Money as the said Commissioners shall adjudge reasonable, as an Equivalent for such Deficiency; which Sum and Sums of Money shall be applied towards the Expences of carrying this Act into Execution, and shall be levied and recovered in like Manner as Penalties

In case Proprietors of old Inclosures have not sufficient Common to commute for Tythes, the Deficiency to be made up from the other Part of the Common, and Money paid in lieu thereof towards the Expences of the Act.

Or

or other Sums of Money are hereby and by the said recited Act directed to be levied and recovered.

Glebe and
Tythe Allot-
ments to be
Ring-fenced.

XV. And be it further enacted, That the Allotment and Allotments herein-before respectively directed to be set out and allotted to and for the said *William Duke of Devonshire*, his Heirs and Assigns, and the said Vicar of *Hathersage* and Curate of *Derwent*, in respect of Glebe Lands, or in lieu of Tythes or other Payments in respect thereof, as before mentioned and set forth, shall (save and except on such Parts and Sides thereof as the said Commissioners shall order and direct to be fenced by any of the Owners or Proprietors of Lands whose Allotments shall adjoin thereto) be Ring-fenced and fenced on each Side of any publick Carriage Road that shall by the said Commissioners be laid out, or directed to be made or continued through the same, with good Stone Walls of the Height of Six Feet and of the Breadth of Two Feet at the Bottom, and constructed in a substantial and workmanlike Manner, with customary Coping, and good Wooden Gates properly set up and hung on proper Stone Posts, in such Parts of the said Allotments as the said Commissioners shall think necessary and direct, by and at the Expence of the respective Owners and Proprietors of Lands subject to the Payment of Tythes within the said Townships or Hamlets, in such Proportions as the said Commissioners shall direct or appoint; and that such Walls, Fences, and Gates, shall for ever after the making thereof be maintained and kept in Repair by the said *William Duke of Devonshire*, his Heirs and Assigns, and the said Vicar of *Hathersage* and Curate of *Derwent*, and their Successors for the Time being respectively, so far as their respective Allotments shall extend; and that from the First Day of *November* next after the said Allotments for or in lieu of Tythes or Moduses, and Payments in lieu thereof, shall have been allotted and fenced as aforesaid, all and all Manner of Tythes, both Great and Small, and all Moduses and Payments in lieu thereof, Mortuaries, *Easter Offerings* and Surplice Fees excepted, as well for and in respect of the said Wastes, Moors, Commons, and uninclosed Lands hereby intended to be divided, allotted, and inclosed, as also for and in respect of the ancient Inclosures, and all other Lands within the said Townships and Hamlets, and each and every of them, shall cease, determine, and be for ever extinguished.

Allotments to
the Lords of
the Manors.

XVI. And be it further enacted, That the said Commissioners, after having set out the several Allotments herein-before directed, shall and they are hereby required to set out and allot unto and for the said *William Duke of Devonshire*, as Lord of the Manor of *Hathersage* aforesaid, his Heirs and Assigns, and the said *Ashton Ashton Shuttleworth*, as Lord of the Manor or reputed Manor of *Upper Padley* aforesaid, so much and such Part and Parts of the then Residue of the said Wastes, Moors, Commons, and uninclosed Lands within the said Manors respectively, as in the Judgement of the said Commissioners shall be equal in Value to One-eighteenth Part or Share of such Residue of the said Wastes, Moors, Commons, and uninclosed Lands, for and in lieu of and as a full Recompence and Satisfaction for their respective Rights to the Soil of the said Wastes, Moors, Commons, and uninclosed Lands hereby intended to be inclosed, and for their respective Consents to the Inclosure, which said Allotment or Allotments shall contain the Stone, Flag, and other Quarries now open and worked upon the Commons in the said respective Manors;

Manors; and that the same Allotments respectively shall be by the said Commissioners divided and set out unto and between the said *William Duke of Devonshire* and *Ashton Ashton Shuttleworth*, their respective Heirs and Assigns, in Proportion and according to their respective Rights and Interests therein as Lords of the Manors aforesaid.

XVII. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and allot the Residue of the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and uninclosed Lands, hereby intended to be divided, allotted, and inclosed, unto, between, and amongst the several Persons who at the Time of making such Division, Allotment, and Inclosure, shall be entitled thereto or interested therein, in Proportion to their several and respective Shares, Estates, Rights, Properties, and Interests; 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 due Regard to Situation and Convenience, as well as to the Quantity and Quality of the Land to be allotted, so as that the Allotment or Allotments 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 Act, as they may think right and expedient; and in case any Person or Persons 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, her, or them for such Injury, and shall order and direct by whom, and in what Manner such Recompence shall be made.

Allotment of
Residue to
Proprietors.

Commission-
ers may make
any Altera-
tion before
Execution of
their Award.

XVIII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to order and direct any Part or Parts of the said Wastes, Moors, Commons, and uninclosed Lands to be left open and uninclosed, and to be marked out only with Boundary Stones, and held in Severalty as a stinted Pasture or Sheepwalk, or stinted Pastures or Sheepwalks, and to be subject to such Rules, Orders, and Regulations touching the future using, stocking, and enjoyment thereof, as the said Commissioners shall think proper, and for the Advantage of the several Owners thereof, and shall in and by their said Award order and direct: Provided nevertheless, that the said Commissioners shall and they are hereby required in and by their said Award, to direct and appoint how much and what Part or Parts of the Fence or Fences of such stinted Pastures or Sheepwalks the respective Proprietors shall make or maintain in case they shall, at any Time or Times after the Execution of the said Award, agree to inclose the same.

Black Moors
may be left
open.

XIX. And be it further enacted, That wherever it shall happen that more Proprietors than One have Land in the same Close or Parcel of the present inclosed Lands within the said Townships or Hamlets, or either or any of them, it shall be lawful for the said Commissioners, and they

Certain in-
closed Lands
to be allotted
as open Fields.

[Loc. & Per.]

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are

are hereby authorized and required in every such Case, at the Request of the Parties interested therein, to be signified by Writing under their respective Hands, to divide, allot, and award every such Close or Parcel of the present inclosed Land, in the same Way and Manner as if the same were Part of the Open and Common Fields hereby directed to be divided, allotted, and inclosed.

Allotments
may be made
in lieu of
Chief or other
Rents.

XX. And be it further enacted, That the said Commissioners shall, and they are hereby authorized to assign, set out and allot unto any Person or Persons who shall or may be entitled to any Fee Farm Rents, Chief Rents, Quit Rents, or other dry and unimprovable Rents or Payments whatsoever, from or out of any Messuages, Cottages, Lands, Tenements, or Hereditaments belonging to any of the said Owners or Proprietors, or Persons interested as aforesaid, and entitled to any Allotment or Allotments under and by virtue of this Act, such Portion or Portions of the Allotment or Allotments of such Owners or Proprietors, or Persons interested as aforesaid, as in the Judgement of the said Commissioners shall be equivalent in Value to the Fee Simple and Inheritance of any such Rents or Payments, and in lieu of and full Satisfaction for the same.

Lands to be
of the same
Tenure as
those in Right
of which they
may be al-
lotted.

XXI. And be it further enacted, That all and every the Lands and Hereditaments which shall be allotted by virtue of this or the said recited Act shall be holden and shall be deemed and taken under and subject to such and the like Tenure, Rents, Fines, Customs, Heriots, and Services, as the Lands and Hereditaments in right or in respect of which such Allotments shall be made; and that the several Lands and Hereditaments which shall be allotted in right or in respect of Freehold Lands or Hereditaments shall be deemed Freehold, and shall be holden as such under the same Rents and by the same Services, as the Freehold Lands and Hereditaments in right or in respect of which they shall be so allotted; and that the several Lands and Hereditaments which shall be allotted in right or in respect of Copyhold or Customary Lands or Hereditaments within or holden of the said Manor of *Hathersage* shall be deemed Copyhold or Customary Lands and Hereditaments, and shall be holden as such by Copy of Court Roll, at the Will of the Lord, according to the Custom of the said Manor of *Hathersage*, by, under, and subject to such and the like Tenure, Rents, Fines, Customs, Heriots, and Services, and shall pass by such and the like Surrenders, Admittances, or other Acts, Deeds, or Instruments, and by and under such and the like Rules and Orders of Descent or otherwise, as the Copyhold or Customary Lands and Hereditaments in right or in respect of which they shall be so allotted; and that the Quantities in Acres, Roods, and Perches, of such Copyhold or Customary Allotments, with their respective Boundaries and Abuttals (where the same can be ascertained), shall be by the said Commissioners in their said Award set forth and described; and that all and every Person and Persons to whom any such Copyhold or Customary Allotment shall be made, shall, within Six Calendar Months from the Execution of the said Award, be admitted Tenant or Tenants of the same respectively according to the Custom of the said Manor of *Hathersage*, without paying any Fine on such Admission, or any other Charge than the Stamp Duties and Parchment, and the accustomed Charges and Fees of the Steward of the Court; but in case any Person or Persons, to whom such last-mentioned Lands or Hereditaments

Hereditaments shall be so allotted, shall die without Admission within the said Six Calendar Months, then the customary Fine or Fines, Heriots, and other Payments, shall be due and payable on the Admission of the Person or Persons entitled to the said Lands and Hereditaments; and after every such first Admission, the Copyhold Lands and Hereditaments so to be allotted shall at all Times thereafter be holden under and subject to the same Tenure, Fines, Duties, Heriots, and other Payments, as the Copyhold Lands and Hereditaments in right or in respect of which they shall be so allotted.

XXII. And be it further enacted, That all Encroachments which shall appear to the said Commissioners to have been made at any Time within Thirty Years previous to the First Day of *January* One thousand eight hundred and eight, upon the said Wastes, Moors, Common, and unclosed Grounds, shall be deemed Part thereof, and shall be divided and allotted accordingly; and in case any Dispute or Difference shall arise touching any such Encroachments, or the Extent thereof, such Dispute shall be settled by the said Commissioners, and all such Encroachments as shall be deemed Parts of the said Wastes, Moors, Commons, and unclosed Lands, in case the same shall be allotted to the respective Parties who may have improved the same, or to the said *William Duke of Devonshire*, his Heirs or Assigns, within the Manor of *Hathersage* aforesaid, or the said *Ashton Ashton Shuttleworth*, his Heirs or Assigns, within the Manor of *Upper Padley* aforesaid, shall be valued as if in an unimproved State, and without considering the Improvements made thereupon in building or otherwise; but if such Encroachments shall be allotted to any other Person or Persons, then and in such Case the Person or Persons who shall receive the same shall pay and allow to such Person or Persons as shall or may have improved the same such Compensation or Satisfaction, and in such Manner as the said Commissioners shall think reasonable, and by Writing under their Hands, or in and by their said Award, order and direct.

Respecting
Encroach-
ments.

XXIII. And be it further enacted, That in case any Difference or Dispute shall arise with or between any Person or Persons interested in the said intended Division, Allotment, and Inclosure, touching their respective Shares, Proportions, Rights, Interests, Claims, or Demands, or relating to the Boundaries to be set out by the said Commissioners in pursuance of this or the said recited Act, the said Commissioners or Umpire shall, and they are hereby authorized and required, to hear and determine the same: Provided, that nothing herein contained shall authorize the said Commissioners or Umpire to determine any Difference or Dispute touching the Title of any Person or Persons in or to any Lands, Tenements, or Hereditaments whatsoever.

Commission-
ers to deter-
mine disputed
Claims, but
not to deter-
mine Titles.

XXIV. And be it further enacted, That in case the said Commissioners or Umpire, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, Difference or Dispute, which shall be brought before them under and by virtue of this or the said recited Act, shall see Cause to award any Costs or Charges to any of the Parties concerned therein, it shall and may be lawful for the said Commissioners or Umpire, 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

Commission-
ers may award
Costs.

to the Party or Parties in whose Favour any such Determination of the said Commissioners or Umpire shall be made by any Person or Persons whose Claim or Claims, Objection or Objections shall or may, by such Determination, be disallowed or overruled; and such Costs and Charges shall and may be levied and recovered in the same Manner as the Expences of passing and executing this Act are directed and authorized to be recovered.

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

XXV. And be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioners or Umpire, touching or concerning any Claim or Claims of the Right to the Soil, or of any Right of Common or other Right or Interest, in, over, or upon, or in respect of the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other unclosed Lands, or any Part thereof, or relating to the Boundaries to be set out as aforesaid, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall and may be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter determined by the said Commissioners or Umpire, at the First or Second Assizes then next following to be holden for the said County of *Derby*; and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners or Umpire as aforesaid shall cause an Action to be brought on a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioners or Umpire; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept one or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted upon or in Dispute, may be tried and determined (such Issue or Issues, in case the Parties shall differ about the same, to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon 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 to be had thereon, which it shall be lawful for the Court to do, and also upon sufficient Cause shewn to put off the Trial of such Issue, as is usual in other Cases); and that after such Verdict or Verdicts shall be obtained and not set aside by the Court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined according to the Event of such Trial or Trials, and the Verdict or Verdicts to be given thereon as aforesaid: Provided always, that the Determination of the said Commissioners or Umpire touching any such Claim or Claims as aforesaid, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, which shall not be objected to, or being objected to, the Party or Parties objecting shall not in respect thereof duly cause such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive upon all Parties.

Determina-
tion of Com-
missioners or
Umpire to be
final, if not
duly objected
to and tried.

XXVI. And be it further enacted, That if any of the Parties in any Action to be brought in pursuance of this or the said recited Act shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if such Event had not happened.

If Parties die Proceedings not to abate.

XXVII. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted, touching or concerning the Title of any Person or Persons to any Messuages, Lands, or Tenements, in the said Townships or Hamlets, such Suit or Suits shall not impede, delay, or hinder the said Commissioners from proceeding in the Execution of the Powers vested in them by the said recited Act and this Act; but the said Division, Allotment, and Inclosure, shall be proceeded in notwithstanding such Suit or Suits; and the Allotment or Allotments to which such Suit or Suits shall relate may be had and taken by the Person or Persons who, upon the Determination of such Suit or Suits, shall become entitled to the same.

Suits not to delay the Inclosure.

XXVIII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any 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, Bodies Politick or Corporate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and 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.

Provision in case of Death of Parties before Actions brought.

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

Right of Possession of Persons not to be determined by Commissioners.

XXX. And be it further enacted, That the said Commissioners shall and they are hereby empowered to direct and order all or any of the Water-courses or Springs of Water in the said Open and Common Fields, Meads, Inclosures, Wastes, Moors, Commons, and other uninclosed Lands, or any Part thereof, to be diverted, turned, or varied, and to be carried and conveyed in such Courses, and through such Lands and Allotments as they

For diverting Water-courses.

[*Loc. & Per.*]

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shall

shall in their Discretion think proper; provided that such Watercourses or Springs of Water shall not be diverted, turned, or varied, without the Consent in Writing of the Person or Persons who may at the Time be entitled to the Benefit and Use thereof, and the Consent in Writing of the Person or Persons from or into whose Lands or Grounds such Springs or Watercourses shall be diverted, turned, or varied, carried through or conveyed as aforesaid.

Commissioners may direct the Course of Husbandry.

XXXI. And be it further enacted, That the said Commissioners shall, as soon after the passing of this Act as conveniently may be, by some Writing or Writings under their Hands, to be published as herein-before directed, order and direct the Course of Husbandry that shall be used in, over, and upon the Lands and Grounds intended by this Act to be inclosed, until the Time when they shall have made and completed the said intended Division and Allotments, as well with respect to the laying down, ploughing, sowing, fallowing, and tilling thereof, as to the stocking and eating the Fallows or Stubbles, and also to the cutting of Turf, Peat, Furze, Thorns, or Bushes, getting or digging of Peat or Stone, cutting of Wood, or doing any Injury unto or upon the Lands intended by this Act to be inclosed, and by the same or any other Writing or Writings under their Hands, to be affixed upon the most publick outer Door of the Church of *Hathersage* aforesaid, upon some *Sunday* immediately preceding Divine Service, shall and may make such Orders and Regulations, touching the Conduct of Farmers and Tenants within the said Townships or Hamlets, for preventing them from committing Waste or Destruction upon any of the said Lands and Grounds in the said Townships or Hamlets in the mean Time, and until the Allotments or Division thereof shall be effected, as to them shall seem expedient, all which Orders and Regulations of the said Commissioners shall be binding and conclusive upon all Parties interested therein, their Farmers and Tenants; and that the said Commissioners shall set and impose such pecuniary Penalties and Forfeitures, not exceeding Five Pounds *per* Acre, on every Person not conforming to such Orders and Regulations as they shall think necessary, which Penalties and Forfeitures shall be paid to such Person or Persons, and for such Uses and Purposes as the Commissioners shall by any Writing or Writings under their Hands, or by their Award herein-after mentioned, direct or appoint; and the same shall be recovered and recoverable in a summary Way before any One Justice of the Peace for the said County of *Derby*, who is hereby authorized and required, upon Complaint made before him, to summon the Party accused, and to examine any Witness or Witnesses upon Oath (to be administered by him), and to proceed to Judgement and Conviction as in Cases of a similar Nature; and if any such Penalties and Forfeitures shall be adjudged to have been incurred, then it shall be lawful for any such Justice, by Warrant under his Hand and Seal, to cause such Penalties to be levied by Distress and Sale of the Goods and Chattels of the Party or Parties offending, together with reasonable Costs, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels.

Commissioners to sell Land to defray Expences.

XXXII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered to ascertain and set out so much and such convenient Part or Parts of the said Wastes, Moors, Commons, and uninclosed Lands, as in the Judgement of the said Commissioners

missioners shall be sufficient to raise a competent Sum of Money for paying the Charges and Expences of passing and executing this Act, and to sell the Lands so set out (the Situation and Extent being by the said Commissioners first laid before a Meeting of the Proprietors or Persons interested in the said Inclosure), in such Manner and subject to such Conditions and Regulations as by the said recited Act of the Forty-first Year of His present Majesty is provided in that Behalf; and the Receipt or Receipts of the said Commissioners for the Purchase Money shall be a full and complete Discharge or full and complete Discharges to the Purchaser or Purchasers for the Consideration Money which shall be therein expressed to be received; and such Purchaser or Purchasers, after such Receipt or Receipts, shall not be obliged to see to the Application of such Purchase Money or any Part thereof, or be answerable or accountable for the Misapplication or Non-application thereof, or of any Part thereof; and after Payment of the full Purchase Money for any such Allotment or Allotments, the Purchaser or Purchasers shall thereupon respectively have and take to himself, herself, or themselves, and his, her, and their respective Heirs and Assigns, an absolute and indefeasible Estate of Inheritance in Fee Simple of and in the Lands which shall be comprized in such his, her, or their Purchase or Purchases; and the said Commissioners shall and they are hereby authorized and empowered either to award the said Part or Parts of the said Wastes, Moors, Commons, and uninclosed Lands, when sold, to the Purchaser or Purchasers thereof respectively, his, her, or their Heirs and Assigns for ever, in and by their said Award, and such Award shall be a good and sufficient Title in Fee Simple to such Purchaser or Purchasers; or otherwise, if the Purchaser or Purchasers shall request the same, the said Commissioners shall and they are hereby authorized and empowered to convey in Fee Simple, by Lease and Release, made and executed by the said Commissioners to the Purchaser or Purchasers thereof respectively, his, her, and their Heirs and Assigns, the said Allotment or Allotments, and the same shall be good, valid, and effectual in the Law to all Intents and Purposes; and the Money arising from such Sale or Sales shall be applied by the said Commissioners in defraying the several Charges and Expences aforesaid: Provided always, that in case the Money arising by the Sale of such Allotment or Allotments as aforesaid shall not be sufficient to defray all the Charges and Expences as aforesaid, then the Deficiency shall be made up by the several Persons interested in the said Inclosure (other than and except the said *William Duke of Devonshire*, his Heirs and Assigns, and the said Vicar of *Hathersage* and Curate of *Derwent* for the Time being respectively, so far as relate to the Allotments hereinbefore directed to be made to the said *William Duke of Devonshire*, and to the said Vicar of *Hathersage* and Curate of *Derwent*, in respect or in lieu of Glebe Lands or Tythes), and shall be paid in such Shares and Proportions, and within such Time or Times, and to such Person or Persons as the said Commissioners shall direct, nominate, and appoint; or in case any Expences shall be incurred in the Execution of any of the Powers and Provisions of this Act, which ought to be borne and defrayed by any particular Person or Persons, and not out of any Money to be raised for the general Purposes of this Act, then the same shall be paid in such Shares and Proportions, and by such Person or Persons, and within such Time and to such Person or Persons, as the said Commissioners shall direct, nominate, or appoint: Provided always, that if there shall be any Overplus of the Money arising by such Sale, the same shall be applied in

The Deficiency to be raised by the Proprietors.

the

the Manner directed by the said recited Act, with respect to Money 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.

Lands to be deducted from Allotments to Tenants for Life to pay Expences.

XXXIII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby required, in case they shall be requested so to do by any Tenant for Life or in Tail, or other Person being in Possession of but not having the absolute Estate or Interest in any Messuages, Lands, Tenements, or Hereditaments within the said Townships or Hamlets (such Request being in Writing under the Hand or Hands of such Person or Persons as aforesaid), to sell so much of the respective Allotment or Allotments to be made to such Person or Persons in respect of such Messuages, Lands, Tenements, or Hereditaments, as shall in the Judgement of the said Commissioners be equal in Value to the respective Proportions of any Part of the Expences of obtaining and carrying this and the said recited Act into Execution, which such Person or Persons may be charged with, and the Expences of fencing, ditching, inclosing, and putting into a proper State for letting the Allotment or Allotments of such Person or Persons as aforesaid; and the said Commissioners shall assign, allot, and award the said Lands so to be sold to any Purchaser or Purchasers thereof upon Payment of the Value of such Allotment or Allotments by him or them to the said Commissioners, who shall apply the same in or to the Payment of such Expences, and in fencing, ditching, inclosing and putting into a proper State for letting the said Allotment or Allotments respectively: Provided always, that if there shall be any Overplus of the Money arising by such Sale, the same shall be applied in the Manner directed by the said recited Act with respect to Money 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.

Leases at Rack Rent to be void.

XXXIV. And be it further enacted, That all and every Lease and Leases, or other Agreement at Rack Rent subsisting, of all or any Part or Parts of any Messuage, Lands, Tenements, or Hereditaments within the said Townships or Hamlets, for any Term or Number of Years unexpired, shall, immediately upon such Allotments being made, or so soon after as the said Commissioners shall by their said Award direct, cease, determine, and be void, in respect of the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other uninclosed Lands, the respective Owners and Proprietors of the said Messuages, Lands, Tenements, or Hereditaments so in Lease as aforesaid, making such Satisfaction to such Lessee or Lessees, Tenant or Tenants, as the said Commissioners shall direct or appoint, for or in respect of such Lease or Leases or other Agreements, or as an Equivalent for the same: Provided always, that if there shall be any Lease of Lands, Part of which shall lie in the said Townships or Hamlets, and Part in any adjoining Township or Hamlet, all and every such Lease or Leases at Rack Rent now subsisting may be vacated; but where such Land shall have been taken in exchange, the Whole of which Land shall be under Lease, and wholly situate in an adjoining Township or Hamlet, the Lease of such last-mentioned Land shall

shall not be vacated: Provided also, that nothing herein contained shall extend to make void any Lease or Leases of the present inclosed Lands or Hereditaments, or of any Part or Parts of the Lands or Grounds by this Act directed to be divided, allotted, and inclosed, upon the making or Renewal whereof any Fine or Fines hath or have been paid.

Not to extend
to Leases
where a Fine
has been paid.

XXXV. And be it further enacted, That in all Cases where an Allotment or Allotments of any Part of the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other uninclosed Lands, shall be made for and in respect of the Rights and Interests belonging to any Person or Persons for or in respect of any Lands, Tenements, or Hereditaments within the said Townships or Hamlets, which are held by any Tenants, or Occupiers for a Term of Years by virtue of any Lease or Agreement thereof made; and if such Tenants or Occupiers do not or shall not come to an Agreement with the Person or Persons to whom such Allotments shall be made for the Use, Occupation, and Enjoyment thereof, such Tenants or Occupiers shall not be entitled to enter upon, occupy or hold the said Allotment or Allotments, but shall nevertheless have and receive from the respective Owners or Proprietors thereof, such an Abatement from the yearly Rent or Rents reserved and made payable in and by such Lease or Leases, Agreement or Agreements, for the Remainder of the Term or Terms then to come therein, as the said Commissioners shall adjudge to be a reasonable Compensation for the Loss which he or they shall sustain thereby.

Abatement to
be allowed
for Lessees
for Loss of
Rights.

XXXVI. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever, within the said Parish of *Hathersage*, in lieu of and in Exchange for any other Lands, Tenements, and Hereditaments whatsoever within the said Parish, 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 with the Consent of the Owner or Owners, Proprietor or Proprietors, of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politick, Corporate or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females 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 Politick, Corporate or Collegiate, and under the Hands of the other Parties consenting respectively; and all and every such Exchange or Exchanges so to be made shall be good, valid, and effectual in the Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any 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 Lord Bishop of the Diocese

Exchanges
may be made.

[*Loc. & Per.*]

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in

Expences of
Exchanges,
how to be
borne.

in which such Lands, Tenements, or Hereditaments so to be exchanged, shall lie or be situate: Provided always, that the Costs, Charges, and Expences attending the making and completing any Exchanges or Partitions under the Powers and Authorities in this Act and the said recited Act, or either of them contained, shall be paid and borne by the several Persons, Bodies Politick, Corporate or Collegiate, making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioners shall order and direct.

Tenants to
give up ex-
changed
Lands.

XXXVII. And be it further enacted, That all and every Tenant and Occupier under any Lease or Agreement for any Term of Years of any of the old Inclosures within the said Townships or Hamlets and Parish, which shall be exchanged by virtue of this Act, shall, immediately after the Execution of the Award of the said Commissioners, or within such further Time as the said Commissioners, shall appoint, and whereof Notice in Writing shall be given for that Purpose, give up and resign the full and peaceable Possession of such exchanged Lands to the Person or Persons to or with whom the same shall be respectively exchanged, such respective Tenants and Occupiers receiving from the said respective Owners and Proprietors of such exchanged Lands such Satisfaction as the said Commissioners shall ascertain, order, direct, or appoint to be paid to such Tenant or Tenants respectively on account thereof, or as an Equivalent for the Loss or Losses he, she, or they shall respectively sustain thereby; and if the Money so to be ascertained as aforesaid shall not be paid to the Person or Persons entitled to receive the same, within Three Calendar Months after Demand made thereof, it shall be lawful for the said Commissioners, and they are hereby required, to raise and levy the same for the Use of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act, can or may be raised or recovered.

Proprietors
may sell Al-
lotments be-
fore the Exe-
cution of the
Award, and
their Right
of Common,
separate from
their other
Property.

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

Purchaser

Purchaser or Purchasers thereof, or other Person or Persons, who shall be entitled to the same by virtue of any such Sale or Disposition.

XXXIX. And be it further enacted, That all and every Person and Persons to whom any Grant, Mortgage, Lease, or Demise, shall be made by virtue of this or the said recited Act, as a Security for any Sum or Sums by him, her, or them lent and advanced on the Credit of and for the Purposes mentioned in this Act or the said recited Act, or who shall be entitled to the Money thereby secured, shall and may from Time to Time, by any Deed or Deeds, Surrender or Surrenders, Writing or Writings under his or their Hand and Seal or Hands and Seals, to be executed in the Presence of and attested by Two or more credible Witnesses, assign, and transfer the same Security or Securities, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his, her, or their Estate, Right, Title, or Interest, and Term of Years then to come and unexpired, of, in, and to the same, unto any Person or Persons whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Mortgagees, Assignee or Assignees, his, her, or their Executors or Administrators, and all Persons claiming under him, them, or any of them, shall and may use, take, and pursue all such lawful Methods, Courses, and Expedients, in Law or Equity, for recovering or obtaining Possession of the Premises so mortgaged, demised, or assigned as aforesaid, in case of Non-payment of the Principal Money and Interest thereby secured, or any Part thereof, as is or are, or can or may be used, taken, and pursued, in Cases of Money due upon Mortgage in general.

Mortgages may be assigned.

XL. Provided always, and be it further enacted, That all Money charged upon Copyhold Lands within the said Manor of *Hathersage* shall be secured by Mortgage or Mortgages, or Assignments thereof, in the Court of the Lord of the said Manor of *Hathersage*, according to the Custom of the same Manor; and on such Mortgage or Mortgages, or Assignments thereof, the customary Fine shall be paid to the Lord of the said Manor of *Hathersage*, with all the customary Court Charges and Fees usually paid to the Steward on such Occasions.

Mortgages of Copyholds to be made in the Lord's Court.

XLI. And be it further enacted, That all and every Sale and Sales made by any Person or Persons in pursuance of this or the said recited Act of any Allotment or Allotments, where the same shall be in respect of Copyhold Property within the said Manor of *Hathersage*, shall be made by the customary Surrender and Admission in the Court of the Lord of the said Manor of *Hathersage*, on which the customary Fine shall be paid to the Lord of the same Manor, and also the usual Court Charges and Fees to the Steward thereof on such Occasions shall be paid.

Sales to be in the Lord's Court.

XLII. Provided always, and be it further enacted, That nothing herein contained shall extend, or be construed, deemed, adjudged, or taken to revoke, make void, alter or annul any Settlement, Deed or Will, or to prejudice any Person or Persons having or claiming any Jointure, Dower, Portion, Rent Service, Mortgage, Debt, Charge, or Incumbrance in, out of, upon, or affecting any of the Lands and Grounds to be divided, allotted, and inclosed as aforesaid, or any Lands, Tenements, or Hereditaments, which shall be exchanged or divided by virtue of this Act or

No Settlement, Will, &c. to be altered.

the said recited Act, or any Part or Parcel thereof respectively, but that the several Lands, Tenements, and Hereditaments, so to be assigned, allotted, exchanged, or divided as aforesaid, shall, immediately after making such Allotments, Exchanges, Partitions, or Divisions respectively, be, remain, and enure, and be held and enjoyed; and the several Persons to whom the same shall be assigned and allotted, or given in Exchange, shall from thenceforth stand and be seised and possessed thereof respectively to such and the same Uses, and to and for such and the same Estates, and with and under such and the same Powers and Authorities, and subject to the same Wills, Limitations, Conditions, Settlements, Provisions, Remainders, Reversions, Mortgages, Debts, Charges, and Incumbrances, as the several Messuages, Lands, Grounds, and Common Rights, in lieu or in respect whereof such Allotments and Exchanges shall be made, now stand limited or liable to, or would have been liable to in case this Act had not been made.

Money advanced to be repaid with Interest.

XLIII. 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 of carrying the same and the said recited Act into Execution, every such Person or Persons shall be repaid the same, with Interest after the Rate of Five Pounds *per Centum per Annum*, out of the first Monies that shall be raised or received by the said Commissioners by virtue of this Act for defraying such Expences.

Award to be deposited.

XLIV. And be it further enacted, That the Award to be made by the said Commissioners, when inrolled in Manner directed by the said recited Act, shall be deposited and kept in the Chest belonging to the Parish Church of *Hathersage* aforesaid, where the other Writings belonging to the said Parish are usually kept, in order that all Persons interested in the said Inclosure may have Recourse thereto at all seasonable Times.

Extract from the Award of His Majesty's Allotment to be transmitted to the Duchy Court.

XLV. And be it further enacted, That the said Commissioners shall and they are hereby required, within Three Calendar Months after the Execution of the Award, to make an Extract on Parchment under their Hands of so much thereof as shall contain an accurate Description of the Allotment or Allotments which shall be made to His said Majesty, together with such Regulations or Provisions relative to such Allotment or Allotments, or to any other Rights or Interests of His said Majesty, as may be contained in such Award; and shall annex to such Extract a Map or Plan of such Allotment or Allotments, and transmit the same to the Clerk of the Council of His Majesty's Duchy of *Lancaster* for the Time being.

Commissioners Accounts to be laid before a Justice.

XLVI. And be it further enacted, That once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of the passing thereof) the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences, in the Execution of this and the said recited Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before any One or more of His Majesty's Justices of the Peace for the said County of *Derby*, to be by him or them examined and balanced, and such Balance shall be by such Justice

Justice or Justices 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, unless the same shall have been duly allowed by such Justice or Justices.

XLVII. And be it further enacted, That the said Proprietors shall pay their own Expences when they attend the said Commissioners at any of their Meetings to be holden for putting this Act into Execution. Proprietors to pay their own Expences.

XLVIII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this or the said recited Act (other than and except such Claims, Matters, and Things as are herein-before directed or authorized to be ascertained, settled, tried, or determined by the Verdict of a Jury, or where by any of the Provisions of the said recited Act or of this Act, the Determinations of the said Commissioners are directed to be final and conclusive), then and in every such Case he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be holden for the said County of *Derby*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party or Parties concerned Fourteen Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices (not interested in the Premises) in their said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and award such Costs and Damages, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid. Appeal to the Quarter Sessions.

XLIX. Provided always, and be it further enacted, That nothing in this Act contained shall bar, prejudice, lessen, or defeat the Rights, Titles, and Interests, which the said *William Duke of Devonshire*, or any of His Majesty's Subjects, now have and enjoy, or shall or may hereafter claim to have and enjoy, of digging for, searching, working, and carrying on Mines of Lead Ore, and taking and enjoying such Lead Ore, in, upon, and out of all the said Commons, Moors, and Waste Grounds, within the said Townships or Hamlets intended to be divided, allotted, and inclosed as aforesaid; but that all and every His Majesty's Subjects shall from henceforth for ever hereafter have and enjoy such Rights of Mining for Lead Ore, and use and exercise such Liberties and Privileges in respect thereof, in and throughout all and every Part of the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and uninclosed Lands, intended to be divided, allotted, and inclosed as aforesaid. Right of Mining reserved.

[*Loc. & Per.*]

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said,

said, in as ample and extensive a Manner as they have hitherto of Right enjoyed and exercised the same, making Satisfaction for any Damages that shall be done thereby; any Thing herein contained to the contrary thereof in anywise notwithstanding.

Saving Right
of the Lords
of the Ma-
nors.

L. 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 said *William Duke of Devonshire*, his Heirs or Assigns, Lord or Lords of the said Manor of *Hatbersage*, or the said *Ashton Ashton Shuttleworth*, his Heirs or Assigns, Lord or Lords of the said Manor or reputed Manor of *Upper Padley*, of, in, or to the Seigniories and Royalties incident or belonging to the said Manors, or either of them respectively; but that such Lord or Lords for the Time being shall and may from Time to Time and at all Times hereafter hold and enjoy all Rents, Services, Courts, Perquisites, and Profits of Courts, Beds, and Quarries of Limestone, Waifs, Estrays, and all other Royalties, Jurisdications, Pre-eminences, and Privileges whatsoever to the said Manor incident, appendant, belonging, or appertaining (other than and except the Right of the Soil of the said Wastes, Moors, Commons, and unclosed Lands, for which a Compensation is hereby before directed to be made), in as full, ample, and beneficial a Manner, to all Intents and Purposes, as the same might or could have been held and enjoyed in case this Act had not been made.

General
Saving of
Rights.

LI. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person or Persons, Body or Bodies Politick, Corporate or Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators respectively (other than and except the several Persons, Bodies Politick, Corporate or Collegiate, to whom any Allotment or Allotments of Land or other Compensation shall be made or provided by virtue of this Act, in respect of the Interest or Property for which such Allotment or Allotments, or Compensation, shall be made, his, her, and their Heirs, Successors, Executors, Administrators, and Assigns, and except such other Rights and Interests as the Intent and Purpose of the Division, Allotment, and Inclosure hereby authorized shall absolutely require to be barred, destroyed, or extinguished, by virtue of this Act), all such Estates, Rights, Titles, and Interests, as they, every, or any of them had or enjoyed of, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, before the passing of this Act, or could, might, or ought to have held or enjoyed, in case this Act had not been made.

Act to be
printed by
the King's
Printer.

LII. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty; and a Copy thereof so printed shall be admitted as Evidence thereof by all Judges, Justices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1808.