

Commission-
ers.

Checkley, and the said *John Philips* also claims to be Lord of the Manor or Manors of *Nether Tean* and *Checkley*, and the said *William Phillips* and certain other Freeholders in the said Manor or Townships of *Nether Tean* also claim to be Lords of the said Manor of *Nether Tean*: And whereas the Property in the said Common Fields lies intermixed and dispersed, and the said Commons and Waste Lands are in their present State incapable of any considerable Improvement, and it would be of great Advantage to the several Persons interested therein, and of public Utility, if the same were divided and inclosed, and specific Shares thereof allotted unto and amongst the said Owners and Proprietors according to their respective Rights and Interests therein: but as such Division, Allotment and Inclosure cannot be effectually made and established 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 said Commons and Waste Lands in the Parish of *Checkley* aforesaid, shall, as soon as conveniently may be after the passing of this Act, be divided, set out and allotted by *Robert Harvey*, of *Dunstal* in the County of *Stafford*, Esquire, and *John Tilsley*, of *Caverswall Castle*, in the said County, Gentleman, who and their Successors, to be elected in Manner hereinafter mentioned, shall be and are hereby appointed Commissioners for the Execution of this Act, with such Powers and subject to such Directions and Regulations as are contained in this Act, and with and subject to such of the Powers, Directions and Regulations contained in an Act, 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*, as are not controuled or varied by or repugnant to any of the Clauses, Provisions or Regulations of this Act; and that it shall be lawful for them the said Commissioners, or their Successors, to be appointed as hereinafter mentioned, to do and perform every Act and Thing requisite to be done under and by virtue of this Act, and to put in Force and execute all and every the Powers and Authorities contained in this and the said recited Act, provided that if they the said Commissioners, or their Successors shall differ in Opinion upon any of the Matters and Things directed to be executed by them by virtue of this Act, in that Case *Samuel Botham*, of *Uttoxeter* in the said County of *Stafford*, Gentleman, shall be and he is hereby appointed a Third Commissioner for carrying this and the said recited Act into Execution, with respect to such Matters and Things only on which the said Two first-named Commissioners, or their Successors shall differ in Opinion as aforesaid; and in such Case it shall be lawful for any one of the said first-named Commissioners or their Successors, together with the said *Samuel Botham* or his Successor, to execute all Powers, Authorities, Acts, Matters and Things requisite to be done in the Execution of this or the said recited Act, and which shall be as valid and effectual to all Intents and Purposes as if done and executed by the said Two first-named Commissioners; and that the Notices by the said Act required to be given in some public News-paper of setting out

out public Carriage Roads, and of reading and executing the Award of the Commissioners, shall be given in the *Stafford* News-paper, or in some other News-paper generally circulated in the said County of *Stafford*.

II. Provided always, and be it further enacted, That if, before the Powers and Trusts reposed in the said Commissioners shall have been fully executed and performed, any of the said Commissioners shall die, or refuse to act or to qualify himself, or shall become incapable of acting as a Commissioner in the Execution of such Powers and Trusts, it shall be lawful for the major Part in Value of the Proprietors of the Lands and Grounds so intended to be divided and inclosed, who shall by themselves, or their respective Agents, attend the Meeting or Meetings to be appointed by the surviving or remaining Commissioners or Commissioner for that Purpose, by Writing under their Hands, to appoint some other fit Person, not interested in such Division and Inclosure, to be a Commissioner in the Place of such Commissioner so dying, refusing or becoming incapable to act, and so from Time to Time as often as any Commissioner to be appointed by the said Proprietors shall die or refuse to act or to qualify himself, or shall become incapable of acting as aforesaid; provided that the surviving or remaining Commissioners or Commissioner shall cause Notice to be given of the Time and Place of Meeting for every such Election, at least Twenty-one Days before the Time of holding any such Meeting, by affixing such Notice on the South Porch Door of the Parish Church of *Checkley* aforesaid, and by causing the same to be published in the *Stafford* News-paper, or some News-paper usually circulated in the said County of *Stafford*; and if the Majority in Value of the said Proprietors shall, for the Space of Seven Days after such Meeting as aforesaid, refuse or neglect to appoint a new Commissioner in the Place and Stead of every or any Commissioner who shall die or refuse to act or to qualify himself, or shall become incapable of acting as aforesaid, then and in every such Case the surviving or remaining Commissioners or Commissioner shall, from Time to Time, by Writing under their or his Hands or Hand, appoint a fit and proper Person, not interested in the said intended Division and Inclosure, to be a Commissioner in the Place of each Commissioner so dying or refusing to act, or to qualify himself, or becoming incapable of acting as aforesaid; and every Commissioner to be appointed in the Manner hereby directed, shall have the like Powers and Authorities for putting this and the said recited Act into Execution, as if he had been expressly named and appointed a Commissioner by this Act.

Appointment
of new Com-
missioners on
Vacancies.

III. And be it further enacted, That the said Commissioners shall, and they are hereby required to give public Notice, in Writing, to be affixed upon the South Porch Door of the Parish Church of *Checkley* aforesaid, on some *Sunday* during Divine Service, of the Time and Place of their First and every subsequent Meeting for putting this and the said recited Act in Execution, at least Fourteen Days before the Time appointed for holding such Meetings respectively (Meetings by Adjournment only excepted); and it shall be lawful for the Commissioners at any of their Meetings to be holden in pursuance of this Act, from Time to Time as they shall

Notice of
Meetings to
be given.

find

One Com-
missioner or
the Clerk
may adjourn.

find it convenient, to continue such Meeting by Adjournment for the due Execution of this Act, leaving Notice at the Place where the said Commissioners shall be sitting at the Time of any such Adjournment, of the Time and Place to which such Meeting shall be adjourned: Provided always, that if only one of the said Commissioners shall attend at the Time and Place appointed for any Meeting to be holden pursuant to this Act, it shall be lawful for such one Commissioner, and if no Commissioner shall attend at the Time and Place so appointed, then it shall be lawful for the Clerk of such Commissioners, and such Commissioner and Clerk respectively have hereby full Power to adjourn such Meeting to any future Day they shall respectively see most convenient, to be holden at the same or any other Place, the Clerk giving due Notice to the absent Commissioner or Commissioners of the Time and Place to which every Adjournment shall be made, and so from Time to Time as often as there shall be Occasion, until Two or more of the said Commissioners shall be present: Provided also, that all Meetings of the said Commissioners, in the Execution of this or the said recited Act, shall be held within Eight Miles of the said Parish of *Checkley*.

What shall be
deemed Com-
mon Field
Land.

IV. And be it further enacted, That all Fields and Closes within the several Manors or Townships aforesaid, in which Two or more Persons shall be seised of or entitled to any Lands, or any Common of Pasture or Estover, or other Common Right or Property, shall be deemed Common Field Land, and be divided and allotted accordingly.

Cottages and
Buildings on
that Part of
the Commons
which lie
within the
Manor of
Upper Tean,
to be allotted
to the Lord
of that
Manor.

V. And be it further enacted, That all Cottages, Erections and Buildings whatsoever, now standing or being upon the Commons and Waste Lands which lie within, or are Parcel of the said Manor of *Upper Tean*, shall be and are hereby vested in the said *Henry Bathurst* as Lord of the said Manor of *Upper Tean*, and the Lord of the said Manor of *Upper Tean* for the Time being for ever, to be held in Severalty, and shall from henceforth, be and be deemed and taken to be as his and their entire Property and be held and enjoyed by him and them accordingly, nevertheless the Scite of or Ground upon which such Cottages, Erections and Buildings stand, shall be considered as Part of the One-sixteenth Share of the said Commons and Waste Lands within the said Manor of *Upper Tean*, which is hereinafter directed to be allotted to the said *Henry Bathurst* as Lord of the said Manor of *Upper Tean*, for his Right of Soil.

Respecting
Encroach-
ments made
above Twen-
ty Years.

VI. And be it further enacted, That all Encroachments which shall have been made upon or from the said Common Fields and Waste Lands within the said Manors of *Nether Tean*, *Checkley* and *Madelyholme*, for Twenty Years or upwards, without legal Interruption, before the First Day of *January* One thousand eight hundred and eight, with the Cottages and Buildings thereon, and for which any Rent or Acknowledgment hath been paid to the Lords of the said respective Manors of *Nether Tean*, *Checkley*, and *Madelyholme*, any or either of them, or their or either of their Ancestors as Lords of the said Manors within that Period, shall be deemed to belong to, and are hereby declared to be the Property of such of the said Lords to whom any such Rent or Acknowledgment hath been paid, and that such other Encroachments which shall have been made upon or from the said

Common

Common Fields and Waste Lands within the said Manors of *Nether Tean*, *Checkley*, and *Madelyholme*, or any of them, for Twenty Years or upwards, without legal Interruption, before the said First Day of *January* One thousand eight hundred and eight, and for which no Rents or Acknowledgments have been paid to the said Lords of the said Manors of *Nether Tean*, *Checkley*, and *Madelyholme*, any or either of them, or their, or any, or either of their Ancestors, shall, with the Cottages and Buildings thereon, be deemed to be the Property of the Person or Persons who shall in his, her, or their own Right be in Possession or entitled to the Receipt of the Rents and Profits thereof.

VII. And be it further enacted, That all Encroachments which shall have been made upon or from the said Common Fields and Waste Lands within the said several Manors of *Upper Tean*, *Nether Tean*, *Checkley*, and *Madelyholme*, or any of them, within Twenty Years next before the said First Day of *January* One thousand eight hundred and eight, shall be deemed Part thereof, but all such last-mentioned Encroachments with the Buildings thereon, shall be allotted to the Person or Persons who at the Time of making the Allotments under this Act, shall in his, her, or their own Right be in Possession or Receipt of, or be entitled to the Rents and Profits of such Encroachments, for his, her, or their Share or Proportion of the said Waste Lands by virtue of this Act, or so far as the same will extend in Value according to their State when inclosed by virtue of this Act; but in case any such last-mentioned Encroachments shall, in the Judgment of the said Commissioners, be of greater Value than the Share or Proportion of the said Waste Lands which the Person or Persons so entitled ought to have by virtue of this Act, or in case it shall so happen that the Person or Persons, who at the Time of making the said Allotments under this Act, shall in his, her, or their own Right be in Possession or Receipt of, or entitled to the Rents and Profits of any such last-mentioned Encroachments, and shall not be entitled to any Allotment from the said Common Fields and Waste Lands under or by virtue of this or the said recited Act, then, and in either of the said Cases, the said Commissioners are hereby authorized, (if they shall think fit, but not otherwise,) to sell and allot such Encroachments, or Parts of Encroachments to such Person or Persons who, if he, she, or they was or were entitled to a sufficient Allotment from the said Common Fields and Waste Lands, would be entitled to have the same allotted as aforesaid, at such Sum of Money as the said Commissioners shall adjudge the same would produce, and the said Commissioner shall receive and apply the same for the Purposes of this Act; and if any such last-mentioned Persons shall refuse or neglect to pay such Sum or Sums of Money as the said Commissioners shall so adjudge, at the Time fixed by them for that Purpose, then such Encroachments, which shall not be so paid for as aforesaid, shall be allotted as Common and Waste Land: Provided always, that in the Valuation of such Encroachments and Inclosures, the Buildings or Erections thereon shall not be included, but in case any such last-mentioned Encroachments shall, in the Judgment of the said Commissioners, be thought proper or more convenient to be laid to the Lands of any Person entitled to an Allotment or Allotments from the said Common Fields and Waste Lands, then, and in such Case, the said Commissioners are hereby required to allot such last-

Respecting
Encroach-
ments made
within 20
Years.

[*Loc. & Her.*]

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mentioned

mentioned Encroachments, or such Part thereof as they shall think proper, unto such other Person or Persons so entitled, in part, or in full of his, her, or their Allotment or Allotments, as the Case may be, and shall be at Liberty to order and direct such Allowance or Compensation, to be made by the Person to whom the same shall be so allotted, to the Person or Persons from whom such Encroachments shall be taken, as to the said Commissioners shall seem reasonable.

Certain
Lands which
have been
Common not
to have any
Allotment.

VIII. Provided always, and be it further enacted, That in making the Divisions and Allotments hereinbefore mentioned, the said Commissioners shall not have any regard to any Lands or Hereditaments which shall appear to the Satisfaction of the said Commissioners to have been Commons or Waste Lands within the Memory of any Person or Persons now living, it not being intended that the Owners or Proprietors thereof shall have any Allotment in respect of the same.

Cottages not
having paid
Rack Rents
to have
Leases of
their Cot-
tages and
Gardens at
small Rents.

IX. And be it further enacted, That the respective Lords of the said Manors of *Upper Tean*, *Nether Tean*, and *Checkley* wherein any Cottage is situate, which by virtue of this Act shall be vested in the Lord or Lords of such Manor respectively, and in respect whereof no greater Annual Rent or Payment than One-fifth Part of the Yearly Value shall have been paid or agreed to be paid before the said First Day of *January* One thousand eight hundred and eight, shall permit or suffer the Person or Persons in Possession of such Cottages respectively, on the said First Day of *January* One thousand eight hundred and eight, and their respective Executors and Administrators to have, hold, and occupy the same Cottages respectively, and such Part of the Gardens adjoining or laying near to such Cottages respectively, as shall be allotted to the Lord or Lords of the said respective Manors of *Upper Tean*, *Nether Tean*, and *Checkley*, where such Cottage is situate, as the said Commissioners shall direct, (not exceeding Twenty Perches to each Cottage,) for the Term of Twenty-one Years, from the Twenty-fifth Day of *March* One thousand eight hundred and eight, provided the Person or Persons so in Possession as aforesaid, or their respective Executors or Administrators, do and shall pay to the Lord or Lords of the Manor wherein such Cottage is situate, the yearly Sum of One Shilling as the Rent of, and for each such Cottage, and such further yearly Sum of Money in respect of the Rent of the Garden or Land allotted or directed to be held with such Cottage, as the said Commissioners shall adjudge and direct; and provided the respective Occupiers of such Cottages respectively do and shall keep the said Cottages, Buildings, and Fences in as good Repair, and the Land or Ground in as good Condition as the same were in on the said First Day of *January* One thousand eight hundred and eight; and in case the Person or Persons so entitled to Possession as aforesaid, shall refuse, for the Space of Six Calendar Months after Notice and Demand in Writing for that Purpose, to perform the said proviso or Condition, then, and in such Case, the Estate, Term, and Interest of and in the said Cottage and Premises of such Person or Persons so neglecting or refusing, shall absolutely cease and determine to all Intents and Purposes whatsoever, and thereupon it shall and may be lawful to and for the Lord or Lords of the said respective Manors of *Upper Tean*, *Nether Tean*, and *Checkley*, or other Person or Persons in whom the Freehold and Inheritance

tance of and in such Cottage or Cottages shall be vested by virtue of this Act, or his, her, or their Heirs or Assigns, into or upon such Cottages and Lands respectively, or any Part thereof, to enter, and to have, hold and enjoy the same, discharged of all Claims and Demands of the Person or Persons so in Possession as aforesaid, or his, her, or their Executors, Administrators, or Assigns.

X. And be it further enacted, That the Rent hereby directed to be paid in respect of each such Cottage as last-mentioned, and also in respect of the Cottages, Erections, and Buildings, to be so allotted as aforesaid to the said *Henry Bathurst*, or the Lord of the said Manor of *Upper Tean* for the Time being, shall be added to the Rent, (if any,) directed to be paid by the Commissioners in respect of the Gardens or Pieces of Land to be occupied with such Cottages, Erections, and Buildings, so as to form one entire Rent, to all Intents and Purposes; and the same or any Part thereof shall and may be recovered by a Distress, to be made or taken upon any Goods, Cattle, or Chattels to be found in the said Cottage, Erections, and Buildings, or upon the Land or Ground directed to be set out to be occupied therewith.

Rents to be entire and recoverable by one Distress.

XI. And be it further enacted, That all and every Question or Dispute which shall or may arise between any Person or Persons interested in the said Common Fields, Commons and Waste Lands, before the settling and allotting the same in Manner hereinafter mentioned, or touching the Extent, Identity, or Possession of any Plot, Parcel or Portion thereof, or touching or concerning the respective Rights and Interests which they or any of them shall have, or claim to have in, upon, or over the same Common Fields, Commons and Waste Lands, or touching or concerning the Boundaries of any of the said Manors or Townships which adjoin together, or any other Matter or Thing relating to the said Division, Allotment, and Inclosure, shall be examined, heard, and determined by the said Commissioners: Provided always, that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

For settling Disputes.

XII. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons whose Claim or Claims, 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 and Charges shall neglect or refuse to pay the same on Demand, then, and in such Case, it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause such Costs and Charges to

Power to Commissioners to award Costs.

to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus, (if any,) upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

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

XIII. Provided always, and be it enacted, That in case any Person or Persons interested, or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Right to the Soil of the said Commons and Waste Grounds, or any Part or Parts thereof, or of any Rights or Claims to Rights of Common in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or touching or concerning any other Rights or Interests which he, she, or they shall or may have or claim to have in the said intended Division and Inclosure, it shall be lawful for the Person or Persons so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next or at the following Assizes to be holden for the said County of *Stafford*; and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made; within Three Calendar Months next after the Determination of the said Commissioners shall be made; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept one or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said 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 all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and 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: Provided always, that the Determination of the said Commissioners, touching such Claim or Claims of Right to the Soil of the said Commons and Waste Grounds, or of any Rights or Claim to Rights of Common, or such Rights or Interests as aforesaid, in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties object-ing not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive upon all Parties.

XIV. And

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

Suits not to abate by Death of Parties.

XV. 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 hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic 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.

XVI. 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 Twenty Years, as hereinbefore 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.

XVII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized, at any Time or Times before the Execution of the said Award, by Notice and Advertisement to be given and published as before directed, to order and direct all or any Part of the Rights of Common in, over, or upon the said Commons and Waste Grounds or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Writing; and that all such Rights of Commons as the said Commissioners shall by any Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Time of giving such Notice cease, determine and be extinguished, or the Exercise thereof be suspended accordingly; any Law, Usage, or Custom to the contrary thereof notwithstanding.

Commissioners may suspend or extinguish Rights of Common.

Commission-
ers to set out
Land for
Watering
Places,
Stone, Gra-
vel, &c.

XVIII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out and allot such Part and Parcel of the said Waste Lands hereby intended to be divided and inclosed, as they shall think proper, for the Purpose of Watering Places for Cattle, and for furnishing Stone and Gravel, and other Materials for the making and repairing of the Highways and other Roads within the said Manors or Townships of *Upper Tean, Nether Tean, Checkley, and Madelyholme*, and for the Use and Benefit of the Owners and Occupiers of Lands, Tenements, or Hereditaments within the said Manors or Townships respectively.

Power to sell
Land to de-
fray Expen-
ces.

XIX. Provided always, and it is hereby further enacted, That in order to raise a sufficient Sum of Money to defray the Charges and Expences of obtaining and passing this Act, and of surveying, admeasuring, planning, valuing, dividing, and allotting the Lands and Grounds hereby intended to be divided and inclosed, and of forming, making, and putting in good and sufficient Repair the Roads and Highways to be made in pursuance of the said recited Act, until they shall be certified by the Surveyor to be in such State of Repair as directed by the said recited Act, and of preparing and inrolling the said Award of the Commissioners, and of defending any Action or Actions which may be brought against the said Commissioners in consequence of their Determination respecting any Claims or Interests as aforesaid, and all other the Charges and Expences arising in the carrying of this and the said recited Act into execution, it shall be lawful for the said Commissioners, as soon after the passing of this Act as they shall think proper, and so from Time to Time as often as they may find it necessary, to sell by private Contract or public Auction, in Manner directed by the said recited Act, such Part or Parts of the said Commons and Waste Lands as they shall deem sufficient for the Purposes aforesaid, and the Purchase Monies of the said Lands so to be sold as aforesaid shall be paid to the said Commissioners, or such Banker or Person as shall be appointed by them to receive the same, at such Time or Times as they shall appoint, and the Receipt of the said Commissioners for such Purchase Money shall be a sufficient Discharge to the Purchaser or Purchasers for the same; and immediately after such Receipt shall be given to such Purchaser or Purchasers, the Pieces or Parcels of Land so purchased by him, her, or them, shall by virtue of this Act become vested in him, her or them, and his, her, or their respective Heirs and Assigns in Fee Simple, without any further or other Conveyance, Assurance, Instrument or Writing whatsoever; and the said Pieces or Parcels of Land shall be fenced in such Manner, and subject to, or exempt from such Roads and Footpaths as shall be mentioned in such Receipts respectively; and the said Commissioners shall apply the Monies to arise by such Sale or Sales in defraying of such Costs, Charges, and Expences as aforesaid; and if any Surplus of such Monies shall remain in the Hands of the said Commissioners, the same shall be by them paid and divided to and among the several Persons interested in the said Division and Inclosure (in case they shall be seised of their Allotments in Fee Simple) in proportion to their respective Rights and Interests in the Lands intended to be divided and inclosed, or otherwise such Surplus shall be applied and disposed of by the

the said Commissioners in Manner prescribed by the said recited Act, with respect to Money to be paid for the Purchase of Lands, Tenements, or Hereditaments, or the Timber or Wood growing thereon; and which Sum of Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments to be settled to the same Uses; and the Receipts of the several Persons who shall be then in the actual Possession or Receipt of the Rents and Profits of the said Rights or Interests, or of the Trustees, Guardians, or Agents of such several Persons, shall be good Discharges to the said Commissioners for the same.

XX. Provided also, and be it further enacted, That in case the Money arising by Sale of Land as aforesaid, shall not prove sufficient to defray all such Charges and Expences as aforesaid, then the Deficiency shall be made up by the several Persons interested in the said Division and Inclosure, and shall be paid in such Shares and within such Time, and to such Person or Persons as the said Commissioners shall direct, nominate and appoint; and 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 the Money to be raised for the general Purposes of this Act, then the same shall be paid in such Shares and within such Time, and by and to such Person or Persons as the said Commissioners shall direct, nominate or appoint: and in case any Person or Persons shall neglect or refuse to pay any Sum or Sums of Money so directed to be paid by him or them, within the Time appointed for the Payment thereof, the same may be levied and recovered by the same Means as are prescribed by the said recited Act for recovering Sums of Money payable by Proprietors towards the Expences of the Inclosure.

Deficiency, if any, to be made good by the Proprietors.

XXI. And be it further enacted, That the said Commissioners shall; and they are hereby required to allot and award unto and for the Lord and Lady for the Time being of the said Manors of *Upper Tean* and *Madelyholme*, and to the Person or Persons, if any, who shall be deemed Lord or Lords of the said Manors or Townships, or Manor or Township of *Nether Tean*, *Checkley*, and *Deadman's Green*, according to their respective Interests therein, such Part or Parts of the said Commons and Waste Lands as shall contain One full Sixteenth Part or Share thereof, in lieu of and in full Recompence and Satisfaction for all their Right and Interest in and to the Soil of the said Commons and Waste Lands.

Allotment to the Lords of the Manors, &c.

XXII. And whereas the said *Ann Roycroft* and her Predecessors, Lords and Ladies for the Time being of the Manor of *Madelyholme* aforesaid, have for several Years last past, by herself or themselves, or by her or their Tenants, occupied and enjoyed a certain Stone Quarry upon the said Commons in the Manor of *Madelyholme*, now in the Occupation of *Henry Forwer*; and also a certain Warren or Place upon the Commons within the last-mentioned Manor for the keeping of Rabbits or Conies; and upon the Inclosure of the said Commons within the Manor of *Madelyholme*, the said *Ann Roycroft* may be entirely deprived of the said Warren, and prevented from making so great Advantage of the said Stone

Part of a certain Stone Quarry in *Madelyholme* to be allotted to the Lady of the Manor.

Stone Quarry as she now doth ; and the Allotments hereinbefore directed to be made to her for Right of Soil, may be an inadequate Compensation for her manerial and other Rights and Privileges ; be it therefore further enacted, That it shall and may be lawful to and for the said Commissioners, in the Division of the said Commons and Waste Lands within the said Manor of *Madelyholme*, to set out and allot unto and for the said *Ann Roycroft*, or the Lord or Lady for the Time being of the said Manor of *Madelyholme*, such Part or Parts of the said Stone Quarry in the Possession of the said *Henry Fowler*, or such other Part or Parts of the said Commons or Wastes within the said Manor, adjoining or lying near thereto or otherwise, over and above the Allotment hereinbefore directed to be made to the said *Ann Roycroft* for Right of Soil, as with the same Allotment shall, in the Judgment of the said Commissioners, be a full and adequate Compensation to the said *Ann Roycroft*, or the Lady or Lord for the Time being of the said Manor of *Madelyholme*, for all her or his manerial and other Rights and Privileges hereby intended to be barred and extinguished.

Allotment
of the Re-
sidue.

XXIII. And be it further enacted, That after such several Allotments as hereinbefore mentioned shall have been made, the said Commissioners shall apportion, set out, divide and allot all the Residue of the Lands and Grounds intended to be divided and inclosed as aforesaid, unto, between and among the several Proprietors and Owners thereof, and other Persons interested therein, according and in proportion to their respective Shares, Rights and Interests.

Commission-
ers to allot to
Purchasers,
&c.

XXIV. Provided always, and be it further enacted, That if any Person or Persons hath or have sold and conveyed, or shall at any Time before the Execution of the Award of the said Commissioners, sell and convey his, her or their Right, Interest or Property in, over or upon the said Commons and Waste Lands, or any Part thereof, to any other Person or Persons, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required to make an Allotment of Land to the Purchaser or Purchasers named in such Conveyance, or to his, her or their Heirs or Assigns, for or in respect of such Right, Interest or Property so sold and conveyed as aforesaid ; and every such Purchaser or Purchasers, his, her or their Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him, her or them as aforesaid, in the same Manner to all Intents and Purposes as the Vendor or Vendors in every such Sale might, could or ought to have held and enjoyed the same in case such Sale and Conveyance had not been made.

Allotments
to be exempt
from Tythes
for Five
Years.

XXV. And be it further enacted, That all and singular the Waste Lands hereby directed to be divided and inclosed, shall be freed and exempted from the Payment of Tythes for the Space of Five Years, to be computed from the passing of this Act.

Payments to
Rector in lieu
of Tythe of

XXVI. And be it further enacted, That the Occupiers for the Time being of the Allotments to be made in pursuance of this Act, shall, from
the

the Time the Right of Common shall be suspended or extinguished by the Commissioners, to the Expiration of the said Term of Five Years lastly abovementioned, pay unto the Rector of the Parish of *Checkley* for the Time being, such Annual Sum or Sums of Money as the said Commissioners shall adjudge reasonable, as a Compensation for the Tythe of Lamb and Wool which would have arisen to the Rector of the said Parish for the Time being in Case this Act had not been passed.

Lamb and
Wool for
Five Years.

XXVII. And be it further enacted, That nothing herein contained shall affect the Tythes now payable to the Rector of the said Rectory, but the same shall continue payable in the like Manner as if this Act had not been made, save and except such Tythes as might arise from the said Commons and Waste Lands during the said Term of Five Years.

That Tythes
shall continue
payable.

XXVIII. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Allotments, Tenements or Hereditaments whatsoever within the said Manors or Townships of *Upper Tean*, *Nether Tean*, *Checkley*, and *Madelyholme*, or any of them, in lieu of and in Exchange for any other Lands, Allotments, Tenements and Hereditaments whatsoever, within the said Manors or Townships, or any of them, or within any adjoining Parish, Township, Manor, Hamlet or Place, provided that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioners, or in some other Instrument or Instruments in Writing to be executed by the said Commissioners for that Purpose, 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 Body or Bodies Politic, Corporate or Collegiate, 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, Husbonds, 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 Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself or herself, such Consent to be testified in Writing, under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively, or by their accepting of the Lands to be given to him, her or them in Exchange as aforesaid; and all and every such Exchange and Exchanges so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided always, 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 in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

Power of
Exchanges

No Exchange
of Church
Lands to be
made without
the Consent
of the Patron
and Bishop.

Costs of
Exchanges
and Partitions
how to be
paid.

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

Act not to
revoke Wills.

XXX. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed, deemed or taken to revoke, alter or annul any Will or Settlement, or to prejudice any Person or Persons having or claiming any Jointure, Dower, Portion, Debt or Incumbrance out of or from any of the Lands, Grounds and Premises hereby directed to be divided and inclosed, or which shall be exchanged by virtue thereof, or out of or from any Part thereof respectively; but that the Lands and Premises so to be allotted and awarded upon the said Division and Inclosure, or exchanged as aforesaid, shall immediately after such Division and Exchange be, enure and remain, and the several Persons to and for whom the same shall be so allotted and awarded and taken in Exchange as aforesaid, shall from thenceforth stand and be seised thereof to and for such and the same Uses, Trusts, Estates, Intents and Purposes, and subject to such and the same Powers, Provisoos and Agreements, Charges, Rents, Debts, and Incumbrances, as the several Lands and Estates in lieu whereof such new Allotments and Exchanges shall be made as aforesaid, now are or would have been subject and liable to be charged with or affected by in case the same had remained uninclosed or unexchanged, or this Act had not been made.

Commissioners
may vacate
Leases at
Rack Rent.

XXXI. And be it further enacted, That it shall be lawful for the said Commissioners, if they shall think proper, at their First or any subsequent Meeting, by Notice and Advertisement to be given and published as aforesaid, to vacate and determine all or any Leases or Agreements at Rack Rent now subsisting of the Lands and Grounds hereby directed to be divided and inclosed, or of the Lands, Tenements or Hereditaments of which any such Exchange or Partition shall be made, or of any Part or Parts thereof, for any Term or Number of Years therein, or from Year to Year, or at Will; and from and after the Determination and Avoidance of any such Lease or Leases, Agreement or Agreements, the said Commissioners shall and they are hereby required to adjust and settle all Matters and Things between the Landlords and their respective Tenants touching the Avoidance of such Leases and Agreements, and to make such Order therein respecting the growing Rent of the several Lands and Grounds, and the Disposal of the Fodder, Dung, and Manure arising therefrom, and the Compensation which the respective Tenants thereof ought to have received, as they the said Commissioners in each particular Case shall think reasonable and just: Provided always, that if there shall be any Lease of Lands, Part of which shall be in the said Manors and Part in an adjoining Manor or Parish, all and every such Lease or Leases upon Rack Rent now subsisting may be vacated; but where any Lands shall have been taken in Exchange, which Lands shall be under Lease and wholly situate in an adjoining Manor or

or Parish, the Lease of such last-mentioned Lands shall not be vacated.

XXXII. And be it further enacted, That in the meantime, and until the Division and Allotment shall be made as hereinbefore is directed, the said Common Fields, Commons and Waste Lands hereby directed to be divided and inclosed, shall and may be cropped and sown with such Corn, Grain or Grass Seeds, or mowed or grazed, or otherwise set, let, and occupied, by or to such Person and Persons, and in such Manner as the said Commissioners shall, by any Writing or Writings under their Hands in that Behalf, from Time to Time, order, direct or appoint; any Usage or Custom to the contrary notwithstanding.

Allotments may be occupied before the Award.

XXXIII. And be it further enacted, That it shall not be lawful for any Person or Persons, during the Term of Seven Years from the passing of this Act, to keep or depasture any Sheep or Lambs in or upon any of the new Inclosures or Allotments which shall be made in pursuance of this Act.

No Sheep, &c. to be depastured for Seven Years.

XXXIV. And be it further enacted, That the said Commissioners are hereby authorized and required, in all Cases where in their Judgment it shall appear to be requisite or proper, or for the more convenient Occupation of the Lands and Tenements within the said Manors or Townships, to divert and turn any old accustomed Way or Path passing or leading through or over any Part of the old Inclosures within the said Manors or Townships, or to stop up or discontinue such Roads, Ways and Passages as to the said Commissioners shall seem meet and proper: Provided always, that no such Road, Way or Path shall be diverted, turned, stopped up or discontinued without such Concurrence and Order, and subject to such Appeal as is mentioned or referred to in and by the said recited Act.

Power to Commissioners to divert Roads.

XXXV. And be it further enacted, That the Costs, Charges and Expences of procuring and passing this Act, and of surveying, planning, measuring and allotting the said Common Fields and Waste Lands hereby directed to be divided and inclosed, and of preparing and inrolling the said Award, and making and repairing such Fences, Roads, Gates, Stiles, Drains, Bridges and other Conveniences as the said Commissioners shall think reasonable, and all other necessary Charges and Expences incident to and attending the carrying this Act and the said recited Act into Execution, shall be defrayed and discharged by and out of the Money arising by the Sale of such Part and Parts of the said Common Fields and Waste Lands as shall be allotted for that Purpose as aforesaid.

Expences of the Act how to be raised and paid.

XXXVI. And be it further enacted, That the Person or Persons who shall advance or lend any Money for defraying the Expences of applying for and obtaining this Act, and putting the same and the said recited Act in execution, shall be repaid the same out of the first Monies which shall be raised in pursuance hereof, with Interest after the Rate of Five Pounds per Centum per Annum.

Persons advancing Money to be repaid with Interest.

XXXVII. And

Commissioners' Accounts to be laid before a Justice.

XXXVII. And be it further enacted, That the said Commissioners shall, and they are hereby required to enter in a Book to be provided for that Purpose a true Account of all Sums by them received and expended, or due to them for their Trouble and Expences during the Progress of the said Inclosure, and shall at least once in every Year, from the Day of passing this Act till such Accounts shall be finally allowed, produce such Account, with the Vouchers relating to the same, to *Mark Anthony Whyte* Esquire, one of the Justices of the Peace for the said County, or in Case of his Death or declining to act, to some other Justice of the Peace for the said County of *Stafford*, to be examined by him, who is hereby required to enter the Balance by him stated in the Book of Accounts by the said recited Act required to be kept at the Office of the Clerk of the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or be valid in Law, unless the same shall be duly allowed by the said *Mark Anthony Whyte* or some other Justice as aforesaid.

Award to be deposited.

XXXVIII. 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 in the Parish Church of *Checkley* aforesaid.

Proprietors to pay their own Expences.

XXXIX. And be it further enacted, That the said Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioners at any Meetings to be held in pursuance of this or the said recited Act.

Power of Appeal.

XL. 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, then and in every such Case (except in such Cases where the Orders or Determinations of the said Commissioners are hereby or by the said recited Act declared to be binding or conclusive, and except in such Cases where an Issue at Law shall be had as hereinbefore mentioned) he, she or they may appeal to any General Quarter Sessions of the Peace which shall be held for the said County of *Stafford*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Parties concerned, Fourteen Days' Notice of such Appeal, and of the Matter thereof; and the Justices in such Sessions assembled 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 respectively, rendering the Overplus, if any, upon Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; and the Order and Determination of the said Justices upon every such Appeal shall be final, binding, and conclusive upon all Parties concerned, and shall not be removed or removable by *Certiorari* or otherwise into any of His Majesty's Courts of Record at *Westminster*.

XLI. Provided

XLI. Provided always, and be it further enacted, That nothing in this Act contained shall be construed to defeat, lessen or prejudice the Right, Title, or Interest of the said *Henry Bathurst* and *Ann Dorothy Franceys* his Wife, *Ann Roycraft*, and the Person or Persons who shall be deemed Lord or Lords of the Manor or Township, or Manors or Townships of *Nether Tean*, *Checkley*, and *Deadman's Green*; or any future Lord or Lords of the said Manors, to the Mines, Beds, Veins, and Seams of Coals, Cannel, Slack, Ironstone, or other Mines and Minerals in or under the said Waste Lands hereby intended to be inclosed, or any Seigniories or Royalties incident or belonging to the said Manors, the same being hereby reserved to the Lords and Ladies for the Time being of the said Manors respectively, with full and free Liberty, Power, and Authority for them respectively, from Time to Time, and at all Times hereafter, to have, hold, win, work, and enjoy all Mines, Beds, Veins, and Seams of Coal, Cannel, Slack, Ironstone, and other Mines or Minerals, of what Nature or Kind soever, within and under the said Waste Lands hereby intended to be inclosed, together with all convenient and necessary Roads, Ways, and Passages, and Liberty of laying, making, and repairing Waggonways, and other Ways in, over, along, and across the same, or any of them, or any Part thereof, and of searching for, winning, and working the said Mines and Minerals, and loading and carrying away the Coals, Cannels, Slack, Ironstone, or other Produce thereof, and sinking, digging, and making Pits, Shafts, Pit Rooms, Stand Yards, Air Pits, Drifts, Levels, Ways, and Watercourses, and of erecting and using Fire Engines, or other Engines, and of altering, changing, pulling down, and carrying away the same, or any of the Materials thereof, and to have and use any Stone got in the sinking Pits, Shafts, or working or getting the said Minerals so reserved as aforesaid, for the Uses and Purposes of the said Works, at his, her, and their own free Will and Pleasure, and to do, employ, use, and exercise all such other Machines, Acts, and Things either now in use or hereafter to be invented, as may be necessary and convenient for the full and complete Enjoyment thereof, in as full, ample, and beneficial a Manner to all Intents and Purposes as he or they could or might have done in case this Act had not been made, he and they making and allowing to the several Owners or Occupiers of such Allotments respectively a reasonable and adequate Recompence and Satisfaction for all such Damages as shall from Time to Time be done thereto, or to any Erections or Buildings that may at the Time of working or getting the said Mines and Minerals, or exercising the Privileges aforesaid, be erected or built thereupon, by or in the Use or Exercise of any such Right, Title, Interest, Liberty, Power, or Authority, in Proportion to the Loss thereby sustained, according to the Rights and Interests therein.

Saving of
Manerial
Rights, &c.
to Lords of
Manors.

XLII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Person and Persons, Bodies Politic and Corporate, his, her, and their Successors, Heirs, Executors, and Administrators, (other than and except such Persons to whom, and for whose Use and Benefit any Allotment or Allotments shall be made by virtue hereof, in respect of the Interest and Property for which such Allotment

General
Saving.

[Loc. & Per.]

29 L

ment

ment or Allotments shall be made, and their respective Successors, Heirs, Executors, and Administrators,) all such Estate, Right, Title, and Interest, Claim, and Demand, except such as are meant and intended to be barred, destroyed, and extinguished, as they or any of them could or might have had or enjoyed of, in, to, or out of the Manor or Manerial Right, in any respect affected by the Provisions of this Act; or the Lands and Grounds hereby directed to be divided and inclosed, or any Part thereof, before the passing of this Act, or in case this Act had not been made.

Act to be
printed by
the King's
Printer

XLIII. 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.