



ANNO QUARTO

# GULIELMI IV. REGIS.

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## Cap. 11.

An Act for inclosing Lands in the Parish of *Middleton* in *Teesdale* in the County of *Durham*.

[16th June 1834.]

**W**HEREAS an Act was passed in the Forty-fifth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for inclosing Lands in the Parish of Middleton in the County of Durham*, whereby it is enacted, that the Commissioner therein named should, amongst other Things, ascertain the Rights and Interests of the several Persons and Parties interested in the Division and Inclosure of the Moors, Commons, and Tracts of Waste Land within the Manor and Township of *Middleton* aforesaid, and set out and allot unto and for the then Earl of *Darlington* (now the Duke of *Cleveland*), and the several Owners and Proprietors of Messuages, Lands, Tenements, and Hereditaments having Right of Common in and upon the said Moors, Commons, and Tracts of Waste Land in the said Manor and Township of *Middleton* in *Teesdale*, in One Allotment or Inclosure, a Plot or Parcel of Land adjoining the ancient Inclosures within the said Township of *Middleton* in *Teesdale* which should contain not more than Three thousand Acres, to be used and enjoyed in Common by the said Earl of *Darlington* and the several Owners and Proprietors of Messuages, Lands, Tenements, and Hereditaments having Right of Common in and upon the said Moors, Commons, and Tracts of Waste Land within the said Manor and Township of *Middleton*, as a Stinted Common Pasture; and that the said Commissioner should in his Award set out, appoint, and apportion

[Private.]

in Cattlegates unto and for the said Earl of *Darlington*, in respect of his Right as Lord of the Manor to the Soil thereof, One full Sixteenth Part of the said Allotment of Three thousand Acres so to be set out as a Stinted Common Pasture, over and besides such Share thereof as he should be entitled to in respect of his Commonable Messuages, Lands, Tenements, and Hereditaments in the Township of *Middleton* in *Teesdale* aforesaid; and that the said Commissioner should also ascertain, specify, and set forth in his Award the further Number of Cattlegates with the same Allotments so to be set out as a Stinted Common Pasture as aforesaid should be capable of agisting and depasturing, and the respective Cattlegates and Shares of Cattlegates thereon to which all and every the Owners of Messuages, Lands, Tenements, and Hereditaments having Right of Common in and upon the said Moors, Commons, and Tracts of Waste Land should be entitled in respect of such Messuages, Lands, Tenements, and Hereditaments, so that the said last-mentioned Cattlegates and Shares of Cattlegates should be estimated, allotted, and appointed by the said Commissioner to and amongst the said Earl of *Darlington*, and the several other Owners of Commonable Messuages, Lands, Tenements, and Hereditaments having Right of Common in and upon the said Moors, Commons, and Tracts of Waste Land, in the Proportion such Commonable Messuages, Lands, Tenements, and Hereditaments were respectively rated in the Poor Rates in which they were respectively situated, made and collected next or immediately preceding the passing of the said now reciting Act; and should also order and direct that the said last-mentioned Allotment so to be set out as Stinted Common Pasture be well and sufficiently fenced; and it was further enacted, that the said Commissioner should by his Award set out all the Residue of the said Moors, Commons, and Tracts of Waste Land within the Township and Manor of *Middleton* in *Teesdale* aforesaid, to be held and occupied in Common as a Stinted Pasture, and should set out, appoint, and apportion in Cattlegates unto and for the said Earl of *Darlington*, in respect of his Right to the Soil thereof as Lord of the Manor, One full Sixteenth Part of such Residue of the said Moors, Commons, and Tracts of Waste Land in the Township and Manor of *Middleton* in *Teesdale* aforesaid so to be set out, to be held in Common as a Stinted Pasture, and should then ascertain, specify, and set forth the further Number of Cattlegates which the said Residue of the said Moors, Commons, and Tracts of Waste Land so to be set out to be held in Common as a Stinted Pasture should be capable of agisting or depasturing, and the respective Cattlegates and Shares of Cattlegates thereon to which all and every the Owners of Messuages, Lands, Tenements, and Hereditaments having Right of Common in and upon the said Moors, Commons, and Tracts of Waste Land within the said Township and Manor of *Middleton* in *Teesdale* should be entitled in respect of such Messuages, Lands, Tenements, and Hereditaments, and that the said last-mentioned Cattlegates and Shares of Cattlegates so to be apportioned and set out as aforesaid should be estimated, allotted, and appointed by the said Commissioner to and amongst the said Earl of *Darlington*, and the several other Owners of Messuages, Lands, Tenements, and Hereditaments having Right of Common in and upon the said Moors, Commons, and Tracts of Waste Land in the Manor and Township of *Middleton* in *Teesdale*, in the Proportions they were respectively rated in respect of the same Messuages, Lands, Tenements, and Hereditaments in the Poor's Rate for the Township in which the said Commonable Messuages, Lands, Tenements, and Hereditaments

ditaments are respectively situate, made and collected next, or immediately preceding the passing of the said Act; and the said Act contains divers Provisions, Regulations, and Enactments relative to the holding and occupying of the said Commons or Stinted Pastures, and reserves to the said Earl of *Darlington* the Rights, Seigniories, and Royalties, Matters, and Things incident to the said Manor of *Middleton* in *Teesdale*, and the Mines, Minerals, and Quarries, with such Powers relative to the winning and working thereof as is therein mentioned, without paying any Damages or making any Satisfaction whatsoever: And whereas *William Barnes*, then of *Collingwood* in the County of *York*, the Commissioner appointed for executing the said recited Act, proceeded in the Execution thereof, and duly made his Award, thereby declaring that he had in pursuance and according to the Provisions of the said Act ascertained the Boundaries of the said Manor of *Middleton* in *Teesdale* aforesaid to be as in his said Award was therein mentioned, and did by his said Award also declare that he had caused a Survey or Admeasurement to be made of the said Moors or Commons within the Township and Manor of *Middleton* in *Teesdale*, and a Plan to be made thereof, and that he had caused the same Plan, or a true Copy of it, to be annexed to his said Award; and that it appeared thereby that the whole of the said Moors or Commons within the said Township and Manor intended to be inclosed or converted into a Stinted Pasture or Stinted Pastures did contain Nine thousand two hundred and twenty-four Acres Two Roods and Twenty-one Perches Statute Measure; and the said Commissioner did further state in his said Award that he had in pursuance of the said recited Act set out and allotted unto and for the said Earl of *Darlington*, and the several Owners and Proprietors of Messuages, Lands, Tenements, and Hereditaments having Right of Common in and upon the said Moors, Commons, and Tracts of Waste Land in the said Manor and Township of *Middleton* in *Teesdale* aforesaid, in One Allotment or Inclosure, a Plot or Parcel of Land adjoining the ancient Inclosures within the said Township of *Middleton*, being Part and Parcel of the aforesaid Quantity of Nine thousand two hundred and twenty-four Acres Two Roods and Twenty-one Perches, containing One thousand nine hundred and ninety-six Acres One Rood and Eleven Perches, being a Quantity of not more than Three thousand Acres, as the said Act directed, to be used and enjoyed in common by the said Earl of *Darlington*, and the several Owners and Proprietors of Messuages, Lands, Tenements, and Hereditaments having Right of Common in and upon the said Moors, Commons, and Tracts of Waste Lands within the said Manor and Township of *Middleton* in *Teesdale*, as Stinted Common Pastures, in such Shares and Proportions as is therein awarded in that Behalf; and the said Commissioner did by his said Award declare that he had caused the said Quantity of One thousand nine hundred and ninety-six Acres One Rood and Eleven Perches to be fenced and separated from the other Parts of the said Moors or Commons within the Manor and Township of *Middleton* aforesaid, and that he would refer to and call the same fenced Part by the Name of the *Inner Pasture*, and that the other Part to remain open and uninclosed he would refer to and call by the Name of the *Outer Pasture*; and the said Commissioner did by his said Award declare that he had proceeded to ascertain and fix the Number of Cattlegates or Stints, or Parts of Cattlegates or Stints, capable of being agisted by or upon all the said Moors or Commons within the Township and Manor of *Middleton* aforesaid, distinguishing the respective  
Numbers.

41G.3.c.109.

1 & 2 G. 4.  
c. 23.Provisions of  
recited Acts  
extended to  
this Act.

Numbers capable of being so agisted upon that Part thereof so fenced off and inclosed as aforesaid, and of the other Part remaining open and uninclosed; and he the said Commissioner did in and by his said Award set out, appoint, apportion, and award the said *Middleton Inner and Outer Pastures* to and amongst the said Earl of *Darlington*, and the other Owners and Proprietors therein named, in the several specific Number of Cattlegates and Stints for Sheep, and in manner therein expressed: And whereas the Most Noble *William Harry Duke of Cleveland* is or claims to be Lord of the Manor of *Middleton in Teesdale*, and is or claims to be entitled to Free Warren, and to the Soil, Seigniories, and Royalties of the said Common, Common Fields, and Stinted Pastures, and to the Mines, Minerals, and Quarries within and under the same: And whereas the Reverend *John Henry Brown* is Rector of the Rectory and Parish Church of *Middleton in Teesdale* aforesaid, and in right thereof is entitled to the Tithes of Corn and Hay, and all other Tithes (as well Great as Small), arising, renewing, or payable within the said Parish of *Middleton in Teesdale* (except Tithes of Hay within the ancient Inclosures of the said Township of *Middleton in Teesdale*, in lieu whereof a certain Modus or Moduses, prescript Payment or prescript Payments, have or hath been made from Time immemorial): And whereas the said Duke of *Cleveland*, *John Bowes Esquire*, *John Hill Esquire*, *Thomas Hodgson Hobson*, and several other Persons are now possessed of or entitled to Cattlegates or Stints, or Shares of Cattlegates or Stints, in the said Common, Common Fields, and Stinted Pastures: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George the Third*, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas an Act was passed in the First and Second Year of the Reign of His late Majesty King *George the Fourth*, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: And whereas the said Common, Common Fields, or Stinted Pastures so set out and allotted by the said Commissioner under or by virtue of the said first-recited Act are by reason of the Magnitude and Extent thereof, and in their present State, incapable of any considerable Improvement, and it would be very advantageous to the several Persons interested therein if the same were divided and inclosed, and distinct and specific Parts thereof allotted unto and amongst the said several Persons according to their respective Estates and Interests therein; but the same cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the 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 recited Acts, and all and every the Powers, Provisions, Exemptions, Rules, Remedies, Regulations, Penalties, Articles, Matters, and Things whatsoever therein contained, (save and except such Parts thereof as are varied, altered, or repealed by or are repugnant to the Powers, Authorities, Enactments, and Provisions of this Act,) shall be extended to this Act, and is and are hereby declared to be in full Force and Effect, and shall be as good, valid, and effectual for carrying the Purposes of this Act into execution in as ample a Manner to all Intents and Purposes as if the same had been repeated and re-enacted in this Act.

II. And

II. And be it further enacted, That so much and such Parts of the said recited Act of the Forty-fifth Year of the Reign of His Majesty King *George* the Third as enacts, that the same Commons, Common Fields, and Stinted Pastures, or any Part thereof, shall be set out and allotted to be held, used, or enjoyed as a Stinted Common Pasture, or a Stinted Pasture or Pastures, and so much and such Parts of the said last-mentioned Act as relates to the Manner of holding, occupying, managing, or enjoying of the same as a Stinted Common Pasture, or a Stinted Pasture or Pastures, and such other Part or Parts of the said Acts as are repugnant to the Powers and Provisions herein-after contained, be and the same Part and Parts is and are hereby repealed.

Repealing  
Part of  
45 G. 3. c. 13.

III. And be it further enacted, That *John Machell* of *Moor House Hall* in the County of *Cumberland*, Land Surveyor, shall be and he is hereby appointed the Commissioner for surveying, dividing, allotting, awarding, and inclosing the said Commons, Common Fields, or Stinted Pastures, and for carrying into execution this Act and the said recited Acts of the Forty-first Year of the Reign of King *George* the Third and the First and Second Year of the Reign of His late Majesty King *George* the Fourth, (except so much of the said recited Acts as is or are hereby altered or varied), under and subject to the Directions, Regulations, and Provisions herein-after contained, and also under and subject to such of the Powers, Authorities, Directions, and Provisions contained in the said last-mentioned Acts as are not repugnant to this Act.

Commis-  
sioner,

IV. And be it further enacted, That if the said *John Machell*, or any other Commissioner to be appointed as herein-after is mentioned, shall die, or shall refuse or neglect to act for the Space of One Calendar Month after being thereunto requested by some Person or Persons entitled to any Allotment under this Act, or shall become incapable of acting as a Commissioner in the Execution of this Act and the said last-mentioned Acts, before all the Powers, Authorities, and Trusts thereby respectively reposed in him shall be fully executed and performed, it shall be lawful for the major Part in Value (such Value to be ascertained by the Poor's Rate Assessment) of the Proprietors and Persons interested in the said Division and Inclosure, or their respective Attornies or Agents, present at a Meeting to be holden for that Purpose, by Writing under their respective Hands, or the Hands of such Agents and Attornies as aforesaid, to nominate and appoint one other fit and proper Person not interested in the said Division and Inclosure to be a Commissioner in the Place of the said *John Machell*, provided that Fourteen Days Notice of the Time and Place of such Meeting shall be given by Two or more such Persons as aforesaid (which Notice any Two or more of such Persons interested as aforesaid are hereby authorized and required to give by Writing under their Hands) in like Manner as is herein-after directed with respect to the Sittings of the said Commissioner; and such Meeting shall be held within the Township of *Middleton* in *Teesdale* aforesaid, or within Six Miles of the Boundaries thereof; and every such new Commissioner shall, from and immediately after his Appointment, when he shall have taken the Oath prescribed by the secondly-recited Act, have such and the like Powers and Authorities for putting this and the said recited Acts into execution as if he had been named and appointed a Commissioner in this Act.

Appointment  
of new Com-  
missioner.

[Private.]

As to Notices  
of Meetings,  
&c.

V. And be it further enacted, That the Commissioner for the Time being shall and he is hereby required to give public Notice in Writing, by affixing the same on the principal outer Door of the Parish Church at *Middleton* in *Teesdale* aforesaid upon some *Sunday* before Divine Service, and there to remain during such Service, and by publishing the same in the *Durham County Advertiser*, or some other public Paper printed or circulated in the County of *Durham*, of the Time and Place of his first and every subsequent Sitting for executing the Powers hereby vested in him, at least Fourteen Days previous to such Sittings, (Sittings by Adjournment only excepted,) which said Sittings shall be held within the Township of *Middleton* in *Teesdale*, or within Six Miles from the Boundary thereof; and all other Notices necessary or requisite to be given by the said Commissioner, or any other Person or Persons, in pursuance of this Act or the said recited Acts, shall (unless such Notices are by this Act particularly directed to be given in some other Manner) be given in Writing affixed on the principal outer Door of the Parish Church aforesaid, and in such Newspaper as aforesaid.

Duration of  
Meetings.

VI. And for regulating the Duration of all Meetings to be held for the Purposes of this Act, be it further enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*; and that any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged as only Half a Day, and the said Commissioner shall be paid accordingly; and a Book shall be kept by the said Commissioner, in which shall be entered the several Days on which the said Commissioner shall hold his Meetings, and in such Book shall also be entered at what Hour the said Commissioner was present at such Meeting, and at what Hour he left the same, and such Book shall be signed by such Commissioner at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the said Inclosure, or his, her, or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book, without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioner to retain or pay to himself, out of any Monies to be received by him or over which he may have any Controul in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-after directed to be made to such Commissioner, beyond One Third of such Allowance as he shall be entitled to, until after the Expiration of Six Calendar Months from the Day of the Inrolment of the Award of the said Commissioner at *Durham*, in the Manner herein-after mentioned, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner previous to the Execution of the said Award, the Commissioner for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner such Sum of Money as shall appear by the said Accounts to be due to him.

VII. And

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

Commissioner to keep a Book.

VIII. And be it further enacted, That out of the Money which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same and the said recited Acts, there shall be paid to the said Commissioner, as a Recompence for his Time, Trouble, and Expences in surveying, measuring, allotting, and mapping the said Common, Common Fields, and Stinted Pastures, and in executing all and every the Regulations, Powers, and Provisions of this Act, the Sum of Three hundred and eighty-four Pounds Seven Shillings, being at or near the Rate of Ten-pence *per* Acre upon the said Common, Common Fields, and Stinted Pastures; and the said Sum of Three hundred and eighty-four Pounds Seven Shillings shall be in full for his Time, Trouble, and travelling and other Expences incurred by him in the Execution of this Act; and all Proprietors, their Agents or Attornies, and other Persons in any Manner interested in the said Common, Common Fields, or Stinted Pastures, shall at all Times and on all Occasions pay and discharge their own Expences: Provided always, that in case the said Commissioner should die, or refuse or neglect to act, or become incapable of acting, before the Trusts, Powers, and Authorities of this Act be fully executed, then and in that Case the said Commissioner shall be paid and allowed after the Rate of Two Pounds and Two Shillings for every Day in which he shall have been actually and wholly engaged in or about the surveying, mapping, planning, or otherwise in the Execution of this and the first and secondly recited Acts, which said Allowance of Two Pounds and Two Shillings *per* Day shall be in full for his Time, Trouble, and travelling and other Expences: Provided also, that in case the Commissioner appointed by this Act shall happen to die, or shall refuse or neglect to act, or become incapable of acting, and a new Commissioner shall be appointed, such new Commissioner shall be allowed the Sum of Three Pounds and Three Shillings for each Day in which he shall be actually and wholly engaged in the Execution of this Act and the first and secondly recited Acts, which said Sum shall be in full for his Time, Trouble, travelling and all other Expences.

Recompence to Commissioner.

Proprietors to pay their own Expences.

IX. And be it further enacted, That the said Commissioner shall and may at his Discretion use for the Purposes of this and the said recited Acts the Survey, Admeasurement, or Plan of the said Common, Common Fields, or Stinted Pastures so annexed to the said Award of the said *William Barnes* as aforesaid, or he may cause true and accurate Surveys, Admeasurements, Valuations, and Plans to be made of the said Common, Common Fields, or Stinted Pastures, pursuant to the Powers and Provisions of the said secondly-recited Act; but no Person or Persons to be appointed by the said Commissioner by virtue of the said last-mentioned Act shall be capable of acting as Surveyor or Assistant in such Survey until he hath taken and subscribed an Oath (or being a Quaker, an Affirmation) to the Effect following; (that is to say,)

An existing Survey may be used, or a Survey made for the Purpose.

Surveyor to take Oath.

4° GULIELMI IV. Cap. 11.

‘ I *A. B.* do swear, [*or, being one of the People called Quakers, do solemnly affirm,*] That I will faithfully and impartially, according to the best of my Ability, execute the several Powers and Duties vested in me as Surveyor by virtue of an Act passed in the Fourth Year of the Reign of His Majesty King *William* the Fourth, intituled [*here insert the Title of this Act*]. So help me GOD.’  
 [Or, being a Quaker, omit the Words ‘ So help me God.’]

Notice of Claim.

X. And be it further enacted, That all Persons, and Bodies Corporate, Politic, or Collegiate, who shall have or claim any Stint or Cattlegates, Shares of Stints or Cattlegates, or other Right or Interest, in the Common, Common Fields, or Stinted Pastures intended to be divided, allotted, and inclosed, shall deliver or cause to be delivered to the said Commissioner, at some one of such Meetings as the said Commissioner shall appoint for the Purpose, an Account or Schedule in Writing, signed by them, or their respective Husbands, Guardians, Trustees, Commissioners, or Agents, of such Claims or Rights ; and such Notice shall be according to the Form following ; (that is to say,)

*Form of Claim.*

‘ TAKE Notice, That *A. B.* of [*here set forth the Residence and Trade, &c.,*] claims to be entitled to certain Rights and Interests in the Lands intended to be allotted, divided, and inclosed by you, by virtue of an Act passed in the Fourth Year of the Reign of His Majesty King *William* the Fourth, [*here insert the Title of this Act,*] and that the Particulars of such Claim are as follow :

State the Nature of the Claim, specifying whether for Stints or Cattlegates, or in what other Right.	Number of Stints or Cattlegates, and whether for Beasts or Sheep, and how many in each Pasture.	Name of Person now in the actual Possession or Enjoyment of such Stints, Cattlegates, or Rights.	For what Estate and Interest claimed.	In what Right.	Tenures of ancient Estate (if any) in respect of which any Claim made.

‘ Signed (*A. B.*)  
 ‘ or *X. Y.* Trustee, Agent, &c. &c.  
 for the said *A. B.*’

And on Noncompliance therewith or making Default therein such Persons, Bodies Corporate, Politic, or Collegiate, shall, so far as respects such Claim so neglected to be delivered, be totally barred and excluded of and from all Right and Title in or upon such Lands so to be divided respectively, and of and from all Benefit and Advantage in or to any Share or Allotment thereof, all which said Claims shall remain open for Inspection at all Times at the Place where such Meeting was held ; and if any Person or Persons have any Objections to offer to such Claim, such Objections, with the Particulars and Causes thereof, shall be made in Writing, and signed by them, their Husbands, Trustees, Commissioners, or Agents, and delivered to the said Commissioner at some Meeting or Meetings to be appointed by him for that Purpose, and a Copy thereof affixed



affixed to the outer Door of the said Parish Church of *Middleton* in *Teesdale* on the *Sunday* previous to such Meeting, and such Claimant may within Three Weeks from such *Sunday* amend his Notice in any of the Particulars objected to: Provided always, that nothing herein contained shall extend or be construed to extend to affect the Interest of any Person or Persons in Remainder.

XI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties who now are, or shall before the Execution of the Award of the said Commissioner be, entitled or claim to be entitled in the said Division and Inclosure, touching the Stints or Cattle-gates, Rights or Interests which they or any of them shall claim, or the Nature and Extent thereof, or touching any other Matter relative to the said intended Division, Allotment, and Inclosure, it shall be lawful for the said Commissioner and he is hereby required to examine into, hear, and determine the same. Commissioner to settle Disputes.

XII. Provided always, and be it further enacted, That nothing in this Act contained shall empower the said Commissioner to determine the Title to any Messuages, Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any such Parties (except in Cases of Encroachment as hereinafter mentioned); but in case the said Commissioner shall be of opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law. Commissioner not to determine Title, nor to determine against the Possessor.

XIII. And be it further enacted, That in case the said Commissioner shall upon the hearing and determining any Claim or Claims, Objection or Objections, Matters or Things delivered to him in pursuance of this Act or the said recited Acts, see Cause to award any Costs or Charges, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application being made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour any such Determination shall be made by the Person or Persons, Bodies Politic, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case such Person or Persons, Bodies Politic, Corporate, or Collegiate, shall neglect or refuse to pay such Costs and Charges within Fourteen Days after Demand made thereof, then and in such Case it shall be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Bodies Politic, Corporate, or Collegiate, so neglecting or refusing as aforesaid, rendering the Overplus (if any), upon Demand, to such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Sale. Costs may be awarded.

XIV. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, Parties dissatisfied may have an Issue at Law;  
[Private.]

interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioner touching his, her, or their respective Claims, Rights, or Interests, or alleged Rights and Interests, in the said Common, Common Fields, or Stinted Pastures, then and in every such Case it shall be lawful for such dissatisfied Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, to cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made; within Three Calendar Months next after such Determination shall have been notified in Writing by the said Commissioner to the Party or Parties against whom it was made, or to his, her, or their known Agent or Attorney, and for that Purpose the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied as aforesaid, shall proceed to a Trial at Law of the Matter so determined by the said Commissioner at the next or second Assizes to be holden for the said County of *Durham* after such Action shall have been commenced; and the Defendant or Defendants in such Action shall and is and are hereby required to name an Attorney or Attornies, who shall appear and file Common Bail thereto, and accept One or more Issue or Issues, whereby the Claim or Claims, Rights or other Matters in dispute may be tried and determined, such Issue to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced in case the Parties differ about the same; and the Verdict or Verdicts given in such Action or Actions shall be final, binding, and conclusive upon all and every Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, unless the Court in which such Action 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 said Court to do as in other Cases: Provided always, that it shall be lawful for the Parties in any such Action as aforesaid, at any Time before or after Issue joined, (if all the Facts be admitted, and the same Matters in dispute only involve some Question or Questions of Law,) by Order of any of the Judges of the Superior Courts, to state the Facts in the Form of a Special Case for the Opinion of the Court, and to agree that a Judgment by Confession or *Nolle prosequi* shall be entered for the Plaintiff or Defendants after the Decision of the Case, or otherwise as the Court shall think fit, and such Judgment shall be entered accordingly.

or a Special Case.

Commissioner to conform to Decision.

XV. And be it further enacted, That after such Verdict or Verdicts or Judgment upon such Special Case as aforesaid, the said Commissioner is hereby required to act in conformity thereto, and allow or disallow the Claims and Matters thereby determined, according to the Event: Provided always, that the Determination of the said Commissioner touching any of the Matters aforesaid which shall not be objected to, or to which the Party or Parties objecting shall not cause such Action to be proceeded in as aforesaid, shall be final and conclusive on all Parties.

Deaths of Parties not to abate Actions.

XVI. And be it further enacted, That if any or either 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; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made,  
and

and against whom any such Action as aforesaid might have been brought if living, shall die before such Action shall have been brought, and before the Time limited for bringing such Action shall have expired, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action 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 said Commissioner or his Clerk with the Process for commencing such Action in the same Manner as the Party or Parties so dying might have been served therewith if living; and it shall then be incumbent on the Heir or Heirs, or other Person or Persons claiming the Benefit of such Determination as aforesaid, to appear and defend the same in the Name 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.

XVII. Provided always, and be it further enacted, That if any Dispute, Suit, or Action shall arise or be commenced or prosecuted touching the Title or Interest of any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in or to the said Common, Common Fields, or Stinted Pastures so intended to be allotted, divided, and inclosed, such Dispute, Suit, or Action shall not delay or hinder the said Commissioner in the Execution of the Powers of this Act and the said recited Acts, but the Division, Allotment, and Inclosure of the said Common, Common Fields, or Stinted Pastures shall be proceeded in notwithstanding such Dispute, Suit, or Action; and the Allotment or Allotments in respect of which such Dispute, Suit, or Action may be, shall be awarded and allotted to the Person or Persons in the then actual Possession or Enjoyment of the same, and shall abide the Event of such Dispute, Suit, or Action.

Disputes not to hinder Allotment.

XVIII. And be it further enacted, That if any of the Persons interested in the said intended Division and Inclosure shall die before the Powers and Authorities hereby given to the said Commissioner shall be completed, such Powers and Authorities shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers given to him by this Act and the said recited Acts in such Manner as he might have done if such Person had not died; and the Share or Shares of such Person or Persons so dying shall be allotted to the Person or Persons who shall by Law be entitled to the same, and shall be accepted and fenced by him, her, or them according to the Directions of this Act and the said recited Acts, and he, she, or they shall be liable to all the Charges, Expences, Provisions, and Conditions of this Act and the said recited Acts.

Death of Parties not to suspend Powers and Authorities given by this Act.

XIX. And be it further enacted, That all Encroachments and Inclosures which shall have been made Twenty Years or upwards before the passing of this Act upon the said Common, Common Fields, or Stinted Pastures, (save and except such Encroachments for which any Acknowledgment or Acknowledgments shall have been made and paid,) shall, with all Buildings thereon, be deemed, for the Purposes of this Act, to belong to

Encroachments.

to and be the Property of the Person or Persons who are, in his, her, or their own Right, in the Possession or Receipt of the Rents of the same; but all Encroachments or Inclosures made within the aforesaid Period of Twenty Years before the passing of this Act, and also the said Encroachments for which any Acknowledgment or Acknowledgments shall have been made and paid, shall be deemed and taken to be Part of the said Common, Common Fields, or Stinted Pastures, and shall be allotted, divided, and inclosed with the same accordingly.

Extinguish-  
ment of  
Common  
Rights.

XX. And be it further enacted, That it shall be lawful for the said Commissioner at any Time or Times hereafter, whenever and as often as he shall think fit and convenient, by Notice in Writing to be affixed to the principal Door of the Parish Church at *Middleton* in *Teesdale* aforesaid, to suspend or totally extinguish all or any Parts of the Rights of Common and Pasture in, over, or upon all or any Part of the said Common, Common Fields, or Stinted Pastures; and from and after such Notice given all such Rights of Common in, over, and upon the said Common, Common Fields, and Stinted Pastures, or such Part thereof as by such Notice shall be directed to be suspended or extinguished, shall cease and be totally extinguished or otherwise suspended accordingly.

Power to  
divert Roads,  
&c.

XXI. And be it further enacted, That it shall be lawful for the said Commissioner and he is hereby empowered to stop up, discontinue, divert, or widen any public or private Roads, Ways, or Paths in the said Manor and Township, and to make such Order or Orders therein as to him shall seem expedient, subject and according to the Provisions and Directions, and also to the Appeal, mentioned in the said secondly-recited Act; but no public Highway, Bridle Road, or Footpath passing or leading through any old inclosed Lands in the said Manor and Township shall be diverted, turned, stopped up, or discontinued unless Notice be given in Manner and Form as prescribed by an Act passed in the Fifty-fifth Year of the

55 G. 3. c 68. Reign of His Majesty King *George* the Third, intituled *An Act to amend an Act of the Thirteenth Year of His present Majesty, and for the Amendment and Preservation of Highways, in so far as the same relates to Notice of Appeal against turning or diverting a Public Highway, and to extend the Provisions of the same Act to the stopping up of unnecessary Roads, and the same shall be subject to Appeal in the Manner by such Act directed.*

Power to  
scour and  
drain.

XXII. And be it further enacted, That it shall be lawful for the said Commissioner and he is hereby authorized and empowered to scour out, deepen, widen, and change the Course and Direction of all and every ancient Ditches, Drains, Watercourses, Tunnels, and Bridges in, upon, or through the Lands hereby directed to be divided, allotted, and inclosed, as he shall think proper, and to cause any new Ditches, Fences, Drains, Bridges, Banks, Tunnels, or Watercourses to be made in the said Manor and Township, and to make such Orders for the future repairing and keeping in order of the same as he shall think fit; but no such Works shall be made upon any inclosed Lands without the Consent in Writing of the Owner or Owners thereof; and no Rivulet, Brook, or Watercourse shall be turned from its present Course in or through any inclosed

Land without the Consent in Writing of the Owner or Owners of such inclosed Land.

XXIII. And be it further enacted, That the said Commissioner shall and he is hereby empowered to set out a Piece or Pieces of Ground, not exceeding in all Eight Acres, as and for a public Stone Quarry or public Stone Quarries, and Lime Quarries, Pits, and Kilns, for the Purpose of getting Stones, Limestone, and other Materials for the making and repairing the Highways and other Roads set out or diverted or altered by the said Commissioner, and also for the Use and Benefit of the Owners and Occupiers of the Allotments to be set out by the said Commissioner, for the Use of such Allotments, and for the Purpose of rebuilding or repairing any of their Messuages, Tenements, Walls, or Buildings within the said Township, but not to be otherwise applied by them, and on no account to be sold, exchanged, given away, or otherwise disposed of by them; and in case any such Owner or Occupier shall use or dispose of the said Stones, Limestones, and other Materials in any other Manner than is prescribed by this Act, or in case any Person or Persons shall win, work, or obtain Stone, Limestone, and Materials from the said Quarry or Quarries, Pit or Kiln Grounds, who shall not be entitled thereto by virtue of this Act, it shall be lawful for any Owner or Owners of any such Allotment or Allotments to recover the Value of such Stones, Limestone, and Materials from such Person or Persons by Action or Actions of Trespass or on the Case; and in such Action of Trespass it shall be sufficient to declare as if the Plaintiff or Plaintiffs was or were the sole Owner or Owners of such Quarry or Quarries, and the Defendant had trespassed thereon and taken away therefrom such Stones, Limestones, and Materials, according to the common and usual Mode of declaring in Trespass, without setting forth any of the Proceedings under this Act; and such Declaration shall be good and effectual as well against such Person or Persons so winning and obtaining Stones from such Quarry or Quarries, Pits or Kilns, not being entitled thereto by virtue of this Act, as also against any Owner or Occupier using or disposing of such Stones, Limestones, or Materials in any other Manner than is prescribed by this Act; and it shall in such Action afford no Defence to such last-mentioned Owner or Occupier to show that he is entitled to Stones, Limestones, and Materials thereout by virtue of this Act.

XXIV. And be it further enacted, That after the said Piece or Pieces of Quarry, Pit, or Kiln Ground, or any of them, shall be exhausted of Stone and Limestone, the same shall respectively become vested in the Churchwardens and Overseers of the Poor of the Township of *Middleton* in *Teesdale*, and the Surveyor or Surveyors of the Highways within the said Township, and shall and may be by them sold by public Auction, and conveyed to any Person or Persons, Body Politic, Corporate, or Collegiate willing to become the Purchaser or Purchasers thereof, by Deed under the Hands and Seals of the said Churchwardens and Overseers of the Poor of the said Township and Surveyor or Surveyors of the Highways for the Time being as aforesaid; and the Purchase Money shall be applied by such Churchwardens and Overseers and Surveyor or Surveyors for the Time being as aforesaid in and towards the repairing of

[*Private.*]

the Highways and Roads within the said Township, in such Manner as they or the major Part of them shall direct.

Commis-  
sioner to set  
out Watering  
Places.

XXV. And be it further enacted, That the said Commissioner shall set out and allot unto the Surveyor or Surveyors of the Highways within the said Township of *Middleton* in *Teesdale* such Part or Parts of the said Common, Common Fields, and Stinted Pastures as he shall think necessary, not exceeding Two Roods of Land in all, for public Watering Places for the Use of the said Surveyor or Surveyors, and all Proprietors of Lands, Tenements, and Hereditaments within the said Township, and their Tenants and Workmen, subject nevertheless to such Rules as the said Commissioner shall by his Award make and order.

Commis-  
sioner to sell  
Part of Com-  
mon to pay  
Expences.

XXVI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required in the next place to mark and set out such Part or Parts of the said Common, Common Fields, and Stinted Pastures, not exceeding in the whole Ten Acres, to pay and defray in part the Expences of this Act, and of surveying, allotting, and dividing the said Common, Common Fields, and Stinted Pastures, and of carrying the Powers and Provisions of this Act and the said secondly-recited Act into full Execution; and after the same shall be so marked and set out the said Commissioner shall and he is hereby required to cause the same to be sold by public Sale or Auction in such Manner as is directed by the said secondly-recited Act; and in case such Sale or Auction shall produce more Money than may be requisite for paying and defraying such Charges and Expences as aforesaid, the overplus Money shall be by the said Commissioner paid and divided unto and amongst all and every the Proprietors of the Allotment to be set out as aforesaid; and any such Proprietor being Tenant in Fee Simple shall receive his proportionate Part accordingly; but the overplus Money to which any Proprietor or Proprietors not being Tenant in Fee Simple shall be entitled shall be paid into the Bank of *England* or otherwise in the Manner and according to the Proportions directed by the said secondly-recited Act with respect to the Money to be paid for the Purchase or Exchange of other 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.

As to the  
Overplus,  
if any.

In case of  
Deficiency,  
if any.

XXVII. Provided always, and be it further enacted, That in case the Money arising by such Sale or Auction as aforesaid shall not be sufficient to defray all the Charges and Expences aforesaid, then the Deficiency shall be made up by the several Persons, Proprietors of Allotments (except the Rector for the Time being of the said Parish) to be set out under the Powers and Provisions of this Act and the said secondly-recited Act, in such Shares (proportioned to their respective Estates and Interests) and in such Manner and within such Time as the said Commissioner shall direct and appoint; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share or Shares of such Charges and Expences according to such Direction or Appointment of the said Commissioner,

missioner, then the same shall and may be recovered in manner directed by the said secondly-recited Act.

XXVIII. And be it further enacted, That after the public Highways, Roads, Drains, Watercourses, and Quarry and Pit and Kiln Ground, Watering Place, and other Conveniences, and the said Part or Parts of the said Common, Common Fields, or Stinted Pastures so to be sold, shall be marked, set out, and fixed as aforesaid, then the said Commissioner shall set out, allot, and award the Residue of the said Common, Common Fields, or Stinted Pastures within the said Manor unto and amongst the Lord of the Manor of *Middleton* in *Teesdale* aforesaid for the Time being, and the several other Persons, Body and Bodies Politic, Corporate, or Collegiate, having Stints or Cattlegates or Parts of Stints or Cattlegates thereon, according and in proportion to the Number of Stints or Cattlegates, or Parts of Stints or Cattlegates, to which he or they may be entitled on the said Common, Common Fields, or Stinted Pastures, and in lieu and full Satisfaction and Compensation for all such his and their Stints and Cattlegates, Parts of Stints or Cattlegates, and other Rights and Interests, in, to, or upon the said Common, Common Fields, or Stinted Pastures (subject nevertheless to the Proviso and Reservation herein-after contained with respect to the Lord of the said Manor).

Allotment of Residue to Lord of the Manor and Proprietors.

XXIX. And be it further enacted, That the Stones and Limestone under any Allotment to be set out and awarded as aforesaid may be wrought and enjoyed by the Owner or Owners of such Allotment, but for the same Uses and Purposes only and under the same Restrictions as are herein-before expressed and imposed respecting the Stones and Limestone to be obtained from and out of the public Quarries and Limekilns herein-before directed to be set out.

Stones under Allotments.

XXX. And be it further enacted, That it shall be lawful for the said Commissioner at any Time before executing his final Award to make any Alterations in the Allotments or Fences which he may have set out and ordered, or in the private Roads laid or to be laid over or to such Allotments, that he may think right and expedient.

Commissioner may alter Allotments before making his Award.

XXXI. And be it further enacted, That all and every Person and Persons to whom any Allotment or Allotments shall be made in pursuance of this Act (except the said Rector in respect of his Allotment as Rector) shall and they are hereby required, at his, her, or their own Costs and Charges respectively, to inclose, hedge, ditch, and fence his, her, and their several Allotments in such Manner and Form and within such Time as shall be directed, appointed, or ordered by the said Commissioner; and it shall be lawful for the said Person and Persons at any Time after the said Allotments shall be staked and set out by the said Commissioner, and before the Execution of his Award, to inclose and fence the same with the Consent of the said Commissioner, and in such Manner as he shall direct; and convenient Gaps shall, if necessary, be left in the Hedges and Fences of the Allotments to be set out by virtue of this Act, for such Space of Time after the Execution of the said Award of the said Commissioner, for the Passage of Horses, Cattle, Carts,

As to fencing the Allotments.

Carts, and Carriages, as the said Commissioner shall in and by his Award direct.

Expences  
of Boundary  
Fencing.

XXXII. And be it further enacted, That if the said Commissioner shall find that from Situation or other Circumstances any Allotment or Allotments will have more than a proportionate Part of the Boundary Fencing, then and in that Case it shall be lawful for the said Commissioner, if he shall judge it reasonable, to set out and allot to the Owner of such Allotment or Allotments a larger Quantity of Land than he would otherwise be entitled to, as a Compensation for the additional Expence which he, she, or they will incur by reason of such extra Boundary Fencing; and such Commissioner shall also if he judge it reasonable set out and allot to the Owner or Owners of any Allotment or Allotments who may not have a due Proportion of such Boundary Fencing a smaller Quantity of Land than he, she, or they would otherwise be entitled to, that the Expences of the Boundary Fencing may be thereby rendered just and equal.

Allotments  
to be of Free-  
hold Tenure.

XXXIII. And be it further enacted, That all Allotments to be set out to any of the said Proprietors, or other Person or Persons, under or by virtue of this Act, shall be of Freehold Tenure.

Expences  
of fencing  
Rector's Al-  
lotment to  
be paid by  
Proprietors.

XXXIV. And be it further enacted, That any Allotment which shall be set out and awarded by virtue of this Act unto the said *John Henry Brown* or his Successors, Rectors of the said Rectory, in right of the same, shall be fenced with a Stone Wall, well capped, and not less than Five Quarters high, under the Direction of the said Commissioner, at the Expence of the rest of the Owners of the Allotments to be set out by this Act, and shall be allotted to the said Rector clear of all Charges whatsoever; and the Expence of fencing such Allotment or Allotments shall be borne and paid in such Proportion, in the same Manner, and subject to the same Regulations as is herein-before mentioned concerning the Deficiency of the Money to arise from the Sale of the Lands herein-before directed to be sold for paying the Expences of obtaining and executing this Act.

Subsequent  
Repairs to be  
at the Ex-  
pence of  
Rector.

XXXV. Provided always, and be it further enacted, That after such Fence or Fences of the Allotment or Allotments of the said Rector be made, the same shall for ever thereafter be kept in repair by the said Rector and his Successors, and the Owners of the adjoining Allotments, in such Proportions and Manner as the said Commissioner shall by his Award direct.

Persons may  
sell, mort-  
gage, or con-  
vey before  
the Award  
is made.

XXXVI. And be it further enacted, That it shall be lawful for any Owner or Owners of any Stints or Cattlegates, or Parts of Stints or Cattlegates, to appoint, give, grant, bargain, sell, demise, mortgage, limit, convey, and assure the same, or any Allotments to be awarded in respect thereof, for all or any Part of his, her, or their Estate or Interest, at any Time before the Meeting which the said Commissioner shall appoint for reading over the Draught of his Award, which shall be as valid and effectual as if made after the Execution of the said Award; and it shall be lawful for the said Commissioner and he is hereby empowered to award the



the Allotment or Allotments in respect of such Stints or Cattlegates, or Parts of Stints or Cattlegates, to the Person or Persons who shall be entitled to the same by virtue of such Gift, Grant, Bargain, Sale, Demise, Mortgage, Limitation, Conveyances, or Assurances.

XXXVII. And be it further enacted, That it shall be lawful for the Rector of the said Parish of *Middleton* in *Teesdale* for the Time being, by Indenture or Indentures under his Hand and Seal, with the Consent and Approbation of the Ordinary and of the Patron of the said Rectory, to lease or demise all or any Parts of the Allotment or Allotments to be set out and allotted to such Rector in right of his said Rectory by virtue of this Act to any Person or Persons whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the passing of this Act, so that the Rent or Rents for the same shall be thereby reserved to the Rector for the Time being by Four equal quarterly Payments in every Year, and so that there be thereby also reserved and made payable to such Rector the best and most improved Rent or Rents that can be reasonably had or gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for making or granting any such Lease or Demise, and so that no such Lessee by any such Lease or Demise be made punishable for Waste by any express Words to be therein contained, and so that there be inserted in every such Lease Powers of Re-entry on Non-payment of the Rent or Rents to be thereby reserved within a reasonable Time to be therein limited after the same shall become due, and so that a Counterpart of each such Lease be duly executed by the Lessee or Lessees to whom such Lease shall be so made as aforesaid: Provided always, that whenever any such Lease or Leases to be so granted shall by any Means become forfeited or void or be surrendered before the Expiration (by Effluxion of Time) of the Term or Terms thereby granted, then and in such Case and as often as the same shall so happen it shall and may be lawful for the Rector of *Middleton* in *Teesdale* for the Time being, by and with the previous Consent and Approbation of the Ordinary and of the Patron of the said Rectory, to grant a new Lease of the Lands so demised for such Term or Terms of Years as shall at the Time or Times of such Avoidance be then to come and unexpired of the original Term or Terms granted by such original Lease or Leases, subject nevertheless to the Provisions and Conditions contained in such original Lease or Leases, and then remaining unperformed and capable of taking effect; and every such Lease shall be valid and effectual, any thing in the said recited Act of the Forty-first Year of the Reign of His Majesty King *George* the Third, or any Law or Usage, to the contrary notwithstanding.

Rector may lease his Allotment.

XXXVIII. And be it further enacted, That in case Sheep or Lambs be depastured in any of the said Allotments to be made in pursuance of this Act within the Space of Seven Years from the passing thereof, the Person or Persons so depasturing the same respectively shall, at his, her, or their own Expence, effectually guard and fence his, her, or their Neighbour's Quicksets adjoining such Allotments respectively in which such Sheep or Lambs shall be so depastured and kept, so that no Damage may be done by such Sheep or Lambs to such Quickset Fences; and in case any Person or Persons shall so depasture Sheep or Lambs without guarding

For preventing Injury by the depasturing of Sheep within Seven Years.

[Private.]

such Fences as aforesaid it shall be lawful for the Owner or Occupier of any adjoining Allotment to enter and take, drive away, and impound the said Sheep or Lambs; and for every second or subsequent Offence the Person or Persons so depasturing such Sheep or Lambs without effectually guarding such Quicksets as aforesaid shall forfeit and pay the Sum of Twenty Pounds, to be recovered by and for the Benefit of the Owner or Owners of the adjoining Allotments, who shall be at liberty to enter, drive away, and impound such Sheep or Lambs until the said Penalty or Sum of Twenty Pounds be paid, and if not paid within Ten Days from the Time of such impounding, the same Sheep or Lambs may be sold, and the Proceeds of the said Sale, after deducting the said Sum of Twenty Pounds and all Expences incident to the impounding and selling the same, shall be paid over to the Owner or Owners of such Sheep or Lambs: Provided always, that if no Sheep or Lambs can be taken or impounded as aforesaid, or the same being taken and impounded shall not be sufficient to raise such Sum of Twenty Pounds as aforesaid, the said Penalty or Sum of Twenty Pounds (or the Residue thereof, as the Case may be,) may be recovered by Distress and Sale in the Manner prescribed by the said secondly-recited Act concerning Penalties and Forfeitures imposed thereby.

Roads not  
to be de-  
pastured.

XXXIX. And be it further enacted, That no Person shall depasture any Horses, Asses, Mules, or other Animals whatsoever in the Roads or Lanes to be set out by virtue of this or the said secondly-recited Act.

Power to  
borrow  
Money.

XL. And be it further enacted, That it shall be lawful for the said Commissioner to borrow and take up at Interest, of any Person or Persons willing to lend the same, such Sum or Sums of Money as shall from Time to Time appear to the said Commissioner necessary for paying and defraying the Expence of obtaining and executing this Act, until the same Charges and Expences shall be raised as herein-before is mentioned, which Sum or Sums so to be borrowed as aforesaid, together with legal Interest for the same, shall be repaid out of the first Monies to be raised by virtue of this Act.

Power of  
Exchange.

XLI. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Manor and Township of *Middleton* in *Teesdale* aforesaid in lieu of or in exchange for any other Lands, Tenements, or Hereditaments within the said Township or within any adjoining Parish, Township, or Place; provided all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or for Life or Lives, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on a Life or Lives, (by and with the Consent of the Lessor or Lessors, and not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbards, Committees, or Attornies of or acting for any such Owner or Owners as aforesaid

who

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; and every Exchange so made shall commence and take effect from such Time or Times, certain or contingent, as the said Commissioner shall in and by his Award direct; and every Exchange so made shall be valid and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church, Chapel, or Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, and Hereditaments are situate.

XLII. And be it further enacted, That the Costs and Expences attending any Sales, Exchanges, or Partitions made by virtue of this Act or the said secondly-recited Act shall be borne and defrayed by the several Persons interested in such Sale, and by the Parties making such Exchanges and Partitions, distinct and apart from the other Expences attending the Execution of this Act and the said secondly-recited Act, in such Manner and Proportions as the said Commissioner shall by his Award, or any other Writing under his Hand, direct (except such Costs and Expences are by this Act expressly directed to be paid in any other Manner); and in case of Nonpayment the same shall be recovered in such Manner as is herein-before directed respecting the Recovery of the Costs awarded by the said Commissioner upon the hearing and determining of Claims by virtue of this Act.

Costs of  
Sales, Ex-  
changes, &c.

XLIII. And be it further enacted, That every Tenant and Occupier under any Lease or Agreement at Rack-rent now subsisting for any Term of Years not exceeding Seven Years, or from Year to Year, of any Lands or Hereditaments which shall be awarded, allotted, sold, or exchanged by virtue of this Act, shall, within such Time as the said Commissioner shall appoint, and whereof Notice in Writing shall be given for that Purpose, deliver up peaceable and full Possession of such allotted or exchanged Lands or Hereditaments to the Person or Persons to or with whom the same shall be allotted or exchanged, but the Owner or Owners of such allotted or exchanged Lands and Hereditaments shall pay to the said respective Tenants or Occupiers thereof such Sum of Money as a Satisfaction and Compensation as the said Commissioner shall ascertain, order, and direct; and if such Sum of Money be not paid to the Person or Persons entitled to receive the same within Fourteen Days after Demand made thereof, the said Commissioner shall and he is hereby required to raise and levy the same in the Manner herein-before directed for the Recovery of Costs to be assessed by the Commissioner upon the Determination of any Claim for the Use and Benefit of the Person or Persons entitled thereto.

Leases at  
Rack-rent  
to be vacated.

XLIV. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to revoke, make void,

Wills, Deeds,  
&c. not to be  
affected

void, or alter any Will, Deed, Settlement, or any other Instrument, or to prejudice any Person having or claiming any Estate, Right, Title, or Interest, Jointure, Dower, Portion, Debt, or Incumbrances out of, upon, or affecting any of the Common, Common Fields, or Stinted Pastures, Lands, or Hereditaments exchanged, sold, or partitioned in pursuance of this Act or the said secondly-recited Act, or any Part thereof respectively, but that the same Common, Common Fields, or Stinted Pastures, Lands, or Hereditaments, shall immediately after the awarding of such Allotments or making such Exchanges respectively be and enure, and the Parties to or for whom the same shall be allotted or given in exchange as aforesaid shall thenceforth stand and be seised to such Estates, Uses, Trusts, and subject to such Wills, Deeds, Settlements, Limitations, Remainders, Jointures, Dowers, Charges, and Incumbrances, as the Stints or Cattlegates in respect of which such Allotment was made, or the Lands and Hereditaments in respect of which such Exchanges shall be made as aforesaid, would have been subject and liable to be charged with or affected by in case this Act had not been passed.

Regulations  
as to over-  
plus Monies.

XLV. And be it further enacted, That whenever any Sum of Money is, under the Provisions of this Act or the said secondly-recited Act, to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporations Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for and on the Behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, it shall be lawful for the said Commissioner to pay and apply the same in the Manner and subject to the same Regulations in the said secondly-recited Act directed for the Payment and Application of such Money.

Commis-  
sioner to lay  
his Accounts  
before a  
Justice.

XLVI. And be it further enacted, That the said Commissioner shall not at any Time permit or suffer any just Claims in respect of any such Costs, Charges, and Expences to remain unpaid for a longer Period than Three Calendar Months, except such Sums as may from Time to Time be due and owing to the said Clerk for Attendances at Meetings to be held in pursuance of this Act; and once at least in every Three Calendar Months during the Execution of this Act (to be computed from the Day of the passing thereof) the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him and to the several Persons engaged under or assisting him in the surveying, mapping, awarding, and inclosing the said Commons, Common Fields, or Stinted Pastures, or otherwise in carrying into execution this and the first and secondly recited Acts; and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by the said Commissioner laid before One of His Majesty's Justices of the Peace for the  
said

said County of *Durham* (not interested in the said Division and Inclosure), to be by him examined and balanced; and such Balance shall be by such Justice stated in the Book of Accounts to be kept in the Office of the Clerk of the said Commissioner, and an Abstract of such Accounts so examined and balanced shall from Time to Time, within Fourteen Days after such Accounts shall have been so examined and balanced, be published in One of the *Durham* weekly Newspapers, or if no such Newspaper shall be published, then in some other Newspaper circulated in the said County of *Durham*; and no Charge or Item in the said Accounts shall be binding on the Parties concerned or valid in Law unless the same shall have been allowed by such Justice, nor until such Accounts or the Abstract thereof shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

XLVII. And be it further enacted, That as soon as conveniently may be after the said Division and Allotment shall be completed, the said Commissioner shall form, draw up, and execute an Award, which, together with a proper Map or Plan thereto annexed, shall within Ten Days after the Execution thereof be delivered to the Clerk of the Peace for the County of *Durham*, who is hereby required to deposit and keep the same among the Records of the said County, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall from and after the Delivery thereof to the said Clerk of the Peace be deemed and taken to be enrolled within the Intent and Meaning of the said secondly recited Act; and a Copy of the said Award and of the said Map or Plan, signed by the said Commissioner, shall within the Time aforesaid be deposited within the Parish Church of *Middleton in Teesdale* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award and the said Copy thereof, and any other Copy of the said Award or of any Part or Parts thereof, attested by the Clerk of the Peace for the Time being of the said County or his Deputy (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid), shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

XLVIII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done in pursuance of this Act or the said recited Acts, then and in such Cases (except in such Case as the Determination and Order of the said Commissioner is by this Act or the said recited Acts directed to be final, binding, and conclusive, and except in such Case where an Issue at Law or Special Case shall be tried and argued as herein-before mentioned,) he, she, or they may appeal to any General or Quarter Sessions of the Peace which shall be held for the said County of *Durham* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and to the Party or Parties interested, or to his, her, or their known Agent or Agents, Ten Days (except in Cases provided for by this Act, where Notice of Appeal

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shall

Award.

Parties aggrieved may appeal.

shall be directed to be given at or within some other Time or Period,) previous Notice in Writing of such Appeal; and the Justices at the General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices shall be final and conclusive on all Parties, and shall not be removable by Certiorari or any other Writ or Process whatsoever.

Saving the  
Rights of the  
Duke of  
Cleveland.

XLIX. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to defeat, lessen, or prejudice the Right, Title, or Interest of the said Duke of *Cleveland*, or of the Persons in Remainder, his, her, or their Heirs, Lessees, or Assigns, of, in, to, or out of the Free Warren, Seigniories, and Royalties to him or them belonging, either as incident to the said Manor of *Middleton* in *Teesdale* or otherwise howsoever, but that he and they, either as Lord or Lords of the same Manor or otherwise, shall and may from Time to Time and at all Times hereafter have, hold, and enjoy all and singular his and their Rights of Free Warren, Seigniories, and Royalties, and also all Courts, Perquisites and Profits of Courts, Rents, Services, Waifs, Estrays, Jurisdictions, Matters, and Things whatsoever to the same Manor incident, belonging, or appertaining, in as full, ample, and beneficial a Manner to all Intents and Purposes as he or they could or might have held and enjoyed the same if this Act had not been passed; and the said Duke of *Cleveland*, and the Persons in Remainder, his and their Heirs, and all Persons claiming under him and them, shall and may from Time to Time and at all Times hereafter have, hold, work, and enjoy all Mines, Minerals, and Quarries, of what Nature or Kind soever, lying and being within or under the said Moors, Commons, and Tracts of Waste Land in the Manor and Township of *Middleton* in *Teesdale* aforesaid, together with all convenient and necessary Ways and Wayleaves, in, through, over, and along the said Moors, Commons, and Tracts of Waste Land in the Township of *Middleton* in *Teesdale* aforesaid, not only before but also at all Times after the same shall have been allotted and divided in pursuance of this Act, and full and free Liberty at all Times hereafter of making, laying, repairing, and using any new Road or Roads, Waggon Way or Waggon Ways, or any other Way or Ways whatsoever, in, through, over, or along the said Lands and Grounds, and for that Purpose to take away and remove any Hedges, Fences, Trees, Partitions, or other Obstructions which shall be made for dividing or inclosing the said Lands and Grounds, and do every other Act either now in use or hereafter to be devised for the Purpose of searching for, draining, winning, and working, and leading and carrying away, all such Ore, Minerals, Lead, Stone, and other Things to be gotten thereout, or out of any other Mines, Minerals, and Quarries belonging to the said Duke of *Cleveland*, or to the Persons in Remainder, his or their Heirs, Lessees, or Assigns, wheresoever the same are or shall be found, and also of leading and carrying

carrying away all Iron, Wood, Materials, and Things unto the same Mines and Quarries, necessary or proper for the draining, winning, working, and using of the same respectively, and of making Pit Shafts, Pit Rooms, Heap Rooms, Drifts, Levels, Watercourses, and Drains, and of erecting and using Fire Engines and other Engines, and other Buildings, Workshops, Hay Yards, and Raft Yards, and all other necessary and convenient Works, Buildings, Erections, Liberties, Powers, and Authorities, either now in use or hereafter to be invented, together with full and free Liberty, Power, and Authority from Time to Time and at all Times at his or their Will and Pleasure to remove and take away and convert to his and their own Use and Uses all and every the Rails, Sleepers, Iron, Timber, and other Materials of the said Waggon Ways and other Ways, Pit Shafts, Fire Engines, and other Engines and Erections whatsoever, without paying any Damages or making any Satisfaction for so doing; but nothing herein contained shall extend the Rights or Privileges of the Lord of the said Manor: Provided always, and in order to remedy in some measure the Inconvenience which may arise to certain Individuals by reason of the Power to win and work the Mines and Quarries, with the Privileges relating thereto herein-before reserved to the said Duke of *Cleveland*, or the Lord of the said Manor for the Time being, and his or their Lessees or Assigns, that when and so often as any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, to whom any Allotment or Allotments shall be made in pursuance of this Act and the said recited Acts (except the said Duke of *Cleveland*, or the Lord of the said Manor for the Time being, and his and their Lessees and Assigns,) shall suffer any Damage in his, her, or their specific Allotment or Allotments so to be set out as aforesaid by the searching for, making merchantable, and carrying away the said Mines, Ores, Coals, Lead, Metal, Minerals, or Quarries of Slate or Stone or Lime, or by the making, erecting, using, altering, re-erecting, or carrying away the Roads, Ways, Sweeps, Levels, Warehouses, Smithies, Engines, and other Conveniences and Erections, or by the doing any other Act, Power to do which is reserved to the said Duke of *Cleveland*, or the said Lord of the said Manor for the Time being, his or their Lessees or Assigns, by this Act or the said recited Acts, then and in every such Case the Amount of such Damage shall be borne and paid by the Owner or Owners of all the several Allotments to be set out by virtue of this Act and the said secondly and thirdly recited Acts (including the Allotment or Allotments set out to the said Duke of *Cleveland* in respect of the Stints or Cattlegates awarded to him in right of his ancient Messuages and Lands within the said Township of *Middleton in Teesdale*, and also including the Allotment or Allotments of the Person or Persons so damnified as aforesaid,) in proportion to the respective Value of such Allotments; and, the better to ascertain the Proportion to be paid by the Owners of the said several Allotments for and towards such Damages and Charges, the said Commissioner shall and he is hereby required to enter in a Book to be provided by him for the Purpose the Names of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate; to whom any Allotment or Allotments shall be set out by virtue of this Act, with the Value by him the said Commissioner put upon such Allotment, and shall subscribe such Book with his Name, and deposit the same within Two Calendar Months

Remedy for  
Damage done  
by working  
of Mines.

Months from the Time of making his said Award in the Chest belonging to the said Parish Church of *Middleton* in *Teesdale* aforesaid; and all the Owners for the Time being of Allotments to be set out by this Act shall have free Liberty at all Times to inspect the said Book, and to take Extracts from or Copies of the same: Provided also, that in making the said Book and putting a Value upon such Allotments for the Purposes aforesaid the said Commissioner shall only value so much of the Allotment to be set out to the said Duke of *Cleveland*, or the Lord of the said Manor for the Time being, and his and their Assigns, as may be allotted to him in respect of the Stints or Cattlegates, or Parts of Stints or Cattlegates, awarded to him in respect of his ancient Messuages and Lands.

Notice to be given to the Duke of *Cleveland* to appoint some Person to determine the Amount of Damage.

L. And be it further enacted, That the Person or Persons so damnified as aforesaid shall, within Two Calendar Months after such Damage shall be done to his or their Allotment by the said Duke of *Cleveland*, or the Lord of the said Manor for the Time being, or his or their Lessees or Assigns, give Notice in Writing to the said Duke of *Cleveland*, or the Lord of the said Manor for the Time being, or his Lessees or Assigns, or his or their Agent or Agents, to nominate and appoint some proper Person willing to act on his or their Behalf in ascertaining the Amount of such Damage, and fixing the Proportions as herein-after mentioned, such Person not being an Owner or in anywise interested in the Allotment or Allotments to be set out by virtue of this and the said recited Acts; and such Person, together with some Person to be nominated and appointed by the Person or Persons so damnified as aforesaid, (such last-mentioned Person not being an Owner or interested in any of the Allotment or Allotments to be set out by virtue of this Act,) shall, within the Space of Four Calendar Months from the Time of the said Damage being done, view the Allotment or Allotments of the Person or Persons so damnified, and settle the Amount of Damage done therein, and fix with what Proportion of such Damage each Allotment shall be charged, rateably and according to the Value of each Allotment as specified and put down in the said Book to be provided by the said Commissioner as aforesaid, subject nevertheless to the Right of Appeal herein-before given: Provided always, that in case the said Two Persons shall not be able to agree touching the Matters aforesaid so as to make their Determination or Award within the Space of Two Calendar Months after their having been so appointed as aforesaid, then it shall and may be lawful for such Two Persons before the Expiration of the said Term of Two Calendar Months to nominate and appoint some other proper Person, not being interested as aforesaid, as Umpire, and the Person so appointed shall proceed to view the said Allotment or Allotments of the Persons so damaged, and shall, subject to the Right of Appeal herein-before given, decide the Injuries aforesaid, and shall certify his Decision to the Person or Persons so damaged as aforesaid within the Space of Two Calendar Months from the Time of his Appointment; and such Umpire shall have the like Powers and Authorities to determine the Matters aforesaid as the said Two Persons by whom he was appointed had by virtue of their said Appointment and this Act.

LI. Pro-



LI. Provided also, and be it further enacted, That in case the said Duke of *Cleveland*, or the Lord of the said Manor for the Time being, or his Lessees or Assigns, shall neglect or refuse to appoint some such proper, willing, and disinterested Person as aforesaid on his Behalf within the Space of Two Calendar Months from the Time of such Notice in Writing having been delivered to him or them, or his or their Agent or Agents, or in case the said Two Persons when so appointed shall in case of Disagreement refuse or neglect to appoint within the Time herein-before limited in that Behalf such proper and disinterested Third Person as Umpire as aforesaid; or in case such Umpire when duly appointed shall neglect or refuse to decide and certify his Decision within the Time herein-before limited in that Behalf, then and in any such Case the Person or Persons so damnified shall (subject to the Right of Appeal herein-before given) himself or themselves ascertain the Amount of such Damages, and fix such Proportions in the same Manner as the said Two Persons or the said Umpire are herein-before directed to ascertain and fix the same.

In case of Neglect of Appointment.

LII. And be it further enacted, That upon the Amount of such Damages being ascertained, and such Proportions fixed as herein directed, the Person or Persons so damaged shall make a Demand thereof in Writing upon every Tenant or other Person or Persons in the actual Occupation of the Allotment or Allotments to be set out as aforesaid, which said Demand shall specify the Amount to be paid by such last-mentioned Tenant or other Person or Persons, and shall request that the same may be made known to the actual Owner or Owners of such Allotment or Allotments; and it shall be lawful for the Person or Persons so damnified as aforesaid, in case the Amount named in such Demand be not paid, or Notice of such Appeal as aforesaid given, within Ten Days from the Time of the making of such Demand, at any Time thereafter, or after the Determination of such Appeal if determined in his or their Favour, to enter into and upon every Allotment the Tenant or Owner of which has neglected or refused to pay his, her, or their Proportion of such Damage, and to hold the same, and receive the Rents, Issues, and Profits thereof, until such Proportion of such Damage, together with all Costs and Expences which the Person or Persons so damnified may have sustained by reason of any Proceedings at Law or in Equity to obtain Possession of such last-mentioned Allotment or Allotments, shall be fully paid and satisfied.

For the Recovery of Amount of Damage.

LIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Body or Bodies Politic, Corporate, or Collegiate, his, her, and their Heirs, Successors, Executors, or Administrators, all such Estate, Right, and Interest (other than and except such as is and are hereby intended so to be barred, destroyed, or extinguished,) as he, she, they, every or any, could or ought to have had or enjoyed in, to, or out of the Common, Common Fields, or Stinted Pastures hereby directed to be allotted and inclosed before the passing of this Act, or could or ought to have had and enjoyed in case this Act had not been passed.

General Saving.

[*Private.*]

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LIV. And

Act to be  
printed by  
the King's  
Printers.

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

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LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,  
Printers to the King's most Excellent Majesty. 1834.