



ANNO QUADRAGESIMO TERTIO

# GEORGII III. REGIS.

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## Cap. 104.

An Act for inclosing Lands in the Townships of *Kirk Ireton*, in the Parish of *Kirk Ireton*; and of *Callow*, in the Parish of *Wirksworth*, in the County of *Derby*. [24th June 1803.]

**W**HEREAS there is within the Townships or Liberties of *Kirk Ireton* and *Callow*, or One of them, in the several Parishes of *Kirk Ireton*, and *Wirksworth*, in the County of *Derby*, a certain Common called *Callow Moor*, and other Waste Lands, containing in the Whole, by Estimation, Two hundred and sixty Acres, or thereabouts: And whereas the said Townships of *Kirk Ireton* and *Callow* are within and Parcel of the Manor of *Wirksworth*, in the County of *Derby*, of which Manor the King's most Excellent Majesty in Right of His Duchy of *Lancaster* is Lord, and as such is Owner of the Soil of the said Common and Waste Lands; and *Richard Paul Jodrell* Esquire, is Lessee of the said Manor of *Wirksworth*: And whereas Sir *Robert Wilmot* Baronet, *Philip Gell*, *Charles Chadwick*, *Charles Hurt*, *John Blackwall*, *Francis Bruckfield*, [Loc. & Per.] Proprietors.

Act of 41 Geo.  
3. respecting  
Inclosures.

Commissioner  
appointed.

For electing a  
new Commis-  
sioner.

*Bruckfield*, and several other Persons, are Proprietors of and Persons interested in the said Common and Waste Lands: And whereas an Act was passed in the Forty-first Year of the Reign of His present 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 it would be of great Benefit and Advantage to the several Persons who are Proprietors of and interested in the said Common and Waste Lands, if the same were divided and inclosed, and specifick Parts and Shares thereof assigned and allotted unto the said several Proprietors and Persons interested, according and in Proportion to their several and respective Property, Rights, and Interests therein; but as such Division, Allotment, and Inclosure, cannot be effectually made and established 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 *Samuel Wyatt* of *Burton upon Trent*, in the said County of *Derby*, Gentleman, shall be and he is hereby appointed the Commissioner for setting out, dividing, and allotting the said Common and Waste Lands within the said Townships or Liberties, in Manner herein-after directed, and for carrying this Act into Execution, subject to the Powers, Authorities, Directions, Rules, Orders, Clauses, and Provisions contained in the said recited Act, except in such Cases where the same are hereby varied or altered.

II. Provided always, and be it further enacted, That if the said *Samuel Wyatt*, or any Commissioner to be hereafter appointed in Manner herein-after mentioned, shall, previous to the making and completing of the Division and Award to be made by the said Commissioner, die, refuse, neglect, or become incapable of acting as a Commissioner in this or the said recited Act, then it shall be lawful for the Chancellor of His Majesty's Duchy of *Lancaster*, or the Clerk of the Council of the said Duchy, or his Deputy for the Time being, by Writing under his Hand, and for the major Part in Value of the said Proprietors or Persons interested in the Common and Waste Lands hereby intended to be divided, allotted, and inclosed, who shall attend by themselves, or their Agents or Attornies, at a Meeting to be called by or by the Order of any One or more of the said Proprietors for that Purpose, at some convenient Place in *Kirk Ireton* aforesaid, or within Five Miles thereof, in pursuance of Notice to be given by Advertisement, to be inserted Twice in the Newspaper called *The Derby Mercury*, or in some other Newspaper printed or circulated within the said County of *Derby*, and to be affixed on One of the principal outer Doors of each of the Parish Churches of *Wirksworth* and *Kirk Ireton*, by any Instrument in Writing under their Hands, or the Hands of their Agents or Attornies, to nominate, elect, and appoint from Time to Time, some other fit and proper Person not interested in the said Division and Inclosure to be a Commissioner in the Place of such Commissioner so dying, refusing, neglecting, or becoming incapable to act as aforesaid; which said Commissioner, when elected in Manner as aforesaid, shall, after taking the Oath prescribed in that Behalf, have the same Powers and Authorities in all Respects for carrying this and the said

said recited Act into Execution, as if he had been originally named and appointed a Commissioner in and by this Act.

III. And be it further enacted, That all such Surveys, Admeasurements, and Plans, as shall be requisite and necessary to be made and taken for the Purposes of dividing, allotting, and inclosing the said Common and Waste Lands hereby directed to be divided and inclosed, shall be made and taken by such Person or Persons as the said Commissioner, or his Successors to be appointed in Manner aforesaid, shall from Time to Time nominate and appoint.

Surveyor to be appointed by the Commissioner.

IV. And be it further enacted, That the said Commissioner shall cause publick Notice to be given upon some *Sunday* before or during Divine Service, by writing to be affixed upon One of the principal outer Doors of each of the Parish Churches of *Kirk Ireton* and *Wirksworth*, and also by Advertisement to be inserted in the said Newspaper called the *The Derby Mercury*, or some other Newspaper printed or circulated in the said County of *Derby*, of the Time and Place of the First and every subsequent Attendance for the Execution of this Act Ten Days at least before every such Attendance shall be held, (Attendances by Adjournment only excepted); and that the said Commissioner shall attend from Time to Time as he shall see Occasion.

Notice of Meetings.

V. Provided always, and be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioner, shall be so made and given by Advertisement in the Newspaper called *The Derby Mercury*, or in case the same shall not then be published, then in some other Newspaper printed or circulated in the said County of *Derby*.

Other Notices how to be given.

VI. And be it further enacted, That the said Commissioner shall be allowed the Sum of Three Pounds and Three Shillings for his Trouble and Expences for each and every Day he shall necessarily attend in the Execution of the Powers of this Act or the said recited Act; and that at all Attendances to be held in pursuance of this Act the Commissioner shall out of such Allowance pay and defray his own Charges and Expences.

Allowance to Commissioner.

VII. And be it further enacted, That when the said Commissioner shall begin to value the Lands and Grounds to be inclosed by virtue of this Act, or the ancient inclosed Lands and Grounds within the Townships or Liberties of *Kirk Ireton* and *Callow*, he shall proceed therein Seven Days at least in every Calendar Month between the Months of *March* and *November*; and in every other Month proceed or not as Circumstances may permit, until the same shall be completed.

Commissioner when begun to value to proceed therein.

VIII. And be it further enacted, That all Encroachments and Inclosures made in, upon, or from any of the said Common and Waste Lands within the Space of Thirty Years next before the passing of this Act, or for which any Rent, Amerciament, or Acknowledgement hath been paid within that Time shall severally be deemed Part of the same Common

Encroachments.

Common and Waste Lands, and shall be set out, divided, and allotted as such under this Act, in such of the said Townships as the same shall respectively be by the said Commissioner deemed to be within; and in case any Dispute shall arise touching any such Encroachments, or the Extent thereof, such Dispute shall be determined by the said Commissioner.

No Turf, &c.  
to be cut  
without Leave  
of the Com-  
missioner.

IX. And be it further enacted, That it shall not be lawful for any Person whomsoever, from and after the passing of this Act, until the Execution of the Award of the said Commissioner, to cut, dig, pare, flay, or carry away any Turf, Soil, Stone, or Gorse, in, upon, or from the said Common and Waste Lands, or any Part thereof, without the Leave and Licence of the said Commissioner first had and obtained in Writing under his Hand, which Leave and Licence he the said Commissioner is hereby empowered to grant, under such Rules, Orders, Regulations, and Restrictions as he shall think proper; and if any Person shall after the passing of this Act cut, dig, pare, flay, or carry away any Turf, Soil, Stone, or Gorse, in, upon, or from the said Premises, or any Part thereof, without the Leave and Licence of the said Commissioner, or having obtained such Leave and Licence shall act in any Manner contrary thereto, or to the Rules, Orders, Regulations, and Restrictions therein contained, every such Person being convicted thereof, either by his or her own Confession, or upon the Oath of One credible Witness before One of His Majesty's Justices of the Peace for the said County of *Derby*, not being interested, who may summon the Parties concerned and examine Witnesses upon Oath relating to the said Complaint, shall for every such Offence forfeit and pay such Sum of Money as he the said Justice shall appoint, not exceeding the Sum of Five Pounds nor less than Forty Shillings; and it shall be lawful for such Justice, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause the said Penalty to be raised and levied by Distress and Sale of the Goods and Chattels of the Person so offending (Demand having been first made thereof), rendering the Surplus (if any) after deducting the Costs and Charges of such Distress and Sale, to the Person so offending; and the said Penalty when paid or levied shall be applied by the said Commissioner for the Purposes of this Act.

Commissioner  
to settle Dis-  
putes.

X. And be it further enacted, That if any Question or Dispute shall arise between any Person or Persons interested in the said Common and Waste Lands, before the setting out and allotting the same in Manner herein-after mentioned, 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 and Waste Lands, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, then it shall be lawful for the said Commissioner to examine into, hear, and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioner to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever.

XI. And

XI. And be it further enacted, That in case the said Commissioner shall upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioner, and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; 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 every such Case it shall be lawful for the said Commissioner, and his Successor or Successors, and he and they is and are hereby respectively authorized and required, by Warrant under his or their respective Hands directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Surplus (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.

Power to assess  
Costs.

XII. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division and Allotment shall be dissatisfied with the Determination of the said Commissioner, touching or concerning their respective Rights or Interests in, over, or upon, the said Common and Waste Lands hereby directed to be divided, allotted, and inclosed, or any Part thereof, 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 Commissioner, at the then next or at the following Assizes to be holden for the said County of *Derby*, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioner shall cause an Action to be brought or commenced on a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Two Calender Months next after such Determination of the said Commissioner shall be made known to such Person or Persons, and shall proceed to Trial thereon as aforesaid; and the Defendant or Defendants, in such Action or Actions shall, and he, she, or they, is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted 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 and to 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 or new Trials to be had thereupon, 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 Commissioner shall

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

Determina-  
tion of Com-  
missioner to  
be final if not  
objected to, or  
no Action  
brought.

and he is 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 Commissioner touching such Rights or Interests, in, over, or upon the said Common and Waste Lands 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 objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive to all Parties.

If any of the  
Parties die,  
Proceedings  
not to abate.

XIII. 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.

Allotments to  
be made.

XIV. And be it further enacted, That the said Commissioner, when and as soon as he shall have completed the said Valuation to be made as before directed, and such Questions or Disputes (if any) are settled and determined as aforesaid, and after he shall have set out and appointed the Roads and Highways through and over the said Common and Waste Lands, shall and he is hereby authorized and required to set or stake out, allot, and award the Residue of all and singular the said Common and Waste Lands, unto and amongst the several Proprietors of and Persons interested in the same, according and in Proportion to the Value of their respective Lands, Rights, and Interests therein, before the passing of this Act, in Manner herein-after mentioned; (that is to say), the said Commissioner shall and he is hereby directed to divide the said Common or Moor into Two Parts, and to set out and allot so much of the said Common or Moor as he shall adjudge and determine to belong to the Owners and Proprietors of Estates within the said Township of *Kirk Ireton*, on the *Kirk Ireton* Side of the said Moor; and the same shall from and immediately after such Division and Allotment thereof, be and be deemed and considered to be Part of and within the said Township of *Kirk Ireton*; and shall set out and allot such Part of the same Common or Moor as he shall adjudge to belong to the Owners and Proprietors of Estates within the Township of *Callow* on the *Callow* Side of the said Moor, which shall from and immediately after such Division and Allotment thereof, be and be deemed to be Part of and within the said Township of *Callow*; and the said respective Parts of the said Common or Moor so divided and allotted as aforesaid, shall for ever thereafter be held and enjoyed in Severalty accordingly.

Allotments  
for Watering  
Places for  
Cattle, and  
for Stone Pits,  
etc. in *Kirk  
Ireton*.

XV. And be it further enacted, That the said Commissioner shall in the next Place set out and allot out of such Part of the said Common as shall by the said Division be deemed within the said Township of *Kirk Ireton*, and out of the other Waste Lands within the same Township, such Part or Parts thereof as the said Commissioner shall think necessary for publick Watering Places for Cattle, and as and for publick Sand, Gravel, and Stone Pits, for the Use of the said Township of *Kirk Ireton*; and the same Allotments when set out shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Messuages, Lands, Tenements, and Hereditaments, within the said Township of *Kirk Ireton*,

*Ireton*, and their Tenants for the Time being, in such Manner and under such Rules and Regulations as the said Commissioner shall by his said Award direct or appoint.

XVI. And be it further enacted, That the said Commissioner shall in the next Place set out and allot out of such Part of the said Common as shall by the said Division be deemed within the said Township of *Callow*, and out of the other Waste Lands within the same Township, such Part or Parts thereof as the said Commissioner shall think necessary for publick Watering Places for Cattle, and as and for publick Sand, Gravel, and Stone Pits, for the Use of the said Township of *Callow*; and the same Allotments, when set out, shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Messuages, Lands, Tenements, and Hereditaments, within the said Township of *Callow*; and their Tenants for the Time being, in such Manner and under such Rules and Regulations as the said Commissioner shall by his said Award direct or appoint.

Allotments for Watering Places for Cattle and for Stone Pits, etc. in *Callow*.

XVII. And be it further enacted, That the said Commissioner shall in the next Place set out and allot unto the King's most Excellent Majesty, as Lord of the Manor of *Wirksworth*, His Heirs and Successors, (yet nevertheless for the Benefit of the said *Richard Paul Jodrell* as Lessee thereof, during the Residue of his Term therein), such Part of the Residue of the said Common and Waste Lands within the same several Townships as shall contain or be equal in Value to One full Twentieth Part or Share thereof, (Quantity and Quality considered); in lieu of and full Recompence and Satisfaction for all the Right and Interest of His Majesty and his said Lessee in and to the Soil of the said Common and Waste Lands which shall be inclosed by virtue of this Act.

Allotment to the King's Majesty as Lord of the Manor of *Wirksworth*, and his Lessees.

XVIII. And be it further enacted, That it shall be lawful for the said Commissioner, with the Consent of the Chancellor of the Duchy of *Lancaster* for the Time being, and of the Parties interested respectively, to be signified by Writing under their respective Hands, to assign and set out unto His Majesty, His Heirs and Successors, and to such other Person and Persons respectively as are entitled to any Fee Farm Rents, Chief Rents, Quit Rents, or other dry or unimproveable Rents arising or payable from or out of the said Townships of *Kirk Ireton* and *Callow*, or either of them, or from or out of any other Lands or Hereditaments belonging to any of the Proprietors of and Persons interested in the said Common and Waste Grounds hereby intended to be divided, allotted, and inclosed, such Portion or Portions of the Allotment or Allotments to be made from off the said Common and Waste Lands to such Person or Persons respectively who shall be desirous of being exonerated from any such Rents as aforesaid as shall, in the Judgement of the said Commissioner, be equivalent to the Fee Simple and Inheritance of such Rents; in lieu of and full Satisfaction for the same; and that such Rents to be compensated for as aforesaid, and the Lands to be allotted in lieu thereof, shall be specified in the Award of the said Commissioner.

For extinguishing Fee Farm and other Dry Rents.

XIX. And be it further enacted, That the Allotment and Allotments to be made to the King's Majesty in Right of His Manor as aforesaid

King's Allotment to be inclosed and said

fenced at the  
Expence of  
the other  
Proprietors.

said by virtue of this Act, shall be inclosed round with Ditches and Quickset Hedges, or other proper Mounds or Fences, to be made within such Time, and for the Space of Seven Years then next following, to be maintained and kept in complete Repair by and at the Expence of all, or such of the other Proprietors of the Common or Waste Lands by this Act intended to be inclosed, and in such Manner as the said Commissioner shall direct and appoint; but all or such Portion of the said Mounds and Fences as the said Commissioner shall direct, shall after the Expiration of the said Seven Years be kept in Repair by the King's Majesty, His Heirs or Successors, or His Lessee.

Allotments of  
the Remainder  
in Kirk Ireton.

XX. And be it further enacted, That after the said Divisions and Allotments herein-before mentioned shall have been made, the said Commissioner shall and he is hereby authorized and required to divide, set out, and allot, the Residue of that Part of the said Common which, by the said Division, shall be deemed to be within the said Township of *Kirk Ireton*, together with the Remainder of the other Waste Lands within the same Township, unto and amongst the several Proprietors thereof and Persons interested in the same, according to and in Proportion to the Value of their respective Rights and Interests therein, Quantity, Quality, and Situation considered.

Allotments of  
the Remainder  
in Callow.

XXI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to divide, set out, and allot the Residue of that Part of the said Common which by the said Division shall be deemed to be within the said Township of *Callow*, together with the Remainder of the other Waste Lands within the same Township, unto and amongst the several Proprietors thereof and Persons interested therein, according and in Proportion to the Value of their respective Rights and Interests therein, Quantity, Quality, and Situation considered.

Fencing the  
Rector's Al-  
lotment.

XXII. And be it further enacted, That the Plot or Plots of Land to be set out and allotted by virtue of this Act to the Rector of *Kirk Ireton*, for or in Right of his Glebe Lands, shall be inclosed and fenced round the Boundaries thereof with Ditches and Quickset Hedges, or other proper Fences, to be made in such Time and Manner, and at the Expence of the Proprietors of Lands within, and to be set out and deemed to be within the Township of *Kirk Ireton*, to be allotted by virtue of this Act, (except the said Rector and his Successors), and in such Proportions as the said Commissioner shall direct; and the said Commissioner shall direct what Parts and Proportions of the said Fences shall belong to and afterwards be kept in Repair by the said Rector and Proprietors respectively; and the several other Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched, and fenced, at the Expence of the respective Proprietors (except the King's Majesty as aforesaid) to whom such Fences shall be allotted or directed to belong, with Quicksets, or in such other Manner and within such Time as the said Commissioner shall by his said Award, or any other Writing under his Hand, direct or appoint, so as that the Fences to be made against the publick Highways over the said Common and Waste Lands, shall be made or walled with Stone.

Fencing other  
Allotments.

XXIII. And



XXIII. And be it further enacted and declared, That such Part and Parts of the said Common and Waste Lands by this Act intended to be inclosed as shall be allotted in respect or in lieu of any Freehold Messuages, Lands, or Tenements, shall be deemed to be Freehold and of Freehold Tenure, and that such Part and Parts of the said Common and Waste Lands as shall be allotted in respect or in lieu of any Copyhold or Customary Messuages, Lands, or Tenements, holden by Copy of Court Roll, shall be deemed to be of Copyhold or Customary Tenure, and to be lying within and to be holden of the Manor or Manors respectively in which such Copyhold or Customary Messuages, Lands, or Tenements, are lying or being, by the like Rents, Customs, and Services, as are due for or in respect of such Copyhold or Customary Messuages, Lands, or Tenements.

Allotments to be of the same Tenure as the Allotments in Right of which the Allotments are made.

XXIV. And be it further enacted, That the said Commissioner shall and may, from Time to Time, as he shall find convenient, deliver to the several Persons interested in the several Divisions and Allotments to be set out under this Act, Possession of their respective Allotments hereby directed to be made and set out; and such Possession so delivered shall be kept and retained by the several Persons entitled thereto against all Persons whomsoever, although the Award herein-after directed shall not then be made and executed.

Commissioner to deliver Possession of the Allotments.

XXV. And be it further enacted, That no Sheep or Lambs shall be depastured or kept on any of the Allotments to be made by virtue of this Act, where Quick Fences shall be planted, during the Space of Seven Years next after the Execution of the said Award, unless the Person or Persons so keeping the same shall first at his, her, or their own Expence, make and maintain a Fence sufficient to guard the young Quick Fences round such Allotments from being cropped, hurt, or damaged by such Sheep or Lambs, whether such Quick Fences be planted or set by the Owner or Occupier of such Allotments as aforesaid, or the Owner or Occupier of the Allotment or Allotments adjoining thereto; and the Persons respectively depasturing or keeping, or turning such Sheep or Lambs into any of the said Allotments, not having first well and sufficiently guarded such Quick Fences as aforesaid, shall pay for every such Offence any Sum of Money not exceeding the Sum of Five Pounds nor less than Forty Shillings, as shall be adjudged and determined by any of His Majesty's Justices of the Peace for the said County of Derby not interested in the same; the same to be recovered and levied in the same Manner as is herein-before directed respectively, as the Penalty for the cutting of Turf or getting Stone as aforesaid, but to be applied to the Use of the Person whose Quicks shall or might be damaged for want of such guarding as aforesaid.

No Sheep to be kept in the Inclosures, unless, &c. for First Seven Years.

XXVI. And be it further enacted, That the said Commissioner may and he is hereby directed and authorized (on Application made to him for that Purpose) to declare void every Lease or Leases, Agreement or Agreements, at Rack Rent now subsisting, or which may affect any of the Lands to be inclosed, exchanged, or divided within the said Townships or Liberties, or either of them, by virtue of this Act or the said recited Act, and the same shall accordingly cease at such Time or Times

For vacating Leases at Rack Rent.

as the said Commissioner shall by Writing under his Hand order and appoint; and the said Commissioner is hereby empowered to adjudge and determine such Recompence and Satisfaction to be made to the Lessee or Lessees, Tenant or Tenants respectively, for the avoiding such Lease or Leases, Agreement or Agreements, as the said Commissioner shall deem adequate to the Benefit and Interest which the said Lessee or Lessees, Tenant or Tenants, had or derived under the said Lease or Leases, Agreement or Agreements, before the passing of this Act, or which such Lessee or Lessees, Tenant or Tenants, could or might have had or enjoyed had not this Act been made or passed; and also by whom and at what Time such Recompence and Satisfaction shall be made; and in case such Recompence and Satisfaction shall not be made accordingly, then it shall be lawful to and for such Lessee or Lessees, Tenant or Tenants, to sue for and recover the same in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case: Provided always, that if there shall be any such Lease of Lands, Part of which shall lie in the said Townships, or either of them, and Part in any adjoining Parish or Township, all and every such Lease or Leases upon Rack Rent may be vacated; but where any Land shall have been taken in Exchange, which Lands shall be under any such Lease or Agreement, and wholly situate in an adjoining Parish or Township, such last mentioned Lease or Agreement shall not be vacated.

Commissioner  
may make  
Allotments in  
Severalty to  
Joint Tenants  
or Tenants in  
Common.

XXVII. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered, upon the Request in Writing of Joint Tenants, Coparceners, or Tenants in Common, or of the Husbands, Guardians, Trustees, Committees, or Attornies of such as are under Coverture, Minors, Lunaticks, or under any other Incapacity, or absent beyond Seas, being Owners of any Manors, Messuages, Cottages, Tenements, Lands, or Hereditaments within the said Townships of *Kirk Ireton* and *Gallow*, or either of them, or Proprietors thereof, together with any other Messuages, Lands, Tenements, or Hereditaments, held by or under the same Title or Titles, in any other Manors, Parishes, Townships, or Places, to make Partition and Division of the said Manors, Messuages, Cottages, Tenements, Lands, Allotment or Allotments, to such of the said Owners or Proprietors who shall be entitled to the same as Joint Tenants, Coparceners, or Tenants in Common, and to allot the same accordingly to such Owners and Proprietors in Severalty, and in such Partition, Division, or Allotment, to include any of the said other Messuages, Lands, Tenements, or Hereditaments so held under the same Title in any other Manor, Parish, Township, or Place; and from and immediately after the said Allotments shall be so made and declared, the same shall be holden and enjoyed by the Person or Persons to whom the same shall be allotted in Severalty, in such and the same Manner, and subject to such and the same Uses, as the undivided Parts or Shares of such Hereditaments and Premises would have been held in case such Partition and Division had not been made, and subject also to such and the same Wills, Jointures, Rents, Charges, and Incumbrances, and no other, as the Messuages, Lands, Tenements, and Hereditaments whereof such Person was seised or possessed at or immediately before the Execution of the Award of the said Commissioner, or for which or in respect whereof such Allotments or Exchanges shall

shall be made, would have been subject to, charged with, or affected by, in case this Act had not been made.

XXVIII. Provided always, and be it further enacted, That if any Person or Persons hath or have sold or contracted or agreed to sell, or shall at any Time before the Execution of the Award of the said Commissioner, sell, contract, or agree to sell, his, her, or their Right, Interest, or Property, in, over, or upon the said Common 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 Commissioner, and he is hereby directed, authorized, and required to make an Allotment of Land to the Purchaser or Purchasers in such Sale, Contract, or Agreement, or to his, her, or their Heirs or Assigns, for or in respect of such Right, Interest, or Property so sold, contracted, or agreed to be sold 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, Contract, or Agreement, might, could, or ought to have held and enjoyed the same, in case such Sale, Contract, or Agreement had not been made, or such Right, Interest, or Property had been vested in such Vendee at the Time of making such Allotments as aforesaid.

In case any Person shall sell his Common Right, the Allotment to be made to the Purchaser.

XXIX. And be it further enacted, That in case it shall appear to the said Commissioner, that there are or is any publick Highways or Highway, Bridle Roads or Bridle Road, Footways or Footway, in, through, over, or on the Sides of any of the old inclosed Lands, or other Lands within the said Townships, or either of them, which may in the Judgment of the said Commissioner be diverted and turned without Inconvenience to the Publick, into any other publick Highways or Highway, Bridle Roads or Bridle Road, Footways or Footway, or be otherwise diverted or turned, so as to make the same more convenient to the Publick, or else stopped up and destroyed as superfluous and unnecessary, it shall be lawful for the said Commissioner, (with the Concurrence and Order of Two Justices of the Peace, acting in and for the Division of the said County in which the said Townships are situate, subject to Appeal as in the said recited Act mentioned), in and by his said Award, to order and direct such publick Highways or Highway, Bridle Roads or Bridle Road, Footways or Footway, to be altered, turned, diverted, stopped up, or destroyed, in such Manner as the said Commissioner shall think proper and reasonable.

Commissioner may alter Roads through ancient Inclosures, with the Consent of Two Magistrates.

XXX. And be it further enacted, That all the Costs, Charges, and Expences of obtaining and passing this Act and incident thereto, and of surveying, admeasuring, and valuing, dividing, and allotting the said Common and Waste Lands hereby directed to be divided and allotted, and of forming and making the publick Roads, publick or common Drains, Sewers, Watercourses, Watering Places for Cattle, Wells, Bridges, and other Conveniencies, and of preparing and inrolling the Award of the said Commissioner, and all other the Costs, Charges, and Expences of the said Commissioner, and of the several Persons employed

Expences of this Act, &c.

by

by him, either before or after the Execution of the said Award, in, about, or concerning the Execution of this Act, shall be paid, borne, and defrayed by the Owners of or Persons interested in the said Common and Waste Grounds, (except the King's Majesty and His said Lessee and the Rector of *Kirk Ireton* aforesaid), in such Proportion as the said Commissioner shall direct and appoint, (due Regard being had to the Expences occasioned in respect to the Lands and Grounds allotted in each of the said Townships, and to each Person's Estate and Interest therein respectively, and to the Value thereof), the Shares and Proportions of all which Costs, Charges, and Expences, shall be borne by the said respective Owners and Persons interested as aforesaid, except as aforesaid, and paid to such Person or Persons, and at such Time or Times, either before or after the Execution of the said Award, as the said Commissioner shall direct or appoint; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Proportion of such Costs, Charges, and Expences, according to such Direction or Appointment as aforesaid, then and in such Case the same shall and may be recovered in the Manner directed in and by the said recited Act.

Expences of Exchanges and Partitions to be borne by the Persons making them.

XXXI. Provided always, and be it further enacted, That the Costs, Charges, and Expences attending the making of any Exchange or Exchanges, Partition or Partitions, Sale or Sales, to be made by virtue of this or the said recited Act, shall be borne, paid, and defrayed by the several Persons making such Exchanges, Partitions, and Purchases, in such Shares and Proportions as the said Commissioner shall in and by his said Award order and direct.

Proprietors and Agents to pay their own Expences.

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

For allowing Interest on Money advanced.

XXXIII. And be it further enacted, That in case any Person or Persons shall advance any Sum or Sums of Money for the Purpose of defraying the Expences of obtaining and passing this Act and of carrying the same into Execution, every such Person shall be repaid the same, together with lawful Interest from the Time of advancing thereof, out of the First Monies that shall be raised for defraying such Expences under and by virtue of this Act; which Sum or Sums of Money to be advanced as aforesaid, and the Interest thereof, shall be a Charge upon the said Common and Waste Lands hereby intended to be divided and inclosed, until the same shall be raised and repaid.

Commissioner to account.

XXXIV. And be it further enacted, That Once at least in each and every Year during the Execution of this Act, (such Year to be computed from the Day of the passing thereof), the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble or Expences in the Execution of this Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before any One or more of His Majesty's Justices of the Peace for the said County of *Derby*, not interested in the said

said Inclosure, to be examined and balanced, and such Balance shall be by such Justice or Justices stated in the Book of Accounts to be kept in the Office of the Clerk or Clerks to the said Commissioner; and no Charge or Item in such Account shall be binding on the Parties concerned, or valid in the Law, unless the same shall be duly allowed by such Justice or Justices.

XXXV. And be it further enacted, That the said Commissioner shall and he is hereby required to make an Extract on Parchment, under his Hand, of so much of his Award to be made under or in pursuance of this Act, or the said recited Act, as shall contain an accurate Description of the Allotment or Allotments to be made to the King's Majesty, or His Lessee, together with such Regulations or Provisions relating to the said Allotment or Allotments, or to any other Right or Interest of His Majesty, or His Lessee or Lessees, as may be contained in such Award, and also a Map or Plan of such Allotment or Allotments, and transmit the same to the Clerk of the Council of His Majesty's Duchy of *Lancaster* for the Time being, within Three Months next after the making and executing the said Award.

An Extract of so much of the Award as relates to the King's Allotments, and Plan to be made and transmitted to the Duchy Office.

XXXVI. And be it further enacted, That the Award to be made by the said Commissioner, when inrolled in Manner directed by the said recited Act, shall be deposited and kept with and by such Person or in such Place as the said Commissioner shall appoint.

Award to be deposited.

XXXVII. And be it further enacted, That if any Person or Persons shall think him, her, or themselves aggrieved by any Thing done in pursuance of this Act, then and in such Case (except as to such Claims, Matters, and Things as are herein-before directed or authorized to be tried, settled, or determined by the Verdict of a Jury, or where any of the Clauses or Provisions of the said recited Act or of this Act shall express that the same shall be final and conclusive) he, she, or they, may appeal to any General Quarter Sessions of the Peace which shall be held for the said County of *Derby*, within Six Calender Months next after the Cause of Complaint shall have arisen, giving Ten Days Notice of such Appeal to the said Commissioner; and the Justices at the said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and make such Orders therein and 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 Surplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; and which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*.

Appeal to the Quarter Sessions.

XXXVIII. Provided always, That nothing herein contained shall prejudice, lessen, or defeat the Right, Title, or Interest of His Majesty, or His Lessee, or of any other Person or Persons who shall for the Time being be Lord or Lords, Lady or Ladies of the Manor or Manors

Saving the Rights of the Lord of the Manor.

wherein the said Common and Waste Lands, or any Part thereof, are lying or being, of, in, or to the Seigniorie or Royalties incident and belonging to such Manors or Lordships, or any of them; but that His Majesty, His Heirs and Successors, and His Lessee, and such other Lord and Lords for the Time being, shall and may at all Times hereafter hold and enjoy the same; and all Courts, Perquisites, and Profits of Courts, Services, Franchises, Privileges, Waifs, Estrays, Deodands, Forfeitures, and all other Royalties, Rights, and Appurtenances, to such Manors or Lordships, respectively incident or belonging, (other than those which are intended to be compensated for, barred, or destroyed by this Act), in as full, ample, extensive, and beneficial Manner as they respectively could or might have held and enjoyed the same in case this Act had not been made.

General Saving.

XXXIX. Saving always to the King's most Excellent Majesty, His Heirs and Successors, as well in Right of His Crown as in Right of His Duchy of *Lancaster*, and to all and every other Person and Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest, (other than such as are meant and intended to be compensated for, barred, and destroyed by this Act) of, in, to, or in respect of the Commons and Waste Lands and Hereditaments to be divided, allotted, and inclosed or exchanged by virtue of this or the said recited Act, as he, they, or every of them might or could have had or enjoyed in case this Act had not been made.

Declaring the Act publick.

XL. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty, and when so printed may be given in Evidence in all Courts of Justice, and before all Judges and Justices whomsoever, who shall take judicial Notice thereof, in like Manner as if the same had been declared to be a publick Act.

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LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1803.



ANNO QUADRAGESIMO TERTIO

# GEORGII III. REGIS.

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## Cap. 105.

An Act for dividing, allotting, and inclosing the several Commons and Waste Lands in the Township of *Hatton*, in the Parish of *Runcorn*, in the County Palatine of *Chester*.

[24th June 1803.]

**W**HEREAS there are within the Township of *Hatton*, in the Parish of *Runcorn*, in the County Palatine of *Chester*, divers Commons and Waste Lands, containing together Thirty-two Acres of Statute Measure or thereabouts: And whereas the King's most Excellent Majesty, in Right of His Duchy of *Lancaster*, is Lord of the Manor and Fee of *Halton* in the said County Palatine of *Chester*, within which Manor and Fee the said Township of *Hatton* is situate: And whereas *George Heron* Clerk, *Peter Heron*, *Thomas Watt*, and *Thomas Lee* Esquires, and several other Persons, are Owners and Proprietors of Messuages, Lands, and Tenements within the said Township of *Hatton*, who, as such, are entitled to Right of Common on the said Commons and Waste Lands:

Owners of Messuages, and as such entitled to Right of Common.

[*Loc. & Per.*]

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And

41 Geo. 3.  
recited.

Advantage of  
Inclosure, &c.

Commissioners.

And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure; and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts:* And whereas the said several Commons and Waste Lands are, in their present State of little or no Value, but if divided and allotted amongst the several Persons interested therein, and such Allotments inclosed, great Benefit and Advantage would arise therefrom to the several Persons interested in the same; which Division, Allotment, and Inclosure cannot be established and rendered effectual 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 several Commons and Waste Lands shall be set out, divided, and allotted as soon as conveniently may be after the passing of this Act; and that *James Stelfox of Crowley Lodge, in the said County of Chester, and John Shearson of Newton in Mackerfield, in the County of Lancaster, Gentlemen,* and their Successors to be appointed in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, and allotting the said several Commons and Waste Lands, and for putting this Act into Execution, subject to the Rules, Orders, and Directions herein-after mentioned and prescribed, and also subject to the Rules, Orders, Regulations, and Directions contained in the said recited Act, except in such Cases where the same are hereby varied or altered.

If Commissioners differ,  
an Umpire to  
be chosen.

II. And be it further enacted, That if any Difference in Opinion or Dispute shall arise between the said Commissioners touching or concerning any Act, Matter, or Thing whatsoever, which by virtue of this Act the said Commissioners are authorized and empowered to settle, determine, and ascertain, then and in every such Case, the said Commissioners are hereby required from Time to Time, within Twenty-one Days next after such Difference in Opinion shall arise, by Writing under their Hands and Seals, to appoint some fit and proper Person, not interested in the said Division, Allotment, and Inclosure, to be an Umpire, to enquire into, and he is hereby authorized and required within the Space of Fourteen Days next after Notice of such Appointment, to enquire into, settle, ascertain, and determine all such Differences in Opinion or other Disputes, which shall have so arisen between the said Commissioners; and in case the Person so to be nominated shall die or refuse to act in the Execution of the several Powers hereby reposed in him, it shall be lawful for the said Commissioners from Time to Time, by Writing under their Hands, to appoint some other fit and proper Person, not interested in the said Inclosure, in the Room and Stead of the Umpire who may have been so nominated and who may die or refuse to act; and such Person so to be appointed as last mentioned, shall have the like Powers and Authorities by virtue of this Act, in every Respect as the Person who may have been before appointed, and who may die or refuse to act, was and is hereby invested with.

For appointing new Commissioners.

III. And be it further enacted, That in case the said *James Stelfox* and *John Shearson*, or any Commissioner to be appointed in Manner herein-after



after mentioned, shall die, refuse to act, or become incapable of acting as a Commissioner in the Execution of this Act, then and in such Case a new Commissioner, not interested in the said intended Division, Allotment, and Inclosure, shall be appointed in the Place and Stead of any such Commissioner so dying, refusing to act, or becoming incapable of acting as aforesaid, by a Majority in Value of the several Persons interested in the Lands and Grounds hereby intended to be divided, allotted, and inclosed, who shall be present at a Meeting to be held for that Purpose as herein-after is mentioned; and that every such new Commissioner being so appointed and approved by the Chancellor of the Duchy of *Lancaster* for the Time being, or the Clerk of the Council of the said Duchy, or his Deputy for the Time being, shall have the same Powers and Authorities by virtue of this Act as the Commissioner whom he shall so succeed had or was invested with: Provided always, that Notice be given by Writing to be affixed on the principal outer Door of the Parochial Chapelry of *Daresbury* in the said Parish of *Runcorn*, under the Hands of Five at least of the Persons interested in such Division, Allotment, and Inclosure, appointing a Time and Place of Meeting to chuse such Commissioner, Ten Days at least before such Meeting.

IV. And be it further enacted, That each of the said Commissioners, or such other Commissioner to be appointed as aforesaid, who shall act in the Execution of the Powers and Authorities hereby vested in him, shall be paid the Sum of Two Pounds Twelve Shillings and Sixpence, and no more, for each Day he shall be employed therein, (Days of travelling to and from Home included), the same to be in full Satisfaction for all the Trouble and Expences which they shall be put to in executing the Powers and Authorities aforesaid; and every Proprietor and other Person interested in the Execution of this Act, and their Solicitors and Agents who shall attend upon any Occasion in pursuance of this Act, shall bear and pay his and their own Expences of such Attendance.

Commissioners Expences.

Proprietors to pay their own Expences.

V. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice to be inserted in One of the *Chester* Weekly Newspapers, and to be repeated Once at least in the same Paper, and also upon the principal outer Door of the Parochial Chapel of *Daresbury* aforesaid, of the Time and Place of their First Meeting, which shall be in some convenient Place within the said Township of *Hatton* and not elsewhere, to put this Act into Execution, such Notices to be at least Ten Days before such Day of Meeting; and it shall be signified by such Notice, that all Persons, Bodies Politick or Corporate, having or claiming a Right of Common in or upon the several Commons and Waste Lands hereby intended to be divided, allotted, and inclosed, are required by themselves, their Agents, or Tenants respectively, to give and deliver to the said Commissioners, at such Time and Place, a full, true, and particular Account in Writing of the Messuages, Tenements, Lands, and Hereditaments, for which he, she, or they respectively claim a Right of Common upon the said several Commons or Waste Lands, and who is in Possession thereof, and what is the Quantity thereof; and it shall be signified also by the said Notice, that all Persons neglecting to deliver in such Claims at the First or Second Meeting of such Commissioners shall be excluded and debarred of and from all Right, Title, Claim, and Interest of, in, or to the said several Commons

Notice to be given of the Commissioners First Meeting to receive Claims.

Commons and Waste Lands or any Part thereof, and from all Benefit and Advantage to arise by such Division, Allotment, and Inclosure thereof by virtue of this Act, or the said Notice shall be to that or the like Effect.

Notice to be given of the Second and Third Meetings of the Commissioners.

VI. And be it further enacted, That the said Commissioners shall and may appoint such Time and Place within the said Township of *Hatton* for their Second and Third Meetings as they shall think proper, so that a Notice or Notices in Writing of such Second and Third Meetings respectively be by them in like Manner advertised at least Ten Days before such Second and Third Meetings respectively; and all subsequent Meetings of the said Commissioners shall be appointed at such Time and Times, Place and Places, and in such Manner as they shall from Time to Time direct.

Other Notices how to be given.

VII. And be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners, shall be so made and given by Advertisement to be inserted in One of the said *Chester* Newspapers, or in some other Newspaper circulated in the said County Palatine of *Chester*.

Commissioners to determine Disputes.

VIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the Lands and Grounds to be divided, allotted, and inclosed, in pursuance of this Act, or any Part thereof, touching or concerning the several Rights and Interests which they or any of them shall have, or claim to have, in, over, upon, or out of the said Lands and Grounds, or any Part thereof, or touching or concerning any Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall be lawful for the said Commissioners, and they are hereby authorized to examine into, hear, and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Messuages, Lands, Tenements, or Hereditaments whatsoever.

Commissioners may award Costs.

IX. 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 of the said recited Act, or upon the Hearing of any such Dispute or Difference as aforesaid, see Cause to award any Costs, it shall be lawful for them, 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; 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 required and authorized, by Warrant under their Hands 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 so neglecting or refusing to pay the same, rendering, upon Demand, the Overplus (if any) of the Monies arising from any such Sale, after deducting

ing the Costs and Expences attending such Distress and Sale, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold.

X. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested as aforesaid, shall be dissatisfied with any Determination of the said Commissioners, touching or concerning any Claim or Claims of any Rights of Common, or other Rights or Interests in, over, upon, or out of the Lands and Grounds intended to be divided, allotted, and inclosed, in pursuance of this Act, or any Part thereof, 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 First or Second Assizes to be holden for the said County Palatine of *Chester* next after the Determination of the said Commissioners; and for that Purpose the Person or Persons who shall be dissatisfied with such Determination, 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, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the 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 thereon, which it shall be lawful for the Court to do, as is usual in other Cases; and that after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners, touching such Claim or Claims to such Rights of Common, or other Rights or Interests, over, upon, or out of the said 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 objecting shall not cause such Action at Law to be brought and proceeded in as aforesaid, shall be binding, final, and conclusive upon all Parties interested.

Parties may try their Rights by an Issue at Law.

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

Proceedings not to abate.

XII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby required to enquire and determine

Encroachments.

[*Loc. & Per.*]

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what Encroachments have been made upon or from the said Commons and Waste Lands by any Person or Persons whomsoever; and that all Encroachments taken in or made upon, from, or out of any Part of the said Commons and Waste Lands within Twenty Years, shall be deemed Part and Parcel of the said Commons and Waste Lands; and in case any Dispute shall happen or arise touching what Part or Parts of the same Commons and Waste Lands, shall and may be deemed Encroachments, such Dispute shall be enquired into, heard, and determined by the said Commissioners, whose Determination shall be made a Part of and inserted in the Book containing the Proceedings under this Act, or in the Award to be made in pursuance thereof.

Allotment to  
His Majesty.

XIII. And be it further enacted, That the said Commissioners shall, and they are hereby required, after setting out the necessary and proper Roads pursuant to the said recited Act, to set out and allot unto the King's Majesty, His Heirs and Successors, or His Lessee, One Eighteenth Part of the said Commons and Waste Lands hereby directed to be divided, allotted, and inclosed as aforesaid, in lieu of and as a Compensation for all the Right of His Majesty, His Heirs and Successors, Lessee or Lessees of, in, or to the Soil of the said Commons and Waste Lands as Lord of the said Manor and Fee of *Hatton* aforesaid.

Allotments to  
be sold.

XIV. And be it further enacted, That the said Commissioners shall, (after setting out the proper and necessary Roads and Ways pursuant to the said recited Act, and making such Allotment to His Majesty as aforesaid), and they are hereby authorized and required to set out, divide, and allot the said Commons and Waste Lands in such Lots and Parcels in which the same will or may, according to their Judgement, be sold and disposed of to the best Advantage, and forthwith or as soon as conveniently may be, to sell or cause the same to be sold by publick Sale or Auction, to the best Bidder or Bidders, in such Lots or Parcels, and subject to such Conditions of Sale, as the said Commissioners shall think proper, giving Ten Days Notice at the least of the Time and Place of such Sale in One of the *Chester* Weekly Newspapers, and repeating the said Notice Once at least in the same Weekly Newspaper; and the Purchaser or Purchasers of all or any Part of the said Commons or Waste Lands so directed to be sold as aforesaid, shall pay his, her, or their Purchase Money into the Hands of the said Commissioners; and from and immediately after Payment thereof, such Purchaser or Purchasers shall be absolutely seised of an Estate of Inheritance in Fee Simple of and in the Lands and Hereditaments so by him, her, or them purchased, freed and discharged of and from all Claim or Right of Common therein or thereupon, and of and from all Incumbrances whatsoever.

Freeholders  
to have an  
Option of  
purchasing  
by private  
Contract.

XV. Provided always nevertheless, and be it further enacted, That in case any Owner or Owners of any ancient Messuages, Lands, Tenements, or Hereditaments within the said Township of *Hatton*, shall be minded and desirous to purchase any such Lot or Lots, Parcel or Parcels of the said Commons or Waste Lands so directed to be sold as aforesaid, it shall be lawful for him, her, or them, to give Notice in Writing to the said Commissioners of such his, her, or their Desire; and the said Commissioners

tioners shall and they are hereby directed and required to deliver to such Person or Persons so giving Notice as aforesaid, upon the Receipt of such Notice, an Estimate in Writing under their Hands, of the Value of such Lot or Lots, Parcel or Parcels described in such Notice, in order that such Person or Persons so giving Notice as aforesaid may have an Option of purchasing the same by private Contract; and in case such Person or Persons so giving Notice as aforesaid, his, her, or their Heirs, shall, previous to such Sale, pay or cause to be paid to the said Commissioners the Amount of such Estimate or Valuation, then that such Lot or Lots, Parcel or Parcels, shall not be sold by Auction, but that from and immediately after Payment of such Purchase Money, such Person or Persons so giving Notice as aforesaid, his, her, or their Heirs, shall be absolutely seized of an Estate of Inheritance in Fee Simple of and in the Lands and Hereditaments contained in such Notice and Estimate, freed and discharged from all Claim or Right of Common therein or thereupon, and of and from all Incumbrances whatsoever; but in case Two or more Persons shall give Notice of their Desire, in the Manner aforesaid, to purchase the same Lot or Parcel of such Commons or Waste Lands by private Contract, such Lot or Lots, Parcel or Parcels, shall be sold by publick Auction notwithstanding such Notice.

XVI. And be it further enacted; That it shall be lawful for the said Commissioners to borrow and take up at Interest, of any Person or Persons willing to advance and lend the same, such Sum and Sums of Money as shall from Time to Time be necessary for defraying the Charges and Expences of passing this Act, and the Expences of executing the same and the said recited Act, until the same shall be raised by Sale of Land as herein mentioned; which Sum or Sums of Money so to be borrowed as aforesaid, shall be a Charge upon the said Commons and Waste Lands so to be divided, allotted, and inclosed, until the same shall be raised and repaid by such Sale as aforesaid.

Commissioners may borrow Money to pay Expences, till Sale of Land for that Purpose.

XVII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and empowered, by and with the Concurrence and Order of Two Justices of the Peace acting for the said County Palatine of Chester, in the Division in which the said Township is situate, and not interested in the Repair of such Road, subject to such Appeal, in such Manner, and under such Forms and Restrictions as are mentioned and contained in the said in Part recited Act, to stop up any old or accustomed Road passing or leading through any Part of the ancient inclosed Lands in the said Township, if the said Commissioners shall be of Opinion that the same is no longer necessary; in which Case, such Road so to be stopped up as aforesaid, shall be sold in like Manner, and with the same Right or Preference in favour of the Owners of ancient inclosed Lands in the said Township, as such Lots and Parcels of the said Commons and Waste Lands herein-before directed to be set out in pursuance of this Act are hereby directed to be sold.

Power to stop up old Roads.

XVIII. And be it further enacted, That the said Commissioners shall, and they are hereby directed and required, from and out of the Money to arise by such Sale as aforesaid, to pay the Charges and Expences incident to and attending the obtaining and passing this Act, and of measuring, planning,

Application of the Money arising by Sale of Commons.

planning, dividing, and allotting the same Commons or Waste Lands, and of preparing, executing, and depositing the Award of the said Commissioners, and all other their necessary Charges and Expences, and of every Person employed by them in and about the Execution of this Act, or in anywise relating thereto.

Money advanced for obtaining this Act to be repaid with Interest.

XIX. And be it further enacted, That if any Person or Persons shall advance any Money for the Purpose of defraying the Expences of applying for and obtaining and executing this Act, such Person or Persons shall be repaid the same with Interest, at the Rate of Five Pounds *per Centum per Annum*, out of the First Monies to be raised by virtue of this Act.

Award to be deposited.

XX. And be it further enacted, That the Award to be made by such Commissioners shall be inrolled in the Chamber of the Duchy Court of *Lancaster* at *Westminster*, and afterwards shall be deposited in the Parochial Chapel of *Daresbury* aforesaid, or in such other Place as the said Commissioners shall appoint.

Expences of Exchanges and Partitions by whom to be paid.

XXI. Provided always, and be it further enacted, That all the Costs, Charges, and Expences attending the making and completing of any Exchanges and Partitions, shall be paid, borne, and defrayed by the several Persons making such Exchanges and Partitions, in such Manner and in such Proportions as the said Commissioners shall by their Award order and direct.

Commissioners to lay their Accounts before Two Justices Once in every Year.

XXII. And be it further enacted, That Once at least in each and every Year, during the Execution of this Act, (such Year to be computed from the Day of the passing thereof), the said Commissioners shall, and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble or Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before any Two or more of His Majesty's Justices of the Peace for the Time being for the said County Palatine of *Chester*, to be by them examined and balanced, and such Balance shall be by such Justices stated in the Book of Accounts, to be kept in the Office of the Clerk to the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justices.

Wills and Settlements not to be affected.

XXIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances, out of, upon, or affecting any of the Messuages, Cottages, Buildings, Lands, or Grounds to be divided, allotted, inclosed, or exchanged in pursuance of this or the said recited Act, or any Part or Parts thereof respectively; but that the respective Persons to whom any Lands or Hereditaments shall be allotted or given in Exchange by virtue of this or the said recited Act, shall be seised thereof to such and the same Uses, and for such and the same Estates, and subject to such and the

the same, Wills, Jointures, Rents, Charges, and Incumbrances, and no other, as the Messuages, Cottages, Buildings, Lands, Grounds, and Hereditaments whereof such Person was seised or possessed at or immediately before the Execution of the Award of the said Commissioners, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to, charged with, or affected by, in case this Act had not been made.

XXIV. 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 Act (other than and except as to such Claims, Matters, and Things as are herein before directed or authorized to be tried, settled, or determined by the Verdict of a Jury, or where any of the Clauses or Provisions of the said recited Act or of this Act shall express that the same shall be final and conclusive), then and in every such Case he, she, or they, may appeal to the General Quarter Sessions of the Peace which shall be holden for the said County Palatine of *Chester* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners, and to the Party or Parties concerned, Twenty-one Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices (not interested in the Premises) at their said General Quarter Sessions, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Charges 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) upon Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

Persons aggrieved may appeal to the Quarter Sessions.

XXV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, as well in Right of His Crown as of His Duchy of *Lancaster*, and to all and every other Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, his, her, and their Heirs, Executors, and Administrators, (except such whose Rights are hereby intended to be barred, or who shall fail to give in their Claims, or against whom the said Commissioners shall determine), all such Right, Title, and Interest, as they, every, or any of them had and enjoyed, of, in, to, or out of the said Commons and Waste Lands at the Time of passing this Act, or could or might have had or enjoyed, in case this Act had not been made.

General Saving.

1886

43° GEORGI II. Cap. 105.

Act to be printed by the King's Printer.

XXVI. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty, and may be given in Evidence in all Courts of Justice, and before all Judges and Justices, who shall take judicial Notice thereof in like Manner as if the same had been declared to be a publick Act.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1803.