



ANNO QUINQUAGESIMO

GEORGI II. REGIS.

Cap. 37.

An Act for inclosing Lands in the Parish of *East Markham*, in the County of *Nottingham*.

[6th April 1810.]

WHEREAS there are within the Parish of *East Markham* in the County of *Nottingham*, divers open Fields, Meadows, Pastures, Moors, Commons, Commonable Lands, and Waste Grounds: And whereas *Eliza Crawley*, Widow, is Lady of the Manor and Soke of *Dunham* in the said County of *Nottingham*, within and of which Manor and Soke, or one of them, the said Parish of *East Markham*, or Part thereof, lies and is Parcel: and the Most Noble *Henry Pelham*, Duke of *Newcastle*, and Sir *Thomas Woollaston White*, Baronet, severally claim to be Lords of the Manor of the Parish of *East Markham* aforesaid: And whereas the said Duke of *Newcastle* is seised of the Improprate Rectory of *East Markham* aforesaid, and in right of the said Rectory is entitled to certain Glebe Lands within the said Parish of *East Markham*, and to all the Tythes of Corn and Grain, and a certain Portion of the Tythe Hay arising, renewing and increasing within the same, or within the tytheable Places thereof, and is also entitled to the Advowson, Right of Patronage, and Presentation of and to the Vicarage of *East Markham* aforesaid; and the Reverend *William Cheales* Clerk, is the Vicar thereof, and in right of his said Vicarage is entitled to a certain Portion of the Tythe Hay, and to the Tythes of Wool and Lamb, Hops, Clover and Turnips, and all other Tythes and Payments in lieu thereof, not belonging to the said Improprator, arising, renewing and increasing within the said Parish of *East Markham*, or within the tytheable Places thereof, and also to a Vicarage

[Loc. & Per.] 9 C House,

House, and certain Glebe Lands lying within the said Parish: And whereas the said Duke of Newcastle, Sir Thomas Woollaston White, John Kirke; Esquire, Joseph Staniland, Jose Jackson, Thomas Billiald, John Rose, and several other Persons, are Owners and Proprietors of divers ancient Messuages, Cottages, Tofts, Toftsteads, Lands and Tenements in the said Parish of *East Markham*, and as such they, or some of them, are respectively entitled to certain Rights of Common and other Interests in, over and upon the said Commons and Waste Grounds, in different Proportions: 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 the Lands and Grounds of the respective Proprietors in the open Arable Fields, Meadows, Pastures, Moors and Commons, of and within the said Parish of *East Markham*, lie intermixed and dispersed in small Parcels, and are at present very inconveniently situated for the Occupation and Cultivation thereof, and incapable of any considerable Improvement; and it would be of great Advantage to the several Persons interested therein, if all the said open Arable Fields, Meadows, Pastures, Moors, Commons, Commonable Lands and Waste Grounds were divided and inclosed, and specific Parts and Shares of the same were allotted to the said several Persons, in proportion to their respective Property, Rights of Common, and other Interests: But as such Division, Allotment and Inclosure, cannot effectually be carried into execution 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 *James Dowland*, of *Cuckney*, in the County of *Nottingham*, *Jonathan Teal*, of *Leeds* in the County of *York*, and *John Brown*, of the Town and County of the Town of *Nottingham*, Gentlemen, and their Successors, to be elected in Manner hereinafter directed, shall be, and they are hereby appointed Commissioners for dividing, allotting and inclosing the said several open Fields, Meadows, Pastures, Moors, Commons, Commonable Lands and Waste Grounds, and all other the open and uninclosed and intermixed Lands and Grounds within the said Parish of *East Markham*, and for carrying this Act into Execution, and also such of the Powers, Authorities, Directions, Clauses and Provisions as are contained in the said recited Act, which shall be applied, and deemed, and taken as Part of this Act, except so far as they, or any of them are altered, varied, or otherwise provided for in and by this Act; and that all Acts, Matters, and Things authorized or required, or necessary to be done and executed by the said Commissioners, for effectuating all and every or any of the Purposes aforesaid, may be done and executed by any Two of them, and the same shall be as valid and effectual as if such Acts, Matters, and Things had been done and executed by all the said Commissioners herein nominated, or to be appointed by virtue hereof.

Commissioners.

Appoint-
ment of new
Commission-
ers.

II. And be it further enacted, That if any of the said Commissioners hereby nominated and appointed, or any succeeding Commissioner who may be hereafter nominated and appointed in Manner hereinafter men-

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tioned,

tioned, shall die or neglect to act for the Space of One Calendar Month, when Occasion shall require his or their Attendance on the Business of the said Division and Inclosure, or shall refuse to act, or be rendered incapable of acting by Sickness or any other Cause whatsoever, before the Powers and Authorities hereby vested in them shall be carried into execution, a new Commissioner shall and may be nominated and appointed in the Place of every Commissioner so dying, neglecting, refusing, or becoming incapable to act, in the Manner following, that is to say, in case the said *James Dowland*, or any succeeding Commissioner to be appointed in his Stead shall die, neglect or refuse, or become incapable to act as aforesaid, it shall be lawful for the said Duke of *Newcastle*, his Heirs or Assigns, and the said *William Cheales*, or the Vicar of *East Markham* aforesaid, for the time being, by Writing under their Hands, from time to time, within One Calendar Month next after such Death, Neglect, Refusal, or Incapacity as aforesaid, shall be signified to them or either of them in Writing by the surviving or remaining Commissioners or Commissioner, to elect and appoint One other Commissioner not interested in the said Inclosure, in the Place of the said *James Dowland*, or such succeeding Commissioner appointed in his Stead, and so dying, neglecting, refusing, or becoming incapable to act; and in case the said *Jonathan Teal* or any succeeding Commissioner to be appointed in his Stead shall die, neglect, or refuse, or become incapable to act as aforesaid, it shall be lawful for the said *Sir Thomas Woollaston White* and *John Kirke*, their Heirs and Assigns respectively, by Writing under their Hands, from time to time, within One Calendar Month next after such Death, Neglect, Refusal, or Incapacity as aforesaid shall be signified to them or either of them in Writing, by the surviving or remaining Commissioners or Commissioner, to elect and appoint One other Commissioner, not interested in the said Inclosure, in the Place of the said *Jonathan Teal* or such succeeding Commissioner appointed in his Stead so dying, neglecting, refusing, or becoming incapable to act; and in case the said *John Brown* or any succeeding Commissioner to be appointed in his Stead shall die, neglect or refuse, or become incapable to act as aforesaid, it shall be lawful for the Majority in Value of the Proprietors of the Lands and Grounds hereby directed to be divided, allotted and inclosed, (other than and except the said Duke of *Newcastle*, his Heirs and Assigns, and the said *William Cheales*, and the Vicar of *East Markham* aforesaid, for the time being, and the said *Sir Thomas Woollaston White* and *John Kirke*, and their several and respective Heirs and Assigns,) who either personally, or by their respective Agents shall be present at a Meeting to be holden for that Purpose as hereinafter directed, by any Writing under their Hands, to elect and appoint One other Commissioner, not interested in the said Inclosure, in the Place of the said *John Brown* or such succeeding Commissioner appointed in his Stead so dying, neglecting, refusing, or becoming incapable to act; which Meeting shall be holden within the Parish of *East Markham* aforesaid, from time to time within One Calendar Month next after such Death, Neglect, Refusal or Incapacity to act as last aforesaid shall be signified in Writing by the surviving or remaining Commissioners or Commissioner to any One or more of the said Proprietors resident in or near *East Markham* aforesaid, at such Time and Place as the said surviving or remaining Commissioners or Commissioner shall appoint by a Notice in Writing affixed on the principal or Porch Door of the Church of *East Markham* aforesaid, on some *Sunday* before Divine Service, Ten Days at the least.

least before such Meeting (which Meeting the said surviving or remaining Commissioners or Commissioner are and is hereby authorized and empowered to appoint accordingly); and in case any Vacancy shall afterwards happen by the Death, Neglect, Refusal, or Incapacity to act of any of the Commissioners who shall have been elected and appointed in pursuance of this Act, such Vacancy shall be supplied from time to time upon the like Notices, and in like Manner by the respective Parties in whom the Power of Appointment is hereby vested and lodged as aforesaid, so that until the Provisions of this and the said recited Act shall be fully executed, there shall be One Commissioner of the Nomination of each of the respective Parties aforesaid; but in case the said respective Parties, or any of them, shall make default in appointing such new Commissioner within One Calendar Month next after such Death, Neglect, Refusal or Incapacity as aforesaid, shall be known and signified to them as aforesaid, then the surviving or remaining Commissioners or Commissioner shall, and they and he are and is hereby required, from time to time, by Writing under their or his Hands or Hand, within Fourteen Days next after the Expiration of the said One Calendar Month allowed to the respective Parties for appointing such new Commissioner as aforesaid, to appoint One other Commissioner, not interested in the said Division and Inclosure, in the Place of such Commissioner so dying, neglecting, refusing, or becoming incapable to act as aforesaid; which several Appointments the said Parties respectively are hereby required to make and execute in Writing on Parchment, and the same shall be filed and kept along with the Commissioners' Award, and shall be deemed legal Evidence; and every Person so elected and appointed, shall have the same Power and Authority for putting this and the said recited Act in execution as the Commissioners in whose Place he or they shall so succeed was vested with.

Notice of Meetings.

III. And be it further enacted, That the said Commissioners shall, and they are hereby required to give or cause to be given Notice in Writing, by affixing the same on the principal Door of the Parish Church of *East Markham* aforesaid, of the Time and Place of their first and every subsequent Meeting for executing the Purposes of this Act, Eight Days at least before every such Meeting (Meetings of Adjournment, whereof Notice shall be left at the Place of the last Meeting, only excepted): Provided always, that all Meetings of the said Commissioners in pursuance of this or the said recited Act shall be held within Eight Miles of the said Parish of *East Markham*.

Other Notices how to be given.

IV. Provided always, and be it further enacted, That the Publick Notices necessary or requisite to be given by the said Commissioners in pursuance of the said recited Act, of setting out publick Carriage Roads, and of reading and executing the Award of the said Commissioners, shall be given in the Newspaper called *The Nottingham Journal*, or if that Newspaper shall not be then published, in some other Newspaper usually circulated in the said County of *Nottingham*.

Encroachments.

V. And be it further enacted, That all Encroachments which have been made upon the said open Fields, Meadows, Pastures, Commons and Waste Grounds, within the Space of Twenty Years next before the First Day of *January* One thousand eight hundred and ten, shall be deemed and taken

to be Part thereof, and shall be divided and allotted accordingly; and that it shall be lawful for the said Commissioners to inquire what Inclosures and Encroachments have been made, and to determine whether or not the same are to be deemed Part of the Lands hereby intended to be divided and allotted pursuant to the Directions of this Act; and all such Inclosures and Encroachments as shall be deemed Part of the said Commons and Waste Grounds shall be valued as if in an unimproved State, and without considering the Improvements made thereupon by building or otherwise, in case the same shall be allotted to the respective Persons who may have improved the same, or to the said *Eliza Crawley* as Lady of the Manor and Soke of *Dunham*, or to the said Duke of *Newcastle*, or the said Sir *Thomas Woollaston White* as Lord of the said Manor of *East Markham*; but if such Inclosures and Encroachments shall be allotted to any other Person or Persons, then and in such Case the Person or Persons who shall receive the same shall pay to the several Persons respectively who may have inclosed and improved the same, such Compensation in Money, in such Manner and at such Times, as the said Commissioners shall think reasonable, and by Writing under their Hands shall direct and appoint.

VI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Persons or Bodies Politic, Corporate, or Collegiate, who are or shall be Proprietors of, or interested in any of the Lands, Tenements, or Hereditaments, to be affected by this Act, touching or concerning the respective Shares, Rights, or Interests, which they or any of them have or claim to have in the same, or touching or concerning any Allotment or Compensation to be made in lieu thereof, or touching or concerning any other Matter or Thing relating to the said Division and Allotments, it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to examine into, hear and determine the same: Provided always, That nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

Commissioners to settle Differences, but not to determine Titles.

VII. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections to be delivered to them in pursuance of this or the said recited Act, see cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges, as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case, it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands, 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 (wheresoever the same shall be found) of the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Per-

Power to assess Costs.

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son or Persons, or 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 Distress and Sale.

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

VIII. And be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Claim or Claims of any Rights of Common, or other Rights or Interests, in, over or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, then and in every such Case, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next Assizes or at the Assizes then next following to be holden for the said County of *Nottingham*; and for that Purpose the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Four Calendar Months next after such Determination of the said Commissioners; 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 binding, final, and conclusive upon all and every Person and Persons whomsoever, Body and Bodies Politic, Corporate, or Collegiate, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts and order a new Trial to be had therein, which it shall be lawful for the Court to do as is usual in other Cases; and after such Verdict or Verdicts, shall be obtained and not set aside by the Court, the said Commissioners shall, and 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.

Determination of the Commissioners, not objected to, to be final.

IX. Provided always, and be it further enacted, That in case the Determination of the said Commissioners, touching any Claim or Claims of any Rights of Common or other Rights or Interests, in, over or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, shall not be objected to, or being objected to, or such Action or Actions at Law, shall not be brought and proceeded in within the Time, and in the Manner herein-before for that Purpose mentioned, such Determination shall be final, binding, and conclusive upon all Parties.

Trial not to suspend the

X. Provided also, and be it further enacted, That no such Difference, Suit, or Proceeding as aforesaid, nor any Difference, Suit, or Proceeding touching the Title to any Lands, Tenements, or Hereditaments, shall

shall impede or delay the said Commissioners in the Execution of this Act, but the Division and Inclosure hereby directed to be made, shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding.

Execution of the Powers of the Act.

XI. Provided likewise, 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.

Actions not to abate by Death of Parties.

XII. And be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid, shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners, with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Proviso in Case of Death of Parties before Actions brought.

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

Rights of Possession of Persons not to be determined by the Commissioners.

XIV. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, before they shall proceed to set out the Allotments herein-after mentioned, to set out, ascertain, appoint, and direct to be made and completed, such publick and private Roads and Highways, in pursuance of the Directions of the said recited Act, and also such Banks, Ditches, Drains, Sluices, Watercourses, Bridges, and other Conveniences, in, over and through the Lands and Grounds intended by this Act, to be divided and inclosed, and also in, over, and through any of the Inclosures (by and with the Consent in Writing of the Owner or Owners of such Inclosures) within the Parish of *East Markham* aforesaid, as they shall judge necessary; and the same (except the said publick Roads and Highways) shall respectively be made, and at all Times thereafter cleansed and kept in repair at such Times, and by such Person

For setting out Roads.

or

or Persons, Proprietor or Proprietors, and in such Manner as the said Commissioners by their Award, when the same shall be executed, and in the mean time, and until the Execution thereof, by any Writing under their Hands, shall order, direct, or appoint; and the said Commissioners, shall and may order and award, issue and pay such Satisfaction and Recompence as they shall judge reasonable to the Owner or Owners of Lands which may be cut, damaged, or destroyed by making the said Roads or Ways, or by making or repairing such Banks, Ditches, Sluices, Water-courses, Bridges, and other Conveniences as they shall cause to be made and repaired pursuant to the Directions of the said recited Act; and that after the making of such Roads and Ways so to be set out and appointed, it shall not be lawful for any Person to use any other Roads or Ways in, over, or through the Lands and Grounds intended by this Act to be divided and inclosed, on Foot or with Horses, Cattle, or Carriages; and that all the former Roads and Ways in, over, and through the same Lands and Grounds, which shall not be appointed by the said Commissioners to be continued as Roads or Ways, shall be deemed Part of the Lands to be inclosed, and shall be divided and allotted accordingly.

For stopping
up old
Roads.

XV. And be it further enacted, That the said Commissioners shall and may, in and by their said Award, or by any Writing under their Hands in the mean time, order and direct any ancient Roads or Ways, through or over the said ancient Inclosures, or leading into the Lands or Grounds intended by this Act to be divided and inclosed, and which upon setting out the Roads over or through the said Lands so intended to be inclosed, they shall think unnecessary to be continued, to be stopped up and discontinued; and the Grass or Herbage growing or arising on any of the said Publick or Private Ways or Roads, to be set out as aforesaid, shall at all Times be and remain for the Use and Benefit of such Person or Persons, and for such Purposes as the said Commissioners shall by their Award order and direct; provided always, that the said Commissioners shall in no Case divert, turn, or stop any old or accustomed Road passing or leading through any such ancient Inclosures without the Consent in Writing of the Owner or Owners thereof, and without the Concurrence and Order of Two Justices of the Peace acting in and for such Division, and not interested in the Repairs of such Roads; and which Order shall be subject to an Appeal to the Quarter Sessions in like Manner and under the same Terms and Restrictions as if the same had been originally made by such Justices as aforesaid.

Ancient
Roads may
be widened.

XVI. And be it further enacted, That it shall be lawful for the said Commissioners to cause such ancient Publick Roads or Highways within the said Parish of *East Markham*, as they shall deem to be too narrow, to be widened to the Breadth of Forty Feet or not less than Thirty Feet in Width, as they shall deem necessary, on making Recompence and Satisfaction to the respective Owner or Owners of the Land to be taken away for that Purpose, by other Lands of equal Value, being Part of the Lands hereby directed to be divided and inclosed, which Roads or Highways, when so widened, shall for ever thereafter be and remain of such Breadth as the said Commissioners shall determine and set out.

Allotment
for Materials

XVII. And be it further enacted, That the said Commissioners shall and may, and they are hereby authorized, if they shall think necessary

(but not otherwise) after setting out the Roads, Ways and Drains in Manner directed by this and the said recited Act, to set out, allot and award unto the Surveyors of the Highways of the said Parish of *East Markham* and their Successors, such Parcel or Parcels of Land (Part of the Lands and Grounds hereby intended to be divided and inclosed) not exceeding Three Acres in the whole, as the said Commissioners shall think most proper, for the digging for and getting Stone, Gravel and other Materials, for the Repairs of the Highways and publick and private Roads within the said Parish, and also for publick Watering Places for Cattle; and the Herbage and Produce of such Parcel or Parcels of Land shall be awarded to such Person or Persons, and for such Purposes, as the said Commissioners shall in and by their Award direct and appoint.

for Repair of
Roads and
for Watering
Places.

XVIII. And whereas there is only a small Quantity of Land (if any) within the said Parish of *East Markham*, in which Gravel can be found; Be it therefore further enacted, That it shall be lawful for the said Commissioners, and they are hereby required, within Twelve Calendar Months next after the passing of this Act, or as soon afterwards as conveniently may be, to contract for the absolute Purchase of any Inclosures, Pieces or Parcels of Land or Ground (not exceeding Three Acres in the whole, and within the Distance of Five Miles from the said Parish of *East Markham*) in which there shall be a deep Vein or Stratum of Gravel, with any Person or Persons whomsoever entitled to the same; and that such Land shall, immediately after a Contract or Contracts for the same in Writing, shall be made and executed by the said Commissioners, become and be vested in and enure to the Use of the said Duke of *Newcastle*, Sir *Thomas Woollaston White*, *John Kirke*, *Joseph Staniland*, *Jose Jackson*, *Thomas Billiald*, and *John Rose*, and their respective Heirs and Assigns for ever, together with the said *William Cheales* and his Successors, Vicars of *East Markham* aforesaid for the time being, in trust for the Surveyors of the Highways of *East Markham* aforesaid for the time being, to be used in the Repairs of the publick and private Roads within the said Parish of *East Markham*, and otherwise for the Benefit of the Inhabitants of the same Parish for ever; and the Herbage, and the Use and Occupancy of such Land to be so purchased shall from time to time be let by the Surveyor or Surveyors of the Highways of the Parish of *East Markham* aforesaid for the time being, for the best Rent that can be obtained for the same, for any Time not exceeding Seven Years, in Possession and not in Reversion, and the Rent of the same applied towards defraying the Expences of repairing the publick Highways in *East Markham* aforesaid; and that the Receipt and Receipts of the Owner or Owners, or reputed Owner or Owners of such Inclosures, Pieces or Parcels of Land respectively, for the Purchase Money or Purchase Monies thereof, shall be a sufficient Discharge, Release and Acquittance for the same; and the said Commissioners are hereby also authorized and required to pay the Amount of the Purchase Money and Purchase Monies of such Inclosures, Pieces or Parcels of Land respectively, and all the Expences attending the contracting and paying for the same as aforesaid; and the same shall be raised and levied by the said Commissioners in such and the like Manner as all other Costs, Charges and Expences relating to the obtaining and carrying this Act into execution are herein directed to be raised and levied.

Commissioners em-
powered to
purchase
Land for
getting
Gravel for
the Repairs
of the Roads.

XIX. And be it further enacted, That the said Commissioners shall and may scour out and widen all the ancient Brooks, Ditches, Drains, Water-
[Loc. & Per.] 9 E courses,

Commissioners to make
Drains.

courses, Tunnels and Bridges in the Parish of *East Markham* aforesaid, and also shall and may set out and appoint such new Ditches, Drains, Watercourses, Tunnels, Watergates, Banks and Bridges, as well in, through and over the Lands and Grounds hereby intended to be divided and inclosed as aforesaid, as also in, over and through any ancient Inclosures or other Lands or Grounds within the said Parish (making such Satisfaction to the Proprietors of such ancient Inclosures, or other Lands or Grounds not hereby intended to be divided and inclosed, for the Damage done thereby, as the said Commissioners shall think reasonable) of such Depth and Breadth, and in such Direction as the said Commissioners shall think proper; and the said Commissioners shall and may, and they are hereby empowered and required, in and by their said Award, to order and direct by whom, and at whose Expence, and at what Time, and in what Manner the said Brooks, Ditches, Drains, Watercourses, Tunnels, Watergates, Banks and Bridges shall be made, and thereafter repaired, cleansed, scoured and maintained.

Allotments
for Glebe
and Rights of
Common.

XX. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, after the said publick and private Roads and Drains, and the Allotment or Allotments to the said Surveyors of the Highways shall have been set out and allotted, in the next Place to set out and allot unto and for the said Duke of *Newcastle* as Impropiator as aforesaid, and also unto and for the said *William Cheales* and his Successors Vicars of *East Markham* aforesaid, in Severalty, such Parcel or Parcels of the Lands and Grounds hereby intended to be divided and inclosed, as shall, in the Judgment of the said Commissioners, be a full Satisfaction and Compensation for the uninclosed Glebe Lands and Right of Common belonging to the said Duke of *Newcastle* as Impropiator as aforesaid, and to the said *William Cheales* in right of his said Vicarage, severally and respectively, within the said Parish of *East Markham*.

Allotments
in lieu of
Tythes.

XXI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, in the next Place to make an exact Valuation of all the remaining Part of the said open Arable Fields, Meadows and Pastures, subject to great and Small Tythes, and the remaining Part of the said Commons and Waste Grounds, as also of the ancient inclosed Lands and Grounds within the said Parish of *East Markham*; and after such Valuation shall be so made, then to set out and allot unto and for the said Duke of *Newcastle* and his Heirs, Impropiators as aforesaid, and to and for the said *William Cheales* and his Successors, Vicars of *East Markham* aforesaid (to be partitioned and divided between them in such Manner as hereinafter is mentioned) such Parcels of the Lands and Grounds hereby intended to be divided and inclosed, as shall, in the Judgment of the said Commissioners, be equal in Value to Two-eleyenth Parts of all the remaining open Fields, and of such Inclosures as have been inclosed and taken in, and held in Severalty, since the Year one thousand seven hundred and eighty-nine, to One-eighth Part of all the ancient inclosed Lands and Grounds lying within the said Parish of *East Markham*, subject to Great and Small Tythes, which were inclosed and held in Severalty at any Time previous to the Year one thousand seven hundred and ninety, and to One-ninth Part of all the other Lands and Grounds within the said Parish, which are respectively subject and liable to the Payment of Tythes in kind, to the said Impropiator and Vicar of *East Markham* aforesaid,

aforesaid, or either of them (such Parts, if any, of the said open Lands and Grounds, and ancient inclosed Lands and Grounds, as were free from Great and Small Tythes, or discharged by a Modus or Moduses, and the Glebe Lands belonging to the said Impropiator and Vicar, excepted): and the said Commissioners are hereby required to value and ascertain how much, and what Share or Proportion of the said Parcels of Land, so to be set out and allotted to and for the said Impropiator and Vicar, shall, in their Judgment be a fair and equitable Compensation for all the Vicarial Tythes, and Payments in lieu of Tythes, arising or payable within the Parish of *East Markham* aforesaid to the said Vicar, and shall then accordingly assign, set out, allot, partition and divide the said Parcels of Land between the said Duke of *Newcastle* and his Heirs, Impropiators as aforesaid, and the said *William Cheales*, and his Successors, Vicars as aforesaid, in Severalty, in proportion to their respective Rights and Interests in the same, in such Manner as the said Commissioners shall adjudge fair and equitable; which said Parcels of Land, so to be assigned, set out, and allotted to and for the said Impropiator, and to and for the said Vicar, and so to be divided between them as aforesaid, shall be accepted in lieu of and full Satisfaction for all Manner of Tythes both Great and Small, and all Moduses, Compositions and Payments for Tythes yearly or otherwise growing, arising, renewing or increasing within the said Parish of *East Markham*, and due and payable to the said Impropiator and his Heirs, and to the said Vicar and his Successors respectively, (*Easter Offerings*, Mortuaries and Surplice Fees, payable to the said Vicar and his Successors, Vicars as aforesaid, only excepted.)

XXII. And be it further enacted, That after the said publick and private Roads and Drains, the Allotment or Allotments to the Surveyors of the Highways, and the Allotment or Allotments in lieu of the Tythes of the Commons and Waste Grounds only shall be set out, as hereinbefore directed, the said Commissioners shall, in the next Place, set out and allot unto and for the Lord or Lords, Lady or Ladies of the Manor and Soke of *Dunham* aforesaid, and unto and for the Lord or Lords of the Manor of *East Markham* aforesaid, (exclusive of all other Allotments for or in-respect of their other Rights and Interests,) such Parts and Parcels of the then Residue of the said Commons and Waste Grounds within the said Parish of *East Markham*, as shall, in the Judgment of the said Commissioners, be equal in value to One-eighteenth Part of the Residue of such Commons and Waste Grounds, in lieu of and as a full Satisfaction and Compensation for their respective Rights in or to the Soil of the said Commons and Waste Grounds: and that such Pieces or Parcels of Land, so to be allotted as aforesaid, shall be allotted to or apportioned and divided between the said Lord or Lords, Lady or Ladies, or any One or more of them, in such Shares and Proportions, or wholly to any One of them, as the said Commissioners shall adjudge to be fair and equitable, and according to their respective Rights and Interests, and the Extent of their respective Manors within or over the said Parish of *East Markham*.

Allotments
in lieu of
Manorial
Rights.

XXIII. And whereas the said Duke of *Newcastle* claims to be sole Lord of the said Manor of *East Markham*, which Claim the said Sir *Thomas Woollaston White* denies; be it therefore enacted, That if such Claim shall not be amicably settled, it shall and may be lawful to and for the said Duke of *Newcastle*, his Heirs or Assigns, at any Time within Twelve Calendar Months

Claim to the
Manor to be
tried by an
Issue at Law.

Months after the first Day of *July* One thousand eight hundred and ten, to bring any Action or Suit at Law to assert his Claim, in like Manner as if this Act had not been made, otherwise such Claim shall be deemed and taken to be abandoned to all Intent and Purposes whatsoever: Provided always, That it shall and may be lawful to and for the said Sir *Thomas Woollaston White*, or any other Person or Persons who shall be Defendant or Defendants in such Action, to plead the General Issue, and give this Act and the Special Matters in Evidence on the Trial of such Action; Provided also, that if the Plaintiff in such Action shall be nonsuited, or shall discontinue such Action after Appearance, or shall have Judgment given against him, the Defendant or Defendants shall and may recover his and their Costs, and have the like Remedy for the same as Defendants have in other Cases where they are by Law entitled to Costs; and also provided, that if Judgment shall be given for the Plaintiff in such Action, he shall in the like Manner recover his Costs, and have the like Remedy for the same.

Impropriator's and Vicar's Allotments to be ring-fenced.

XXIV. And be it further enacted, That the several Allotments to be made for Glebe and Tythes to the said Duke of *Newcastle* as Impropiator of the Rectory of *East Markham* aforesaid, and to the said *William Cheales* and his Successors, Vicars of *East Markham* aforesaid, or either of them respectively, shall, on all such Sides and Parts thereof as shall not be ordered by the said Commissioners to be fenced by any other Proprietor or Proprietors, be well ditched and planted with good Quick, guarded on the Outside by good Oak Posts and treble Rails of Oak, Ash, or some other durable Wood, and on the Inside by good Oak Posts, and double Rails of Oak, Ash, or some other durable Wood, and good and substantial Gates shall also be fixed in such Fences where necessary, by and at the Expence of the rest of the Owners and Proprietors of and Persons interested in the Lands by this Act directed to be divided and inclosed, and to be paid by them at such Time or Times, and to such Person or Persons, and in such Proportions as the said Commissioners shall, by any Writing under their Hands, or by their said Award order and appoint; and that all such Fences and Gates shall, for ever after the making thereof, be maintained by the said Impropiator and his Heirs, and by the said Vicar of *East Markham* and his Successors respectively; and that upon and from the First Day of *April* then next after the said Allotments shall be fenced and inclosed, or from and after such other Time as the said Commissioners shall, by any Writing under their Hands direct and appoint, the Right of the said Duke of *Newcastle* and his Heirs, Impropiators as aforesaid, in respect of the said Improprate Rectory, and of the said *William Cheales* and his Successors, Vicars of *East Markham* aforesaid, respectively, to all Great and Small Tythes, and all Moduses, Compositions, and other Ecclesiastical Dues and Payments in lieu of Tythes (*Easter Offerings*, Mortuaries, and Surplice Fees payable to the said Vicar and his Successors only excepted) issuing out or payable in respect of every or any Part or Parcel of the Lands and Hereditaments within the said Parish of *East Markham*, shall cease, determine, and be for ever extinguished.

Persons not having open Lands to pay in Money for their Tythes.

XXV. And be it further enacted, That in case any Person or Persons shall, at the Time of such Division and Inclosure, to be made as aforesaid, be entitled to or possessed of any of the present ancient Messuages or Tofts, ancient Inclosures and Homesteads, within the said Parish of *East Markham*,

ham, and shall not be entitled to or possessed of Property or Interests within the said Lands and Grounds hereby directed to be divided and inclosed equal in value to the Tythes of such his, her, or their other Estates within the said Parish, such Person or Persons shall respectively pay or cause to be paid to such other Person or Persons, and at such Time or Times as the said Commissioners shall direct and appoint, such Sum or Sums of Money for such Deficiency as they the said Commissioners shall think reasonable for the Tythes of such several ancient Messuages or Tofts, ancient Inclosures and Homesteads; which Sum or Sums of Money shall be applied towards Payment of the Charges and Expences of obtaining and passing this Act, and carrying the same into execution; and the said Commissioners shall and may, in case of Refusal by any such Owner or Owners to pay such Sum or Sums of Money, levy and recover the same by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act can or may be levied and recovered; and in case any Surplus Money shall remain, such Surplus shall be divided and apportioned between the several Proprietors and Persons interested in the said Lands and Grounds, in such Shares as shall be in proportion to their respective Property and Interest therein, and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of the other Proprietors and Persons of and in such Surplus Money shall be applied and disposed of in Manner directed by the said recited Act, in those Cases where any Money is to be paid for the Purchase or Exchange of any Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments, to be settled to the same Uses.

XXVI. And be it further enacted, That the said Commissioners (after Allotment of setting out and making the several Allotments before-mentioned) shall then the Residue. set out, allot and award the Residue of the Lands and Grounds hereby directed to be divided and inclosed, unto and amongst the several Persons and Bodies Politic, Corporate and Collegiate, interested therein, in such Quantities, Shares and Proportions as the said Commissioners shall adjudge and determine to be a full Equivalent, Satisfaction and Compensation for their several and respective Rights and Interests in, over, or upon the same.

XXVII. And be it further enacted, That if it shall happen that in any Close or inclosed Parcel of Land within the said Parish of *East Markham* there shall be Lands belonging to different Persons, such Lands being dispersed or lying intermixed with each other, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and directed to proceed in valuing, dividing and allotting such intermixed Lands and Grounds; and such Lands and Grounds shall be deemed and taken to be Part and Parcel of the Lands and Grounds to be divided, allotted and inclosed by virtue of this Act.

Inclosed Property lying intermixed to be allotted.

XXVIII. And be it further enacted, That where any Parcel of Land, so Freeboards to be allotted, to be allotted as aforesaid, shall abut upon or adjoin to any Freeboard or Ditch belonging to any Common Fields or inclosed Grounds next adjoining to the Lands and Grounds hereby directed to be divided, allotted and inclosed, the Person or Persons to whom such Parcel of Land, shall be al-

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lotted.

lotted shall and may, and he, she and they is and are hereby empowered to set up and erect Gates and Fences in, over or upon such Freeboard or Ditch, for levelling the said Parcels of Land, and for raising and preserving the Quicksets and other the Fences to be made thereupon, until such Time or Times as the Owner or Owners of such Freeboard or Ditch shall sufficiently, at his, her or their own Expence have ditched and fenced such Freeboard from the Land adjoining thereto; or otherwise it shall be lawful for the said Commissioners, at the Request of the Person or Persons entitled to such Freeboard, to make a specific Allotment in lieu thereof out of the Lands and Grounds hereby directed to be divided, allotted and inclosed; and such Freeboard shall, for ever thereafter, be deemed and taken to be within and Part of the Parish of *East Markham* aforesaid.

For inclosing the rest of the Proprietors' Allotments.

XXIX. And be it further enacted, That the several Parcels of Land and Allotments which shall be set out and allotted by virtue of this and the said recited Act (except such Allotments as shall be made to the said Impropiator and Vicar respectively for Tythes, Glebe Lands and Right of Common) shall be inclosed and fenced in such Manner, and within such Time or Times as the said Commissioners, by any Writing or Writings under their Hands, or by their said Award shall order and direct; and such Fences shall, at all Times for ever after the making thereof be repaired and maintained by such Person or Persons as the said Commissioners shall direct or appoint in or by any such Writing, or in or by their said Award.

Proprietors empowered to sell Allotments before the Execution of the Award.

XXX. 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 said Award, sell or contract, or agree to sell his, her or their Right, Interest or Property in, over or upon the Lands and Grounds to be divided, allotted and inclosed by virtue of this Act, to any other Person or Persons, then, and in every such Case, it shall be lawful for the said Commissioners, and they are hereby authorized and required to make the Allotment or Allotments of the Vendor unto the Vendee or Purchaser in every such Sale, Contract or Agreement, or to his or her Heirs or Assigns, for or in respect of such Right, Interest or Property so sold or contracted, or agreed to be sold as aforesaid; and every such Vendee or Purchaser, and his, her or their Heirs and 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 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 Allotment or Allotments as aforesaid.

Land may be deducted from Allotments for Expences.

XXXI. And be it further enacted, That it shall be lawful for the said Commissioners, upon the Request of any of the Owners or Proprietors of the Lands and Grounds hereby directed to be divided and allotted, or of any Right or Interest therein, whether seized in Fee, or being Tenants in Tail, or for Life or Lives, or for any Number of Years determinable on a Life or Lives, or for any other determinable Estate or Interest, or at the Request of the respective Husbands, Guardians, Trustees, Committees, Receivers, Agents or Attornies of or for any such Owners or Proprietors, being under Coverture, Minors, Lunatics, or beyond the Seas, or under

any other Disability or Incapacity, or for the Persons acting as such Guardians, Trustees, Committees, Receivers, Agents or Attornies, or of the Trustees for any charitable or publick Uses, or the major Part of them respectively, to deduct from the Value and Amount of the Allotment or respective Allotments of such Owner or Owners, by whom or on whose Behalf such Request shall be made as aforesaid, so much as shall, in the Judgment of the said Commissioners, be equal to the Share and Proportion, or respective Shares and Proportions, of the Person or Persons by or on whose Behalf any such Request shall be made, of the Charges and Expences of applying for, obtaining, and passing this Act, and of carrying the same into execution; and to allot the Land so deducted to and amongst such of the Owners and Proprietors as shall, by the said Commissioners, be charged with, and shall pay such Charges and Expences, in proportion to the Sums they shall respectively pay or contribute thereto; provided, that it shall be lawful for the said Commissioners and they are hereby required, upon any such Request as aforesaid, and upon Payment by the Person or Persons making such Request, of his, her, or their full Proportion of such Costs and Expences, to allot to the Person or Persons respectively by whom, or on whose Behalf such Request and Payment shall be made, his, her or their Heirs or Assigns, the Land which shall have been so deducted; and the Person or Persons respectively to whom any such Allotment shall be made and awarded shall be and become seised thereof, of an absolute Estate in Fee Simple, freed and discharged from all former Titles, Charges and Incumbrances; provided, that every such Request as aforesaid shall be made in Writing, and signed by the Person or Persons making the same, and shall be delivered to the said Commissioners at one of the Meetings for carrying this Act into execution, to be holden previously to their allotting the Lands and Grounds hereby directed to be divided and inclosed: Provided always, that no such Deduction so to be made, shall exceed in value the Sum of Money which the Person or Persons, Part of whose Allotment or Allotments shall be sold as aforesaid, would have been empowered or authorized to borrow or charge upon his, her or their Estate or Estates, under or by virtue of the said recited Act; provided also, that in all Cases where any Land shall be deducted from the Allotment of any of the said Proprietors or Persons, towards Payment of Expences as aforesaid, it shall not be lawful for the Proprietor or Person, from whose Allotment Land shall be so deducted as aforesaid, to charge his, her or their Lands, Tenements or Hereditaments, by virtue of the said recited Act, or this Act, with any Money towards Payment of such Expences.

XXXII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized, at any Time or Times before the Execution of the said Award, by Notice in Writing under their Hands to be affixed upon the principal or Porch Door of the Parish Church of *East Markham* aforesaid, to order and direct all or any Part of the Rights of Common in, over or upon the said Commons and Waste Grounds, or any Part thereof, or in, over or upon any other Lands and Grounds hereby intended to be divided and inclosed, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Notice or Writing; and that all such Rights of Common as the said Commissioners shall by such Writing order or direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Day to be stated in such Notice or Writing cease, determine and be extinguished,

Extinguishment of Suspension of Rights of Common.

or the Exercise thereof be suspended accordingly, any Law, Usage or Custom to the contrary thereof notwithstanding.

Leases at
Rack Rent
as to unin-
closed Lands
to be void.

XXXIII. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall be marked and staked out, and the said Commissioners shall have directed the same to be entered upon by the Persons to or for whom the same shall be intended, or at such other Time or Times as the said Commissioners shall, by any Writing or Writings under their Hands direct, all and every Lease and Leases and other Agreement and Agreements at Rack or extended Rent subsisting, of all or any Part or Parts of the said Lands hereby intended to be divided and inclosed, or of any Right of Common or any Payment in respect thereof alone or together with any Messuages, Homesteads or ancient Inclosures within the said Parish of *East Markham*, shall cease, determine and be void, as to all such Lands, but not as to any of the said Messuages, Homesteads or ancient Inclosures comprized therein; the respective Landlords making such Satisfaction to their several Lessees or Tenants in respect of such Lands as the said Commissioners shall, by Writing under their Hands order and direct in that Behalf; and it shall be lawful for the said Commissioners, and they are hereby authorized by Writing under their Hands, to ascertain, direct and appoint what Rent or Share, or Proportion of Rent shall be paid by the several Tenants of the Lands to be inclosed by virtue of this Act, or the Right of Common thereof in their respective Holdings, to their respective Landlords, from the Time of passing this Act, until such Lands shall be marked and staked out, and directed to be entered upon by the new Proprietors thereof; and also to order and direct what Proportion or Share of the whole Rent reserved upon such Lease or Leases, Agreement or Agreements, shall be paid by such Tenants from the Time of passing this Act to their respective Landlords for the Messuages, Homesteads or ancient Inclosures comprized in such Lease or Leases, Agreement or Agreements, until the Expiration thereof, and which are not meant or intended to be made void as to such Messuages, Homesteads or ancient Inclosures; it being the true Intent and Meaning hereof that the Power or Authority of the said Commissioners to vacate such Lease or Leases, Agreement or Agreements, shall extend to the making void the same so far only as the said Lease or Leases, Agreement or Agreements, comprize or contain, or have inserted in them such Lands and Grounds as are under or by virtue of this Act to be divided and inclosed, and not to any of the Messuages, Homesteads or ancient Inclosures within the said Parish of *East Markham*; and that no Lease or Agreement comprizing Messuages, Homesteads or ancient Inclosures only within the said Parish shall be made void by this Act; but that it shall be lawful for the said Commissioners and they are hereby empowered and required to take into Consideration the Benefit and Advantage which shall or may accrue to the respective Tenants, by reason of the said Homesteads and ancient Inclosures being made Tythe Free, and by Writing under their Hands to direct such additional Rent as to them the said Commissioners shall seem right and proper to be paid in future in respect thereof; and such Rent shall and may be recovered by such Ways and Means as may by Law be used for Recovery of Rent in arrear.

Leases of
exchanged
Lands in
another

XXXIV. Provided always and be it further enacted, That in case any Land shall be taken in exchange under the Authorities and Powers of this Act, which Land shall be under any such Lease or Agreement as aforesaid,
and

and wholly situated in any Parish, or Place adjoining to the Parish of *East Markham* aforesaid, the Lease or Agreement of such Land shall not be vacated; provided also, that nothing herein contained shall extend to make void any beneficial Lease or Leases of the present inclosed Lands, nor of any Part or Parts of the Lands and Grounds hereby intended to be divided and inclosed, upon the making a Renewal whereof any Fine or Fines hath or have been paid.

Parish, or for which Fines have been paid, not to be affected.

XXXV. And be it further enacted, That from and after the passing of this Act until the Execution of the Award of the said Commissioners, all the open Arable Fields, Meadows, Pastures and Commons hereby directed to be divided and allotted, shall be subject and liable to such Directions and Regulations as the said Commissioners shall from time to time by Writing under their Hands appoint, as well with regard to the stocking, as to the ploughing, folding, tilling, sowing and laying down the same, or any Part or Parts thereof; and it shall be lawful for the said Commissioners to order and direct such Sum or Sums of Money in respect thereof, to be paid by any Person or Persons interested in the said open Arable Fields, Meadows or Pastures, his, her or their Tenant or Tenants, not exceeding Ten Pounds per Acre thereof, as the said Commissioners shall think reasonable; and in case any Person or Persons who shall be directed to pay any Sum or Sums of Money on any of the Accounts aforesaid shall neglect or refuse to pay the same on demand, it shall be lawful for the said Commissioners, and they are hereby required to raise and levy the same for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means, as the Costs, Charges and Expences of obtaining and executing this Act may be levied and recovered.

Commissioners to regulate the Course of Husbandry.

XXXVI. And be it further enacted, That where any Person or Persons shall be seised or possessed of Lands or other Hereditaments in the said Parish of *East Markham*, held by different Tenures, or for, by or under different Estates or Titles, the said Commissioners shall, upon the Request of any Person so seised or possessed respectively, enquire into, ascertain and determine the respective Lands and other Hereditaments held by such several Tenures, or for, by or under such different Estates or Titles respectively, and shall set out distinct Allotments in respect of such Parts thereof as shall be or arise within the Common and open Fields or other the Lands and Grounds hereby directed to be divided and inclosed, Regard being had to the Deductions which shall have been made for Tythes of ancient Inclosures held by the same Tenures, and for the same Estates respectively.

Lands held by different Tenures or Titles to be distinguished.

XXXVII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and required to set out, allot and award any Lands, Tenements or Hereditaments whatsoever, within the said Parish of *East Markham*, in lieu of, and in exchange for, other Lands, Tenements and Hereditaments whatsoever, within the said Parish, or within any adjoining Parish, Hamlet, Township or Place; provided that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements or Hereditaments which shall be so exchanged, whether such Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, Corporation Aggregate

Exchanges may be made.

[Loc. & Per.]

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gate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives; or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunaticks, or under any other legal Incapacity, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other Parties consenting respectively; and all and every such Exchange and Exchanges, so to be made, shall be good, valid and effectual in the Law to all Intents and Purposes whatsoever; provided nevertheless, that no Exchange shall be made of any Lands, Tenements or Hereditaments, held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent (testified as aforesaid) of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements or Hereditaments so to be exchanged shall lie or be situated.

Expences of Exchanges how to be paid.

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

Wills and Settlements not to be affected.

XXXIX. 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 Lands or Hereditaments to be divided, allotted, inclosed or exchanged by virtue of this or the said recited Act, or any Part or Parts thereof respectively; but that from and after the Execution of the Award of the said Commissioners 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, Intails, Trusts and Interests, and subject to such and the same Wills, Jointures, Rents, Charges and Incumbrances, as the Lands and Hereditaments 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.

Persons advancing Money to be repaid with Interest.

XL. And be it further enacted, That if any of the Proprietors of Estates in *East Markham* aforesaid, or any other Person or Persons whomsoever, shall advance any Sum or Sums of Money for the Purposes of defraying the Expences of applying for, obtaining or passing this Act, or of carrying the same into execution, every such Person or Persons shall be repaid the same with Interest, at or after the Rate of Five Pounds *per Centum per Annum*, out of the First Monies which shall be raised, collected or received by the said Commissioners in pursuance of the Powers hereby vested in them.

XLI. And

XLI. And be it further enacted, That it shall be lawful for any Owners or Proprietors for the time being of any Lands, Tenements or Hereditaments directed or authorized to be divided, allotted, exonerated from Tythes or exchanged by virtue of this Act, or of the Allotments to be made in pursuance of this Act, or of any Part thereof, and to and for the Husbands, Guardians, Trustees, Committees or Attornies of or for any of the said Owners or Proprietors being under Coverture, Minors, or beyond the Seas, or otherwise incapable to act for themselves, and to and for any of the said Owners and Proprietors being Tenants for Life, in Tail, or Years determinable on Lives, or upon any other Contingencies, and to and for every of them respectively for the time being, (except the said *William Cheales*, or the Vicar of *East Markham* aforesaid for the time being, and the Trustees of Estates held for charitable Uses), by and with the Consent of the said Commissioners in Writing under their Hands and Seals, at any Time or Times, either before or after the Execution of the said Award, to charge the several Lands and Grounds which shall be comprized in such respective Allotments, or any Part thereof, with any Sum or Sums of Money, not exceeding Five Pounds per Acre for every Acre of Land or Ground so to be allotted as aforesaid, to be paid to such Person or Persons as the said Commissioners shall nominate and appoint, in order to be applied and disposed of, for and towards paying and defraying the respective Shares and Proportions of the Charges and Expences incident to and attending such Division and Inclosure as aforesaid, and of obtaining this Act; and for securing the Repayment of the said Sum and Sums of Money with Interest, to grant, mortgage, lease or demise the Lands and Grounds, so to be charged therewith, unto any Person or Persons who shall advance and lend the same respectively, his, her or their Executors, Administrators or Assigns, for any Term or Number of Years; so as every such Grant, Mortgage, Lease or Demise be made with a Proviso or Condition to cease and be void when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be paid and satisfied; and so, as in every such Grant, Mortgage, Lease, or Demise to be made by any Person or Persons entitled for Life only, or as Tenant in Tail, or upon any other Contingency, there be contained a Covenant to pay and keep down the Interest of the Money thereby to be secured, during his, her, or their respective Lives, or for so long as he, she or they shall continue seised of such Allotment or Allotments respectively, so that no Person afterwards becoming possessed of, or entitled to such Lands or Grounds, so to be charged with any Sum or Sums of Money as aforesaid, shall be liable to pay any further or larger Arrear of Interest than for One Year preceding the Time that the Title to such Possession shall have commenced, or otherwise it shall be lawful for the said Commissioners, by any Deed or Deeds, Writing or Writings under their Hands and Seals, to be attested by Two or more credible Witnesses, at the Request of such of the said Owners or Proprietors, being Tenants for Life, or in Tail, or upon any other Contingency, (except the several Persons before excepted,) who shall respectively pay and discharge his, her and their proportional Part of the Charges and Expences aforesaid, to authorize and empower such Owners and Proprietors, or any or either of them making such Request, to charge and subject the said Lands and Grounds so to be allotted to such Owners and Proprietors thereof respectively, with any Sum or Sums of Money not exceeding Five Pounds per Acre, with Interest for the same as aforesaid; which said Sum or Sums of Money, so

Power of
Tenants for
Life, &c.
to charge the
Expences of
the Inclosure
on the Allot-
ments, not
exceeding
5*l.* per
Acre.

to

Securities to
be transfer-
able.

to be charged as aforesaid, shall be payable within One Year next after the Decease of every such Tenant for Life, or in Tail or other Contingency respectively, with the Interest thereof, to be computed from his, her or their respective Decease, unto such Person or Persons as such respective Tenant for Life or in Tail, or other Contingency, shall respectively, by Deed or Will, duly executed and attested, direct and appoint, and in default of such Direction and Appointment, to his, her or their Executors or Administrators; and every such Grant, Mortgage, Lease, Appointment or Demise, and Charge by Deed or Will as aforesaid, shall be good, valid and effectual in the Law for the Purposes thereby intended; and all and every Person or Persons to whom any Grant, Mortgage, Lease or Demise shall be made by virtue of this Act as a Security for any Sum or Sums of Money, or who shall be entitled to the Money thereby secured, shall and may, from Time to Time, by any Deed or Deeds, Writing or Writings under his or their Hand and Seal or Hands and Seals, to be executed in the Presence of Two or more credible Witnesses, assign or transfer the same Security or Securities, and the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his, her and their Right, Title and Interest in the same, to any Person or Persons whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Mortgagees, Assignee or Assignees, his, her or their Executors or Administrators, and all Persons claiming under them or any of them, shall and may use, take and pursue all such lawful Methods, Courses and Expedients at Law or in Equity, for recovering or obtaining the Possession of the Premises so to be mortgaged, demised or assigned as aforesaid, in case of Nonpayment of the Principal Money and Interest to be thereby secured, or any Part thereof, as is or are used, taken or pursued in Cases of Mortgages made by Persons seised of Freehold Lands and Hereditaments in Fee Simple in Possession.

Allowance
to Com-
missioners.

XLII. And be it further enacted, That each of the said Commissioners who shall act in the Execution of the Powers vested in them by this and the said recited Act, shall be paid the Sum of Two Pounds Twelve Shillings and Sixpence for every Day he shall so act, or travel, for the Purposes of acting, or be returning Home from acting, in full Satisfaction for the Trouble which he shall be put unto in the Execution of the several Powers in this and the said recited Act contained; and that the Surveyor or Surveyors, and other Officers to be appointed by virtue of this Act, shall be paid such a reasonable Sum of Money and Compensation for attending on the Commissioners, and for all other Business which he or they shall do or contract by virtue or in consequence of the Powers in this Act contained, as the said Commissioners shall, at any Meeting to be held pursuant to this Act, order, direct, settle and appoint.

Award to be
deposited.

XLIII. And be it further enacted, That the Award to be made by the said Commissioners, when enrolled in Manner directed by the said recited Act, shall be deposited in the Parish Church of *East Markham*, aforesaid.

For defray-
ing the Ex-
pences of the
Act and
carrying the

XLIV. And be it further enacted, That the Charges and Expences incident to, and attending the obtaining and passing of this Act, and of surveying, measuring, mapping, valuing, dividing and allotting the Lands and Grounds hereby intended to be divided and inclosed, and any of the

inclosed Lands within the said Parish, and of preparing and enrolling the said Award, and of ringfencing the several Allotments to be made to the said Impropiator and Vicar respectively in the Manner herein directed, and also the Allotment or Allotments to be made to the Surveyor of the Highways, and all the Expences of forming, making, completing and repairing the publick and private Carriage Roads and Highways, Banks, Ditches, Drains, Sluices, Watercourses and Bridges to be set out and appointed as such by the said Commissioners, and also the Charges of the said Commissioners for their Trouble and Expences, and of the several Persons to be employed by the said Commissioners in and about the Premises, either before or after the Execution of the said Award; and all other Costs, Charges and Expences attending the Execution of this and the said recited Act, shall be borne, defrayed and paid by the Owners and Proprietors of, and Persons interested in the Lands and Grounds hereby intended to be divided and inclosed, and the inclosed Lands exonerated from Tythes by virtue of this Act, (other than and except the said Impropiator and Vicar respectively, their respective Successors and Lessees, for and in respect of the Allotment or Allotments herein directed to be made for Glebe Lands, Right of Common and Tythes, and the Surveyors of the Highways in the said Parish of *East Markham* in respect of the Allotment or Allotments to be made for getting Materials for the Repairs of such Highways and other Roads, and for Watering Places,) in such Shares and Proportions, at such Time or Times, and to such Person or Persons as the said Commissioners shall direct and 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 Manner directed in and by the said recited Act.

same into
execution.

XLV. And be it further enacted, That all Quit Rents or Chief Rents issuing out of any Lands or Grounds hereby authorized and directed to be inclosed, and now due and payable, or hereafter to become due and payable to the Lady or Lord of the Manor and Soke of *Dunham* aforesaid, or to the Lords or Ladies of the Manor of *East Markham* aforesaid, any or either of them for the time being, or to any other Person or Persons whomsoever, shall, after the Execution of the Award or Instrument of the said Commissioners to be executed as by this or the said recited Act is directed, issue and be payable out of, and be charged upon such Lands and Grounds respectively as shall, by virtue of this or the said recited Act, be allotted to any Proprietor or Proprietors in lieu of the Lands and Grounds now charged with such Rents, and that from thenceforth his, her and their former Lands and Grounds shall be discharged from the said Rents and the Payment thereof; and the said Ladies and Lords, and Lady and Lord of the said Manor and Soke of *Dunham* and Manor of *East Markham* respectively, and other Person and Persons aforesaid, shall and may have such and the same Remedy and Remedies, Power and Powers for the Recovery of every such Rent and Rents, and the Arrears thereof, in and upon, and in respect of such Lands and Grounds so to be allotted as aforesaid, as they or any of them had, or might have had, in and upon, and in respect of such former Lands and Grounds, in case this Act had not been made.

Saving of
Quit Rents;

XLVI. And be it further enacted, That once at the least in every Year during the Execution of this Act, (such Year to be computed from the Day of

The Com-
missioners to

[*Loc. & Per.*]

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passing

lay Accounts
before a
Magistrate
once in every
Year.

passing thereof,) the said Commissioners shall, and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this and the said recited Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by them laid before any One Justice of the Peace for the County of *Nottingham*, (not interested in the said intended Inclosure,) to be by him examined and balanced; and such Balance shall by such Justice be 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 Justice.

Appeal to
the Quarter
Sessions.

XLVII. And be it further enacted, That if any Person or Persons shall think himself, herself or themselves aggrieved by any Thing done in pursuance of this or the said recited Act, (other than and except such Orders and Determinations of the said Commissioners as are by this or the said recited Act directed to be final, binding or conclusive, and except in such Cases wherein an Issue at Law shall be tried as herein mentioned,) then and in every such Case, he, she or they may appeal to any General Quarter Sessions of the Peace, which shall be held at *East Retford* in and for the said County of *Nottingham*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party concerned Fourteen Days Notice in Writing of such Appeal and of the Matter thereof; and the Justices (not interested therein) at such General Quarter Sessions are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order, and to award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) 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 in Sessions shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari* or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; and 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 shall seem reasonable, to be levied in Manner aforesaid.

General
Saving.

XLVIII. Saving always to the King's most Excellent Majesty, as well in Right of His Crown, as in Right of His Duchy of *Lancaster*, His Heirs and Successors, and to all and every other Person or Persons, Bodies Politic, Corporate and Collegiate, his, her and their Heirs, Successors, Executors, Administrators and Assigns, all such Right, Title and Interest, (other than and except such as are hereby meant and intended to be barred, destroyed and extinguished,) as they, every or any of them, could, might or ought to have had and enjoyed, in, to, out of or in respect of the Lands and Grounds hereby directed to be divided, allotted and inclosed, in case this Act had not been made.

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

Act to be
printed by
the King's
Printer.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1810.

