ANNO SEPTIMO

GULIELMI IV. REGIS.

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Cap. 5.

An Act for inclosing Lands in the Manor of *Newbold* in the Parish of *Chesterfield* in the County of *Derby*. [22d *March* 1837.]

WHEREAS there are within the Manor of *Newbold* in the Parish of *Chesterfield* in the County of *Derby* certain Commons and Waste Grounds, containing together by Estimation One hundred and twenty Acres or thereabouts: And whereas the Most Noble *William Spencer* Duke of *Devonshire* is Lord of the Manor of *Newbold* aforesaid, and as such is Owner of the Soil of the said Commons and Waste Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George* the Third, intituled *An Act for consolidating in* 41G.3.c.109.
One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts: And whereas an Act was passed in the First and Second Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields,* 1&2G.4.c.23.
Pastures, Moors, Commons, and Waste Lands in England: And whereas the said Commons and Waste Grounds in their present State yield little Profit, but are capable of considerable Improvement; and it would be advantageous if the same were divided and allotted unto and amongst the several Persons interested therein according to their several and respective Estates, Rights, and Interests, and such Allotments inclosed; but such beneficial Purposes cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal,

[*Private.*] *O O* and

Commissioner appointed.

and Commons, in this present Parliament assembled, and by the Authority of the same, That *George Unwin* of *Whitwell* in the County of *Derby*, Gentleman, shall be and he is hereby appointed the Commissioner for setting out, dividing, allotting, and inclosing the said Commons and Waste Grounds, and for carrying this Act into execution, subject to the Rules, Orders, and Directions herein-after mentioned, and with such Powers, Directions, and Regulations as are contained in the Acts herein-before referred to, which shall be applied, deemed, and taken as Part of this Act, except in such Cases only as the same are hereby varied or altered.

Commissioner to make a Declaration.

II. Provided always, and be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act until he shall have made and subscribed the following Declaration; (that is to say,)

'I *A.B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the Seventh Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.'

And such Declaration shall be in lieu of and as a Satisfaction for the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of an Act for dividing, allotting, or inclosing any Lands or Grounds; and such Declaration shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

Appointment of future Commissioners.

III. And be it further enacted, That if, before all the Powers and Authorities hereby reposed in the said Commissioner shall have been fully executed and performed, the said *George Unwin*, or any other Commissioner to be appointed in his Stead as herein-after mentioned, shall die, or refuse to act, or become incapacitated, or neglect for the Space of Three Calendar Months to act as a Commissioner in the Execution of this Act and the said recited Acts, it shall be lawful for the said Duke of *Devonshire* or the Lord of the said Manor for the Time being, and he is hereby required, within Twenty-eight Days next after such Death, Refusal, Incapacity, or Neglect shall be made known to him, by Writing under his Hand to appoint some other fit Person not interested in the Lands and Grounds hereby intended to be divided, allotted, and inclosed to be a Commissioner in the Place or Stead of the said *George Unwin*, or of any other Commissioner to be appointed in his Stead, and so from Time to Time as often as any Commissioner to be appointed by the said Duke or the Lord of the Manor aforesaid for the Time being shall die, refuse, become incapable, or neglect to act as aforesaid; and every Person so to be appointed a Commissioner as aforesaid shall, after making and subscribing the Declaration herein-before mentioned, have such and the like Powers and Authorities in all respects for carrying this Act and the said recited Acts into execution as if he had been named a Commissioner in and by this Act.

IV. And

Appointment of Surveyor.

IV. And be it further enacted, That it shall be lawful for the said Commissioner, if he shall think fit, to appoint a Surveyor for the Purposes of this Act and the said recited Acts; and in case of the Death, Refusal, Neglect, or Incapacity of the Person so appointed to act as such Surveyor whilst the Powers of this Act and the said recited Acts are carrying into execution, then the Commissioner for the Time being shall be and he is hereby authorized to appoint another Surveyor in his Stead, and so from Time to Time to make a new Appointment as often as the said Office shall be vacant by reason of the Death, Refusal, Neglect, or Incapacity to act of any Surveyor.

Allowance to Surveyor.

V. And be it further enacted, That it shall be lawful for the Commissioner for the Time being to allow the Surveyor for the Time being acting under this Act for his Time and Trouble any Sum not exceeding One Shilling and Sixpence *per* Acre of uninclosed Lands, and One Shilling *per* Acre of inclosed Lands, for surveying, measuring, mapping, and planning the said Lands, and also any Sum not exceeding Two Pounds and Two Shillings for each and every Day he shall be actually and wholly employed in the Business of the said Division, Allotment, and Inclosure, except such surveying, measuring, mapping, and planning, and which said several Allowances shall be in full Satisfaction for the Time, Trouble, and all the travelling and other Expences of such Surveyor in and about the Execution of this Act and the said recited Acts.

Surveyor to make a Declaration.

VI. And be it further enacted, That no Person shall be capable of acting as Surveyor for the Purposes of this Act until he shall have made and subscribed a Declaration before the said Commissioner (who is hereby empowered to administer the same) in the Words or to the Effect following; (that is to say,)

'I do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as Surveyor by virtue of an Act passed in the Seventh Year of the Reign of His Majesty King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.'

Penalty on making false Declaration.

VII. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, knowing the Allegations thereof or any of them to be untrue, shall be subject to the like Pains and Penalties to which Persons guilty of wilful and corrupt Perjury are or may be liable.

Commissioner to appoint a Clerk.

VIII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and empowered to appoint a Clerk to assist him in the Execution of the Powers of this Act and the said recited Acts, and if Occasion shall require to remove from Time to Time any such Clerk, and to appoint another in his Stead, as to him shall seem right and proper.

Allowance to Commissioner and Clerk.

IX. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing

executing the same and the said recited Acts, the said Commissioner and Clerk to be appointed by the said Commissioner as herein-before directed shall respectively be paid for each and every Day they shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts during the first Two Years next after the passing of this Act the Sum of Three Pounds and Three Shillings, and no more, and after the Expiration of the said Two Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, for each and every Day they shall be respectively employed as aforesaid, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall be put unto during their several Journies and Attendances in the Execution of this Act or the said recited Acts, other than and except the Expences for the Use of the Room in which the Meetings shall be holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of drawing, preparing, copying, engrossing, and enrolling the Award of the said Commissioner, and of Advertisements, Printing, and Stationery.

Notice and Adjournment of Meetings.

X. And be it further enacted, That the said Commissioner shall and he is hereby required to cause Notice to be given in the Newspaper called "*The Derbyshire Courier*," or in some other Newspaper circulated in the said County, and also by Notice affixed on one of the outer Doors of the Parish Church of *Chesterfield* aforesaid on some *Sunday* before Divine Service, of the Time and Place of his first and every subsequent Meeting for executing the Powers hereby and by the said recited Acts vested in him, at least Seven Days before every such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioner shall and may adjourn such Meetings from Time to Time as he shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings of the said Commissioner for executing this Act shall be held at some convenient Place in the said Manor or within Two Miles thereof.

How other Notices are to be given.

XI. Provided always, and be it further enacted, That all Notices necessary to be given by the said Commissioner in Cases not hereby or by the said recited Acts otherwise provided for or directed shall be given by Advertisement, to be inserted in the *Derbyshire Courier* or other Newspaper published in the said County of *Derby*.

For regulating the Duration of Meetings.

XII. And for regulating the Duration of all Meetings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours (as the Case may be) shall be charged as only Half a Day, and the said Commissioner and Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioner or his Clerk in which shall be entered the several Days on which the said Commissioner shall hold his Meetings, and in such Book shall also be entered at what Hours the said Commissioner and his Clerk were respectively present at such Meetings, and at what Hour they respectively left the same; and such Book shall be signed by

such Commissioner and his Clerk at the Termination of each Meeting, and shall be open for the Inspection of any Person or Persons interested in the said Inclosure, or his or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioner to retain or to pay himself or such Clerk, out of any Monies to be received by him or over which he may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-before directed to be made to such Commissioner and Clerk respectively beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the said Award, or in case the Accounts of the said Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or of the said Clerk previous to the Execution of the said Award, the Commissioner for the Time being shall, after the Expiration of the Period allowed for Appeal against the said Accounts herein-after directed to be made and stated, pay to the Executors and Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due to them.

Proprietors to pay their own Expences at Meetings.

XIII. And be it further enacted, That all the Proprietors and Persons interested in the said Allotment and Inclosure, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend at any of the Meetings to be held in pursuance of this Act.

Commissioner to settle Disputes, but not to determine Titles nor molest Possession.

XIV. And be it further enacted, That in case any Dispute shall arise between any of the Parties interested touching their Rights or Claims, Estates or Interests, the said Commissioner is hereby authorized to determine the same: Provided always, that nothing herein contained shall authorize or empower the said Commissioner to determine any Dispute that shall affect the Title to any Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any of the Parties interested in the said Commons and Waste Grounds contrary to the Possession of any such Parties (except in Cases of Encroachment within Twenty Years as herein-after mentioned); but in case the said Commissioner shall be of opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law.

Power to award Costs.

XV. 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 the said first-recited Act or of this 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, 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,

Persons, 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 Commisioner and he is hereby authorized and required, by Warrant under his Hand and Seal 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, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Persons dissatisfied may try their Rights at Law.

XVI. Provided always, 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, Allotment, and Inclosure, shall be dissatisfied with any Determination of the Commissioner for the Time being touching or concerning any Claim or Claims of Right of Common or other Right or Interest in, over, or upon the Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, or any Objection or Objections to such Claim or Claims, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied, to cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioner shall have been notified in Writing to the Party or Parties against whom such Determination shall have been made, or his, her, or their known Agent or Attorney, and thereupon the Party or Parties so dissatisfied shall proceed to a Trial at Law at the then next or at the Assizes immediately following the next to be holden for the said County of *Derby* after such Action shall have been commenced; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to appoint 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 such Action or Actions shall be commenced in case the Parties shall differ about the same; and the Verdict which shall be given in any such Action shall be final and conclusive upon all the Parties thereto, unless the Court in which such Action shall be brought shall set aside the Verdict and order a new Trial to be had therein, which it shall be lawful for the Court to do as in other Cases; and after such Verdict shall have been obtained, and not set aside by the said Court, the said Commissioner shall and he is hereby authorized to act in conformity thereto, and to allow or disallow the Claims thereby determined according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioner touching any such Claim or other Right or Interest as aforesaid which shall not be objected to in due Time, or being objected to the Party or Parties objecting not causing such Action at Law to be so brought within the Time herein-before limited, or not proceeding therein as aforesaid, shall be final, binding, and conclusive on all Parties: Provided also, that no

Determination of Commissioner to be final.

Difference, Suit, or Proceeding as aforesaid, nor any Difference or Dispute touching the Title to any Lands, Tenements, or Hereditaments, shall impede or delay the said Commissioner in the Execution of this Act, but the Division, Allotment, and Inclosure thereby directed to be made shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding.

Trials not to suspend the Execution of the Powers of this Act.

XVII. Provided always, and be it further enacted, That if any of the Parties Plaintiffs or Defendants in any Action to be brought in pursuance of this Act shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and 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 the same, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioner with Process for commencing such Action or Actions, in the same Manner as the Party or Parties so dying 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.

Actions not to abate by the Death of Parties.

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

Deaths not to impede the Act.

XIX. And be it further enacted, That all Encroachments or Inclosures which have been made at any Time or Times within the Space of Twenty Years previous to the passing of this Act, from, in, or upon the said Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed, shall be deemed and considered to be Part of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act; and in case any Difference or Dispute shall arise touching any such Encroachments or Inclosures, or the Extent thereof, every such Difference or Dispute shall be determined by the said Commissioner.

As to Encroachments.

XX. And

Lands to be sold to defray Expences.

XX. And be it further enacted, That for the Purpose of raising Money for or towards Payment of the Costs, Charges, and Expences of obtaining and passing this Act, and all Proceedings which have been taken relative or preparatory thereto, and all Charges and Expences which may be incurred in carrying the same and the said recited Acts into execution, it shall and may be lawful for the said Commissioner, and he is hereby authorized and empowered, to make and set out so much and such Parts of the said Commons and Waste Grounds as he shall judge proper and expedient for that Purpose, and as he shall deem sufficient in Value to defray the said Costs and Expences, and from Time to Time to sell and dispose of the same by public Auction or by private Contract, and in one Lot or several Lots, subject to the Directions and Regulations mentioned in the said first-recited Act; and the Purchase Money for the said Lands so to be sold shall be paid into the Hands of the said Commissioner, whose Receipt or Receipts for the same shall be a sufficient Discharge to such Purchaser or Purchasers; and upon the Receipt of the whole Purchase Money for any Land which shall be sold as aforesaid the said Commissioner shall and he is hereby authorized to grant and convey, by Deeds of Lease and Release under his Hand and Seal, the Fee Simple and Inheritance thereof to such Person or Persons and for such Use or Uses as the respective Purchaser or Purchasers shall appoint, and immediately after the Execution of such Deeds the Lands therein described to be granted and conveyed shall become vested in such Purchaser or Purchasers, and his, her, or their respective Heirs and Assigns, or become settled to such Uses as shall be declared by such Deeds: Provided always, that in case the Purchase Money for any Land so to be sold for the Purposes aforesaid shall not amount to the Sum of Twenty Pounds the said Commissioner shall on Payment thereof sign a Receipt for the same, and thenceforth the Purchaser or Purchasers shall be absolutely seised and entitled in Fee Simple to the Lands so by him, her, or them respectively purchased, and the same shall be allotted accordingly by the said Commissioner.

Application of surplus Money arising by Sale of Lands.

XXI. And be it further enacted, That in case any Surplus shall remain in the Hands of the said Commissioner of the Monies hereby authorized to be raised by the Sale of Land after answering the several Purposes aforesaid, such surplus Money shall be divided and apportioned between the several Proprietors of and Persons interested in the said Commons and Waste Grounds according to their several and respective Interests therein, and such proportional Parts and Shares of such surplus Money shall be paid to those Proprietors who are Tenants in Fee Simple of the Estates in right of which they shall be entitled to such surplus Money, or otherwise the said surplus Money shall be appropriated in the Manner directed by this Act with respect to the Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or the 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.

Allotment for Watering Places.

XXII. And be it further enacted, That the said Commissioner shall and he is hereby empowered, if he shall deem it necessary, but not otherwise, to set out and allot unto the Surveyors of the Highways of the Township of *Newbold* aforesaid such Parts and Parcels of the said Commons and Waste Grounds as he shall judge proper to be used as public Watering Places for Cattle.

XXIII. And

Allotment to the Lord of the Manor.

XXIII. And be it further enacted, That the said Commissioner shall, in the next place, and he is hereby empowered and required, to set out, allot, and award unto the said Duke of *Devonshire*, as Lord of the Manor aforesaid, for and in lieu and satisfaction of his Right, Title, and Interest in and to the Soil of the said Commons and Waste Grounds, so much and such Part or Parts of the said Commons and Waste Grounds as by the said Commissioner shall be deemed, declared, and adjudged equal in Value to One Twentieth Part thereof, exclusive of the Allotment to be made to the said Duke in respect of the Messuages and inclosed Lands belonging to him within the said Manor.

Open Spaces to be left for Recreation.

XXIV. Provided always, and be it further enacted, That the said Commissioner shall and he is hereby required to set out a Portion, not less than Two Acres, of the Lands or Grounds hereby directed to be inclosed, to be for ever left open for the Purposes of Exercise and Recreation of the Inhabitants of the Township of *Newbold* and the neighbouring Population, and such Portion of Land shall be vested in the Overseers of the Poor of the Township of *Newbold* for the Time being.

Allotment of Residue.

XXV. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out and allot the Residue of the said Commons and Waste Grounds unto and amongst the several Persons who at the Time of making such Division, Allotment, and Inclosure shall be entitled thereto or interested therein, in proportion and according to their several and respective Shares, Estates, Rights, Properties, and Interests therein respectively.

Common Rights or Allotments may be sold before the Execution of the Award.

XXVI. And be it further enacted, That it shall be lawful for any Person or Persons entitled to any Rights of Common or other Rights on the said Commons and Waste Grounds, at any Time before the Execution of the Award of the said Commissioner, to sell, exchange, convey, and dispose of such Rights of Common or other Rights, or any Allotment or Allotments to be set out in lieu thereof, separate and apart from the Property to which the same are appurtenant, and upon Production to him of the Conveyance or Conveyances thereof the said Commissioner shall award the Allotment or Allotments so sold or disposed of to the Purchaser or Purchasers thereof respectively.

For fencing Allotments.

XXVII. And be it further enacted, That the several Allotments to be made by Order of this Act shall be inclosed and fenced, by and at the Expence of such Persons, within such Term, and in such Manner, and subject to such Regulations and Restrictions as the said Commissioner shall by his Award order, direct, or appoint; and the Hedges, Ditches, and Fences which shall be made pursuant thereto shall at all Times thereafter be maintained, cleansed, and kept in repair by such Persons as the said Commissioner shall by his said Award order, direct, or appoint; and in case any Person who shall be made subject or liable by the Direction or Appointment of the said Commissioner to make or raise any such Inclosure or Fence shall neglect or refuse to make and raise the same, it shall be lawful for the Person or Persons interested in the Lands next adjoining the Lands allotted to the Person or Persons so neglecting or refusing to make and raise such Inclosure or Fence, and to recover the Costs and Charges thereof from the Person or Persons so neglecting or refusing by Action of Debt in any of His Majesty's Courts of Record at *Westminster*.

Racecourse to be allotted to the Lord of the Manor.

XXVIII. And be it further enacted, That (notwithstanding any thing in this Act contained to the contrary) the said Commissioner shall and he is hereby authorized and required to include and comprehend in the Manorial Allotment to be set out and allotted to the said Duke so much and such Part of the said Commons and Waste Grounds as is now ditched and fenced out for and used as a Racecourse, and commonly called "The *Chesterfield* Racecourse," and also that Portion of the said Commons and Waste Grounds, partly without and partly within the Ring of the said Racecourse, adjoining or near to Two Buildings situate on the said Common, called "The Great Stand" and "Judges Stand," and around the same and extending from the said Judges Stand to or near to a House in the Possession of *Thomas Grafton*, and which Portion of Land has been heretofore used for the Erection of Booths and other public Uses for the convenient holding of Races, or such larger Extent of Ground as the said Commissioner shall think necessary, not exceeding in the whole Eight Acres, and also the said Buildings called "The Great Stand" and "Judges Stand," and the Site or Ground occupied by the same, and also such Roads, Drives, or Ridings as the said Commissioner shall order or direct to be set out and made on the said Commons and Waste Grounds solely for the Use of the Public during the said Races, and which said Roads, Drives, or Ridings he is hereby empowered to set out and appoint.

Exchanges.

XXIX. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments within the said Manor of *Newbold* in lieu of and in exchange for any other Lands, Tenements, or Hereditaments in the said Manor, or within any adjoining Parish, Township, or Place, so that every such Exchange be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the respective Owners or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owners or Proprietors shall be Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or 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, (by and with the Consent of the Lessor or Lessors of any such Lands, Tenements, or Hereditaments holden for Years determinable as aforesaid, and not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself (such Consent to be respectively testified by Writing under the Common Seal of such Bodies Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties 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 that no Exchanges 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 Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall be situate.

XXX. And

Expences of Exchanges.

XXX. And be it further enacted, That all Costs, Charges, and Expences attending the making and completing of any such Exchanges shall be paid and borne by the several Persons whose Estates shall be exchanged, in such Manner, Shares, and Proportions as the said Commissioner shall by his Award, or any other Writing under his Hand, order and direct; and such Costs, Charges, and Expences, in case of Nonpayment thereof, may be recovered in the same Manner as the Costs, Charges, and Expences of inclosing and fencing Allotments can or may be recovered under and by virtue of the first-recited Act or of this Act.

Settlements, &c. not to be affected, or Wills revoked.

XXXI. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to make void, alter, or annul any Will, Deed, or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, Charge, or Incumbrance out of, upon, or affecting any of the Lands and Grounds to be divided, allotted, and inclosed as aforesaid, or any Lands, Tenements, or Hereditaments which shall be exchanged by virtue of this or the said recited Acts, or any Part or Parts thereof respectively, but that the several Lands, Tenements, and Hereditaments so to be allotted or exchanged as aforesaid shall, immediately after such Allotment and Exchange, remain and enure, and the several Persons to whom the same shall be allotted or given in Exchange as aforesaid shall thenceforth stand and be seised and possessed thereof respectively to, for, and upon such and the same Uses, Estates, Trusts, Intents, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, and Incumbrances, in all respects, as the several Lands, Tenements, and Hereditaments in respect whereof such Allotments and Exchanges shall have been made should or would have stood severally limited, settled, vested, or subject or liable to, or been held by, in case this Act had not been passed.

Leases at Rack Rent to be void.

XXXII. And be it further enacted, That all Leases and Agreements for Occupation at Rack Rent of any Lands, Tenements, or Hereditaments within the said Manor of *Newbold* which shall be exchanged by virtue of this Act, or of any Right of Common or other Right in or over the Commons or Waste Grounds hereby directed to be divided and inclosed, either alone or together with any other Lands, Tenements, or Hereditaments, shall, as to such Lands, Tenements, and Hereditaments so exchanged, and as to such Rights of Common or other Rights only, and the Allotments to be made in respect thereof, but no further or otherwise, cease, determine, and be void immediately upon the Execution of the said Award, or at such other Time as the said Commissioner shall appoint; the Owners paying to the Lessees such Sums of Money as the said Commissioner shall ascertain to be a reasonable Compensation to such Lessees for their Terms and Interests in such exchanged Lands and Rights of Common or other Rights respectively.

Empowering Tenants for Life, &c. to borrow money.

XXXIII. And be it further enacted, That it shall be lawful for any Proprietor or Proprietors of any Allotment or Allotments to be made by virtue of this Act, being Tenant or Tenants for Life or Lives or in Tail, and also for any Husbands, Guardians, Trustees, Committees, or Attornies of any of the said Proprietors being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or otherwise incapable of acting for themselves, and for any Lessee or Lessees for Life or Lives, and for any Mortgagees,

Mortgagees, Trustees, or other Persons in Possession of any of them, by and with the Consent and Approbation of the said Commissioner, to be testified under his Hand and Seal, from Time to Time, after such Allotment and Division shall be made, and either before or after the Execution of his said Award, to charge the Lands or Grounds which shall be allotted to such Proprietors respectively by virtue of this Act with any Sum or Sums of Money, not exceeding Five Pounds for each and every Acre thereof, as in the Judgment of the said Commissioner shall amount to his, her, or their respective Portions of the Expence of inclosing and fencing off their respective Allotments, and for securing the Repayment of such Sum or Sums of Money, with Interest, to grant, mortgage, lease, or demise the said allotted Lands or Grounds unto or in Trust for such Person or Persons as shall advance any such Sum or Sums of Money respectively for any Term or Number of Years; and every such Grant, Mortgage, Lease, and Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Money advanced to be repaid, with Interest.

XXXIV. And be it further enacted, That the Money which shall be advanced by any Person or Persons for the Purpose of defraying the Expences of applying for and obtaining this Act, and for carrying the same into execution, shall be repaid to the Person or Persons advancing the same, his, her, or their Executors, Administrators, or Assigns, out of the Monies to be raised by virtue of this Act, with Interest for the same from the Time of advancing such Money as aforesaid.

Application of Monies paid for Purchase or Exchange if amounting to 200*l.*

XXXV. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said first-recited Act or this Act, to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, it shall and may be lawful to and for the said Commissioner out of such Sums to defray such Proportion of the Expence of passing this Act and of carrying the same and the said recited Acts into execution as shall (if any) be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee in Possession of the Lands, Tenements, or Hereditaments so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioner be proper to be made and shall be made under his Direction upon any Land to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian,

Committee, or Trustee respectively; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward, and shall when so paid in there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons, Body or Bodies, who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments belonging to such Person or Persons, Body or Bodies, or settled therewith, to the same Uses as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part or Parts thereof as shall be necessary, or until the same shall, upon the like Application, in a summary Way, be laid out by Order of the said Court in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands, Tenements, or Hereditaments stood limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities or Government or Real Securities; and in the meantime, and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities or Government or Real Securities shall from Time to Time be paid, by Order of the said Court, to the Person or Persons, Body or Bodies, who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, or settled.

1 G. 4. c. 35.

XXXVI. And be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons, Body or Bodies, for the Time being entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so purchased or exchanged, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation

When less than 200*l.* and amounting to 20*l.*

tion of the said Commissioner, to be signified in Writing under his Hand, be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the said Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Person or Persons, Body or Bodies, who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, such Nomination to be approved of by the said Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands or Common Seal (as the Case may be) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and the Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

XXXVII. And be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Persons, Body or Bodies, who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, for his, her, or their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person or Persons respectively entitled thereto.

Accounts to be audited.

XXXVIII. And be it further enacted, That once at least in every Three Calendar Months during the Execution of this Act (to be computed from the Time of passing thereof) the said Commissioner shall and he is hereby required to make a true and just Statement and Account of all Sums of Money by him received and expended or applied in the Execution of this Act, and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before One of His Majesty's Justices of the Peace for the said County of *Derby*, not interested in the said Inclosure, to be by him examined and balanced, and such Balance shall be stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner; and an Abstract of such Account shall, within Fourteen Days after the same shall have been so examined and balanced, be published in some Newspaper circulated in the said County of *Derby*; 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 allowed by such Justice, and until such Account, or the Abstract thereof, shall have been so published as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Award.

XXXIX. And be it further enacted, That the Award to be made by the said Commissioner under the Authority of this Act and the said first-recited Act shall be executed and published within Three Years from the passing of this Act, and, together with a proper Map or Plan annexed thereto,

thereto, shall within Six Calendar Months after the Execution thereof be delivered to the Clerk of the Peace for the County of *Derby*, who is hereby required to deposit and keep the same among the Records of the said County, so that recourse may be had thereto by any Person or Persons interested therein, for the Reception whereof the Fee of Three Pounds and Three Shillings shall be paid, and no more, and for the Inspection and Perusal thereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said first-recited Act; and a Copy of the said Award fairly transcribed in a Book, with the said Map or Plan annexed thereto, and attested by the said Clerk of the Peace, shall be deposited and kept in the Free School at *Newbold* aforesaid.

Appeal.

XL. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done by the said Commissioner in pursuance of the said recited Acts or of this Act, (other than and except such Determinations of the Commissioner as are by the said first-recited Act or this Act declared to be final, binding, or conclusive, and except in Cases where an Issue at Law may be tried as herein-before is mentioned,) then and in every such Case he, she, or they may appeal to any General or Quarter Sessions of the Peace to be held for the said County of *Derby* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and to the Party or Parties concerned Ten Days Notice in Writing of such Appeal (except with respect to the Accounts of the said Commissioner, which, notwithstanding the same shall have been examined and balanced as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award with the Clerk of the Peace for the said County of *Derby*, on giving to the said Commissioner such Notice as last aforesaid); and the Justices (not interested in the Premises) in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order 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 Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous and 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.

Saving certain Rights of the Lord of the Manor.

XLI. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to defeat, lessen, or prejudice the Right, Title, and Interest of the Lord of the said Manor of *Newbold*, his Heirs or Assigns, of, in, and to any Mines and Minerals, of what Nature or Kind soever, lying and being within or under the said Commons and

and Waste Grounds, but that it shall be lawful for the Lord of the said Manor for the Time being, his Lessees, Grantees, Agents, Servants, and Workmen, from Time to Time and at all Times hereafter to have, hold, enjoy, search for, work, dig, raise, and carry away all Mines and Minerals of what Nature or Kind soever within and under the said Commons and Waste Grounds, (save and except any Mines and Minerals within or under the same or any Part thereof which belong to or are the Property of any other Person or Persons, or which are vested in any other Person or Persons as Lessee or Lessees thereof,) and to have and exercise all such Rights, Privileges, and Powers for the Purposes aforesaid as the said Lord had or was entitled to previously to the passing of this Act; and also that the Lord of the said Manor for the Time being shall and may enjoy all Rents, Services, Courts, Perquisites and Profits of Courts, and all other Royalties, Jurisdictions, Pre-eminences, and Privileges whatsoever to the said Manor incident, appendant, belonging, or appertaining, (other than and except the Right of the Soil of the said Commons and Waste Grounds,) in as full, ample, and beneficial a Manner to all Intents and Purposes as the same might or could have been held and enjoyed in case this Act had not been passed.

Mining Damages to be reimbursed.

XLII. And be it further enacted, That all and every such Damage and Injury as shall or may be occasioned by the Lord of the said Manor for the Time being by means of the searching for or working the aforesaid Mines and Minerals or any of them, or on account of any Works, Buildings, or Concerns relating thereto, shall be reimbursed to the Owner and Owners, Occupier and Occupiers of the Grounds respectively on which the same shall be committed, and shall be borne and paid by the Lord of the said Manor for the Time being.

General Saving.

XLIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person or Persons, Bodies Politic and Corporate, his, her, or their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest (other than and except such as is and are hereby meant and intended to be barred, destroyed, and extinguished,) as he, they, every or any of them, could or ought to have had or enjoyed in, to, or out of the said Commons and Waste Grounds hereby directed to be inclosed, in case this Act had not been passed.

Act to be printed by the King's Printers.

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

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1837.