ANNO QUINQUAGESIMO

GEORGII III. REGIS.

Cap. 159.

An Act for incloſing Lands in the Pariſhes of *Stainton* and *Edlington*, in the Weſt Riding of the County of *York*. [2d *June* 1810.]

WHEREAS there are in the Pariſhes of *Stainton* and *Edlington*, in the Weſt Riding of the County of *York*, within and Parcel of the Manors of *Stainton* and *Edlington*, a certain Piece or Parcel of Common or Waſte Ground, commonly called or known by the Name of *Cockhill Common*, containing One hundred and ſeventy Acres or thereabouts; And alſo divers other ſmall Pieces or Parcels of Common or Waſte Ground, containing in the whole (together with *Cockhill Common* aforeſaid) Two hundred Acres or thereabouts: And whereas certain Part of the ſaid Common called *Cockhill Common*, to the Extent of about Forty-nine Acres, lying on the North or North-eaſt Side of a certain Lane or Road leading from *Wadworth* to *Coniſbrough*, in the ſaid County, has always been reputed to be within and Parcel of the ſaid Pariſh and Manor of *Edlington* only; and the Remainder thereof, and alſo the ſaid other ſmall Pieces or Parcels of Common or Waſte Ground, have been always reputed to be within and Parcel of as well the Pariſh of *Edlington* as of the Pariſh and Manor of *Stainton* aforeſaid; the Lords and Freeholders for the Time being of both the ſame Manors and Pariſhes, as Owners and Proprietors of Houſes and Lands, having in reſpect thereof, at all Times, held and enjoyed Right of Common of Paſture and other Commonable Rights upon ſuch laſt-mentioned Portions of the ſaid Common or Waſte Grounds mutually and indiſcriminately: And whereas the Right Honourable *Richard* Earl of *Scarbrough* claims to be Lord

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Lord of the Manor of *Stainton*, and *William Wrightſon* Eſquire claims to be Lord of the Manor of *Edlington*; and, as ſuch, that they the ſaid *Richard* Earl of *Scarbrough* and *William Wrightſon* are ſeverally ſeiſed of, or well entitled to, the Soil of the ſaid Pieces or Parcels of Common or Waſte Ground, as Parcel of and belonging to their ſaid Manors reſpectively: And whereas the ſaid *Richard* Earl of *Scarbrough* is Lay Impropriator of the Rectory or Parſonage and Patron of the Advowſon of the Vicarage of the Pariſh Church of *Stainton* aforeſaid, in the Dioceſe or Province of the Archbiſhop of *York*, and as ſuch is ſeiſed of or well entitled to the Great or Rectorial Tithes ariſing or to ariſe out of the ſaid Pieces or Parcels of Common or Waſte Ground, as incident, appendant, or appurtenant to the ſaid Rectory or Parſonage: And whereas Mr. *William Waſteneys* is Owner and Proprietor of a Meſſuage and Lands called *Lambcoat Grange*, in the ſaid Pariſh of *Stainton*, containing in the whole, by Eſtimation, Two hundred and eighty-ſix Acres or thereabouts, now in his own Poſſeſſion, and One hundred and eighty Acres, Part of the ſame Lands he claims to be Tithe-free: And he alſo claims to be entitled to all the Tithes both Great and Small of certain ſmall Pieces or Parcels of Land and Woodland, belonging to the ſaid Earl of *Scarbrough*, and alſo of certain ſmall Pieces of Land belonging to the Heirs or Deviſees of the late *George Paſhley*, and the Deviſees of the late *John Laughton* Eſquire reſpectively: And whereas the Reverend *Thomas Sawyer Parris* Clerk, is Rector with Cure, or preſent Incumbent of the Rectory or Parſonage, and the ſaid *William Wrightſon* is Patron of the Advowſon of ſuch Rectory or Parſonage, of the Church of the Pariſh of *Edlington* aforeſaid, in the ſame Dioceſe or Province of the Archbiſhop of *York*; and, as ſuch Rector as aforeſaid, he the ſaid *Thomas Sawyer Parris* is well entitled to all the Tithes ariſing or to ariſe out of the ſaid Pieces or Parcels of Common or Waſte Ground, as incident, appendant or appurtenant to the Rectory or Parſonage of *Edlington* aforeſaid: And whereas the Reverend *Beaumont Broadbent* Clerk, is the preſent Vicar or Incumbent of the Pariſh Church of *Stainton* aforeſaid, and as ſuch is entitled to the Small, or ſome other Species of Tithes, or ſome certain Portion or Portions of Tithes, yearly ariſing and renewing within the ſaid Pariſh of *Stainton*, by Endowment, Preſcription or otherwiſe: And whereas the ſaid *Richard* Earl of *Scarbrough*, and alſo the ſaid *William Waſteneys*, *Mary Paſhley*, *Catherine Paſhley*, and divers other Perſons, or ſome of them, are Owners and Proprietors of divers ancient Meſſuages, Cottages, Tofts, Toftſteads, Lands, Tenements and Hereditaments, within the ſaid Pariſh and Manor of *Stainton*; and as ſuch are ſeverally and reſpectively entitled to Rights of Common, and other Intereſts, in, over and upon ſuch of the ſaid Pieces or Parcels of Common or Waſte Grounds as are within the Precincts of the ſame Pariſh and Manor of *Stainton*: And whereas the ſaid *William Wrightſon*, in his own Right, and the ſaid *Thomas Sawyer Parris*, as Rector, and in right of the Rectory of *Edlington* aforeſaid, are Owners and Proprietors of divers ancient Meſſuages, Cottages, Tofts, Toftſteads, Lands, Tenements and Hereditaments in the Pariſh and Manor of *Edlington* aforeſaid, to which Commonable or other Rights upon the Pieces or Parcels of Common or Waſte Ground, lying within the ſaid Manor and Pariſh of *Edlington*, are incident, appendant, appurtenant or belonging; and in reſpect thereof are entitled to Rights of Common and other Intereſts in, over and upon the Common and Waſte Lands lying within that Manor and Pariſh: And whereas an Act was paſſed in the

Forty-firſt

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 said several Pieces or Parcels of Common or Waste Ground are in their present State of but little Profit or Value to any of the Parties interested therein, and incapable of any great Improvement; but if the same were divided and allotted in Severalty, to the several Persons entitled thereto, in Proportion to their respective Rights and Interests therein, and such Allotments inclosed, it would be of great Benefit and Advantage to all Parties concerned: Yet as such Division, Inclosure and Allotment cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty, that it may be enacted, and be it enacted, by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Francis Raynes*, of *Stonehill*, in the Parish of *Everton*, in the County of *Nottingham*, Gentleman, and *Joseph Colbeck*, of *Balby*, in the Parish of *Doncaster*, in the said West Riding of the County of *York*, Gentleman, and their Successors, to be elected in Manner hereinafter directed, shall be, and are hereby appointed the Commissioners for dividing, allotting and inclosing the said Common and Waste Grounds, and all other the Open and Uninclosed Lands and Grounds within the said Parishes and Manors of *Stainton* and *Edlington* respectively, and for putting the Purposes of the said recited Act and of this Act in Execution, subject to the Rules, Orders and Directions hereinafter mentioned; and in conformity to the Regulations, and with, under and subject to the Powers, Provisions and Restrictions of the said recited Act, except in such Cases where the same are hereby varied or altered.

Present and improveable State of the Commons.

Enactments, viz.

Commissioners.

II. And be it further enacted, That if either of the Commissioners hereby nominated and appointed, or any succeeding Commissioner to be nominated and appointed in Manner hereinafter mentioned, shall die or neglect to act for the Space of One Calendar Month, when Occasion shall require his Attendance on the Business of the said Division and Inclosure; or shall refuse to act or become incapable of acting, by Sickness or any other Cause whatsoever, before all the Powers and Authorities hereby vested in them shall be carried into Execution; then and in every such Case 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 Manner following; (that is to say) In case the said *Joseph Colbeck*, or any Commissioner to be appointed in his Stead, shall die, neglect, refuse or become incapable to act as aforesaid, it shall be lawful for the said *William Wrightson*, his Heirs or Assigns, within Two Calendar Months next after such Death, Neglect, Refusal or Incapacity to act as aforesaid, shall be signified to him in Writing by the surviving or remaining Commissioner, to elect and appoint one other Commissioner (not interested in the said Division and Inclosure) in the Place of the said *Joseph Colbeck*, or such other Commissioner so dying, neglecting, refusing or becoming incapable to act; And upon the Death, Neglect, Refusal or Incapacity to act, of the said *Francis Raynes*, or of any succeeding Commissioner to be appointed in his Stead, then it shall be lawful for the said *Richard* Earl of *Scarbrough*, *William Wasteneys*,

Appointment of new Commissioners.

Mary

Mary Paſhley, *Catherine Paſhley* and the other Proprietors within *Stainton* aforeſaid, or the major Part in Value of them, (to be aſcertained by the Aſſeſſment to the Poor Rates of the ſaid Pariſh) their Heirs or Aſſigns, who ſhall be preſent in Perſon, or by their Agents or Attornies duly authorized for ſuch Purpoſe, from Time to Time, at any Meeting to be held for that Purpoſe within Two Calendar Months next after ſuch Death, Neglect, Refuſal or Incapacity to act as aforeſaid ſhall happen, (Ten Days' Notice being firſt given of ſuch Meeting by the ſurviving Commiſſioner before the ſame ſhall be held, by Writing to be affixed on the principal outer Doors of the ſeveral Pariſh Churches of *Stainton* and *Edlington* aforeſaid, on ſome *Sunday* immediately before Divine Service) by any Writing under their Hands, to elect and appoint one other Commiſſioner in the Place of the ſaid *Francis Raynes*, or ſuch other Commiſſioner ſo dying, neglecting, refuſing or becoming incapable to act as aforeſaid: And in caſe the ſaid reſpective Parties, or any of them, ſhall make Default in appointing any ſuch new Commiſſioner within Two Calendar Months next after any ſuch Death, Neglect, Refuſal or Incapacity to act as aforeſaid, ſhall be made known and ſignified to them as aforeſaid, then the ſurviving Commiſſioner ſhall, and he is hereby required, from Time to Time, by Writing under his Hand, within One Calendar Month next after the Expiration of the ſaid Two Calendar Months allowed to the reſpective Parties for naming ſuch new Commiſſioner by them reſpectively as aforeſaid, to appoint one other Commiſſioner (not intereſted in the ſaid Diviſion and Incloſure) in the Place and Stead of the ſaid *Joſeph Colbeck* or *Francis Raynes*, or ſuch Commiſſioner for the Time being, ſo dying, neglecting, refuſing or becoming incapable to act as aforeſaid: And every ſuch Perſon and Perſons when ſo elected and appointed ſhall, after taking the Oath preſcribed in that Behalf, have the ſame Power and Authority for putting this Act and the ſaid recited Act in Execution as the Commiſſioner to whoſe Place he or they ſhall ſo ſucceed, was or were veſted with.

Umpire.

III. And be it further enacted, That *Francis Ferrand Foljambe*, the Younger, of the *Inner Temple*, *London*, Barriſter at Law, ſhall be, and he is hereby appointed Umpire, to act in the ſeveral Matters hereinafter mentioned, under the ſeveral Powers, Authorities and Reſtrictions herein and in the ſaid recited Act contained; and that in caſe of his Death, Refuſal, Neglect or Diſability to act, then it ſhall be lawful for the ſaid *Richard* Earl of *Scarbrough*, *William Wrightſon*, *Mary Paſhley* and the other Proprietors of Eſtates, having Common Rights in *Stainton* and *Edlington* aforeſaid, or the major Part in Value (to be aſcertained by the Aſſeſſments to the Poor Rates of the ſame Pariſhes reſpectively) of them, their Heirs or Aſſigns, who ſhall be preſent in Perſon, or by their Agents or Attornies duly authorized for ſuch Purpoſe, from Time to Time, at any Meeting to be held for that Purpoſe, within Two Calendar Months next after the Death, Refuſal, Neglect or Diſability to act, of the ſaid *Francis Ferrand Foljambe* ſhall happen, Ten Days' Notice being firſt given of ſuch Meeting, in like Manner as is hereinbefore directed with regard to the Appointment of a new Commiſſioner, by any Writing under their Hands, to elect and appoint ſome other Perſon (not intereſted in the ſaid Diviſion and Incloſure) to be Umpire in the Place and Stead of the ſaid *Francis Ferrand Foljambe*, or ſuch other Umpire, dying, neglecting, refuſing or becoming incapable to act as aforeſaid.

IV. Provided

IV. Provided always, and be it further enacted, That no Perſon ſhall be capable of acting as an Umpire in the Execution of this or the ſaid recited Act, until he ſhall have taken before the ſaid Commiſſioners, and ſubſcribed an Oath, in the Form or to the Effect following: (that is to ſay) Umpire to take an Oath.

'I Do ſwear, that I will faithfully, impartially and honeſtly, according 'to the beſt of my Skill and Judgement, execute and perform the 'ſeveral Truſts, Powers and Authorities, veſted and repoſed in me as an 'Umpire, by virtue of an Act paſſed in the Fiftieth Year of the Reign 'of King *George* the Third, intituled, [*Here ſet forth the Title of this 'Act.*] according to Equity and good Conſcience, and wi hout Favour 'or Affection, Prejudice or Partiality, to any Perſon or Perſons whom-'ſoever. 'So help me God.'

V. And be it further enacted, That *Joſeph Young*, of *Carlton* in *Kingſton*, in the ſaid County of *Nottingham*, Land Surveyor, ſhall be, and he is hereby appointed Surveyor, for executing the ſeveral Powers and Authorities hereby veſted in him as Surveyor on this Incloſure, by virtue of this Act, and of the ſaid recited Act; and in caſe of his Death, Refuſal, Neglect, or Incapacity to act, then ſuch other Perſon or Perſons as the ſaid Commiſſioners ſhall direct or appoint to act in his ſtead, ſhall be Surveyor for the Purpoſes of this Act, and the ſaid recited Act, ſuch Appointment to be in Writing, and ſigned by the Perſons making the ſame; and ſo from Time to Time, as often as the like Occaſion ſhall require. Surveyor.

VI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required to cauſe publick Notice in Writing to be given, by affixing it upon one of the principal Doors of each of the ſaid Churches of *Stainton* and *Edlington* reſpectively, on ſome *Sunday* immediately before Divine Service, and alſo by Advertiſement in the Newſpaper called the *Doncaſter Gazette*, if then publiſhed, and if not, then in ſome other Newſpaper uſually circulated in the Weſt Riding of the ſaid County of *York*, of the Time and Place of their firſt and every ſubſequent Meeting for the Execution of this Act, at leaſt Ten Days before any ſuch Meeting ſhall be held (Meetings by Adjournment only excepted); and ſuch Commiſſioners ſhall and may adjourn ſuch Meetings, from Time to Time, to ſuch Place or Places as they ſhall think proper, ſo as ſuch firſt and adjourned Meetings be within Eight Miles of either of the Pariſhes of *Stainton* and *Edlington* aforeſaid: And all other Notices, neceſſary or requiſite to be given by the ſaid Commiſſioners, ſhall be given in Manner hereinbefore mentioned. Notices, and Place of Meeting. Other Notices.

VII. And be it further enacted, That if the ſaid Commiſſioners ſhall deem it expedient or proper to ſhorten the Boundary Fences between the Lands and Grounds by this Act directed to be divided, allotted and incloſed, in the ſaid reſpective Pariſhes, or either of them, and any Pariſh or Pariſhes adjoining thereto, or to make the ſame Boundary Fences regular, it ſhall be lawful for the ſaid Commiſſioners, with the Conſent in Writing, under the Hand or Hands of the Lord or Lords of the Manor or Manors in which the Land is ſituate, and of the Owner or Owners of the ſaid Land upon which any Fence or Fences ſhall or may be intended to be made, to ſet out the Boundary or Boundaries between the Lands by this Act directed to be divided, allotted and incloſed, and any adjoining For ſhortening Boundary Fences.

Pariſh or Pariſhes, in ſuch Manner as they ſhall think proper, for the Purpoſes aforeſaid; and after ſuch Boundary or Boundaries ſhall be ſet out as aforeſaid, the ſame ſhall be fenced by ſuch Perſon or Perſons, in ſuch Manner, and at ſuch Time or Times, as the ſaid Commiſſioners in and by their Award ſhall order and direct; and the ſame ſhall for ever thereafter be deemed and taken to be the Boundary or Boundaries between the ſaid reſpective Pariſhes and ſuch adjoining Pariſh or Pariſhes, any Law, Cuſtom or Uſage to the contrary thereof in anywiſe notwithſtanding.

Commiſſioners to aſcertain Common Rights and ſettle Diſputes.

VIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required, as ſoon as conveniently may be after the paſſing of this Act, to examine into and determine the ſeveral and reſpective Eſtates intitled to Right of Common upon the ſaid Common and Waſte Grounds: And that if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted, or claiming to be intereſted, in the ſaid intended Diviſion and Incloſure, touching or concerning the Boundaries of the ſaid reſpective Pariſhes and Manors of *Stainton* and *Edlington*, or other the reſpective Rights and Intereſts which they or any of them ſhall have or claim to have, in the ſame, or touching or concerning any Matter or Thing relating to the ſaid Diviſion and Incloſure, it ſhall be lawful, to and for the ſaid Commiſſioners, and they are hereby authorized and empowered to examine into, hear and determine the ſame: Provided always, That nothing in this Act contained, ſhall authorize the ſaid Commiſſioners to determine the Title to any Meſſuages, Cottages, Lands, Tenements or Hereditaments whatſoever.

Matters of legal Title excepted.

Commiſſioners differing, Umpire to decide.

IX. Provided always, and be it enacted, That in caſe the ſaid Commiſſioners, or their Succeſſors to be appointed as aforeſaid, ſhall differ in Opinion reſpecting any Diſputes and Differences whatſoever which ſhall ariſe or be referred to them for their Determination (but not otherwiſe), then, and as often as the ſame ſhall ſo happen, the ſaid Commiſſioners ſhall, and they are hereby required to refer the Matter of every ſuch Diſpute or Difference to the Hearing and Determination of the ſaid *Francis Ferrand Foljambe* the Younger, or any ſucceeding Umpire to be appointed as aforeſaid, who is hereby authorized and required, as ſoon afterwards as conveniently may be, to examine into and determine the ſame (except in reſpect of any Matter of Title as aforeſaid): And which Determination of the ſaid Umpire being ſignified in Writing ſigned by him, and delivered to the ſaid Commiſſioners, ſhall be binding and concluſive upon all Parties (except as hereinafter mentioned).

Power to aſſeſs Coſts.

X. And be it further enacted, That in caſe the ſaid Commiſſioners, or Umpire (as the Caſe may be) ſhall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioners and Umpire, and they and he are and is hereby empowered, upon Application made to them or him for that Purpoſe, to ſettle, aſſeſs and award ſuch Coſts and Charges as they or he ſhall think reaſonable to be paid to the Party or Parties in whoſe Favour any Determination of the ſaid Commiſſioners or Umpire, ſhall be made by the Perſon or Perſons whoſe Claim or Claims, Objection or Objections, ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons liable to pay ſuch Coſts and Charges ſhall neglect or refuſe

And to levy ſame by Diſtreſs and Sale.

refuſe to pay the ſame on Demand; then, and in ſuch Caſe, it ſhall be lawful for the ſaid Commiſſioners or Umpire, and they or he are and is hereby authorized and required by Warrant under their or his Hands or Hand, directed to any Perſon they or he may think fit, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay the ſame, rendering the Overplus of ſuch Sale (if any) upon Demand to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the reaſonable Coſts and Charges attending ſuch Diſtreſs and Sale.

Parties diſſatisfied with Determination of Commiſſioners or Umpire may try their Rights at Law.

XI. Provided always and be it enacted, That in caſe any Perſon or Perſons intereſted or claiming to be intereſted in the ſaid intended Diviſion and Incloſure, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners or Umpire, touching or concerning any Rights or Intereſts in, over or upon the Lands and Grounds hereby directed to be divided, allotted and incloſed, or any Part thereof, or touching or concerning any Common Rights or Intereſts which they may have or claim, in, upon or over the ſame, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion and Incloſure, it ſhall be lawful for the Perſon or Perſons ſo diſſatisfied to proceed to a Trial at Law of the Matter ſo determined by the ſaid Commiſſioners or Umpire, at the then next or at the following Aſſizes to be holden for the ſaid County of *York*; and for that Purpoſe the Perſon or Perſons who ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners or Umpire ſhall cauſe an Action to be brought upon a feigned Iſſue againſt the Perſon or Perſons in whoſe Favour ſuch Determination ſhall have been made, within Six Calendar Months next after ſuch Determination of the ſaid Commiſſioners or Umpire; 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 wherein ſuch Action or Actions ſhall be commenced (in caſe the Parties ſhall differ about the ſame): And the Verdict or Verdicts which ſhall be given in ſuch Action or Actions ſhall be final, binding and concluſive upon all and every Perſon and Perſons whomſoever, unleſs the Court wherein ſuch Action or Actions ſhall be brought, ſhall ſet aſide ſuch Verdict or Verdicts, and order a new Trial to be had thereon, which it ſhall be lawful for the Court to do as is uſual in other Caſes; and that after ſuch Verdict or Verdicts ſhall be obtained, and not ſet aſide by the Court, the ſaid Commiſſioners and Umpire ſhall, and they and he are and is hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials.

Determination of Commiſſioners or Umpire not objected to to be final.

XII. Provided always, and be it enacted, That the Determination of the ſaid Commiſſioners or Umpire, touching ſuch Claim or Claims to ſuch Common Rights or other Rights or Intereſts in, over or upon the ſaid Lands and Grounds hereby directed to be divided, allotted and incloſed, or any Part thereof, which ſhall not be objected to within Two Calendar Months next after ſuch Determination ſhall have been made, or, being objected to, the Party or Parties objecting, not cauſing ſuch Action

Action at Law to be brought and proceeded in as aforeſaid, ſhall be final and concluſive on all Parties.

In caſe of Death of Parties before Actions brought the ſame to be carried on and defended in their Names.

XIII. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any Action or Actions might have been brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time hereinbefore limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politick, 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 or Clerks to 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.

Perſons in Poſſeſſion not to be moleſted without due Courſe of Law.

XIV. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioners or Umpire, to determine any Right between any Parties contrary to the Poſſeſſion of any of ſuch Parties (except in caſes of Encroachment); but in caſe the ſaid Commiſſioners or Umpire ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, they or he 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.

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

XV. Provided always, and be it enacted, That no ſuch Difference, Diſpute or Proceeding, touching the Title to any Lands, Tenements or Hereditaments, ſhall impede or delay the ſaid Commiſſioners in the Execution of this Act, but the Diviſion or Incloſure hereby directed to be made, ſhall be proceeded in notwithſtanding any ſuch Difference, Suit or Proceeding.

Allotments: 1ſt. To the Rector of Edlington, for his incident Glebe and Common Rights reſpectively.

XVI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, in the firſt Place, to ſet out, allot and appoint unto and for the ſaid *Thomas Sawyer Parris* and his Succeſſors, Rectors of *Edlington* aforeſaid, ſuch Pieces or Parcels of Land, being Part of the ſaid Forty-nine Acres of Land, Parcel of *Cockhill Common* aforeſaid, lying on the North or North-Eaſt Side of the ſaid Lane or Road, leading from *Wadworth* to *Coniſbrough* aforeſaid, as ſhall in the Judgment of the ſaid Commiſſioners be equal in Value to and a full Satisfaction and Compenſation for his Glebe Lands and Houſes in the ſaid Pariſh of *Edlington*, and for the Rights of Common upon the ſaid Common and Waſte Lands belonging to ſuch Glebe Lands and Houſes reſpectively.

XVII. And

2nd. To the Rector of Edlington in Lieu of the Tithes of the 49 Acres, Part of Cockhill Common.

XVII. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next place, to set out and allot unto and for the said *Thomas Sawyer Parris* and his Successors, Rectors of the Parish and Parish Church of *Edlington* aforesaid, such Parcel or Parcels of the said last mentioned Forty-nine Acres of Land, Part of *Cockhill Common* as aforesaid, as shall in their Judgment (exclusive of all other Allotments to the said *Thomas Sawyer Parris*, in Lieu of his Glebe and Rights of Common as aforesaid) be equal in Value to One ninth Part, and no more, of the same Forty-nine Acres of Land, in Lieu of and in full Satisfaction to him as Rector as aforesaid, for all Tithes both great and small arising and renewing, or which otherwise might hereafter arise and renew, from and out of the said Forty-nine Acres of Land, Part of *Cockhill Common* as aforesaid, hereby directed to be divided and inclosed (Surplice Fees, Mortuaries, and *Easter* Offerings, only excepted).

3d. To the Rector of Edlington, in lieu of the Tythes of any Residue which may be found to be within Edlington.

XVIII. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and allot unto the said *Thomas Sawyer Parris*, as Rector or present Incumbent of the Rectory of *Edlington* as aforesaid, and his Successors Rectors as aforesaid, such Parcel or Parcels of the Residue of the said Commons and Waste Grounds, which they or their Successors, or the said *Francis Ferrand Foljambe*, or his Successor, as Umpire, as aforesaid, shall adjudge and determine to be within and Parcel of the Parish of *Edlington* aforesaid, as shall in their Judgment (exclusive of all other Allotments to the said *Thomas Sawyer Parris* as aforesaid) be equal in Value to One ninth Part thereof, and no more.

4th. To Mr. Wrightson as Lord and Proprietor of Edlington.

XIX. And be it further enacted, That after the several Roads under the Directions of the said recited Act, in the said Parish of *Edlington*, and the Allotment or Allotments in lieu of Glebe and Rights of Common, and in lieu of the Tithes of the said Common and Waste Grounds in the same Parish, shall be set out as hereinbefore directed; the said Commissioners shall set out, allot, and award unto the Lord of the Manor of *Edlington* for the Time being and to the said *William Wrightson* as Proprietor of Commonable Rights in the Parish and Manor of *Edlington* aforesaid, his Heirs and Assigns, the Residue and Remainder of the said Forty-nine Acres of Land, Part of *Cockhill Common*, as aforesaid.

5th. To Impropriator and Vicar of Stainton, for their Churchhouses, Glebe and coincident Common Rights.

XX. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next place, to set out, allot, and appoint unto and for the said Earl of *Scarbrough*, and his Heirs and Assigns, as Impropriator of the Rectory or Parsonage of *Stainton* aforesaid, and to the said *Beaumont Broadbent*, and his Successors Vicars of *Stainton*, respectively, out of such Part of the said Common called *Cockhill Common*, as lies on the West or South-West Side of the said Lane or Road leading from *Wadworth* to *Conisbrough*, and out of such other Parcels of Common and Waste Grounds, reputed to be within the Parish and Manor of *Stainton* aforesaid, such several and respective Pieces or Parcels of Land, as shall in the Judgment of the said Commissioners be equal in Value to, and a full Satisfaction and Compensation for their several and respective Glebe Lands and Houses in the said Parish, and for the Rights of Common and Waste Lands belonging to such Church-Houses and Glebe respectively.

6th. To Impropriator and Vicar of Stainton, in lieu of Tithes of the Commons.

XXI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, in the next place, to ſet out and allot unto the ſaid Earl of *Scarbrough*, as Impropriator as aforeſaid, his Heirs and Aſſigns, and to the ſaid *Beaumont Broadbent*, and his Succeſſors, Vicars as aforeſaid, and alſo to the ſaid *William Waſteneys*, in reſpect of and in Proportion to his Rights to Tythe as aforeſaid (in caſe he ſhall be found entitled to any Part thereof in reſpect of ſuch Rights); ſuch Parcel or Parcels of the laſt-mentioned Common and Waſte Grounds, which they or their Succeſſors, or the ſaid *Francis Ferrand Foljambe*, or his Succeſſor, Umpire as aforeſaid, ſhall adjudge and determine to be within and Parcel of the Pariſh of *Stainton* aforeſaid, as ſhall, in their or his Judgment (excluſive of all other Allotments to the ſaid Earl of *Scarbrough*, *Beaumont Broadbent*, and *William Waſteneys*, in lieu of their Glebe and Rights of Common, or other Rights, as aforeſaid) be equal in Value to One ninth Part thereof, and no more (except ſuch Parts thereof as ſhall be allotted in right of any Meſſuages, Cottages, Lands, or Hereditaments, which are diſcharged from the Payment of Tithes by a Modus or Moduſes, or by any other Means), in lieu of, and in full Satisfaction to the ſaid Earl and *Beaumont Broadbent*, as Impropriator and Vicar as aforeſaid, and to the ſaid *William Waſteneys*, for his Right or Claim to Tithe-free Land and Tithes as aforeſaid, for all Tithes, both Great and Small, ariſing and renewing, or which otherwiſe might hereafter ariſe and renew, from and out of the ſaid Common and Waſte Grounds hereby directed to be divided and incloſed (Surplice Fees, Mortuaries, and *Eaſter* Offerings, only excepted).

For apportioning the laſt mentioned Allotment between the Impropriator and Vicar, &c.

XXII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required to ſet out, divide, and apportion the Allotment or Allotments laſtly directed to be made for and in lieu of ſuch great and ſmall Tithes, as aforeſaid, to and between the ſaid Earl of *Scarbrough*, his Heirs and Aſſigns, and the ſaid *Beaumont Broadbent*, and his Succeſſors, Vicars as aforeſaid, and to the ſaid *William Waſteneys*, his Heirs and Aſſigns (if he ſhall be entitled thereto, in reſpect of ſuch Rights as aforeſaid), in ſuch Shares and Proportions to each as they the ſaid Commiſſioners ſhall adjudge and determine to be an equal and juſt Compenſation and Satisfaction to each for their reſpective Rights and Intereſts of, in, or to the ſaid Great and Small Tithes ariſing or renewing out of and from the ſaid laſt mentioned Common and Waſte Grounds hereby directed to be divided and incloſed.

7th. Allotment to the Earl of Scarbrough as Lord for Rights of Soil and Royalties.

XXIII. And be it further enacted, That after the Allotments hereinbefore deſcribed ſhall be ſet out, as hereinbefore is directed, the ſaid Commiſſioners ſhall, in the next place, ſet out, allot, and award unto the Lord of the Manor of *Stainton* aforeſaid for the Time being (excluſive of all other Allotments to the ſaid Lord for or in relation to his other Properties), ſuch Part or Parts of the Reſidue of the ſaid laſtmentioned Common and Waſte Grounds, within and Parcel of the Manor of *Stainton* aforeſaid, as, in the Judgment of the ſaid Commiſſioners (Quantity, Quality, and Situation conſidered), ſhall be equal in Value to One eighteenth Part thereof, in lieu of, and as a full Compenſation and Satisfaction for the Rights and Intereſts of the Lord of the ſaid Manor of *Stainton* for the Time being, in, to, or out of, the Soil and Royalties of the Common and Waſte Grounds within the Manor and Pariſh of *Stainton* aforeſaid,

aforeſaid, by this Act directed to be divided and incloſed: And that the ſaid Commiſſioners ſhall, in like Manner, ſet out, allot, and award unto the Lord of the Manor of *Edlington* aforeſaid for the Time being (excluſive of all other Allotments to him for or in relation to his other Properties), ſuch Part or Parts of the Reſidue of the ſaid laſt mentioned Common and Waſte Grounds, within and Parcel of the Manor of *Edlington* aforeſaid, as, in the Judgment of the ſaid Commiſſioners (Quantity, Quality, and Situation conſidered), ſhall be equal in value to One eighteenth Part thereof, in lieu of and as a full Compenſation and Satisfaction for the Rights and Intereſts of the Lord of the Manor of *Edlington* aforeſaid for the Time being, in, to or out of the Soil and Royalties of the Commons and Waſte Grounds, within the Manor and Pariſh of *Edlington* aforeſaid, by this Act directed to be divided and incloſed.

8th. To Mr. Wrightſon as Lord for ſimilar Rights of any Reſidue found in his Lordſhip.

XXIV. And be it further enacted, That after the ſeveral Allotments hereinbefore directed ſhall have been made, the ſaid Commiſſioners, or their Succeſſors, or in caſe of their Diſagreement about the ſame, the ſaid *Francis Ferrand Foljambe*, or his Succeſſor, Umpire as aforeſaid, ſhall in the next place ſet out, appoint, and divide, the Reſidue and Remainder of the Common and Waſte Grounds hereby directed to be divided, allotted, and incloſed, in the Pariſh and Manor of *Stainton* aforeſaid, unto and amongſt the Owners and Proprietors of Meſſuages, Cottages, Lands, Tenements, and Hereditaments in the Pariſh and Manor of *Stainton* aforeſaid; and the ſaid Commiſſioners ſhall ſet out, appoint, and divide, the Reſidue and Remainder of the Commons and Waſte Grounds, hereby directed to be divided, allotted, and incloſed, in the Pariſh and Manor of *Edlington* aforeſaid, unto and amongſt the Owners and Proprietors of Meſſuages, Cottages, Lands, Tenements, and Hereditaments in the Pariſh and Manor of *Edlington* aforeſaid; ſuch Owners and Proprietors, within the ſaid Pariſhes and Manors of *Stainton* and *Edlington* reſpectively, being reſpectively the Owners or Proprietors of One or more ancient Meſſuage or Meſſuages, Cottage or Cottages, Toft or Tofts, within the ſaid Pariſhes and Manors reſpectively, and intitled (in reſpect thereof) to Right of Common, upon ſuch Common and Waſte Grounds; and that ſuch Parts thereof as ſhall be ſo ſet out and appointed unto and amongſt the Owners and Proprietors of Meſſuages, Cottages, Lands, Tenements, and Hereditaments in the Pariſhes and Manors of *Stainton* and *Edlington* reſpectively, ſhall each be divided into Two equal Moieties; One Moiety whereof ſhall be ſet out, and allotted to and amongſt the ſeveral Owners and Proprietors of Houſes, Tofts and Toftſteads, within the ſaid Pariſhes and Manors of *Stainton* and *Edlington* reſpectively, having Right of Common thereon, (that is to ſay) one Share to each Houſe, Toft, or Toftſtead, without making any Diſtinction on account of the Magnitude or Value of ſuch Houſes, Tofts, or Toftſteads; and the other Moiety thereof ſhall be ſet out and allotted unto and amongſt the ſeveral Owners and Proprietors of Land within the ſaid Pariſhes of *Stainton* and *Edlington* reſpectively (being alſo Owners of Houſes, Cottages, Tofts or Toftſteads within the ſame Pariſh and Manor, having Right of Common thereon), in proportion and according to the Value of and to their ſeveral Rights and Intereſts in the Arable Lands, Crofts, ancient Incloſures, Meadows, and Paſtures, lying within the ſaid Pariſhes and Manors of *Stainton* and *Edlington* reſpectively.

9th. Of the Reſidue of the Commons.

XXV. Pro-

Not to prevent the Claim of Earl Fitzwilliam.

XXV. Provided always, and be it further enacted, That nothing herein contained ſhall extend, or be conſtrued to extend, to prevent the Right Honourable *William Wentworth* Earl *Fitzwilliam*, his Heirs or Aſſigns, from claiming any Right of Common upon the ſaid Waſte Grounds, hereby directed to be incloſed, within the ſaid Manor and Pariſh of *Edlington*, for or in reſpect of any ancient incloſed Lands, Grounds, or other Hereditaments, belonging to him the ſaid Earl, in *Edlington* aforeſaid; or to prevent the ſaid Commiſſioners from making any Allotment or Allotments to the ſaid Earl, his Heirs or Aſſigns, in reſpect thereof, in caſe his or their Right to any ſuch Allotment or Allotments ſhall be eſtabliſhed, to the Satisfaction of the ſaid Commiſſioners, or Umpire, as aforeſaid; by whom ſuch Claim ſhall be heard, diſcuſſed and determined, in caſe the ſame ſhall be diſputed or objected to, in ſuch and the ſame Manner as hereinbefore mentioned and provided for with regard to the Commiſſioners aſcertaining Common Rights, and ſettling Diſputes ariſing as to any other Claims to be made under and by virtue of this Act; and that the ſaid Earl, his Heirs or Aſſigns, ſhall have the like Right (with others) to try his Right by an Iſſue at Law, if he or they ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners or Umpire.

10th. Allotments in lieu of Chief Rents.

XXVI. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to ſet out and allot unto the ſaid Earl of *Scarbrough* and *William Wrightſon*, their reſpective Heirs and Aſſigns, and unto ſuch other Perſon or Perſons who is, ſhall, or may be entitled to Chief Rents, Fee-farm Rents, Out-horn Rents, or other Quit Rents, payable out of or from any Meſſuages, Cottages, Tofts, Toftſteads, Lands, Tenements, or Hereditaments, within the Pariſhes of *Stainton* and *Edlington* aforeſaid, or either of them, his, her or their Heirs and Aſſigns, ſuch Parcel or Parcels of Land, Part of the ſaid laſt mentioned Common and Waſte Grounds, hereby directed to be divided, allotted, and incloſed, and in ſuch particular and relative Situation or Situations, attending to the Convenience of the ſeveral Parties intereſted, as they the ſaid Commiſſioners ſhall think proper, and as ſhall in their Judgment be an Equivalent for, or equal in Value to all ſuch Rents as are now due and payable out of, or from, or for, or in reſpect of, any ſuch Meſſuages, Cottages, Tofts, Toftſteads, Lands, Tenements, or Hereditaments, within the ſaid Pariſhes, or either of them; which Land ſo to be ſet out and allotted, ſhall be deducted out of, or taken from, the ſeveral and reſpective Allotments of thoſe Perſons who now pay ſuch Rents, in proportion to the Amounts of ſuch Rents reſpectively.

Future Boundaries of the Manors and Pariſhes of Stainton and Edlington declared.

XXVII. And be it further enacted, That the Allotment for Gravel to be made by the ſaid Commiſſioners for the Repair of the Roads of the Pariſh of *Edlington*, and all the Allotments whatſoever, to be made by them to the ſaid *William Wrightſon*, his Heirs and Aſſigns, and to the ſaid *Thomas Sawyer Parris*, and his Succeſſors, and to the ſeveral Owners and Proprietors of Meſſuages, Cottages, Lands, Tenements, and Hereditaments, in the Pariſh and Manor of *Edlington* aforeſaid, under and by virtue of this Act, ſhall for ever thereafter be deemed and conſidered to be Part and Parcel of, and to belong to the Manor and Pariſh of *Edlington* only; And that all Allotments whatſoever to be made of the Remainder of the ſaid Common and Waſte Grounds, under and by virtue

of

of this Act, ſhall in like Manner be for ever afterwards deemed and conſidered to be Part and Parcel of, and to belong excluſively to, the Manor and Pariſh of *Stainton* aforeſaid.

Common Rights may be ſold ſeparate from Houſes, &c.

XXVIII. And be it further enacted, That if any Perſon or Perſons, being Owner or Owners of Common Right Meſſuages, Cottages, Tofts, Toftſteads, Lands, Tenements, or Hereditaments, ſhall have, at any Time before the paſſing of this Act, contracted for and ſold, or ſhall before the Execution of the Award of the ſaid Commiſſioners contract for and ſell, his or her Common Right Eſtate, and Intereſt, in, to, out of, upon, or over, the ſaid Lands and Grounds hereby directed, and, by virtue hereof, intended to be divided, allotted, and incloſed, and the Allotment or Allotments to be made thereof, in reſpect of any Meſſuages, Cottages, Tofts, Toftſteads, Lands, Tenements, or Hereditaments, by virtue of this Act ſeparate from ſuch Meſſuages, Cottages, Tofts, Toftſteads, Lands, Tenements, or Hereditaments; then and in every or either of ſuch Caſes, upon every or any ſuch Sale and Diſpoſition, being notified in Writing, by the Seller or Sellers thereof, to the ſaid Commiſſioners, they the ſaid Commiſſioners ſhall and they are hereby required to ſet out, allot, and award, the Allotment or Allotments ſo ſold or purchaſed, to the Purchaſer or Purchaſers thereof, his, her, or their Heirs and Aſſigns.

Encroachments, which have been made within a certain Time, to be deemed Part of the Common.

XXIX. And be it further enacted, That all Encroachments which ſhall have been made upon the ſaid Common and Waſte Grounds, within the Space of Twenty Years next before the paſſing of this Act, ſhall be deemed Part of the Common and Waſte Grounds to be divided and incloſed, and the ſame ſhall be divided and incloſed accordingly: Provided nevertheleſs, that all and every ſuch Encroachments ſhall be allotted to the Perſon or Perſons who ſhall, at the Time of making the ſaid Allotments, be in the Poſſeſſion or Receipt of the Rents and Profits of ſuch Encroachments, as the Whole or Part of the Share or Proportion of the ſaid Common and Waſte Grounds, to which ſuch Perſon or Perſons will be entitled by virtue of this Act, without conſidering the Value of any Erections thereon or Improvements made thereto.

For fencing the Tithe and Glebe Allotments of Stainton.

XXX. And be it further enacted, That the Allotment or Allotments of the Lands and Grounds by this Act directed to be incloſed, which ſhall be made to the ſaid Earl of *Scarbrough* and *Beaumont Broadbent* reſpectively, as Impropriator and Vicar of *Stainton* as aforeſaid, their Heirs and Aſſigns and Succeſſors reſpectively, in Right or in Lieu of Churchhouſes, Glebe Lands and Tithes reſpectively as aforeſaid, ſhall be fenced againſt all Public Roads, and on all ſuch Parts and Sides as ſhall not be ordered by the ſaid Commiſſioners to be fenced by any other Proprietor, in ſuch Manner, by ſuch Time, and by ſuch Perſon or Perſons (except the ſaid *William Wrightſon*, and *Thomas Sawyer Parris*) as the ſaid Commiſſioners ſhall appoint to make and complete the ſame; and that the Allotment or Allotments made to the ſaid Vicar, ſhall be ſeparated from the Allotment or Allotments to be made to the ſaid Impropriator, with good and ſubſtantial Oak Poſts, and Two good and ſubſtantial Fir Battens, or other good and ſufficient Rails, and planted with good and thriving White Thorn Quickſets, to be guarded with ſufficient Ditches, and a ſufficient Number of good and ſubſtantial Gate Poſts of Oak, and

One Carriage-Gate of Fir or Fir Battens or Fir Timber, to be provided, placed down and hung to each Allotment, in such Time, and by such Person or Persons, as they the said Commissioners shall appoint to make and complete the same: And that the Charges and Expences of making all such Fences and Ditches shall be paid by the Rest of the *Stainton* Proprietors of the said Common and Waste Grounds, hereby intended to be divided and inclosed in such Proportions as the said Commissioners by any Writing under their Hands, or by their Award, shall order, direct, or appoint: And that all such Fences and Gates of the said several Allotments, not ordered to be repaired by any other Proprietor, shall thenceforth be supported, maintained, and kept in Repair by the said Impropriator and Vicar respectively, and their respective Heirs, Successors, and Assigns for ever afterwards.

For fencing the Tithe and Glebe Allotments of Edlington.

XXXI. And be it further enacted, That the Allotment or Allotments of the Lands and Grounds by this Act directed to be inclosed which shall be made to the said *Thomas Sawyer Parris*, as Rector of *Edlington* as aforesaid, and his Successors respectively, in Right or in Lieu of Church-houses, Glebe Lands, and Tithes respectively as aforesaid, shall be fenced against all publick Roads, and on all such Parts and Sides as would not be otherwise fenced against, by and at the Expence of him the said *William Wrightson*, as Lord of and Proprietor in *Edlington* as aforesaid, and the several other Owners and Proprietors in that Parish (if any) in such Manner and by such Time as the said Commissioners shall appoint: And that the Allotments of the said last mentioned Rector shall be separated by and at the Expence of the said *William Wrightson*, and such other Owners as aforesaid, from his Allotments as Patron as aforesaid, with the like Materials and in such Manner as is hereinbefore directed and provided respecting the Division Fences of the Allotments to be made to the Impropriator and Vicar of *Stainton* respectively, within such Time as the said Commissioners shall appoint: And that all such Fences and Gates of the said last mentioned Allotments respectively, the Repair whereof is or shall not be otherwise provided for, shall thenceforth be supported, maintained, and kept in Repair by the said *William Wrightson*, and *Thomas Sawyer Parris* respectively, and their Heirs and Assigns, and Successors respectively for ever afterwards.

For inclosing Proprietors Allotments.

XXXII. And be it further enacted, That the several Parcels of Land and Allotments, which shall be set out and allotted by virtue of this Act (except such Allotments as shall be made to the said Impropriator, Vicar, and Rector respectively, in respect to Glebe Common Rights and Tithes as aforesaid) shall be sufficiently inclosed and fenced in such Manner and within such Time or Times as the said Commissioners or their Successors to be elected and appointed as aforesaid, by any such Writing or Writings under their Hands as aforesaid, or by their Award shall order and direct; and such Fences shall be made and at all Times thereafter supported, maintained, and kept in Repair by such Person or Persons and in such Manner as the said Commissioners shall direct or appoint in or by any such Writing, or in and by their said Award: Provided always, that convenient Gaps and Openings shall be left in the Fences to be made by virtue of this Act for the Space of Six Calendar Months next ensuing the executing of the said Award, for the Passage of Cattle, Carts, and Carriages, in and through the same, unless the said Commissioners shall by their

Openings to be left in the Fences for Six Months.

their ſaid Award or by any other Writing or Writings, under their Hands, order the ſame to be ſooner fenced and made up.

Exchanges may be made.

XXXIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to ſet out, allot, and award any Lands, Tenements, or Hereditaments, whatſoever within the ſaid Pariſhes or either of them, in Lieu of and in Exchange for any other Lands, Tenements, and Hereditaments, whatſoever within the ſaid Pariſhes or within any adjoining Pariſhes, Hamlets, Townſhips, or Places: Provided that 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 Lands, Tenements, or Hereditaments which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors ſhall be a Body or Bodies Politick, Corporate, or Collegiate, Corporation Aggregate 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 a Leſſee or Leſſees for a Life or Lives, 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, Lunatics, or under any other legal Diſability, or who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf; Such Conſent to be teſtified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other conſenting Parties reſpectively, or their reſpective Agents or Attornies: And all and every ſuch Exchange and Exchanges, ſo to be made, ſhall be valid and effectual in the Law to all Intents and Purpoſes whatſoever: Provided nevertheleſs that no Exchange ſhall be made of any Lands, Tenements or Hereditaments, held in Right of either of the Churches of *Stainton* and *Edlington*, or any other Church, Chapel, or other Eccleſiaſtical Benefice, without the Conſent, teſtified as aforeſaid, of the Patron thereof, and of the Lord Biſhop of the Dioceſe in which ſuch Lands, Tenements, or Hereditaments, ſo to be exchanged, ſhall lie and be ſituate.

Tenants to give up exchanged Lands, having Satisfaction for them.

XXXIV. And be it further enacted, That all and every Tenant and Occupier under any Leaſe or Agreement for any Term of Years, or any Tenant at Will of any old Incloſures within the ſaid Pariſhes, or either of them, which ſhall be exchanged by virtue of this or the ſaid recited Act, ſhall immediately after the Execution of the Award of the ſaid Commiſſioners, or within ſuch further Time as the ſaid Commiſſioners ſhall appoint, and whereof Notice in Writing ſhall be given for that Purpoſe, give up and reſign the actual, full, and peaceable Poſſeſſion of ſuch exchanged Lands to the Perſon or Perſons, to or with whom the ſame ſhall be exchanged; ſuch reſpective Tenants and Occupiers of ſuch exchanged Lands receiving from the ſaid reſpective Owners and Proprietors thereof, ſuch Satisfaction as the ſaid Commiſſioners ſhall aſcertain, order, direct, or appoint to be paid to ſuch Tenant or Tenants reſpectively, on account thereof, or as an Equivalent for the Loſs or Loſſes he, ſhe, or they, ſhall reſpectively ſuſtain thereby: And if the Money ſo to be aſcertained as aforeſaid, ſhall not be paid to the Perſon or Perſons entitled to receive the ſame, within Fourteen Days after Demand made thereof, it ſhall be lawful

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 can or may be raiſed or recovered.

Satisfaction to be made to Tenants who ſhall not agree to take the Allotments ſet out for their Farms.

XXXV. And be it further enacted, That in all Caſes where an Allotment or Allotments of any Part of the ſaid Common and Waſte Grounds ſhall be made, for or in reſpect of the Rights of Common belonging to any Meſſuages, Cottages, Lands, or Tenements, within the ſaid Pariſhes, or either of them, which are held by any Tenants or Occupiers for a Term of Years, by virtue of any Leaſe or Agreement thereof made, and ſuch Tenants or Occupiers do or ſhall not come to an Agreement with the Perſon or Perſons to whom ſuch Allotments ſhall be made for the Uſe and Occupation thereof; ſuch Tenants or Occupiers ſhall not be entitled to enter upon, occupy, or hold the ſaid Allotment or Allotments, but ſhall nevertheleſs have and receive from the reſpective Owners or Proprietors thereof ſuch an Abatement from the yearly Rent or Rents reſerved and made payable in and by ſuch Leaſe or Leaſes, Agreement or Agreements, for the Remainder of the Term or Terms then to come therein, as the ſaid Commiſſioners ſhall adjudge to be a reaſonable Compenſation to him, her, or them, for the Right of Common, which hath been lawfully accuſtomed to be uſed and exerciſed by ſuch Tenants or Occupiers, and which ſhall be extinguiſhed by this Act.

Award to be enrolled and depoſited.

XXXVI. And be it further enacted, That the ſaid Commiſſioners ſhall and may, and they are hereby authorized and required to cauſe the Award to be made by them to be enrolled in His Majeſty's Court of Common Pleas at *Weſtminſter*, or elſe with the Clerk of the Peace for the ſaid Weſt Riding of the County of *York*; and the ſaid Award ſhall immediately after ſuch Enrolment be depoſited in a Cheſt or Box to be provided for that Purpoſe, and placed in the Pariſh Church of *Stainton* aforeſaid, and an atteſted Copy thereof ſhall be placed in the Church of the Pariſh of *Edlington* aforeſaid.

No Settlement or Will to be affected.

XXXVII. Provided always, and be it further enacted, That nothing herein contained ſhall extend, or be conſtrued, deemed, adjudged, or taken, to revoke, make void, alter, or annul, any Settlement, Deed, or Will, or to prejudice any Perſon or Perſons, having or claiming any Jointure, Dower, Portion, Rent, Service, Mortgage, Debt, Charge, or Incumbrance, in, out of, upon, or affecting, any of the Lands and Grounds to be divided, allotted, and incloſed, as aforeſaid, or any Meſſuages, Lands, Tenements or Hereditaments, which ſhall be exchanged, partitioned, or divided, by virtue of this or the ſaid recited Act, or any Part or Parcel thereof reſpectively; but that the ſeveral Meſſuages, Lands, Tenements, and Hereditaments, ſo to be aſſigned, allotted, exchanged, partitioned, or divided, as aforeſaid, ſhall immediately after making ſuch Allotments, Exchanges, Partitions, or Diviſions reſpectively, be, remain, and enure, and be held and enjoyed, and the ſeveral Perſons to whom the ſame ſhall be aſſigned, and allotted, or given in Exchange, ſhall from thenceforth ſtand, and be ſeized and poſſeſſed thereof reſpectively, to ſuch and the ſame Uſes, and to and for ſuch and the ſame Eſtates, and with and under ſuch and the ſame Powers and Authorities,

Authorities, and ſubject to the ſame Wills, Limitations, Conditions, Settlements, Proviſoes, Remainders, Reverſions, Mortgages, Debts, Charges, and Incumbrances, as the ſeveral Meſſuages, Lands, Hereditaments, and Common Rights, in lieu or in reſpect whereof ſuch Allotments, Exchanges, Partitions, or Diviſions, ſhall be made, now ſtand limitted, or liable to, or would have been liable to, in caſe this Act had not been made.

Commiſſioners to lay Accounts before Two Juſtices annually.

XXXVIII. And be it further enacted, That once at leaſt in each and every Year during the Execution of this Act (ſuch Year to be computed from the Day of the paſſing thereof), the ſaid Commiſſioners ſhall and they are hereby required to make a true and juſt Statement or Account of all Sums of Money by them received and expended, or due to them, for their own Trouble and Expences in the Execution of this Act, and ſuch Statement or Account, when ſo made (together with the Vouchers relating thereto), ſhall be by them laid before any Two or more of His Majeſty's Juſtices of the Peace for the ſaid Weſt Riding of the County of *York*, to be by them examined and balanced; and ſuch Balance ſhall be, by ſuch Juſtices, ſtated in the Books 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 Two Juſtices.

Expences of this Act.

XXXIX. And be it further enacted, That all the Coſts, Charges, and Expences, incident to the obtaining and paſſing this Act, and the ſurveying, meaſuring, dividing, and allotting the ſaid Lands and Grounds, and of making, preparing, executing, enrolling, and depoſiting the Award of the ſaid Commiſſioners, and a Copy thereof, and all other neceſſary Coſts, Charges, and Expences, in and about the Premiſes, ſhall be paid, borne, and defrayed by the Owners and Proprietors of, and Perſons intereſted in the Lands, Grounds, and Hereditaments, to be divided, allotted, and incloſed, by virtue of this Act, and whoſe Allotments ſhall be exonerated from Tithes by the ſaid Commiſſioners, by virtue of the Powers herein contained, reſpectively, in ſuch Shares and Proportions as the ſaid Commiſſioners ſhall appoint, by any Rate or Rates to be made by them for that Purpoſe; and the ſeveral Sums of Money thereby rated, ſhall be paid to ſuch Perſon or Perſons, and at ſuch Time and Place, as the ſaid Commiſſioners ſhall in and by their Award, or any other Writing, to be by them ſigned, either before or after the Execution thereof, award, order, and direct: Provided always, That no Charge whatſoever ſhall be made upon the ſaid *Thomas Sawyer Parris* and *Beaumont Broadbent*, or their Succeſſors, Rector, and Vicar as aforeſaid; who ſhall be at no Expence whatſoever, relative to the ſaid Diviſion and Incloſure.

For paying the Expences of Sales, and making Exchanges, &c.

XL. And be it further enacted, That all Coſts, Charges, and Expences attending the making of any Partitions, Exchanges, or Sales, by virtue of this Act, or the ſaid recited Act, ſhall be paid, borne, and defrayed by the ſeveral Perſons amongſt, by, or between whom ſuch Partitions, Exchanges, and Sales ſhall be made, in ſuch Manner, and

in such Shares and Proportions, as the said Commissioners shall, by any Order in Writing under their Hands, direct.

Proprietors to pay their own Expences.

XLI. And be it further enacted, That the said Proprietors, their Attornies and Agents, shall pay their own Expences when they, or any of them, shall attend the said Commissioners at any of their Meetings for putting this Act and the said recited Act into Execution.

Money borrowed for obtaining this Act to be first paid.

XLII. And be it further enacted, That if any of the Proprietors or any other Person or Persons shall advance any Money for the Purpose of defraying the Expences of applying for, and obtaining this Act, such Person or Persons shall be repaid the same, with lawful Interest, out of the first Money to be raised by virtue of this Act.

Persons aggrieved may Appeal to the Quarter Sessions.

XLIII. And be it further enacted, That if any Person or Persons shall think him, her, or themselves aggrieved, by any Thing done in pursuance of this Act, or of the said recited Act, then, and in every such Case (except in such Cases wherein the Determination of the said Commissioners is herein declared to be final, binding, and conclusive, and also except in such Cases where an Issue at Law is to be tried as hereinbefore mentioned) he, she, or they may appeal to the next General Quarter Sessions of the Peace which shall be holden at *Rotherham*, in and for the West Riding of the said County of *York*, within Three Calendar Months next after the Cause of Complaint shall have arisen, and the Justices in the said General Quarter Sessions are hereby empowered and required to hear and determine the Matter of every such Appeal, and to make such Order therein, and award such Costs, as to them in their Discretion shall seem reasonable; and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such Distress and Sale; which Determination of the said Justices shall be final and conclusive, and shall not be removeable or removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

General Saving.

XLIV. Saving always to the King's Most Excellent Majesty, his Heirs and Successors, and to all and every other Person or Persons, Body or Bodies Politic, Corporate or Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators (except the several Persons to whom any Allotment or Allotments shall be made in pursuance of this Act for and in respect of such Rights and Interests as are hereby meant and intended to be barred, destroyed, and extinguished, and all Persons respectively claiming under him, her, or them, or in Remainder after them;) all such Right, Title, and Interest as they, every, or any of them could or ought to have had and enjoyed in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed before the passing of this Act, or would or ought to have had and enjoyed, in case this Act had not been made.

XLV. And

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