



ANNO SECUNDO & TERTIO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

## Cap. 32.

An Act for inclosing, allotting, and improving certain Open Fields in the Parish of *Saint Mary* in the Town and County of the Town of *Nottingham*.  
[1st July 1839.]

**W**HEREAS there are certain Open Fields situate in the Parish of *Saint Mary* in the Town of *Nottingham*, between a certain Park called *Nottingham Park*, in the County of *Nottingham*, the Turnpike Road leading to *Derby*, the Highway called *Derby Road*, and a Street called *Park Row*, in the Town of *Nottingham*, and containing in the whole Eighteen Acres or thereabouts: And whereas the Trustees of *John Wright*, the Trustees under the Will of *Peter Knight* deceased, *John Orme*, *Samuel Parsons*, the Devisees under the Will of *Joseph Knight* deceased, *Elihu Samuel Fellows*, the Reverend the Vicar of *Saint Mary's Church* in the said Town, the Mayor, Aldermen, and Burgesses of the said Town of *Nottingham*, *John Pemberton Plumptre* Esquire, and *William Roworth*, are or claim to be the Owners and Proprietors of the whole of the said Open Fields; And whereas the charitable Trustees of the said Town claim to be entitled, for and on behalf of the Free School of the same Town, to all the Tithes or Tenths of Hay arising, growing, and issuing out of the said Open Fields: And whereas the Right Honourable Earl *Manvers* claims to be entitled to the Corn Tithes

[Private.] 10 d arising

arising and to accrue from the said Open Fields : And whereas the Reverend the Vicar of the Parish of *Saint Mary* aforesaid further claims Five Tenths of One Sixth Part of the said Open Fields in compensation of the Right to the Vicarial Tithes of the said Lands : And whereas the Freemen of the said Town of *Nottingham* are entitled to the following Common of Pasture in, upon, and over the said Open Fields ; (that is to say,) every Freeman (when resident in *Nottingham*) to depasture yearly and every Year therein Three Head of Cattle from the Twelfth Day of *August* to the Twelfth Day of *November*, or in lieu thereof Forty-five Sheep from the Second Day of *October* to the Twelfth Day of *November* : And whereas the Occu-  
 14 G.3.c. 109. piers of old Toftsteads in the said Town also claim to be entitled to the same Common of Pasture in, upon, and over the said Open Fields : And whereas an Act was passed in the Forty-first Year of the Reign of His Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required in the passing of such Acts* : And whereas an Act was passed in the First and Second Years of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England* :  
 1 & 2 G. 4. c. 23. And whereas the said Open Fields intended by this Act to be inclosed are surrounded by Houses and other Erections built in *Nottingham Park* aforesaid, and on the said *Derby Road* and *Park Row* aforesaid, and the said Open Fields are completely detached from all the other Commonable Lands within the said Town : And whereas there is a Want of Land in the said Town of *Nottingham* for the Erection of Residences for the Manufacturers and other principal Inhabitants of the said Town, and the said Fields are, from their open and airy Situation, peculiarly eligible for those Purposes, and the supplying of Sites for such building Purposes will confer a general Benefit upon the said Town and the Inhabitants thereof : And whereas it has been proposed and agreed, by and between the several Owners and Proprietors of the said Open Fields and the Committee of the Freemen of the said Town called the Freemen's Rights Committee, acting on behalf of the Freemen entitled to Common of Pasture as aforesaid, that the said Open Fields, after discharging the Expences of obtaining and passing this Act, and of the said Inclosure, and the Award thereon, and compensating the said respective Tithe Owners for their Tithes, and carrying into effect the several Provisions and Enactments herein-after contained, shall be allotted and divided in the following Proportions ; (that is to say,) One Third thereof in Quantity and Value to the Freemen of the said Town and the said other Persons (if any) entitled to Common of Pasture thereon, and the remaining Two Thirds to the said Owners or Proprietors of the said Open Fields : And whereas it would be of public Utility, as well as of Benefit to the several Parties interested in the said Open Fields, if the same were inclosed, divided, and allotted, free from Tithes and Common Rights, and it would also be a general and great Advantage to the Persons entitled to the said Rights of Common if One or more Plot or Plots of Land were allotted to them in the said Fields in lieu of their Common Rights therein ; but such Division, Allotment, and Inclosure cannot be  
 effected

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 Queen'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 *George Sanderson* of *Mansfield* in the County of *Nottingham*, Surveyor, and *John Parkinson* of *Ley Fields* near *Ollerton* in County of *Nottingham*, Gentleman, and their Successors to be appointed in manner herein-after mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, and allotting the said Open Fields, and for putting this Act and the said recited Acts into execution, in the Manner, and subject to the Rules, Orders, and Directions herein contained, and also with and subject to the Powers and Provisions of the said recited Acts, except where the same are varied and altered by this Act.

Appointment  
of Commis-  
sioners.

II. And be it further enacted, That if either of them the said *George Sanderson* and *John Parkinson* shall, before the Execution of all the Powers and Authorities hereby in them respectively vested, die, or refuse to act, or become incapable to act, or without lawful Cause neglect to attend or act at a Meeting for putting into execution this Act for the Space of One Calendar Month after Notice in Writing, signed by any Three Persons interested in the said Inclosure, to attend as a Commissioner at a Time and Place to be mentioned in such Notice, shall have been given to him, or left at his most usual Place of Abode, a new Commissioner shall be elected in manner following; (that is to say,) in case the said *George Sanderson*, or any other Commissioner to be appointed in his Stead as herein-after mentioned, shall die, refuse or become incapable to act, or neglect to attend or act as aforesaid, it shall be lawful for the said Owners and Proprietors of the said Open Fields, or their respective Heirs or Assigns, or the major Part of them, at a Meeting held for that Purpose within Thirty Days after such Death, Refusal, Incapacity, or Neglect shall happen or be known, to nominate and appoint, by written Memorandum or Resolution signed by the Chairman of the said Meeting, a proper Person (not being interested in the Inclosure) to be a Commissioner in the Place or Stead of the said *George Sanderson*, or any other Commissioner to be appointed in his Stead; and if the said *John Parkinson*, or any other Commissioner to be appointed in his Stead as herein-after mentioned, shall die, refuse or become incapable to act, or neglect to attend or act as aforesaid, then and in every such Case it shall be lawful for the said Commoners, or the major Part of them, at a Meeting held for that Purpose within Thirty Days after such Death, Refusal, Incapacity, or Neglect shall happen or be known, (of which Meeting Seven Days Notice at least shall be given by some Three or more of the said Commoners by affixing such Notice on the principal outer Door of the respective Churches of the Parishes of *Saint Mary*, *Saint Peter*, and *Saint Nicholas*, in the said Town and County, upon some *Sunday* before Divine Service, and causing the same to be inserted in each of the Newspapers then published in the Town and County of the Town of *Nottingham*, Seven Days at least before such Meeting,) to nominate and appoint, by written Memorandum or Resolution signed by the  
Chairman

Appointment  
of future  
Commis-  
sioners.

Chairman of the said Meeting, a proper Person (not interested in the Inclosure) to be a Commissioner in the Place and Stead of the said *John Parkinson*, or any other Commissioner to be appointed in his Stead; but if the said respective Parties shall neglect to make such Appointment or Appointments as aforesaid, then and in every such Case the surviving or remaining Commissioner shall and he is hereby required forthwith, by an Instrument in Writing under his Hand and Seal, to appoint another Person (not interested in the Premises) to be a Commissioner for the Purposes of this Act in the Place or Stead of the Commissioner so dying, or refusing or becoming incapable of acting, or neglecting as aforesaid; and every Person so to be appointed a Commissioner as aforesaid shall take and subscribe the Declaration prescribed by this Act, and shall thereupon have such and the like Powers and Authorities in all respects for putting this Act into execution as if he had been named and appointed a Commissioner in and by this Act; which said several Instruments of Nomination and Appointment shall be enrolled in the same Place, and Evidence thereof given in the same Manner, as by this Act is directed concerning the Award to be made by the said Commissioners.

Appoint-  
ment of  
Umpire.

III. And be it further enacted, That the said Commissioners shall, after having taken and subscribed the said Declaration prescribed by this Act, and before they proceed to any other Business touching the Execution of this Act, and they are hereby authorized and required, to name and appoint some fit and proper Person (not interested in the said Inclosure) to be an Umpire for the Purposes of this Act; and when the said Commissioners shall differ or disagree in Opinion touching any Matter or Thing to be done in the Execution of this Act, the Matter upon which such Difference shall or may arise shall be settled and determined by such Umpire, whose Determination in Writing shall be binding and conclusive upon the said Commissioners, and on all others, so far as the Judgment and Determination of the said Commissioners would in such Case have been binding and conclusive; and when and so often as a Vacancy shall afterwards happen, by the Death, Refusal, or Incapacity of the Umpire, such Vacancy shall be supplied from Time to Time by the said Commissioners in manner aforesaid; and in case any such Umpire shall neglect to settle and determine any Difference after the same shall have been referred to him by the said Commissioners, and a written Notice under the Hands of the said Commissioners or One of them shall have been served upon him, requiring him to settle such Difference within Thirty Days from the Service of such Notice, such Neglect shall be deemed and taken to be a Refusal to act within the Intent and Meaning of this Act, and the said Commissioners, after the Expiration of such Thirty Days, shall forthwith proceed to nominate and appoint another fit and proper Person (not interested or concerned as aforesaid) to be such Umpire as aforesaid, and for the Purposes aforesaid, but not for any other Purpose; and the acting Umpire shall have and he is hereby vested with the same Powers and Authorities as by this Act are given to or vested in the said Commissioners, and his Determination shall be deemed and considered to all Intents and Purposes the Determination of the said Commissioners.

IV. And

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

‘ I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the several Powers and Authorities, vested and reposed in me as a Commissioner (or an Umpire, *as the Case may be,*) by virtue of an Act passed in the Year of the Reign of Queen *Victoria*, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.’ Form of Declaration.

And such Declaration shall be in lieu of and as a Substitution 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 any Act for dividing, allotting, or inclosing any Lands or Grounds; and such Declaration, when duly made and subscribed, 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, which Declaration any Justice of the Peace for the said Town and County is hereby empowered to administer; and such Declarations, and also the Writing appointing such Umpire, shall be annexed to and enrolled with the Award of the said Commissioners.

V. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to appoint a Clerk or Clerks to assist them in the Execution of the Powers of the said recited Acts and this Act, and from Time to Time to remove such Clerk or Clerks, and to appoint another or others in his or their Stead, as to such Commissioners shall seem meet. Appointment of Clerk.

VI. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Writing under their Hands, to nominate and appoint any Person or Persons (not interested in the said Inclosure) to be Surveyor or Surveyors for the Purposes of this Act; and if any Surveyor to be appointed by the said Commissioners shall die, neglect or refuse to act, or become incapable of acting in the Execution of this Act, before the Duties hereby or by the said recited Acts reposed in him or them are performed, such Refusal, Neglect, or Incapacity to be determined upon by the Commissioners for the Time being, then and in every such Case such Commissioners shall have Power and they are hereby authorized and required to appoint some other fit and proper Person (not interested in the said Inclosure) to succeed to such Office, and so from Time to Time as often as any future Vacancy in that Office shall happen. Appointment of Surveyor.

VII. Provided always, and be it further enacted, That the Person or Persons so to be appointed Surveyor or Surveyors shall make and subscribe Surveyor to make Declaration.

[*Private.*]

subscribe a Declaration in the Form or to the Effect following; (that is to say,)

Form of  
Declaration.

‘ I *A.B.* do declare, That I will act in the Execution of the Powers, Authorities, and Trusts reposed in me as Surveyor by virtue of an Act passed in the Year of the Reign of Queen *Victoria*, intituled [*here set forth the Title of this Act*], faithfully, impartially, and honestly, according to the best of my Skill, Judgment, and Ability, without Favour or Affection, Prejudice or Malice, to any Person or Persons whomsoever.’

Which Declaration the said Commissioners, or either of them, or any Justice of the Peace for the said Town and County, are and is hereby empowered to administer; and such Declaration, and also the Writing appointing such Surveyor or Surveyors, shall be annexed to and enrolled with the Award of the said Commissioners.

Allowance to  
Surveyor.

VIII. 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 the same and the said recited Acts, the Person for the Time being employed as Surveyor for the Purposes of this Act shall be paid and allowed for his Time and Trouble in surveying, measuring, mapping, and planning the Lands necessary to be surveyed for the Purposes of this Act One Pound Eleven Shillings and Sixpence for each and every Day he shall be actually and wholly employed, either in surveying, measuring, mapping, or planning, or otherwise as a Surveyor for the Purposes of this Act, and also his travelling Expences (if any), which said Sum of One Pound Eleven Shillings and Sixpence *per* Day shall be in full Satisfaction for his Time and Trouble as such Surveyor in or about the Execution of this Act.

Allowance  
to Commis-  
sioners,  
Umpire, 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 the same, the said Commissioners and Umpire, and Clerk to the said Commissioners, 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, as follows; namely, each of the said Commissioners and Umpire, and the Clerk to the said Commissioners, the Sum of Three Pounds Three Shillings, and their travelling Expences (if any), and no more, in full Satisfaction for their Time and Trouble during their several Journies and Attendances in the Execution of this Act, other than and except the Expences for the Use of the Room in which the Meeting shall be holden for carrying this Act into execution, and the Costs and Expences of drawing, preparing, copying, engrossing, and enrolling the Award of the Commissioners, and of Notices and Advertisements: Provided always, that the said Commissioners and each of them shall only be allowed and paid One Day's Attendance for each of their Journies to every Meeting and One Day's Attendance for each of their Journies from every such Meeting to be held for the Purposes of this Act.

Regulating  
the Duration  
of Meetings.

X. And for regulating the Duration of all Meetings to be holden for the Purposes of this Act, be it further enacted, That a Day shall be deemed

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 any Meeting to be holden for the Purposes of this Act of less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged as only Half a Day, and the said Commissioners and Umpire and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners, or their Clerk, in which shall be entered the several Days on which the said Commissioners and Umpire shall hold their Meetings, and in such Book shall also be entered at what Hour the said Commissioners and their Clerk were respectively present at such Meeting, and at what Hour they respectively left the same; and such Book shall be signed by the said Commissioners and their Clerk at the Termination of each Meeting, and shall be open to the Inspection of any Person or Persons interested in the said Division, Allotment, and Inclosure, or his, her, or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any for the same: Provided always, that it shall not be lawful for the said Commissioners to retain or pay to themselves or the Umpire, or Clerk, out of any Monies to be received by them or over which they 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 the Commissioners and their 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 Day of the Delivery of the Award herein-after directed to be made to the Clerk of the Peace of the said Town of *Nottingham*, or in case the Accounts of the said Commissioners 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 Commissioners, Umpire, or Clerk previous to the Execution of the Award herein-after directed to be made, the Commissioners for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made out and stated, pay to the Executors or Administrators of such deceased Commissioner, or of such deceased Umpire or Clerk, such Sum of Money as shall appear by the said Accounts to be due.

XI. And be it further enacted, That all Orders, Proceedings, and Determinations at any Meetings to be holden in pursuance of this Act shall be entered in a Book or Books to be provided for that Purpose, and kept by the Clerk to the said Commissioners, and shall be signed by the said Commissioners at such Meetings, and being so signed shall be deemed and taken as Originals; and all such Books may be read in Evidence in all Cases of Appeal, Suits, Actions, and other Proceedings touching any Matter or Thing to be done in relation to or in pursuance of this Act. Proceedings to be recorded.

XII. And be it further enacted, That the said Commissioners shall and they are hereby required to give or cause to be given public Notice of Meetings how to be given.

public Notice in each of the Newspapers then published in the said Town of *Nottingham*, and also Notice in Writing by affixing the same on the principal outer Door of the Exchange Hall in the said Town, or in some other public and conspicuous Situation there, of the Time and Place of the First and every subsequent Meeting for the Execution of this Act, Ten Days at least before any such Meeting (Meetings by Adjournment only excepted); and the said Commissioners shall and may adjourn such Meetings from Time to Time as they shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings of the said Commissioners for executing this Act shall be held at some convenient Place in the said Town and County of the Town of *Nottingham*.

Adjournment  
of Meetings  
in case of  
Failure of  
Attendance.

XIII. Provided always, and be it further enacted, That if only One Commissioner shall attend at the Time and Place appointed for any such Meeting, it shall and may be lawful for such Commissioner to adjourn such Meeting to a future Day not exceeding Fourteen Days from the Day on which such Meeting was appointed to be held, giving Notice thereof to the absent Commissioner Three Days at least before the Day appointed for such Meeting: Provided also, that in case neither of the said Commissioners shall be present at the Time and Place appointed for any such Meeting as aforesaid, then it shall be lawful for the Clerk or Clerks to the said Commissioners to adjourn the same to any future Day not exceeding Fourteen Days from the Day on which such Meeting was appointed to be held, and the said Clerk or Clerks is and are hereby required to give Notice thereof to the said Commissioners Three Days at least before the Day appointed for such Meeting.

Other No-  
tices how to  
be given.

XIV. And be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioners, the Mode of giving which is not hereby particularly directed, shall be given by Advertisements in each of the Newspapers published in the said Town and County of the Town of *Nottingham*, and also by Notice in Writing to be affixed on the principal outer Door of the Exchange Hall aforesaid, or in some other public and conspicuous Situation in the said Town of *Nottingham*.

Settling  
Commis-  
sioners  
Accounts.

XV. And be it further enacted, That once at least in every Twelve Calendar Months during the Execution of this Act (to be computed from the Day of passing this Act) 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 applied in the Execution of this Act, or due to them, and to any other Person or Persons to be employed by them in carrying this Act into execution, for their Trouble and Expences in the Execution of this Act, and in every such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum shall have been paid or disbursed; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall, once at least in every Twelve Calendar Months, be by them laid before any One or more of Her Majesty's



Majesty's Justices of the Peace for the said Town and County, to be by him or them examined and balanced, and such Balance shall be by such Justice or Justices stated in the Book of Accounts to be kept in the Office of the Clerk or Clerks to the said Commissioners; and an Abstract of such Accounts, examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be published in some Newspaper printed and circulated within the said Town and County of the Town of *Nottingham*; and no Charge or Item in such Accounts shall be binding on the Parties concerned or valid in the Law unless the same shall have been duly allowed by such Justice or Justices, and until such Account or Abstract thereof shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

XVI. And be it further enacted, That if any Question or Dispute shall arise respecting the Claim or Claims of any Person or Persons or Body Corporate claiming to be interested in the said Open Fields as Proprietors, Tithe Owners, Commoners, or otherwise, before setting out and allotting the same in manner herein-after mentioned, touching the Extent, Identity, or Possession of any Plot, Parcel, or Portion thereof, or touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in, upon, and over the said Open Fields, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, then it shall be lawful for the said Commissioners or their Umpire, and they respectively are hereby authorized and empowered, to examine into and determine the same, and their Determination shall be final, except as to any Claim which the said Mayor, Aldermen, and Burgesses may make for Compensation on account of their being by the Inclosure of the said Open Fields prevented from in future holding therein the annual Fair for the Sale of Horses, Cattle, and Sheep.

Commis-  
sioners may  
determine  
Disputes.

XVII. Provided always, and be it further enacted, That in case any Person or Persons, or Body Corporate, interested or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Claim or Claims of any Rights or Interests in, over, or upon or out of the Fields hereby intended to be divided, allotted, or inclosed, or any Part or Parts thereof, or any Objection or Objections to such Claim or Claims, it shall be lawful for the Person or Persons so dissatisfied to cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour any such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioners shall have been notified in Writing to the Party or Parties against whom such Determination shall have been so made, or to his, her, or their known Agent or Attorney, and thereupon the Person or Persons so dissatisfied shall proceed to a Trial at Law at the then next or the following Assizes to be holden for the County of *Nottingham* after such Action or Actions shall have been commenced; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is

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

[*Private.*]

and are hereby required, upon being served with the usual Process thereon, to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept of 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 or Verdicts which shall be given on the Trial of 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 therein, which it shall be lawful for the Court to do, and also to act as is usual in other Cases; and after such Verdict or Verdicts shall be given, and final Judgment obtained, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined according to the Event of such Trial or Trials: Provided always, that if no such Action at Law shall be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then the Determination of the said Commissioners shall be binding, final, and conclusive to all Intents and Purposes whatsoever: Provided also, that if any of the Parties in any such Action to be brought as aforesaid shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened.

Deaths of  
Parties not  
to prevent  
Actions.

XVIII. Provided also, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons 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 to the said Commissioners 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 upon such Clerk to serve with such Process the Heir or Devisee or personal Representative of the Person so dead, or other the Person who shall claim the Benefit of such Determination as aforesaid; and on such Process being served the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, shall 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 were actually living, and the Rights of all such Parties shall be equally settled and concluded by the Event of such Action or Actions as if the Death of any of the Persons interested therein had not occurred.

XIX. And be it further enacted, That if any of the Parties interested in the said Inclosure shall die before the same shall be completed the Powers and Authorities hereby given to the said Commissioners shall nevertheless continue, and they shall proceed in the Execution of the Powers given them by this Act in such Manner as they might have done in case such Party or Parties were still living; and the Share or Interest of the Person or Persons so dying shall be allotted or directed to be paid to the Person or Persons who by Law shall become entitled to the same, and shall be accepted, taken, and received by him, her, or them according to the Directions of this Act.

Deaths of Parties not to prevent Execution of the Act.

XX. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered, if they shall judge it necessary and proper, with the Consent and under the Order in Writing of any Two Justices of the Peace, to divert, stop up, widen, alter, or change any old public or private Road or Footway, Fence, Drain, Watercourse, Gate, or Stile, over or upon any of the said Open Fields intended to be hereby inclosed, and shall and may set out and appoint such other public or private Road or Footway as they the said Commissioners shall think expedient and requisite for the Convenience of the Parties interested in such Inclosure and the Public at large, and for carrying into effect the Provisions and Purposes herein expressed and contained; and after the several public and private Roads and Ways shall have been set out and made as herein mentioned it shall not be lawful for any Person to use any other Road or Way, either public or private, over or upon the said Lands or Grounds; and all former Roads or Ways which shall not be set out and appointed as such shall be deemed Part of the Lands or Grounds intended to be hereby inclosed, and be held accordingly.

Power to stop up Roads, &c.

XXI. Provided always, and be it further enacted, That before any public or private Road or Footway shall be discontinued, stopped up, diverted, or altered by the said Commissioners, the said Commissioners shall cause to be affixed at each End of the said public or private Road or Footway so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that such public or private Road or Footway is intended to be discontinued, stopped up, diverted, or altered (as the Case may be) by the said Commissioners, and the said Commissioners shall also cause the same Notice to be inserted in One Newspaper published or generally circulated in the said Town of *Nottingham* for Four successive Weeks, and shall also cause a like Notice to be affixed on some principal Door of the Church of the said Parish of *Saint Mary* on the Four successive *Sundays*; and after the said several Notices shall have been so affixed and published as aforesaid the said public or private Road or Footway shall be and be deemed to be discontinued, stopped up, diverted, or altered (as the Case may be), subject however to such Appeal to the Court of General Quarter Sessions for the Town of *Nottingham* as is hereinafter mentioned.

Proceedings previously to diverting and stopping up Roads, &c.

XXII. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved

Persons who may think themselves aggrieved if

such Road,  
&c. should  
be ordered  
to be stopped  
up or di-  
verted may  
appeal.

aggrieved if any such public or private Road or Footway should be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to then next General Quarter Sessions of the Peace of and for the said Town of *Nottingham*, upon giving to the said Commissioners or their Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any Hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of  
Appeal, Jury  
at Sessions  
to determine  
whether old  
Road, &c.  
shall be  
discontinued.

XXIII. And be it further enacted, That in case of such Appeal the Recorder of the said Town holding such Quarter Sessions shall, for the Purpose of determining whether the said public or private Road or Footway so intended to be discontinued, stopped up, diverted, or altered shall be discontinued, stopped up, diverted, or altered, or whether the said Party appealing would be injured or aggrieved, impanel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if after hearing the Evidence produced before them the said Jurors shall return a Verdict that the said public or private Road or Footway so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may beneficially to the Public be discontinued, stopped up, altered, or diverted, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioners, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act passed in the Forty-first Year of the Reign of His Majesty King *George* the Third; but if the said Jury shall return a Verdict that the said public or private Road or Footway so to be discontinued, stopped up, diverted, or altered is not unnecessary, or that the same could not beneficially to the Public be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved by such public or private Road or Footway being so discontinued, stopped, diverted, or altered (as the Case may be), the said Court of Quarter Sessions shall allow such Appeal, and such public or private Road or Footway shall not be discontinued, stopped up, diverted, or altered, or in case the same shall have been discontinued, stopped up, diverted, or altered the said Court shall make an Order for restoring such public or private Road or Footway to its original State, and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioners, and shall be raised by them in such and the same Manner as they are hereby directed or empowered to raise the Money for discharging the Costs, Charges, and Expences of this Act.

XXIV. And

XXIV. And be it further enacted, That the Charges and Expences attending the stopping up, discontinuing, diverting, and altering of such Road or Roads shall be raised and paid in such and the like Manner as the Expences of obtaining and executing this Act are hereby directed to be raised and paid.

Expences of discontinuing or altering Roads provided for.

XXV. And be it further enacted, That all Encroachments or Inclosures which shall have been made or taken by any Person upon or from any Part of the said Lands hereby authorized to be divided, allotted, and inclosed within Twenty Years next before the passing of this Act shall be deemed Part and Parcel of the Lands by this Act authorized to be divided, allotted, and inclosed, and shall be divided, allotted, and inclosed accordingly by virtue of this Act: Provided always, that in case any Question or Disputes shall arise touching any such Encroachments or Inclosure, or the Extent or Duration thereof, such Question or Dispute shall be referred to and be determined by the said Commissioners: Provided also, that it shall be lawful for the several Persons who shall be in Possession of such Encroachment or Inclosure, or in the Receipt of the Rent thereof, at the Time of the passing of this Act, to take down, remove, and carry away all such Buildings, Fences, and other Erections as shall then be on such Encroachment and Inclosure respectively, and to convert the same and the Materials thereof to their own Use, without any Interruption from the said Commissioners.

Encroachments.

XXVI. And whereas the said Mayor, Aldermen, and Burgesses of the said Town of *Nottingham*, and their Predecessors, have been accustomed to hold in the said Open Fields intended to be hereby inclosed their annual Fair, in the Month of *October* in every Year, for the Sale of Horses, Cattle, and Sheep, and it is doubtful whether the Spaces to be left, under the Provisions of this Act, for public Streets, will afford sufficient Room and Convenience for the future holding of the said Fair upon the said Land, and it may be found more convenient to hold the said Fair in some other Part of the said Town of *Nottingham*; be it therefore enacted, That if the said Mayor, Aldermen, and Burgesses shall claim to be entitled to Compensation for any Costs, Damages, or Expences which they may sustain or be put unto by having to hold the said Fair in some other Part of the said Town of *Nottingham*, the said Commissioners shall and they are hereby required to raise as herein-after mentioned, and pay to the said Mayor, Aldermen, and Burgesses, such Sum of Money in the gross towards Satisfaction of such Claim as the said Commissioners, or in case of their differing as their Umpire, or as the Court of Quarter Sessions of the said Town, upon Appeal thereto by the said Mayor, Aldermen, and Burgesses, under the Clause in that Behalf herein-after contained, shall adjudge reasonable and proper.

Compensation to be made if it be necessary to remove the Fair.

XXVII. And be it further enacted, That all the said Rights of Common of Pasture, and all the said Tithes, and all other Rights, in, over, or upon the said Fields hereby intended to be inclosed, which the Freemen of the said Town and County, or any other Person or Persons whomsoever, now have or claim to have in or upon the same, or any Part or Parts thereof, and all Rights and Privileges heretofore used

Extinguishment of all Common and other Rights and Tithes.

[*Private.*]

and exercised in respect thereof in, over, or upon the said Fields, shall cease at such Time or Times as the said Commissioners shall, by Notice in Writing to be given in each of the Newspapers usually published in the said Town of *Nottingham*, and by affixing or causing to be affixed a like Notice under their Hands upon the Door of the Exchange Hall in the said Town, or in or upon some other public and conspicuous Situation in the said Town, order and direct, and the same and every of them shall be thenceforth for ever utterly extinguished, any Law, Usage, or Custom to the contrary notwithstanding.

Setting out  
Streets, and  
declaring  
them public  
Highways.

XXVIII. And for the Purpose of admitting a free Access of Air, and affording commodious Roads and proper Ways for all Persons to pass and repass, with Carriages or otherwise, through the said Lands to be hereby inclosed, and for rendering the said Lands more valuable for building Purposes, and more beneficial to the Inhabitants of the said Town, be it further enacted, That certain Streets for public Ways, of the respective Breadths of Forty, Forty-five, and Fifty Feet, and a circular Space or Area containing One Acre of Land, shall be set out by the said Commissioners in the respective Situations and as the same are marked out and set forth in a Plan of the said Lands deposited on the Thirtieth Day of *April* last past with the Clerk of the Peace for the Town and County of the Town of *Nottingham*, and that the inner Circle of the said open circular Space shall be and for ever hereafter remain open and unbuilt upon; but the same shall remain and be the private Property of such Person or Persons as the said Commissioners shall by their Award allot, order, and direct, and shall be fenced off from the public Highway by Iron Palisadoes, and such Fence shall at all Times thereafter be upheld and repaired by such Person or Persons as the said Commissioners shall by their Award order and direct; and the said Commissioners are hereby required and empowered to cause the said Streets to be formed, levelled, and paved or macadamized within such Time and in such Manner as they may direct, order, or award; and they are also hereby required and empowered to set out Footways by the Sides of the said Streets Eight Feet wide, and to cause the same to be flagged with *Yorkshire* or *Derbyshire* Stone, and protected by Curbstones fixed edgeways; and when the said Streets and Footways shall have been so formed, levelled, paved, or macadamized and flagged respectively it shall be lawful for any Two or more Justices of the Peace to declare the same to be public Highways, and from and after such Declaration, and not sooner, the same shall be and shall be deemed and taken to be Highways to all Intents and Purposes, and shall from thenceforth be supported and kept in repair by such Persons and in such Manner as public Roads within the said Parish of *Saint Mary* are or ought by Law to be supported and kept in repair.

Restrictions  
as to Build-  
ings.

XXIX. And whereas it has been agreed, by and between the aforesaid Freeman's Rights Committee and the several Owners and Proprietors of the said Fields by this Act directed to be allotted and inclosed, that the Quality and Nature of the Buildings to be erected thereon should be regulated for the Purpose of securing to the Inhabitants of the said Town a greater Degree of Benefit from the

Inclosure of the said Lands by the Erection of substantial Houses and Buildings, and for preventing the Injury which would arise to Proprietors of different Allotments and to the Public by the building of Houses of an inferior Description; be it further enacted, That no Dwelling House or other Building shall be hereafter erected or built upon any Part of the said Land hereby to be inclosed which shall not truly and *bond fide* cost, without the Out-offices to be attached thereto, the Sum of Five hundred Pounds or upwards in the building and finishing thereof fit for Habitation, and that no Dwelling House or other Building shall be erected or built upon any Part of that Portion of the said Land fronting into or upon the Street or Road to be set out by the Side of the Road or Way marked upon the said Plan called "Rope Walk" which shall not, with the Out-offices attached thereto or to be occupied therewith, *bond fide* cost the Sum of Eight hundred Pounds or upwards in the building and finishing thereof fit for Occupation or Habitation; and no such House shall be let off in separate Apartments or Tenements, nor be so used or appropriated as in any Manner to evade the Spirit and true Intent and Meaning of this Act.

XXX. And be it further enacted, That it shall be lawful for any Two or more Justices of the Peace acting for the County of *Nottingham* or for the Town of *Nottingham*, on Information and Complaint made to them against the Owner of any newly-built Dwelling House on the said Land, by any Person or Persons being a Proprietor or Proprietors of some Part of the said Land to be inclosed by virtue of this Act, or being an Occupier or Owner of any Dwelling House erected upon any Part of the said Land, at any Time within Two Years after any such newly-built Dwelling House shall have been occupied, that the same did not cost the Sum of Five hundred Pounds, or the Sum of Eight hundred Pounds, with the Out-offices thereto, according to the Situation thereof and the Meaning of this Act, in the building and finishing the same for Habitation, to summon the Party complained against before them, and on such Summons to hear and determine the Matter of such Complaint; and in case they the said Justices shall find that the Costs and Expences of erecting, building, and finishing for Habitation such Dwelling House as aforesaid shall not have amounted to the Sum of Five hundred Pounds or Eight hundred Pounds, as the Case may be, the said Justices, or any Two other of the Justices of the Peace for the said County of *Nottingham* or Town of *Nottingham*, shall and they are hereby authorized and empowered, by Notice in Writing under their Hands, to order the said Dwelling House to be enlarged or improved in such Manner as the said Justices may direct, so as that the total Cost thereof shall, with the Money proved before them on the Oath of One or more Witness or Witnesses to have been previously laid out or expended in the Erection thereof, amount to a Sum of Money not less than Five hundred Pounds for a House which ought to have cost Five hundred Pounds, and a Sum of not less than Eight hundred Pounds for a House and Out-offices which ought, according to the Provisions of this Act, to have cost Eight hundred Pounds; and in default of the Person or Persons so complained against making such Enlargement or Improvement as aforesaid for the Period of Six Calendar Months next after the

To prevent the Erection of Buildings of a less Value than prescribed by the Act

the Service of the said Order by leaving the same or a Copy thereof at the Place of Abode of the Party complained against, every such Owner so complained against and convicted as aforesaid shall forfeit and pay any Sum not exceeding Twenty Pounds nor less than Five Pounds for every Month that, after the Time mentioned in such Notice, Default shall be made in the enlarging or improving such Dwelling House to the Satisfaction of the said Justices, to be recoverable and recovered by Distress and Sale, in the same Manner as Penalties are by this Act herein-after directed to be recovered,

For prevent-  
ing Nuisan-  
ces.

XXXI. And be it further enacted, That if any such Dwelling House or other Building at any Time hereafter erected upon the said Land, or any Part thereof, or the said Land itself, or any Part thereof, shall be converted into or used as or for a Furnace, Mill, or Factory, or for the making of Candles, Soap, Glue, or Starch, or for the depositing or grinding of Bones, or as or for a Slaughter-house or Blacksmith's Shop or Whitesmith's Shop, or Malt Offices, or any Steam Engine or Engines, or any Building whatsoever wherein any noxious or offensive Trade or Business shall be carried on, or shall at any Time hereafter be erected, built, set up, or used on any Part of the Land intended to be hereby inclosed, the same shall be deemed and taken to be a Nuisance or Annoyance to the Inhabitants, and to the Owners and Occupiers of the other Parts of the said Land to be inclosed, and the Buildings thereon; and it shall be lawful to and for Two or more Justices of the Peace of and for the said County of *Nottingham* or Town of *Nottingham*, upon Complaint thereof to them made by any Proprietor or Occupier of some Part of the Land intended to be hereby inclosed, or of any Dwelling House erected thereon, to summon the Party or Parties so complained against to appear before them the said Justices, and after an Investigation of such Complaint, by Notice in Writing under the Hands of any Two or more of the said Justices, to order that every or any such Furnace, Mill, Factory, Building for the making of Candles, Soap, Glue, or Starch, or for the depositing or grinding of Bones, Slaughter-house, Blacksmith's Shop, Whitesmith's Shop, or Malt Offices, Steam Engine, or other Building wherein any noxious or offensive Trade or Business shall be carried on, and also the noxious or offensive Materials or Matter, be remedied or removed within Twenty-one Days after such Notice given to the Owner or Owners, Occupier or Occupiers of the Premises constituting or wherein such Nuisance shall be situate or arise, or to the Person or Persons on whose Behalf the same is carried on, kept, or made; and every such Owner or Occupier or other Person so neglecting to remedy or remove such Nuisance or Annoyance pursuant to such Notice, and to the Satisfaction of the said Justices, shall forfeit and pay any Sum not exceeding Twenty Shillings nor less than Five Shillings for every Day the same shall continue unremedied or unremoved after the Expiration of the Time mentioned in such Notice, to be recoverable and recovered as Penalties are by this Act directed to be recovered.

Enabling the  
Duke of  
Newcastle  
to make a

XXXII. And whereas his Grace *Henry Pelham* Duke of *Newcastle* is or claims to be the Owner of the said Park between which and the said Turnpike Road leading to *Derby* and the said Highway called



called *Derby Road* the Lands hereby authorized to be inclosed are situated; and it being expedient that the said Duke should be empowered to make a Communication between the said Park and the said Turnpike Road and Highway, or any of the Streets to be formed through the Lands to be inclosed by virtue of this Act; be it therefore enacted, That it shall be lawful for the Owner of the said Park for the Time being, and he is hereby authorized and empowered, at any Time or Times hereafter, to make and construct, and from Time to Time to maintain, a Carriage, Horse, and Foot Way, by means of a Tunnel under some Part of the Lands to be inclosed by virtue of this Act, between the said Park called *Nottingham Park* and the said Turnpike Road or Highway, or between such Park and any One or more of the said Streets to be formed on the Lands to be inclosed by virtue of this Act, such Tunnel to be of such Dimensions as the said Duke, his Heirs or Assigns, shall think proper; and in case any Injury shall be caused by the making and constructing such Tunnel and Road to any of the Lands by this Act authorized to be inclosed, or to any Buildings that may, after One Year from the passing of this Act, and before the constructing of such Tunnel or Road, be erected on the said Land, the Amount thereof shall be settled by the Commissioners for the Time being of the said Inclosure; or in case such Commissioners cannot agree, or in case such Tunnel shall be made after the Execution of the said Award, then the Amount of such Compensation shall be settled by the Chairman of the Court of Quarter Sessions for the Time being of the County of *Nottingham*, or if he refuses or declines to act, then by the Recorder for the Time being of the Borough of *Newark*: Provided always, that in case the said Tunnel shall be made before the Deposit of the said Commissioners Award, the Amount of the Compensation for any such Injury as aforesaid shall be paid to the said Commissioners, to be by them applied for the Purposes of this Act, but in case the said Tunnel shall be made after the Deposit of the said Award the same shall be paid to the Owner or Owners whose Allotment or Allotments or Buildings shall be injured as aforesaid, in case he or they is or are entitled to such Allotment or Allotments in Fee Simple, or otherwise the same shall be paid into the Bank of *England* in manner herein-after mentioned.

Communica-  
tion between  
Nottingham  
Park and the  
Derby Turn-  
pike Road.

XXXIII. And be it further enacted, That the said Commissioners shall set out and allot such Parts and Parcels of the said Fields intended to be hereby inclosed as they shall judge from Time to Time of sufficient Value, when sold, to defray the necessary Expences of applying for and obtaining this Act, and preparatory thereto, and of carrying the same and the said recited Acts into execution, also of surveying, measuring, planning, valuing, dividing, and allotting the said Fields, and of preparing and depositing their Award, and also of forming and levelling and paving or macadamizing the Streets to be made upon the said Lands as herein-before mentioned, and of flagging the Causeways thereof, and of satisfying as aforesaid the Claim of the said Mayor, Aldermen, and Burgesses in respect of the Removal of the said annual Fair, and also all other necessary Charges and Expences arising and accruing in the course of carrying the Powers of this Act into full and complete Execution and Effect;

Lands to be  
set out for  
Sale to defray  
Expence of  
the Act.

[Private.]

10 h

and

and the said Commissioners shall and may sell such Allotment or Allotments in the Manner and subject to the Regulations mentioned and contained in the said first-recited Act; and the said Commissioners shall, on Payment of the Purchase Money or Purchase Monies for such Allotment or Allotments so to be sold for the Purposes aforesaid, and they are hereby authorized and empowered, by Indenture or Indentures under their Hands and Seals duly executed and attested, (to be prepared at the Expence of the Purchaser or Purchasers,) to convey, assure, and confirm the same Allotment or Allotments, free from all Claims, Incumbrances, and Demands, by way of Lease and Release, or by Deed of Feoffment, to the Use of the Purchaser or Purchasers thereof, his, her, or their Heirs and Assigns for ever, or unto such Person or Persons, and to or for such Uses, Intents, and Purposes, and upon and for such Trusts, as such Purchaser or Purchasers shall by such Deeds of Lease and Release or Deed of Feoffment direct or appoint; and every such Conveyance shall be valid and effectual in the Law according to the Form and Effect of such Conveyance or Conveyances, any thing in the first-recited Act to the contrary notwithstanding.

Allotments  
for Tithes of  
Hay.

XXXIV. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby required (after they have laid out the said Roads and set out the Allotments for the Purposes aforesaid, and previously to the Division and Allotment hereinafter directed to be made,) to set out, allot, and award unto and for the said charitable Trustees for and on behalf of the said Free School, also to the said Earl *Manvers*, and to the said Vicar of the said Parish of *Saint Mary*, severally and respectively, so much and such Part and Parts of the said Fields hereby authorized to be inclosed as in the Judgment of the said Commissioners shall be a full Equivalent and Compensation to the said charitable Trustees for the said Free School, the said Earl *Manvers*, and the said Vicar of *Saint Mary's* Parish, severally and respectively, for their said several and respective Claims (when substantiated to the Satisfaction of the said Commissioners) in, over, and upon the said Lands authorized to be hereby inclosed.

Allotment to  
Commoners.

XXXV. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next place, to divide, set out, and allot unto and for the Freemen of the said Town for the Time being, and to and for all other Persons who shall establish any Common Right of Pasturage upon and over the said Open Fields to the Satisfaction of the said Commissioners, in full Compensation for all such the said Rights of Common, so much of the said Fields or Lands as in the Judgment of the said Commissioners shall be equal in Value to One Third of the said Lands which shall then remain to be divided and allotted under and by Authority of this Act, the said Proportion of One Third of such Remainder being admitted and agreed to be the Share and Interest therein belonging to the said Commoners, and shall divide and allot the said One Third between the said Freemen and the said other Commoners as they the said Commissioners shall see fit; and the said Allotment unto and for the said Freemen shall be made by the said Commissioners to and be vested

vested in such Persons as Trustees for the said Freemen, with such Powers of appointing new Trustees, indemnifying the Trustees, defraying the Expences of the Trusts thereof, and such other Provisoers or Directions, as the said Freemen for the Time being, or the major Part of them assembled at a public Meeting within the said Town of *Nottingham*, to be called by the said Commissioners, which they are hereby required to call, before making their Award, by giving Notice in manner herein-before directed for Meetings for appointing a new Commissioner, shall by written Memorandum or Resolution, signed by the Chairman of the said Meeting, order, direct, and determine.

XXXVI. And be it further enacted, That the said Commissioners shall and they are hereby required, after they shall have set out all the said several Allotments as herein-before mentioned, to divide, set out, allot, and award the then Residue and Remainder of the said Fields and Lands intended by this Act to be divided and inclosed unto and amongst the said several Owners and Proprietors of the said Fields and Lands in such Quantities, Shares, and Proportions as the said Commissioners shall deem and adjudge to be a fair Compensation to them respectively for their respective Estates, Rights, Shares, and Interests in the said Fields and Lands, according to the Provisions of this Act, and in such Manner as the said Commissioners shall think just and equitable, due Regard being had as well to Quality and Situation as to the Quantity of the same respectively.

XXXVII: And be it further enacted, That the said Allotment so to be made to the Trustees for the said Freemen shall and may be let from Year to Year, or demised for a Term or Terms of Years, by the said Trustees for the Time being, or the Survivors of them, either by public Auction or by private Contract, in such Lots, at such Times, and in such Manner, and at such Rent or Rents, as they shall think fit; and further, that it shall and may be lawful to and for the said Trustees for the Time being, with the Consent of a Majority of the said Freemen present at some Meeting to be called as herein directed with respect to the Meetings for appointing new Commissioners, and with the Approbation of the Lords Commissioners of Her Majesty's Treasury, or any Three of them, to sell the said Allotment so made to the said Trustees of the said Freemen, in One or more Lot or Lots, by Auction or private Contract; and the Conveyance or Conveyances of such Land so sold by such respective Trustees for the Time being shall be valid and effectual to all Intents and Purposes; and the Receipt of such respective Trustees, or the Survivors of them, for the Purchase Money of the said Hereditaments so sold, shall be complete and effectual Discharges for the Money therein expressed to be received, and that such Purchaser or Purchasers shall not be obliged to see to the Application of such Purchase Monies, nor be answerable for the Misapplication or Nonapplication thereof; and after such Conveyance and Receipt so made and given the said Lands and Hereditaments, if so sold in Fee Simple, shall be and remain absolutely vested in such respective Purchasers, discharged of all prior Rights, Titles, Claims, and Demands whatsoever; and the Rents and Profits of the said Allotment until sold, and the Proceeds

Allotment to  
Owners.

Trustees may  
sell Allot-  
ments.

Proceeds of any Sale or Sales thereof, shall be by the said Trustees for the Time being applied and appropriated to the Creation and Endowment of Burgess Parts of the annual Value of not less than Ten Pounds each, to be allotted by the Council of the said Town of *Nottingham* in the same Way and Manner as Burgess Parts have hitherto been accustomed to be allotted by the Corporation of the said Town to the senior Freemen in Rotation upon the Burgess or Freemen's Roll.

Application  
of Compensation Money  
when  
amounting  
to 200*l*.

XXXVIII. And be it further enacted, That whenever any Money is, under the Provisions of the said first-recited Act or of this Act, directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, or 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 whose Lands 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 Land, to be settled to the same Uses, it shall be lawful for the said Commissioners out of such Money to defray the Proportion (if any) of the Expences of obtaining this Act, and of carrying the same and the said recited Acts into execution, which shall be charged upon any of the Lands of the respective Parties in Possession of the Lands, or of the Timber or Wood growing thereon, which shall be 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, dividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioners be proper to be made, and shall be made, under their Direction, upon any Lands to be by virtue of this Act allotted to such Parties; 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, to be placed to his Account there *ex parte* the Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of 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, 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 Parties who would have been entitled to the Rents and Profits of the said Lands, be applied, either in the Purchase or Redemption of the Land Tax, or in or towards the Discharge of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes as the said Court shall authorize to be purchased, redeemed or discharged, or such Parts as shall be necessary; or until the same shall, upon the like Application in a summary Way, be laid out, by  
Order

Order of the said Court, in the Purchase of other Lands, which shall be conveyed, limited, or settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the aforesaid Lands stood limited or settled, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or 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 of Government or Real Securities; and in the meantime, and until the said Annuities or Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interest and annual Produce of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, and settled.

XXXIX. And be it further enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees in case of Infancy, Idiocy, Lunacy, or other Incapacity, with the Approbation of the said Commissioners, to be signified in Writing under their Hands, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the 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 Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the said Commissioners, 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 Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England* 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.

XL. And be it further enacted, That in case the Surplus of such Monies shall be less than Twenty Pounds the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit, or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, to and for the Use and Benefit of the Parties respectively entitled thereto.

[*Private.*]

10 i

XLI. And

Compensation to be made for any Damage occasioned to Houses adjoining.

XLI. And whereas the said *William Roworth* is the Owner as well of Part of the said Fields intended to be hereby inclosed as also of several Messuages or Dwelling Houses and other Premises opening into or overlooking the said Land to be inclosed, which may be lessened in Value by the said intended Inclosure, and One of the Streets intended to be made under and by virtue of this Act may take up and injure a larger relative Proportion of the said Land belonging to the said *William Roworth* than of the Land belonging to the other Proprietors; be it therefore enacted, That the said Commissioners, in making their Award as herein provided, shall take into their Account and make an Allowance to the said *William Roworth* for the Depreciation to him, if any, in the Value of his said Messuages or Dwelling Houses, or any of them, occasioned by such Inclosure, and also for any Excess in the Injury to and Diminution of the Quantity and Value of the Land of him the said *William Roworth* to be caused by the said intended Street taking a larger Proportion of the Land of the said *William Roworth* than of the Land of the other Proprietors.

Plan of Allotments to be made and shown to Proprietors.

XLII. And be it further enacted, That when and as soon as the said Commissioners shall have ascertained the respective Rights, Shares, and Interests of all the Persons interested in the said Fields to be divided, allotted, and inclosed by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Persons respectively in lieu thereof, then the said Commissioners shall give Notice in manner herein-before directed of some convenient Time and Place when and where all Persons interested therein may inspect the Plan whereon the same shall be delineated; and as some Persons or Body Corporate may on such Inspection be dissatisfied with the Situation of the said intended Allotments, the said Commissioners shall give Notice of One Meeting at least to be held by them for receiving Complaints and Objections concerning the same, and the said Commissioners may make such Alteration or Alterations in any of the said proposed Allotments as they shall adjudge proper and equitable; and the Determination of the said Commissioners with respect to the said Allotments shall be binding, final, and conclusive upon all Parties.

Fencing.

XLIII. And be it further enacted, That all and every Person and Persons to whom any such Allotment or Allotments shall be made and set out shall, at his, her, or their own Costs and Charges, fence in the same within such Time and in such Manner as the said Commissioners shall by their Award or any other Writing under their Hands direct.

Delivering Possession.

XLIV. And be it further enacted, That the said Commissioners shall and may, from Time to Time as they shall find convenient, deliver to the several Persons who may become entitled to the Allotments hereby directed to be made, set out, or sold, the Possession of their respective Allotments in manner and subject to the Provisions mentioned or contained in the said recited Act of the First and Second Year of the Reign of His Majesty King *George* the Fourth.

XLV. Pro-

XLV. Provided always, and be it further enacted, That it shall be lawful for the said Commissioners to make any Alterations in all or any of the Allotments and Fences which they may have set out and ordered, or of the Roads laid or to be laid out over any of such Allotment or Allotments, as they shall think right, at any Time before giving Possession of such Allotments; and in case any Person or Persons or Corporation shall in the Judgment of the said Commissioners be injured by any such Alterations, on account of any Expences he, she, or they may have been at, the said Commissioners shall ascertain and determine what Recompence shall be made, and such Recompence is hereby directed to be made accordingly, and to be raised, levied, and paid as the said Commissioners shall by any Writing under their Hands direct or appoint.

Commissioners may make Allotments before Delivery of Possession

XLVI. And be it further enacted, That it shall and may be lawful for any Person or Persons interested in the said Lands to be inclosed by virtue of this Act, or of any Part thereof, at any Time before the Execution of the Award of the said Commissioners, to sell and dispose of all such Right, Title, Interest, and Property which he, she, or they now hath or have or shall or may hereafter have in or to the said Lands or any of them, or in or to any Allotment or Allotments to be made in respect thereof by virtue of this Act; and in case of such Sale prior to any such Allotment or Allotments being set out, it shall and may be lawful for the said Commissioners and they are hereby authorized and required to allot the same to the Purchaser or Purchasers thereof respectively, who shall or may, immediately after the Execution of the said Award, have, hold, and enjoy such Allotment and Allotments, and shall and may have, use, and exercise every Act of Ownership in, upon, over, and to the same, in as full, ample, and beneficial a Manner, to all Intents and Purposes whatsoever, as the former Proprietor or Vendor thereof could or might have done in case such Sale or Sales had not been made, but subject nevertheless to the several Rules, Orders, Conditions, and Directions mentioned and contained in this Act.

Allotments may be sold before Execution of the Award.

XLVII. And be it further enacted, That all and every the Allotment and Allotments to be made by virtue of this Act shall, from and after the making and executing the said Award, be held under and subject to the same Titles, Tenures, Covenants, and Provisoos as the Lands and other Property in respect of which they were so respectively allotted are or may be held or enjoyed, any Law, Custom, or Usage to the contrary notwithstanding.

Tenure of Allotments.

XLVIII. And be it further enacted, That every Lease and other Letting at Rack or extended Rent subsisting of all or any Part or Parts of the Land, Tithes, or other Property in the said Fields, or any of them, alone or with any other Lands, Tenements, or Hereditaments, shall, immediately upon such Allotments being made and such Award being executed as aforesaid, or so soon thereafter as the said Commissioners shall by their said Award appoint, cease and be void, the respective Owners or Proprietors of the Premises so under Lease or other Letting making such Satisfaction to his or their respective Lessee or Lessees, Tenant or Tenants, as the said Commissioners shall ascertain

Power to vacate Leases.

ascertain or deem reasonable to be paid to such Lessee or Lessees, Tenant or Tenants, on account thereof, or as an Equivalent for the same, if any such Satisfaction shall by the said Commissioners be thought justly due from such Owners to such Tenants.

Expences of Act to be paid out of Money arising by Sale of Land.

Application of Surplus.

XLIX. And be it further enacted, That the Expence of and attending the applying for and obtaining of this Act, and preparatory thereto, and also of carrying the same, and the several Clauses, Matters, and Things herein-before contained, fully into effect and execution, and of surveying, admeasuring, planning, dividing, and allotting the said Lands hereby intended to be divided, allotted, and inclosed, and of preparing and depositing the Award or Instrument to be made in pursuance of this Act, and all other the necessary Charges and Expences of the said Commissioners and their Clerk, and others employed in, about, or concerning the carrying of this Act into execution, shall be borne, paid, and defrayed by and out of the Money which shall be raised by Sale of Lands as herein-before mentioned: Provided always, that in case any Part or Parts of the said Commonable Lands shall be sold for more Money than will be required to defray such Charges and Expences as aforesaid, then and in such Case such surplus Money shall be divided and apportioned between and among the said respective Persons or Bodies Corporate to whom the said Lands shall have been allotted, according to their several and respective Interests therein, and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of the other Proprietors shall be applied and disposed of in the Manner herein directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of any Lands or of any Timber or Wood growing thereon.

If Land sold is not sufficient to pay the Expences the same may be raised by a Rate.

L. And be it further enacted, That if the Monies to be produced by such Sale or Sales as aforesaid shall not be sufficient to pay all the Charges and Expences aforesaid, and for carrying into full Effect and Execution the several Clauses, Provisions, Matters, and Things herein contained, and hereby directed to be done and executed by the said Commissioners, then the Deficiency shall be borne, paid, and defrayed by the respective Persons or Corporations to whom the Lands shall be divided and allotted in proportion to the real Value of their respective Divisions and Allotments, such Proportion to be settled and ascertained by the said Commissioners, and shall be raised by a Rate or Rates, and be paid to such Person or Persons, and at such Time or Times, and in such Manner, as the said Commissioners shall, by Notice in Writing to be affixed on the outer Door of the Exchange Hall in the said Town of *Nottingham* at least Seven Days previous to the Day of Payment, order and direct; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share or Proporrion of the said Deficiency as aforesaid, then the same shall and may be levied and recovered by the same Ways and Means as such Costs, Charges, and Expences could or might have been levied and recovered under the Provisions of the said recited Act of the Forty-first Year of the Reign of His Majesty King *George* the Third, in case the Expences of obtaining and executing this Act had been directed to be paid in proportion by the Proprietors of Lands or

Grounds



Grounds to whom Allotments shall be made, instead of being raised by the Sale of Land as by this Act directed.

LI. And be it further enacted, That if any Person or Persons shall advance any Sum or Sums of Money for defraying the Expences of obtaining and passing this Act, or for carrying the same into execution, every such Person shall be repaid the same, with Interest after the Rate of Five Pounds *per Centum per Annum*, out of the first Monies which shall be raised or received by the said Commissioners by virtue of this Act.

Money advanced to be repaid with Interest.

LII. And be it further enacted, That all Penalties imposed by this Act shall be levied and recovered before any Two Justices of the Peace aforesaid, for which Purpose it shall be lawful for any such Two Justices of the Peace, upon Complaint made to them, to summon the Party accused and the Witnesses on both Sides, and upon the Appearance or Contempt of the Party accused or complained of to examine such Witnesses upon Oath, (which Oath such Justices are hereby empowered to administer,) and upon such Evidence to hear and determine the Matter in a summary Way; and if upon the Confession of the Party accused, or on the Oath of any credible Witness, the Party accused shall be convicted, then and in every such Case the Penalty hereby made payable in respect of such Offence, together with the Costs of Conviction and previous Proceedings, to be ascertained by such Justices, shall be forthwith paid by the Party so convicted as aforesaid; and in case such Party shall refuse or neglect to pay the same forthwith, then, except in Cases otherwise provided for by this Act, the same shall, by Warrant under the Hand and Seal of such Justices, be levied, together with the Costs of Conviction and Recovery thereof, to be ascertained by such Justices, by Distress and Sale of the Offender's Goods and Chattels, rendering the Overplus of the Money arising by such Sale, if any, to the Party whose Goods and Chattels shall be distrained; all which Penalties and Forfeitures shall, when and so soon as the same shall be levied, be paid and applied, one Moiety thereof to the Informer or Informers, and the other Moiety thereof to the Board of Highways for the said Parish of *Saint Mary*, to be applied towards the Repairs of the Highways of the said Parish.

Recovery and Application of Penalties.

LIII. And be it further enacted, That as soon as conveniently may be after the said Division and Allotment of the said Fields shall be completed the said Commissioners shall form, draw up, and execute an Award or Instrument in Writing, with One or more proper Plan or Plans thereunto annexed, in the Manner prescribed by the said recited Act of the Forty-first Year of the Reign of His Majesty King *George* the Third, and of this Act, which said Award shall, within Ten Days after the Execution thereof, be delivered to the Clerk of the Peace of the said Town and County, who is hereby required to deposit and keep the same among the Records of the said Town and County, (for the depositing whereof the Fee of One Pound and One Shilling, and no more, shall be paid,) to the end that free Recourse may be had thereto by all Persons interested in the said Inclosure, and for the Inspection of which Award the Sum of Five Shillings,

Award to be made and deposited.

[*Private.*]

10 *k*

and

and no more, shall be paid to the said Clerk of the Peace; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled within the Intent and Meaning of the said first-recited Act; and a Copy of the said Award and of the said Maps or Plans, signed by the said Commissioners shall within the Time aforesaid, be deposited within the Parish Church of *Saint Mary* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award and the said Copy thereof, and any other Copy of the said Award, or of any Part or Parts thereof, attested by the Clerk of the Peace for the Time being of the said Town and Country, or his Deputy, for every Sheet of which containing Seventy-two Words Sixpence, and no more, shall be paid, shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Appeal.

LIV. And be it further enacted, That if any Person or Persons, or Corporations, shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done in pursuance of this Act, then and in every such Case (except in such Cases where the Orders and Determinations of the said Commissioners are by this Act directed to be final, binding, and conclusive upon all Parties, and except in such Case where an Issue at Law shall be tried as herein-before mentioned,) he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be held for the said Town of *Nottingham* within Three Calendar Months next after the Cause of Complaint shall have arisen, on giving Twenty-one Days Notice in Writing of such Appeal, and the Cause and Matter thereof, to the said Commissioners; and the Recorder in the General Quarter Sessions is hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and to award such Costs as to him in his Discretion shall seem reasonable, and by his Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus, if any, on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Recorder shall be final and conclusive on all Parties concerned, and shall not be removed or removeable by Certiorari or any other Writ or Process whatsoever into any of Her Majesty's Courts of Record at *Westminster* or elsewhere.

Recited Inclosure Acts to form Part of this Act.

LV. And be it further enacted, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third and in the Second Year of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall be deemed and taken to be and be applied and executed as Part of this Act, except in Cases wherein the same are hereby respectively repealed or varied or become inapplicable to any Purposes of this Act.

General Saving.

LVI. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and all and every other Person and Persons, Bodies Politic, Corporate, or Collegiate, and his, her, and their Heirs,  
2
Successors,

Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest (other than and except such as is and are hereby intended to be barred, destroyed, and extinguished) as She, he, they, every or any of them, could or ought to have had and enjoyed in, to, or out of the said Commonable Lands hereby directed to be divided, allotted, and inclosed, in case this Act had not been passed.

LVII. And be it further enacted, That in the Construction of this Act every Word importing the Singular Number only shall extend and be applied to several Persons, Matters, or Things, as well as one Person, Matter, or Thing; and every Word importing the Plural Number shall extend and be applied to one Person, Matter, or Thing, as well as several Persons, Matters, or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male; and the Word "Lands" shall extend to Messuages, Lands, Tenements, and Hereditaments of any Tenure; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Meaning of  
certain Words  
in this Act.

LVIII. And be it further enacted, That this Act shall be printed by the several Printers to the Queen'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.

Act as  
printed by  
Queen's  
Printers to be  
Evidence.

---

LONDON : Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,  
Printers to the Queen's most Excellent Majesty. 1839.

