

### XIII

#### THE INCLOSURE AND DIVISION OF CERTAIN WASTES AND COMMONS IN THE MANOR OF HEXHAM

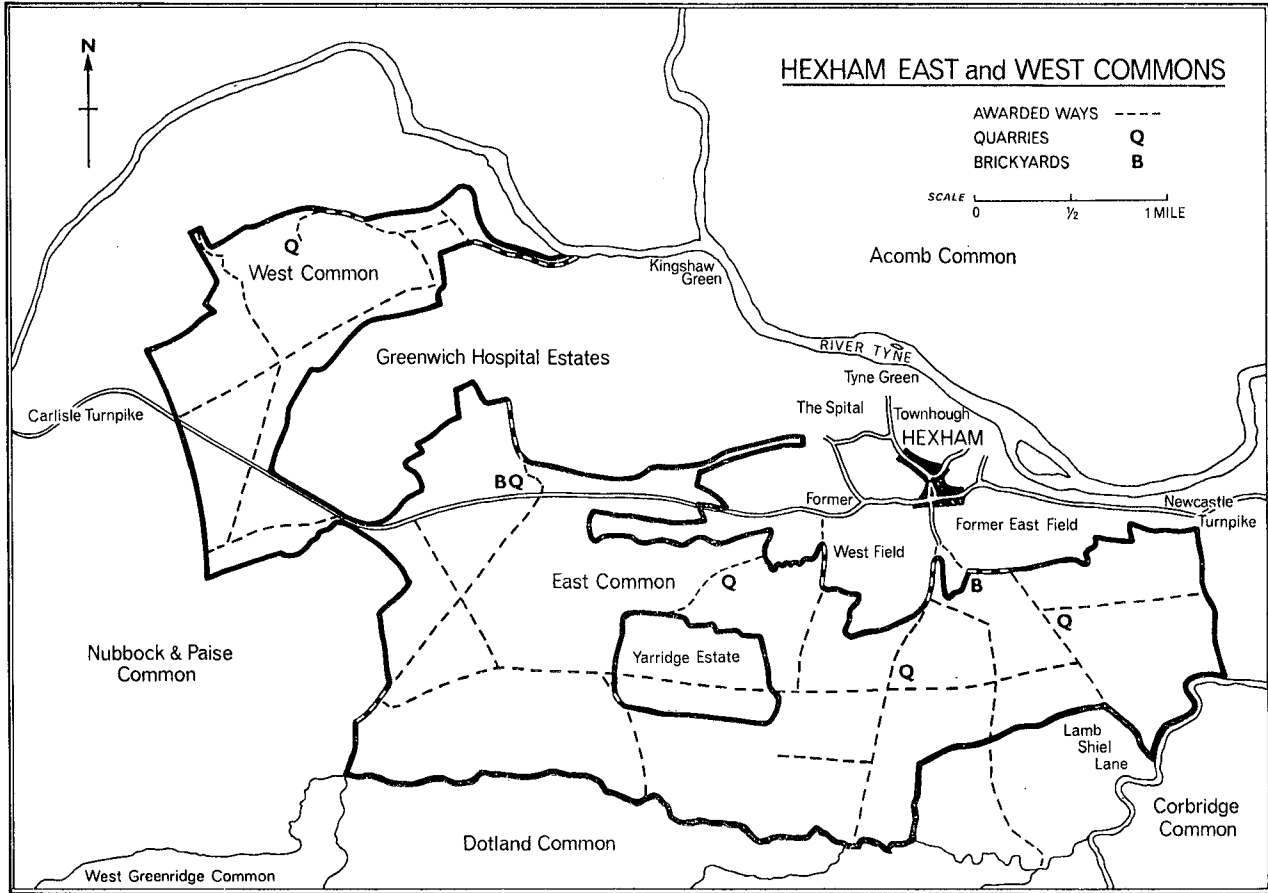
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“ENCLOSURES” are a subject that have aroused political agitation, unrest and actual revolutions in the past and even today are of immense importance both in their effect upon the landscape and the organisation of agricultural life in this country. Yet amazingly enough there is very little written about the actual mechanics and effects of any particular enclosure, and consequently I felt that having come into contact on several occasions with the effects it would be interesting to follow through in detail one enclosure. I selected Hexham because first I had access to the relevant documents and secondly it was convenient to me to trace the common on the ground.

The documents consisted of first the Journals of the House of Commons which gave the chronology of the passing of the act: secondly the Act of Enclosure; thirdly the Commissioners Minute Book and fourthly the Enclosure Award. The Journals are to be found in the Newcastle upon Tyne University Library, the remaining documents in the County Record Office (as successor to the Clerk of the Peace who was the original repository) except for the Minute Book which is amongst Viscount Allendale’s papers at Bywell. There is one crucial set of documents that I have been completely unable to trace—that is the correspondence which must have passed between the Lord of the Manor, the principal land owners and their agents in Parliament. I have searched both the papers in the University and the Record Office and such private papers as are deposited and also the Greenwich Hospital Papers in the Public Record Office—but no trace appears to exist of this correspondence which would throw most valuable light upon events leading up to the enclosure.

In 1752 there were in and around Hexham two commons known as Hexham East and Hexham West Common containing together by estimation 8,000 acres. These commons were the residue of the old common surrounding the town of Hexham which had gradually over the centuries been encroached upon by Crown Grants and illegal enclosure. The soil belonged to the Lord of the Manor together with all the mineral rights but various land holdings in and around Hexham possessed rights of common upon the land. This right included the right to graze sheep, cattle, horses, pigs and swine upon the Common and to go over the common for all purposes connected with these rights.

During the fifteenth, sixteenth and seventeenth centuries the common



had been gradually whittled down by land owners around the periphery extending their boundary by erecting new fences taking parts of the common into their own use for cultivation as arable ground or improved pasture. These encroachments were known as Intakes or Inclosures. Sometimes they were resisted by the other commoners or the Lord of the Manor who compelled the fences to be taken down or in the manner of the age threw them down. However if an encroachment subsisted for upwards of thirty years it was generally accepted that the land ceased to be common.

There however remained a large residue of common which was open fell and scrub. During the seventeenth and eighteenth century as the movement to improve the use of land developed the land owners looked covetously upon these open tracts of land which if divided could be much more profitably farmed. There were two ways in which commons could be split up—firstly by agreement between the Commoners and secondly by Act of Parliament. The first method was extensively used in the cases of small commons where the number of commoners was few and all would agree, as for instance Newbrough Inn Grounds and Newbrough Fell 1675 and 1699 and Nubbock and Paise 1781. However where the area of land was large and the commoners numerous and some of them objected or could not be traced the second method was adopted—Hexham East and West Common fell into this category.

Parliamentary enclosure appears to have begun during the 1720's presumably as the more easily encloseable land had been dealt with by agreement and the pressure for further enclosure could only be met by sweeping away local objections by Act of Parliament. In the period 1720-1730 there were about 12 Enclosure Acts scattered up and down the country in no particular pattern. However from 1730 the process gradually increased until it reached its peak during the Revolutionary and Napoleonic Wars. The movement can be seen from the following figures:

<i>Number of Acts 1730-1819</i>		<i>Acreages enclosed</i>	
1730-59	212	1727-60	74,518
1760-89	1,291	1761-92	478,259
1790-1819	2,169	1793-1815	1,013,634

(Taken from *Agricultural Economic Growth in England 1650-1815* by E. C. Jones at page 13.)

Therefore in the time scale the enclosure at Hexham was quite an early one.

On 20th February 1753 a petition by the freeholders and copyholders of Hexham was laid before the House of Commons for leave to bring in a bill to enclose the wastes and commons known as Hexham East and West Commons and an order was made giving leave to bring in the bill and ordering Mr. Allgood, Mr. Burrell, Sir Walter Blackett and Mr. Ridley to prepare the

same. It is a reflection on the emergence of the House of Commons that whereas the earliest Bills were passed through the House of Lords and then introduced into the House of Commons by the time of the Hexham Bill it was introduced into the Commons and only after it had passed the Commons was it referred to the Lords.

On the 19th March 1753 Mr. Allgood presented the Bill which received its first reading and it was resolved that it should have a second reading. On 24th March the second reading was committed to a committee for detailed consideration. On 7th April Mr. Allgood reported that the Bill was committed and the parties concerned all consented except Sir Ralph Milbank who was entitled to approximately 1/55 of the waste who refused to sign: 24 others who said they would not oppose: 46 others with but small interests could not be found and 6 who were minors. The Bill together with amendments made in committee was then read—further amendments were made by the whole House and it was given a second reading and ordered to be engrossed. On 16th April the Bill was given a third reading and passed. The House resolved that Mr. Allgood carry the Bill to the Lords and desire their concurrence.

On 3rd May a message was conveyed from the Lords by Mr. Bennett and Mr. Waple, "Mr. Speaker the Lords have agreed the Bill for the inclosure and division of certain wastes and commons in the Manor of Hexham in the County of Northumberland without amendment." On 15th May 1753 a message came from His Majesty King George II by the Honourable Sir Henry Bellender Gentleman Usher of the Black Rod commanding the House to attend His Majesty in the House of Peers. Accordingly the House and the Speaker went up to attend His Majesty and being returned Mr. Speaker reported that His Majesty was graciously pleased to give the Royal Assent to several Public and Private Bills following viz.: "An Act for inclosing and dividing certain wastes in the Manor of Hexham." Thus in the space of less than three months the rights of commoners in the land were destroyed forever and the way was thrown open for the land to be split up amongst private land owners.

The Act laid down the machinery whereby the land was to be actually split up. It provided:

(1) that the Commons should be set out, allotted and divided by 1st May 1756 and named Edward Collingwood of Chirton, George Shaftoe Delaval of Bavington, William Bouflower of Apperley, Michael Pearson of Newcastle upon Tyne, John Ord of Newcastle upon Tyne, Samuel Marriot of Morpeth, Hugh Boag of Ravensworth, William Robson of Wallington and John Brown of Whitridge or any five of them to be Commissioners for the purposes of the Act.

(2) that all the Commons except the parts known as Kingshaw Green, Lambshiel Lane, Tyne Green and Mill Islands should be surveyed before the 1st May 1754 and then set out marked and ascertained by the Commissioners

or any five of them and divided between Sir Walter Blackett and all other persons having a right of common.

(3) that Sir Walter Blackett as Lord of the Manor was to have  $1/16$  part of the common in one block from the part of the common adjoining his estate at Yarridge as compensation for his ownership of the soil in the common as Lord of the Manor.

(4) that the annual value of all lands, houses, cottages etc. claiming a right of common was to be assessed by the Commissioners as at 31st December 1752 and the remainder of the common was to be divided:

(a) as to those owning lands, or lands and a house occupied with the lands as a farm house in proportion to the yearly value of the lands etc.

(b) as to those owning a house or houses without lands in proportion to  $\frac{1}{2}$  the yearly value.

(c) as to tenants holding under leases of over 60 years in proportion to the annual value.

(5) that the share of Sir Walter Blackett in the remainder of the common was to be allotted to him in one plot adjacent to the plot allotted as his  $1/16$ th and that the shares of all persons were to be set out in one entire plot as near to each persons farm or house as was possible.

(6) that they were to lay out public highways and roads and also private roads, ways, passages and watercourses and to provide for the cost of construction and maintenance of the said highways etc. and also to allot reasonable quantities of land for Brick Kilns and free stone quarries for the benefit of the Lord and all persons having rights of common upon the said Commons.

(7) that the persons to whom parts of the common were allotted should inclose hedge, ditch and fence it off within 12 months of the Commissioners Award.

(8) that as soon as the Commissioners shall have finished the division they shall draw up an Award in writing which shall detail the quantity of all allotments and specify the boundaries and make directions to fencing etc. and the making and maintenance of all roadways etc. and make all such other regulations as they consider necessary and that the award shall be enrolled with the Clerk of the Peace for Northumberland and the original deposited with the office of the Manor Court in Hexham.

(9) that on the execution of the Award all rights of Common over the Commons and Kingshaw Green and Lambshiel Lane shall cease and that the lands allotted should be held by the persons and on the terms set out in the Award.

(10) that all persons to whom lands were allotted had to take them up within six months of the Award failing which they were to be excluded from all benefit and subject to provisos for acceptance by guardians, trustees etc.

(11) that nothing in the Act should in any way prejudice the feudal rights and dues owing to the Lord of the Manor.

(12) that the mines and mineral rights were reserved to the Lord of the Manor but that he had to make reasonable satisfaction to holder of the surface for any damage done in working the minerals.

(13) that no tithes shall be payable in respect of the land allotted for 12 years after the award.

(14) that notices of the first meeting of the Commissioners shall be given in the Parish Church after divine service and in the Newcastle Newspaper at least 15 days before such meetings and notice of all other meetings shall be given in the Parish Church on the Sunday before the meeting.

(15) provided for the dealing with disputes.

(16) that the cost of the division should be borne between the persons to whom parts were allotted in proportion to the value of their allotments as assessed by the Commissioners.

(17) that the parts of the common known as Kingshaw Green and Lambshiel Lane should be sold by the Commissioners for the best price they could get and the sale monies used:

- (a) to pay a debt contracted by the commoners since 1st May 1740 in defending their right of common
- (b) to pay part of the costs of the enclosure

(18) that Tyne Green and Miln Islands were to remain Common as formerly.

(19) that the persons to whom lands were allotted were to be at liberty to win and work stone and clay for bricks from it.

(20) that the Act should not in any way affect any rights of the Crown held over the Common.

On the 12th July 1753 the Commissioners sat at the Town Hall in Hexham

“in pursuance of notice given by us or 5 or more of us in the Parish Church of Hexham on Sunday morning the 24th day of June last immediately after divine service and also in the two several Newcastle Newspapers of Saturday the 23rd day of June last of the time and place of this our first meeting; Do in pursuance of the Powers given us by the said Act and in order to carry the same into execution appoint William Kirsopp of Hexham our Clerk to write down and enter in a book from time to time such orders as we shall make ... and we do direct order and appoint William Donkin to make an exact survey of said two Commons called Hexham East Common and Hexham West Common ...”

The Commissioners then went on to direct that notice be given immediately in the Parish Church and the two Newcastle papers requiring all persons claiming any right of common on either of the two Commons to send an

account of the right to William Kirsopp before the 20th August 1753 and to specify the lands and/or houses in respect of which the right was claimed and specifying the annual rent or value of each such land or house for the year ending 31st December 1752. And that all persons concerned should after 20th August have the right to inspect a schedule of all rights claimed and the values placed upon the lands etc. in respect of which they were claimed at the office of William Kirsopp and all objections in respect of claims were to be made before the Commissioners at their next meeting—

“to be held at the House of Joshua Turner known by the name and sign of the Globe in Hexham aforesaid on Monday the 17th day of September next”

At their next meeting the Commissioners received a survey of the Commons from their surveyor and granted him an extension of time to complete his plan. Also they received the list of claimants and their lands etc. and as many of these were unlet on 31st December 1752 and their valuation appeared to be causing difficulty they accepted the offer of 24 men of Hexham to survey properties and assess their value and report at the next meeting. There was one claim by a Mr. George Gibson who claimed a right of Common on both East and West Commons in respect “of a tenement or farmhold called West Boat value £60 a year to which the other proprietors objected”. The Commissioners resolved that Mr. Gibson produce all his evidence in support of his claim and that all the objectors also appear with their evidence and that the claim be heard and determined there.

On 10th October the Commissioners ordered Mr. George Gibson and the objectors to appear before them on the next day with their evidence along with other claimants. It appears, however, from the Commissioners Minute Book that the claim was not dealt with on the 11th October. It is recorded on the 13th October that Mr. George Gibson and his objectors had agreed upon the 6th November for the hearing of their proofs and evidences and they were ordered to appear on that day at the House of Grace Laidler known by the name and the sign of the Blue Bell. The evidence was called on the 6th November but the Commissioners reserved the determination of the claim to themselves for further consideration. Thereafter the Minutes are silent. But it appears from the Award that George Gibson was successful in his claim as he was awarded 46 acres 0 roods and 34 perches in respect of (*inter alia*) his tenement called West Boat.

The Commissioners met daily on the 18th, 19th, 20th and 21st September at either 6 a.m. or 7 a.m. and laid down the route of two of the roads across the Common. The valuation of the 24 was produced on the 20th September and on the 21st September the Commissioners determined the value of the bulk of the lands and houses to which there were objections. The Commissioners met again daily between the 8th and 13th October at the house of

John Gibson known by the sign of the Grey Bull and laid out further roads and ways across the common. They also rode out and inspected areas of the commons and directed the Surveyor to fix the quantity of several parcels of land to ascertain their value.

They also dealt with disputes concerning rights of common between Sir Ralph Milbank of the one part and Matthew Carr, John Johnson, Wilkinson Kirsopp and John Cook of the other part. It appears that the said Matthew Carr, John Johnson, Wilkinson Kirsopp and John Cook were representatives of the commoners as they appear several times throughout the Minutes opposing claims. On this occasion the Commissioners appointed Christopher Fawcett of Newcastle, Gavin Aynsley of Little Harle and Stephen Watson of North Seaton Esquires "being three indifferent persons and one of them at least a Barrister at law Arbitrators to hear and determine the said dispute and differences ...". This was a procedure adopted on several occasions throughout the operation where the dispute was complex or the claimant was a person of importance.

The meeting of the Commissioners now settled into a regular pattern—meetings taking place in Hexham at differing hostelries at three or four weekly intervals and lasting generally for six days and involving the taking of evidence, hearing of claims, appointing arbitrators, viewing the Commons and ordering its gradual breaking up into separate parts. It is interesting to note that they sat on 1st January 1754 at 7 a.m. though on that occasion only six Commissioners were present as opposed to the usual complement of eight or nine.

By the 23rd February 1754 the Clerk was able to record in the Minutes that the Commissioners "have allotted and set out as on the Plan unto Sir Walter Blackett Bart the Sixteenth part of those Commons due to him as Lord of the said Manor AND also his part and share thereof for all his Estates that have a right upon the same and given the Surveyor directions to stake out the lands." It appears therefore that within twelve months of the first application in the House of Commons the Lord of the Manor had obtained his share of the Commons.

The Minutes record meetings in March, April, May, June, July, September and November 1754. The latter entries are largely formal, merely recording that a meeting took place and was adjourned to the next date. The final entry records "The Commissions hereunder written met this 5th day of November 1754 at the house of Joshua Turner known by the name and sign of the Globe in Hexham pursuant to our adjournment of yesterday and made a further progress in the division of the Commons. Adjourned to the same place at 7 o'clock tomorrow morning." And there the Minutes Book ends. Presumably the Clerk opened a new Minute Book which has now unfortunately vanished.

The Award itself consists of 39 skins of parchment and is dated 3rd May 1755. It falls into four parts: The first part sets out the directions laid down



by the Act for the enclosure and states how these have been complied with. On survey it appeared that the total area of both Commons was 4,150 acres 2 roods and 13 perches—just over half the estimated area in the Act. The Commissioners there are at pain to state that "... at several of our meetings we went upon the premises and took exact and particular views thereof and seriously inspected the nature of the soil and the value thereof and also by all proper ways and means inquired into and ascertained the true and real annual rent or value of all and singular the Messuages, Houses, Cottages, Tenements and Hereditaments to which a right of Common is belonging ..."

The second part of the Award deals with the lands allotted to the Lord of the Manor as his 1/16th share and specifies in detail the land and the boundaries of it and also the fencing obligations imposed upon the Lord. Throughout the whole award the ownership of all fences is laid down in respect of each allotment so that all persons concerned know whose duty it is to fence and whose responsibility the future maintenance of such fences is. Even today, 220 years later, the Award is occasionally referred to where a dispute arises as to the ownership of fences or who is responsible to maintain private roadways.

The Award then goes on to lay out the roads which are to cross the Common—for all the roads which now cross the former common date back to the Award and their course can be traced from the original staking out ordered under the Award. It is interesting to read the directions for laying out of the roads and then walk the road at the present day—it is then possible to see what buildings and landmarks still survive from the mid eighteenth century and how some things have changed. For instance the Award lays out a road called "Intacks Way" in the following terms:

"And we do set out and appoint a private way seven yards in breadth through the said common leading from the Dipton road at about 13 chains south westward from William Bells Bakehouse in a direction North West for the space of 13 chains or thereabouts and thence nearly in the same direction by the South side of the fences of the inclosed land of Isabella Heron called the Intacks (i.e. one of the illegal encroachments or intakes upon the common which had become established by extended trespass) extending twenty yards West from the South West Corner of the said Isabella Herons barn and thence in a direction Northward by the West side of her farmhouse and inclosed lands called the Intacks until it joins the inclosed lands of John Anysley called the Hole and thence Westward by the South side of the said John Anysley's inclosed lands to the West side of his farmhouse and thence nearly in the same direction till it enters the Plover Hill road at about 5 chains South from the South West Corner of the inclosed lands of George Thompson as the same is now propt stak'd and set out for the use of the Owners and Occupiers of Isabella Heron's and Robert Salmon's several inclosed lands called the Intacks, of John Aynsleys inclosed lands called the Hole and of the several and respective allotments through which

the same leads at all times hereafter to pass and repass in through and along the said last mentioned Way on foot on Horseback with any manner of Carts or Carriages and to drive any and all manner of Cattle along the same and also for all Owners and Occupiers of Allotments within the said Commons to pass and repass on Foot or on Horseback along the said Way which said last mentioned private Way we shall hereinafter refer to and call by the name of the Intacks Way—And we do order direct and appoint that the said Isabella Heron, John Aynsley, Elizabeth Newton and George Thompson and all Owners or occupiers of the several allotments through which the said Way leads shall respectively within one month from the date hereof sufficiently amend and from time to time for ever thereafter keep in good repair such part of the said way as adjoins upon their respective allotments.”

This extract from the Award is typical of the detailed treatment given to the laying out of the common as enclosed land—it describes in detail the course of the road—and in the case of a private road who can use it—and who has to maintain it and what it can be used for.

If the road is walked today—it appears that Low Shield stands on the site of Bells Bakehouse. High Shield has been built since the award—as the Intack Way actually leaves the Dipton Road at High Shield. From the initials carved above the door of High Shield it would appear that William Bell—who was allotted lands on the site of High Shield and a large allotment to the south of the Intack Way—prospered and subsequently built High Shield. Isabella Heron’s barn has now been replaced by a later house but the original house is still there though now used as byers. Some of the awarded ways are now the roads in and out of Hexham from the South, such as the Houtley Road and the Plover Hill Road, the Yarridge Road. Others such as the Greenshaw Bank Road remain as grassy roads between stone dykes and some others such as the road from Woodhall Gate in the West Common though deemed necessary by the Commissioners appear to have never been laid though the gaps were left in the original dykes to accommodate it.

The Award continues, laying out quarries and brickyards. Some of these are still extant such as Tom Todds Quarry which lies just west of the Linnels Bridge Road south of the road which now leads to Dukesfield—but in the Award was called “Lime Way”. The bounds of the quarry are exactly as laid out in the Award and although the quarry is now long since defunct and overgrown it can still be traced out on the ground. Others like Loughbrow Quarry have been filled in and have completely disappeared. The third, and by far the largest, part of the Award deals with the specific division of the Commons into plots and specifies who is to have each plot, what it consists of and what lands he or she owns in respect of which the allotment has been made. Some of the awards were to Institutions such as the Curate of Hexham or the Governors of the Grammar School.

“AND we do hereby set out assign and allot unto the Governors of the

goods possessions and revenues of the free Grammar School of Queen Elizabeth in Hexham in respect of certain freehold lands within the township of Hexham called Hudshaw having a right of common upon the said Moors and Commons 2 acres 1 rood 6 perches of land more or less parcel of the said East Common as the same is by prop's and land marks staked and set out having lands hereinafter allotted to the said Governors in right of a Tenement called the Alms Houses on the South the allotment hereinbefore set out to John Joblin on the West the said allotment of John Joblin and the allotment hereinbefore set out to John Tute on the North and the said Plover Hill Road on the South AND we do order direct and appoint that the said Governors and all persons owners occupiers of the said allotment shall within twelve months from the date hereof make and erect and forever uphold and maintain good and sufficient boulder fences on the East on the South and on the West side of their said allotment."

In all there were 268 commoners who received awards in this form—some of only one plot—some of several plots ranging from the Lord of the Manor's award of 202 acres 2 roods 2 perches for his 1/16th plus a further 432 acres 1 rood 2 perches for his rights over the common and his rights in reversion; to as little as 1 acre 2 roods and 10 perches awarded to John Bell a tanner of Hexham. It is noteworthy that for 117 allottees who were responsible for the maintenance of the public roads at the time of the Award by 1805 there were only 47 land owners such had been the amalgamation of holdings since the award. Many of the original small allotments had been purchased and incorporated into the holdings of their wealthier neighbours, and the process whereby the bulk of the population of rural England was gradually excluded from the ownership of the land and the land concentrated into the hands of a few had been carried on a stage further. The final section of the Award provides for footpaths, watering places for cattle and stock: for the diversion of streams to provide water for some of the allotments: and for the cost of maintaining and repairing the roads laid out under the Award.

Thus in the space of  $3\frac{1}{4}$  years the whole pattern of land holding and landscape in the area south of Hexham was completely changed. In just such a way America was being colonised, because the operation of the Enclosure Award is not dissimilar to the colonisation of America in that it provides in detail for the breakdown of land, and the provision of all essential rights needed to utilise the land. When it is realised that at the same session as the Hexham Act was going through Parliament 10 others were also passed including one at Felton in Northumberland and also countless Acts for improving highways and making new highways it is apparent that not only was the character of rural life being changed but that whole landscape was being completely altered.

