ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 175.

An Act for incloſing Lands in *Burghwallis*, in the County of *York*. [22d *June* 1813.]

WHEREAS there are within that Part of the Townſhip of *Burghwallis* which is within the Pariſh of *Burghwallis*, in the Weſt Riding of the County of *York*, and alſo within the Hamlet of *Haywood*, in the ſame Pariſh, certain Commons and Waſte Grounds, containing by Eſtimation about Two hundred Acres: And whereas *Michael Taſburgh* Eſquire is Lord of the Manor of *Burghwallis*, and intereſted in the Soil of the ſaid Commons and Waſte Grounds: And whereas the Reverend *Andrew Ewbank* is Patron, or otherwiſe ſeiſed of the Rectory and Pariſh Church of *Burghwallis* aforeſaid; and is alſo the preſent Rector and Incumbent thereof; and as ſuch is entitled to a Parſonage Houſe, with certain Glebe Lands and Rights of Common thereto belonging, and to the Great and Small Tythes ariſing within the ſaid Pariſh: And whereas the ſaid *Michael Taſburgh*, Sir *George Cooke* Baronet, *Godfrey Higgins* Eſquire, *William Loxley* Eſquire, and ſeveral other Perſons, are reſpectively Owners and Proprietors of the ſeveral Meſſuages, Cottages, Lands, and Hereditaments ſituate, lying, and being within the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood*: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for conſolidating in One Act, certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*: And whereas the ſaid Commons and Waſte Grounds, in the preſent uncultivated State, are of little Value, but are capable of Improvement; and it would be very advantageous to the

Perſons intereſted therein if the ſame were divided and incloſed, and ſpecific Shares thereof allotted to and amongſt the ſeveral Owners thereof, and Perſons intereſted therein, in Proportion and according to their reſpective Eſtates, Rights, and Intereſts; and it would alſo be very advantageous to the Proprietors of Homeſteads, Farms, and Lands within the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood*, as well as to the Rector for the Time being of the ſaid Pariſh of *Burghwallis*, if the Great and Small Tithes ariſing, increaſing, and renewing upon and out of the ſaid Homeſteads, Farms, Lands, Commons, and Waſte Grounds, were diſcharged by perpetual Corn Rents to be fixed upon the ſame reſpectively in lieu thereof; but as ſuch Diviſion, Allotment, and Incloſure, with the other Purpoſes aforeſaid, cannot be effected without the Authority of Parliament: May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That *William Shipton* of *Green Hammerton*, in the ſaid County of *York*, Gentleman, ſhall be and he is hereby appointed the Commiſſioner for dividing, allotting, and incloſing the ſaid Commons and Waſte Grounds, and for carrying this Act and the ſaid recited Act into Execution, ſave and except ſuch Parts of the ſaid recited Act as are hereby varied or altered, and under and ſubject to ſuch of the Regulations and Reſtrictions, contained in the ſaid recited Act, as are not repugnant to the Proviſions of this Act.

Commiſſioner appointed.

II. And be it further enacted, That in caſe the ſaid *William Shipton*, the Commiſſioner hereby nominated, or any other Commiſſioner, to be elected or appointed as herein-after mentioned, ſhall die, neglect or refuſe to act, or be rendered incapable of acting as a Commiſſioner in the Execution of this Act, then and in each and every ſuch Caſe the ſaid *Michael Taſburgh*, or the Lord of the Manor of *Burghwallis* for the Time being, ſhall, within Twenty Days after ſuch Death, Neglect, Refuſal, or Incapacity of the ſaid *William Shipton*, or ſuch other Commiſſioner to act, ſhall happen or be known to him, give Notice thereof in Writing to the Rector of *Burghwallis* for the Time being, and to the other Owners and Proprietors of the Lands and Grounds hereby directed to be divided and incloſed as aforeſaid, by Advertiſement in ſome Newſpaper uſually circulated in the Neighbourhood of *Burghwallis* aforeſaid, in the ſaid Weſt Riding of the County of *York*, and alſo by affixing the ſame in Writing upon the principal Outer Door of the Pariſh Church of *Burghwallis* upon a *Sunday*, before Divine Service, and in ſuch Notices the ſaid *Michael Taſburgh*, or the Lord of the ſaid Manor of *Burghwallis* for the Time being, ſhall appoint a Day for the ſaid Rector of *Burghwallis* for the Time being, and for the ſaid other Owners or Proprietors, by themſelves or Agents, to meet in or near the ſaid Townſhip of *Burghwallis*, within Twenty-one Days after ſuch Notice, for the Election of another Perſon, not intereſted in the ſaid intended Diviſion and Incloſure, in the Place and Stead of the ſaid *William Shipton*, or of ſuch other Commiſſioner ſo dying, refuſing to act, or becoming incapable of acting; and ſuch of the ſaid ſeveral Perſons who ſhall by themſelves or their Agents attend ſuch Meeting, or the major Part in Value of ſuch of them as ſhall ſo attend ſuch Meeting, (ſuch Value to be aſcertained by the Land Tax Aſſeſſment) ſhall by Writing under their Hands appoint another Perſon, not intereſted in the ſaid intended Diviſion and Incloſure, to be a Commiſſioner in the Place and Stead of the ſaid *William Shipton*,

For appointing new Commiſſioner.

or ſuch other Commiſſioner ſo dying, refuſing to act, or becoming incapable of acting, and ſo from Time to Time as often as any Commiſſioner ſo to be appointed, ſhall die, neglect, refuſe to act, or become incapable of acting as aforeſaid; and in caſe the Perſon or Perſons herein-before authorized and directed to appoint a new Commiſſioner as aforeſaid, ſhall neglect or refuſe, within the Time or Times above appointed, to give ſuch Notice and call ſuch Meeting as is in this Caſe above directed, then and in ſuch Caſe the Power of appointing a new Commiſſioner ſhall devolve upon the ſaid Rector of *Burghwallis* for the Time being, and ſuch Rector ſhall, within Twenty Days next after ſuch laſt-mentioned Refuſal or Neglect by Writing under his Hand, appoint ſome Perſon, not intereſted in the ſaid intended Diviſion and Incloſure, to be a Commiſſioner in the Place and Stead of ſuch Commiſſioner ſo dying, neglecting, or becoming incapable of acting as aforeſaid; and each and every ſuch Perſon ſo to be elected or appointed a Commiſſioner as herein-before mentioned, (having firſt taken and ſubſcribed the Oath preſcribed for Commiſſioners by the ſaid recited Act) ſhall have and be inveſted with ſuch and the ſame Powers and Authorities for carrying this Act and the ſaid recited Act into Execution, as the Commiſſioner named in this Act is veſted with; and all the Acts and Proceedings of any and every ſuch Perſon (ſo to be elected or appointed a Commiſſioner as herein-before mentioned) in the Execution of this Act and the ſaid recited Act, ſhall be as valid and effectual as if he had been named and appointed a Commiſſioner in this Act; and every ſuch Appointment of a new Commiſſioner ſhall be inrolled at the ſame Time, and in the ſame Place, as the Award or Inſtrument of the ſaid Commiſſioner is by the ſaid recited Act directed to be inrolled.

Notice of Firſt and every other Meeting.

III. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby empowered and required to give, or cauſe to be given, public Notice in the Pariſh Church of *Burghwallis* aforeſaid, upon ſome *Sunday* immediately before Divine Service, or by Writing under his Hand to be affixed on the principal Outer Door of the ſaid Church, of the Time and Place of his Firſt Meeting or Sitting for executing the Powers hereby and by the ſaid recited Act veſted in him, Ten Days at leaſt before ſuch Meeting, and the like Notice in ſome Newſpaper or Newſpapers uſually circulated in the ſaid County of *York*, of every ſubſequent Meeting or Sitting of the ſaid Commiſſioner, to be by him held in purſuance of the Directions of this or the ſaid recited Act, at leaſt Ten Days before ſuch Meeting or Sitting (Meetings or Sittings by Adjournment, which it ſhall and may be lawful for the ſaid Commiſſioner from Time to Time to make, only excepted): Provided always, that all the Meetings or Sittings of the ſaid Commiſſioner ſhall be held at ſome convenient Place within the ſaid Townſhip or Pariſh, or within Eight Miles of the Boundary of the ſaid Pariſh.

Other Notices how to be given.

IV. And be it further enacted, That all other Notices requiſite and neceſſary to be made and given by the ſaid Commiſſioner, ſhall be ſo made and given by Advertiſement in ſome Newſpaper uſually circulated in the ſaid Weſt Riding of the County of *York*.

Commiſſioner to ſettle Diſputes.

V. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted or claiming to be intereſted in the ſaid Diviſion and Allotments, touching or concerning the reſpective Rights and Intereſts which they or any of them ſhall have or claim to have in

in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or touching or concerning any other Matter or Thing relating to the said Division and Allotments, it shall be lawful for the said Commissioner to examine into, hear, and determine the same.

Commissioner not to determine Titles nor molest Possession.

VI. Provided always, and be it further enacted, That nothing in this Act contained, shall extend to enable the said Commissioner to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments), but in case the said Commissioner shall be of opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law.

Power to assess Costs.

VII. And be it further enacted, That in case the said Commissioner shall upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess and award such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whose favour any Determination of the said Commissioner shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same upon Demand, then and in such Case, and on due Proof thereof, it shall be lawful for the said Commissioner and he is hereby authorized and empowered, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons whose Goods shall have been so distrained and sold, after deducting the Expences attending such Distress and Sale.

Parties may try their Rights at Law.

VIII. Provided always, and be it further enacted, That in case any Person or Persons interested in the said intended Division and Inclosure, or Tythes, shall be dissatisfied with any Determination of the said Commissioner, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the said Commons and Waste Grounds hereby directed to be divided and inclosed, or any Part thereof, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, Inclosure, or Tithes, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the then next or at the following Assizes to be holden for the said County of *York*, and for that Purpose, the Person or Persons who shall be dissatisfied with the Determination of the said Commissioner, shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioner; and the Defendant

Defendant or Defendants in ſuch Action or Actions ſhall, and he, ſhe, or they is and are hereby required to name an Attorney or Attornies, who ſhall appear thereto and file Common Bail, and accept One or more Iſſue or Iſſues, whereby the Claim or Claims, and the Right or Rights thereby inſiſted upon, may be tried and determined (ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be brought, in caſe the Parties differ about the ſame); and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions ſhall be final, binding, and concluſive upon all and every Perſon and Perſons whomſoever, unleſs the Court in which ſuch Action or Actions ſhall be brought ſhall ſet aſide ſuch Verdict or Verdicts, and order a new Trial or new Trials to be had therein, which it ſhall be lawful for the Court to do, as is uſual in other Caſes; and after ſuch Verdict or Verdicts ſhall be obtained and not ſet aſide by the Court, the ſaid Commiſſioner ſhall and he is hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined according to the Event of ſuch Trial or Trials: Provided always, that the Determination of the ſaid Commiſſioner touching ſuch Right or Intereſt in, over, or upon the Lands and Grounds hereby directed to be divided and incloſed, or any Part thereof, which ſhall not be objected to, or being objected to, the Party or Parties objecting not cauſing ſuch Action at Law to be brought and proceeded in as aforeſaid, ſhall be final and concluſive upon all Parties.

If Parties die Proceedings not to abate.

IX. And be it further enacted, That if any of the Parties in any Action to be brought in purſuance of this Act, ſhall die pending the ſame, ſuch Action ſhall not abate by reaſon thereof, but may be proceeded in as if no ſuch Event had happened; and 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 limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioner with Proceſs for commencing ſuch Action or Actions in the ſame Manner as the Party or Parties might have been ſerved therewith if living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein in the ſame Manner as if ſuch Perſon or Perſons had been actually living, and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

Proviſion in caſe of the Death of the Party before Action brought.

Appointment of Clerk and Surveyor.

X. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby empowered to appoint a Clerk to aſſiſt him in the Execution of this and the ſaid recited Act, and that *Joſeph Colbeck* the elder, of *Balby* near *Doncaſter*, in the ſaid County of *York*, Gentleman, ſhall be employed by the ſaid Commiſſioner as his Surveyor in the Execution of this Act, and for the Purpoſes of the ſaid recited Act; and in caſe of the

Death, Incapacity, or declining to act of such Clerk so to be appointed, or of the Death, Incapacity, or declining to act of the said Surveyor, then in either or both of such Cases the said Commissioner shall and may appoint any other Person or Persons he may think proper to be his Clerk or Surveyor, as the Case may be; and such Surveyor shall be allowed such Remuneration or Compensation for what he shall do for the Purposes of this Act as the said Commissioner shall think proper.

XI. And be it further enacted, That no Person shall be capable of acting as Surveyor for the Purposes of this Act, until he shall have taken and subscribed the Oath or Affirmation following; and which Oath or Affirmation the said Commissioner is hereby empowered to administer; (that is to say),

Oath.

'I do swear, [*or*, being one of the People called *Quakers*, 'I do solemnly affirm and declare] that I will faithfully, impartially, 'and honestly, to the best of my Skill and Judgment, execute and perform the Duties incumbent on me as Surveyor, by virtue of an Act, 'passed in the Fifty-third Year of the Reign of His Majesty King *George* 'the Third, intituled *An Act for inclosing Lands in* Burghwallis, *in the* 'County of York, according to Equity and good Conscience, and without 'Partiality, Favour or Affection, Prejudice or Malice to any Person or 'Persons whomsoever. 'So help me GOD.'

Which Oath or Affirmation, so taken and subscribed by such Surveyor, and also the Appointment of such Surveyor or Surveyors shall be annexed to and inrolled with the Award of the said Commissioner.

Encroachments.

XII. And be it further enacted, That all Encroachments which at any Time within Twenty Years now last past, have been made upon or taken from the said Commons and Waste Grounds, shall be deemed Part thereof, and shall be divided and allotted accordingly; and in case any Dispute or Difference shall arise, touching any such Encroachments or the Extent thereof, such Dispute shall be determined by the said Commissioner.

Commissioner may alter and stop up Roads.

XIII. And be it further enacted, That it shall be lawful for the said Commissioner, with the Concurrence and Order of Two Justices of the Peace acting in and for the said West Riding of the County of *York*, in Manner and subject to Appeal as in the said recited Act is mentioned, to divert, stop up, discontinue, alter, or change any old public Carriage Roads, or Bridle Roads or Footways, leading into, through, over, or upon the said Commons and Waste Grounds, or in, to, through, over, or upon the old Inclosures lying within the said Township of *Burghwallis* or Hamlet of *Haywood*, or either or both of them, as to him shall appear useless and unnecessary, or proper to be diverted, or altered, stopped up or discontinued; and in case such public Carriage Roads, Bridle Roads, and Footways so to be diverted or altered, stopped up or discontinued, or any Part thereof, do not pass through any of such old inclosed Lands or other Lands, but on the Sides of the same, to sell and dispose of the Land and Soil of such Roads to the Person or Persons whose Lands lie contiguous thereto; or in case any such Person or Persons shall refuse or not agree to purchase such Land or Soil of such Road, at such Price or Sum as the said Commissioner shall consider the same to be reasonably worth, then the said

Commiſſioner ſhall ſell the ſame by Public Auction, in Manner and ſubject to the Regulations and Conditions mentioned or contained in the ſaid recited Act, with reſpect to ſale of Land for Payment of Expences; and the ſaid Commiſſioner ſhall apply the Money ariſing by any ſuch Sale or Sales towards repairing the public Highways within the ſaid Townſhip of *Burgh-wallis* and Hamlet of *Haywood*.

Drains and Watercourſes.

XIV. And be it further enacted, That the ſaid Commiſſioner ſhall and may ſcour out, widen and deepen, and change the Courſe or Direction of all and every or any of the ancient Ditches, Drains, Watercourſes, Tunnels, Sluices, Banks and Bridges, within the ſaid Townſhip and Hamlet or either of them, as he ſhall think proper; and alſo ſhall and may ſet out and appoint ſuch new Ditches, Drains, Watercourſes, Tunnels, Sluices, Banks and Bridges to be made of ſuch depth, width and extent, and in ſuch Situation and Direction, as he the ſaid Commiſſioner ſhall think fit, as well through and over the Lands and Grounds hereby intended to be divided and incloſed as aforeſaid, as alſo in, over, and through any ancient Incloſures, or other Lands and Grounds within the ſaid Townſhip or Hamlet, or either of them; and alſo ſhall and may confer and treat with any other Commiſſioner or Commiſſioners, or other Perſon or Perſons, for better effectuating ſuch Purpoſes, and to make ſuch Satisfaction and Compenſation for Damage or otherwiſe, as he ſhall judge reaſonable; and the ſaid Commiſſioner ſhall and he is hereby directed in and by his ſaid Award, to order and direct by whom, how, and in what Manner, ſuch Satisfaction and Compenſation ſhall be made, and at whoſe Expence, at what Time, and in what Manner the ſaid Ditches, Drains, Watercourſes, Tunnels, Sluices, Banks and Bridges, and other Requiſites ſhall firſt be made, and thereafter repaired, cleanſed, ſcoured and maintained: Provided always, that no Brook, Stream or Watercourſe, ſhall be diverted or turned, by virtue of the Powers herein-before granted, without the previous Conſent in Writing of the Owner or Owners, or Proprietor or Proprietors of the Lands and Grounds from which any ſuch Brook, Stream, or Watercourſe ſhall be intended to be diverted, and into which any ſuch Brook, Stream, or Watercourſe ſhall be diverted or turned.

Allotment for Materials for Roads.

XIV. And be it further enacted, That the ſaid Commiſſioner ſhall as ſoon as conveniently may be after his Firſt or Second Meeting or Sitting in purſuance of this Act, and before he proceeds to make any other Allotments, ſet out and allot ſuch Parcel or Parcels of Land, not exceeding Two Acres, Part of the Lands or Grounds by this Act intended to be divided, allotted and incloſed, and in ſuch Situation or Situations as he ſhall think proper, for the Purpoſe of getting Materials for Repairs of the ſeveral public Highways within the ſaid Townſhip and Hamlet, and for other neceſſary Purpoſes, as he the ſaid Commiſſioner ſhall think expedient; and in caſe it ſhall be found that no Part of the ſaid Commons and Waſte Grounds hereby intended to be divided and incloſed, contain ſuch Materials, it ſhall be lawful for the ſaid Commiſſioner to ſell, by public Auction, the Allotment, ſo to be ſet out as aforeſaid, to any Perſon or Perſons, in the Manner and purſuant to the Directions of the ſaid recited Act, in reſpect to the Sale of Land; and the ſaid Commiſſioner ſhall and he is hereby directed and required to lay out and re-inveſt the Money to ariſe from ſuch Sale, in the Purchaſe of ſome other Parcel or Parcels of Land in ſuch other Part of the ſaid Townſhip of *Burghwallis* or Hamlet of

of *Haywood*, as ſhall in his Judgment be convenient and contain Materials proper for the Purpoſe of the Repair of Roads, and ſuch Parcel or Parcels of Land ſo to be purchaſed, ſhall (by the Direction of the ſaid Commiſſioner, teſtified by his being made a Party to the ſaid Conveyance) be conveyed and aſſured to the Surveyor or Surveyors of the Highways of the ſaid Townſhip or Hamlet, or either of them for the Time being, for the Purpoſe of getting Stone, Gravel, Sand, or other Materials for the Repairs of the ſeveral Highways within the ſame Townſhip and Hamlet, or either of them, and for ſuch other neceſſary Purpoſes as he the ſaid Commiſſioner ſhall think expedient, and by his ſaid Award direct; and he the ſaid Commiſſioner ſhall alſo in and by his ſaid Award, ſet forth the Tranſaction, and fully deſcribe the Parcel or Parcels of Land ſo to be purchaſed, and give ſuch Directions as to the Herbage thereof (if any) as well until and as ſuch Materials are got as after, as he ſhall conſider neceſſary for general Benefit; and the ſaid Allotment of the ſaid Commons and Waſte Grounds ſo to be ſold as aforeſaid, ſhall veſt in the Purchaſer or Purchaſers thereof in Fee Simple, and the Receipt of the ſaid Commiſſioner for the Purchaſe Money, ſhall be a ſufficient Diſcharge to ſuch Perſon or Perſons for ſuch Purchaſe Money, and ſuch Perſon or Perſons ſhall not be anſwerable for the Application or Miſapplication of ſuch Purchaſe Money.

Allotment for Right of Soil.

XVI. And be it further enacted, That the ſaid Commiſſioner ſhall, in the next Place, aſſign, ſet out, allot and award, unto the ſaid *Michael Taſburgh*, and his Heirs, as Lord of the Manor of *Burghwallis* aforeſaid, ſo much and ſuch Part or Parcel of the then Reſidue of the ſaid Commons and Waſte Grounds hereby directed to be divided, allotted and incloſed, as ſhall in the Judgment of the ſaid Commiſſioner be equal in Value to the Eighteenth Part of the whole of the ſaid Commons and Waſte Grounds within the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood*, in lieu of and as a full Compenſation for his Right and Intereſt of, in and to the Soil thereof, over and above and excluſive of ſuch Shares and Allotments of ſuch Commons and Waſte Grounds as the ſaid *Michael Taſburgh* ſhall in like Manner as other Proprietors be entitled to, in and upon the ſaid Commons and Waſte Grounds.

Allotment to Rector of One-ninth Part of the Commons in lieu of Tithes thereof.

XVII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required in the next Place, to ſet out, allot and award, unto the ſaid *Andrew Ewbank* and his Succeſſors Rectors as aforeſaid, ſo much and ſuch Part and Parcel of the ſaid Commons and Waſte Grounds hereby intended to be divided and incloſed, as ſhall in the Judgment of the ſaid Commiſſioner be equal in Value to One-ninth Part of ſo much of the ſaid Commons and Waſte Grounds within the Townſhip of *Burghwallis* and Hamlet of *Haywood*, hereby intended to be divided and incloſed, ſuch One-ninth Part being firſt well and effectually drained, with ſufficient Drains and Ditches, at the Coſts and Charges of all or ſuch of the Proprietors of the ſaid Lands and Grounds hereby directed to be incloſed, as the ſaid Commiſſioners ſhall direct, as ſhall remain after the ſaid Roads and Allotment for Materials for Repair thereof, Sewers, Drains and Watercourſes, ſhall have been taken and deducted therefrom, in lieu of and as a full Compenſation and Satisfaction for all Tythes both Great and Small, Moduſes, and all other Eccleſiaſtical Dues and Payments whatſoever (Mortuaries, *Eaſter* Offerings, and Surplice Fees only excepted) ariſing,

arising; growing, renewing; increasing, payable or happening, or to arise, grow, renew, increase, become payable or happen within, from, or in respect of the said Commons and Waste Grounds so hereby directed to be divided and inclosed, or any of them, or any Part thereof, but not to prejudice the said Rector and his Successors as to their Proportion or Allotment to be made to him or them in like Manner as other Proprietors, in respect of the Rights of Common belonging to the said Rectory in, over, and upon the same.

Residue of Commons and Wastes to be allotted in Severalty.

XVIII. And be it further enacted, That the said Commissioner shall and he is hereby required to set out, allot and award, in Severalty, the Residue of all the said Commons and Waste Grounds hereby directed to be divided and inclosed, unto and amongst the said *Michael Tasburgh*, and other the Owners and Proprietors, as well of Messuages, Cottages, Sites and Frontsteads, having Right of Common upon the said Commons and Waste Grounds, (except that it is by this Act expressly intended and declared, that the said *Michael Tasburgh* or his Heirs shall not claim to have or be entitled to any Right of Common in respect of a certain Farm called *Fretwell's Farm*,) as of the Lands and Grounds already inclosed within the said Township of *Burghwallis* and Hamlet of *Haywood*, in such Shares and Proportions as herein-after mentioned; (that is to say); One Moiety or Half-part in Value of the said Residue of the said Commons and Waste Grounds (Quantity, Quality, and Situation considered) shall be set out, allotted and awarded unto and amongst the Owners and Proprietors of Messuages, Cottages, Sites and Frontsteads, having Right of Common upon the said Commons and Waste Grounds, without regard to whether the same are Messuages or Messuage-steads, or Cottages or Cottage-steads; and the remaining One Moiety or Half-part in Value of the said Residue of the said Commons and Waste Grounds (Quantity, Quality, and Situation considered) shall be set out, allotted and awarded unto and amongst the Owners and Proprietors of the Lands and Grounds already inclosed within the aforesaid Part of the said Township of *Burghwallis*, in the Parish of *Burghwallis*, and also within the Hamlet of *Haywood* aforesaid, in Proportion to the Value of such Lands and Grounds, such Value to be estimated and ascertained by the said Commissioner; and the Allotment to the said Rector in respect of the Common Rights belonging to the said Rectory (if any) shall be added to and made a Part of the Allotment above directed to be made to him, of One-ninth Part of such Commons and Wastes in lieu of the Tythes thereof.

Fencing Rector's Allotment.

XIX. And be it further enacted, That all the said Lands to be by virtue of this Act set out and allotted to the said Rector in Satisfaction or Compensation for Tythes, and for Right of Common as aforesaid, being first drained in Manner herein-before directed, shall be inclosed and ring-fenced on all such Parts as shall not be directed to be fenced by any other Proprietor, and as shall not adjoin upon any ancient Inclosure, with Ditches and Quick Hedges, and to be guarded and protected, whilst necessary, with proper Fences of Posts and double Rails, at the Expence of all or such of the Proprietors of the Lands and Grounds hereby directed to be divided and inclosed, and in such Proportions as the said Commissioner shall appoint; and the said Commissioner shall by his Award direct by whom, and in what Parts and Proportions, the said Fences (after the same shall have been properly made) shall be kept in Repair.

How the other Allotments are to be fenced.

XX. And be it further enacted, That all the ſeveral other Allotments to be made or ſet out by virtue of this or the ſaid recited Act, ſhall at ſuch Time or Times previous to or after the making of the ſaid Award, as the ſaid Commiſſioner ſhall by any Writing or Writings under his Hand appoint for that Purpoſe, be incloſed, hedged, ditched, and fenced at the proper Coſts and Charges of the reſpective Perſons to whom the ſame ſhall reſpectively be allotted, in ſuch Manner as the ſaid Commiſſioner ſhall by his ſaid Award, or any other Writing or Writings under his Hand, order and direct; and that convenient Gaps and Openings ſhall be left in the ſaid Fences and Incloſures, for the Purpoſe of Cattle, Carts and Carriages paſſing through the ſame, for ſuch Space of Time as the ſaid Commiſſioner ſhall direct.

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

XXI. And be it further enacted, That it ſhall be lawful for any of the Owners and Proprietors of any Commonright upon the Lands and Grounds hereby directed to be divided and incloſed, to ſell or diſpoſe of the ſame, or of any Allotment or Allotments to be made and ſet out by virtue of this Act, ſeparately and diſtinctly from the Eſtate in Right of which he or ſhe is or may be entitled to the ſame, in ſuch Manner as he or ſhe might have done at any Time after the Execution of the ſaid Award; and it ſhall be lawful for the ſaid Commiſſioner and he is hereby authorized and empowered to award all and every ſuch Allotment or Allotments, which ſhall be ſo ſold and diſpoſed of, to the Purchaſer or Purchaſers thereof, or other Perſon or Perſons who ſhall be entitled to the ſame by any ſuch Sale or Diſpoſition.

Allotments to be of ſame Tenure as former Property.

XXII. And be it further enacted, That the Lands and Grounds which ſhall be allotted to any of the ſaid Proprietors, in reſpect of any Lands and Grounds, or other Right in or upon the Lands and Grounds hereby intended to be divided and incloſed, ſhall be held by the ſame Tenures, Cuſtoms, Rents, and Services, by which the Lands and Grounds, Tenements and Hereditaments, or other Rights, in reſpect whereof ſuch Allotments ſhall be made, are now held.

Exchanges may be made.

XXIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to ſet out, allot, and award any Meſſuages, Lands, Tenements, or Hereditaments within the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood* or Pariſh of *Burghwallis*, in lieu of and in exchange for any other Meſſuages, Lands, Tenements, or Hereditaments within the ſame Townſhip and Hamlet or within the ſaid Pariſh of *Burghwallis*, or within any adjoining Pariſh, Hamlet, Townſhip, or Place, provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the Award of the ſaid Commiſſioner, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Meſſuages, Lands, Tenements, and Hereditaments which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors, be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail General or Special, or by the Courteſy of *England*, or for Years determinable on a Life or Lives, or with the Conſent of the Guardians, Truſtees, Feoffees for charitable or other Uſes, Huſbands, Committees, or Attornies of or acting for any ſuch Owners or Proprietors as aforeſaid, who at the Time of making ſuch Exchange or Exchanges ſhall be reſpectively Infants, Femes Covert, Lunatics, or under any other legal Diſability,

or

or who ſhall be beyond the Sea, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf, ſuch Conſent to be teſtified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange and Exchanges ſo to be made, ſhall be good, valid, and effectual in the Law, to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made of any Lands, Tenements, or Hereditaments held in right of any Church, Chapel, or other Eccleſiaſtical Benefice, without the Conſent (teſtified as aforeſaid) of the Patron thereof, and of the Biſhop of the Dioceſe in which ſuch Lands, Tenements, or Hereditaments, ſo to be exchanged, ſhall lie or be ſituate.

Expences of Exchanges and Partitions how to be made.

XXIV. And be it further enacted, That the Expences attending any Exchanges or Partitions, which ſhall be made by virtue of this or the ſaid recited Act, ſhall be borne and defrayed by the reſpective Parties making ſuch Exchanges or Partitions, diſtinct and apart from the other Expences attending the Execution of this Act, in ſuch Manner as the ſaid Commiſſioner ſhall order and direct, and the ſame ſhall and may be recovered in the ſame Manner as the Coſts of obtaining and executing this Act, can or may be recovered.

Leaſes and Tenancies at Rack Rent to ceaſe.

XXV. Provided always, and be it further enacted, That all Leaſes, Agreements, and Tenancies at Rack Rent now ſubſiſting of any Part or Parts of the Lands and Grounds hereby directed to be divided and incloſed, and of all Lands, Tenements, and Grounds within the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood*, which ſhall be exonerated from Tythes by virtue of this Act, and of all Meſſuages, Cottages, Lands and Tenements in the ſame Townſhip and Hamlet held therewith reſpectively, ſhall ceaſe and be void at ſuch Time or Times as the ſaid Commiſſioner ſhall by Writing under his Hand direct or appoint, ſo as the reſpective Leſſors or Landlords of ſuch Meſſuages, Lands or Tenements do, before or at the reſpective Times at which ſuch Leaſes or Tenancies ſhall be directed to ceaſe, make and pay ſuch Satisfaction to the reſpective Leſſees or Tenants for the Loſs which ſhall be ſuſtained by the Determination of ſuch Leaſes and Tenancies reſpectively, as ſhall be mutually ſettled and agreed upon between them, or as the ſaid Commiſſioner, being thereto required by either of the Parties, ſhall aſcertain and direct; and the ſaid Commiſſioner, being ſo required, is empowered and directed to appoint a reaſonable and proportionable Part, according to the Seaſon of the Year, of the Rent reſerved or made payable by any ſuch Leaſe or Agreement for or in reſpect of the Time which ſhall have elapſed between the laſt Day on which any Payment of the Rent ſhall have become due, and the Determination of any ſuch Leaſe or Tenancy, and ſuch Part of the Rent ſhall be recoverable by ſuch Ways and Means as may by Law be uſed for the Recovery of Rent in arrear: Provided always, that if there ſhall be any Leaſe of Lands, Part of which ſhall lie in the ſaid Townſhip or Hamlet, and Part in any adjoining Pariſh, all and every ſuch Leaſe or Leaſes at Rack Rent may be vacated; but where any Lands ſhall have been taken in Exchange, which Lands ſhall be under Leaſe and wholly ſituate in an adjoining Pariſh, ſuch Leaſe or Leaſes ſhall not be vacated.

Settlements not to be affected, nor

XXVI. And be it further enacted and declared, That nothing in this Act or the ſaid recited Act contained, ſhall extend to revoke, make void, annul,

Wills revoked.

annul, or alter any Settlement, Deed, or Will, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Free Bench, Jointure, Annuity, Rent Charge, Debt, or Incumbrance whatſoever, in, out of, upon, or affecting any of the Commons, Waſte Grounds, Lands, Tenements, or Hereditaments hereby directed to be divided and incloſed, or which ſhall be exchanged or aſſigned in Compenſation for any other Eſtate or Right in purſuance of this and the ſaid recited Act reſpectively; but as well the Lands, Tenements, or Hereditaments allotted, as the Lands, Tenements and Hereditaments which ſhall be aſſigned in Exchange, or in Compenſation for any other Eſtate or Right, ſhall immediately after ſuch Allotment, Exchange, or Aſſignment ſhall be made, be veſted, and remain and enure, and the ſeveral Perſons to whom the ſame ſhall be allotted, aſſigned, or given in Exchange as aforeſaid, ſhall thenceforth ſtand and be ſeiſed and poſſeſſed thereof reſpectively to, for, and upon ſuch and the ſame Uſes, Eſtates, Intents, Truſts, and Purpoſes reſpectively, and ſubject and liable to ſuch and the ſame Wills, Settlements, Limitations, and Remainders, Conditions, Charges, and Incumbrances, as the ſeveral Lands, Tenements, and Hereditaments in reſpect whereof ſuch Allotments, Aſſignments, and Exchanges ſhall have been made, ſhould or would have ſtood ſeverally limited, ſettled, veſted, or ſubject or liable to, or been held by, in caſe the ſame had not been allotted, aſſigned, or exchanged, and this Act had not been made, ſave and except ſuch Leaſes and Tenancies at Rack Rent as ſhall become void by virtue of this Act.

For making Valuation of old Incloſures ſubject to the Payment of Tithes.

XXVII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to make or cauſe to be made a Valuation of the ſeveral Incloſures, Lands, Grounds, and Hereditaments within the aforeſaid Part of the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood*, (ſaving and except as to the ſaid Commons and Waſtes hereby intended to be divided and incloſed as aforeſaid, and alſo ſave and except ſuch Parts of the ſaid Townſhip and Hamlet as are now Wood or woody Ground, or now covered by Plantations of Trees) which are ſubject or liable to the Payment of Tythes, and ſhall diſtinguiſh the annual Value of the Property belonging to each Perſon ſeparately, and ſhall aſcertain from the *London Gazette*, or otherwiſe, what hath been the average Price of good marketable Wheat within the Market Towns of *Wakefield*, *Pontefract*, and *Doncaſter*, in the ſaid County of *York*, during the Term of Seven Years next preceding the paſſing of this Act; and ſhall in and by his ſaid Award, diſtinctly aſcertain and ſet forth what Quantity of ſuch Wheat ſhall in his Judgment, according to ſuch average Price as aforeſaid, be equal in Value to One-ſeventh Part of all the ſaid Incloſures, Lands, Grounds, and Hereditaments within the ſaid Townſhip and Hamlet aforeſaid, (ſave and except as aforeſaid) which are ſubject and liable to the Payment of Tythes, and which ſhall remain after the ſeveral Allotments for Roads, getting Materials, Sewers, Drains, and Watercourſes ſhall have been taken and deducted therefrom, diſtinguiſhing the Quantity of ſuch Wheat, in reſpect of each Perſons ſeparate Property.

Rents to be payable to Rector in addition to his Allotments on the Commons.

XXVIII. And be it further enacted, That there ſhall be paid and payable from Time to Time for ever to the Rector of the ſaid Rectory of *Burghwallis* for the Time being, out of the ſeveral Incloſures, Lands, Grounds, and Hereditaments, ſubject and liable to the Payment of Tithes (except as aforeſaid) belonging to the ſeveral Proprietors within that Part of the ſaid Townſhip of *Burghwallis* which is within the Pariſh of *Burghwallis*,

wallis, and alſo within the Hamlet of *Haywood* in the ſame Pariſh, ſuch reſpective yearly Rents or Sums of Money as ſhall be equal in Value to the Quantity of Wheat ſo to be aſcertained and ſet forth as aforeſaid, or to be re-aſcertained in Manner herein-after mentioned, which ſaid yearly Rents or Sums of Money ſhall be and are hereby declared to be in lieu of and in full Bar, Satisfaction, Compenſation, and Extinguiſhment of and for all Tithes and all Portions of Tithes, both Great and Small, and all Dues in lieu of ſuch Tithes (except the uſual and accuſtomed Surplice Fees, *Eaſter* Offerings, and Mortuaries) now ariſing or to ariſe, as aforeſaid, and become due and payable out of all Incloſures, Lands, Grounds, and Hereditaments, within the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood* (ſave and except as aforeſaid) to the Rector of the ſaid Rectory of *Burghwallis*; and the ſaid reſpective yearly Rents or Sums of Money ſhall be payable and paid to the Rector of the ſaid Rectory at the Rectory or Parſonage Houſe of *Burghwallis* aforeſaid, by Half-yearly Payments; (that is to ſay), on the Twenty-fifth Day of *March* and the Twenty-fifth Day of *September* in every Year for ever, by the Tenants or Occupiers for the Time being, the Firſt Payment thereof to grow due and be made on ſuch of the ſaid Days as the ſaid Commiſſioner ſhall in and by his Award, or by any other Writing or Writings under his Hand, order and direct; and ſuch Rents ſhall be apportioned between the Executors or Adminiſtrators of any ſuch Rector dying between the ſaid Days of Payment, and his Succeſſor, and ſuch Apportionments ſhall reſpectively be recoverable by the Perſon entitled thereto, in the ſame Manner as the Half-yearly Payments; and all Tithes both Great and Small, and Dues in lieu of ſuch Tithes (except Surplice Fees, *Eaſter* Offerings and Mortuaries as aforeſaid), ariſing or renewing out of the ſaid ſeveral Incloſures, Lands, Grounds, and Hereditaments, or to ariſe as aforeſaid, within the ſaid Townſhip and Hamlet, or either of them, and due or payable to the Rector of the ſaid Rectory of *Burghwallis*, (ſave and except as to ſuch Parts of the ſaid Townſhip and Hamlet as are now Wood or woody Ground, or now covered by Plantations of Trees, which are to remain in regard to Tithes as before) ſhall ceaſe and be for ever extinguiſhed and aboliſhed, at ſuch Time as the ſaid Commiſſioner ſhall in and by his ſaid Award or other Writing or Writings as aforeſaid, under his Hand order and direct: Provided always, that ſuch Incloſures, Lands, Grounds and Hereditaments within the ſaid Townſhip and Hamlet, or either of them, as are now alleged or ſuppoſed to be Tithe-free or covered in Part or in all by any Modus or Compoſition, (if any ſuch there are) ſhall not be affected as to their Exemption from Tithes by virtue of this Act; but the ſaid Commiſſioner, if required by the Proprietors of the ſaid Incloſures, Lands, Grounds and Hereditaments, or any of them, or by the ſaid Rector, ſhall aſcertain and declare what Rent or Rents, according to the before mentioned Proportions, ſhall be payable in reſpect thereof, in caſe the ſame Incloſures, Lands, Grounds, and Hereditaments, or any of them, ſhall at any future Time be found to be ſubject or liable to the Payment of Tithes in Kind.

How the Price of Wheat ſhall be aſcertained, and the Rents regulated in future.

XXIX. And be it further enacted, That it ſhall be lawful as well for the Rector of the ſaid Rectory of *Burghwallis* for the Time being, as alſo for a Majority in Number of the Proprietors of the ſaid Lands and Grounds within the aforeſaid Part of the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood* for the Time being, at any Time after the Expiration of Seven Years from the Day to be fixed by the ſaid Commiſſioner as

as aforesaid for the First Payment of the said yearly Rents or Sums of Money, by Writing under their, his, or her Hands or Hand, to apply (and at the respective proper Expence of such Applicant or Applicants, as the Case may be) to the Justices at any Quarter Sessions of the Peace to be holden for the said West Riding of the County of *York*, by Adjournment or otherwise, at any of the Towns of *Pontefract*, *Wakefield*, or *Doncaster*, so long as the same shall be holden there, or at any of those Towns, but if not so held, then at the Quarter Sessions to be holden for the said West Riding in any other Town or Place (first giving Notice in Writing of his or their Intention so to do to the other Party or Parties at least One Calendar Month before such Application, by affixing such Notice on the outer Door of the Parish Church of *Burghwallis* aforesaid, before or during the Time of Divine Service, on the Two First *Sundays* within the said One Calendar Month) to have the average Price of Wheat again enquired of and ascertained; and the said Justices shall and they are hereby authorized and required, at the same or at the next Quarter Sessions of the Peace to be holden in and for the said West Riding, to enquire into and ascertain, by or from or by Means of the *London Gazette* or otherwise, what hath been the average Price of good marketable Wheat, in the said Towns of *Wakefield*, *Pontefract*, and *Doncaster*, during the Term of Seven Years next preceding such Application, and to declare, ascertain, and fix such average Price accordingly by Writing under the Hands and Seals of Three of such Justices; and after such average Price shall have been so ascertained and fixed by such Justices, the Amount of all future Payments of the said respective yearly Rents or Sums of Money in lieu of Tithes, herein-before directed to be paid to the Rector for the Time being of the said Rectory of *Burghwallis*, shall be equal in Value to the said Quantity of Wheat, according to the average Price which shall have been so ascertained and fixed by the said Court of Quarter Sessions in Manner aforesaid, and shall be payable and paid to the said Rector and his Successors at the Place and Time and in Manner aforesaid; and so from Time to Time as often as any Application shall be made as aforesaid to the Justices in Quarter Sessions, such Justices shall re-ascertain and fix such average Price, and such yearly Rents shall be varied and paid accordingly: Provided always, that no such Application shall be made before the Expiration of Seven Years from the Time any such average Price shall have been last ascertained and fixed in pursuance of this Act; and the Rector of the said Rectory of *Burghwallis* for the Time being, and his Lessee, shall and may have and exercise such and the same Powers and Remedies for Recovery of the said yearly Rents or Sums of Money when the same shall be in arrear, together with all Costs and Charges thereby to be incurred, as by Law are provided and given to Landlords for Recovery of Rack Rents in arrear; and all Lands and Grounds which shall be charged with the said yearly Rents or Sums of Money shall always remain liable to the Payment of all Arrears thereof respectively, notwithstanding they may be in the Occupation of a new Owner or Tenant: Provided also, that until such Application shall be made for varying or re-ascertaining the Amount of any future Payments of the said respective yearly Rents or Sums of Money in lieu of Tithes, and the same shall be varied and ascertained as aforesaid, the respective Rents or Sums of Money to be fixed by the said Award, or by the Declaration of the said Justices, shall continue due and payable to the Rector of *Burghwallis* aforesaid for the Time being, as herein mentioned.

Schedule of the Rents.

XXX. And, in order to prevent any Difficulty or Inconvenience to the ſaid Rector and his Succeſſors by the Diviſion of any Eſtate, by Sale or otherwiſe, and to facilitate the future Regulation of the ſaid yearly Tithe Rents; be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to make or cauſe to be made Two complete Schedules or Deſcriptions of each and every Allotment, and of each and every Parcel of ancient and other Incloſures, Lands and Grounds, with the Name of the Owner thereof, the exact Meaſure in Statute Acres, Roods and Perches, the yearly Tithe Rents iſſuing out of each reſpectively, and the Quantity of Wheat in Buſhels, and decimal Parts of the Buſhel, which is to govern each of the ſaid future yearly Tithe Rents as ſhall be charged as aforeſaid, and ſuch other Matters as ſhall be judged to be requiſite, proper or neceſſary by the ſaid Commiſſioner to render every Matter reſpecting the ſaid yearly Tithe Rents clear and plain in future, which ſaid Schedules or Deſcriptions ſhall be ſigned by the ſaid Commiſſioner, and One depoſited in the Regiſter Office for the ſaid Weſt Riding at *Wakefield* aforeſaid, and the other annexed to the Award of the ſaid Commiſſioner; and a Copy of ſuch Schedule, or of any Part thereof, ſhall be made and given to each Proprietor who ſhall deſire the ſame, ſigned by the ſaid Commiſſioner, ſuch Proprietor paying to the ſaid Commiſſioner the reaſonable Expences thereof.

In caſe of Diviſion of Eſtates.

XXXI. And be it further enacted, That it ſhall be lawful for the Owner and Owners of Meſſuages, Lands, Grounds and Hereditaments within the aforeſaid Part of the ſaid Townſhip of *Burghwallis* and Hamlet of *Haywood*, upon a Diviſion thereof, either by Sale, Deviſe or otherwiſe, except by Leaſe at Rack Rent, to apportion and charge each and every Part of the Hereditaments ſo divided, with a due and fair Proportion of the ſaid yearly Tithe Rents, according to the Quantity of Acres, and the Rate by the Acre to be aſcertained by the ſaid Commiſſioner upon the whole of ſuch Hereditaments.

No Sheep or Lambs, &c. to be depaſtured in new Incloſures during Ten Years, unleſs Guard Fences are put up.

XXXII. And be it further enacted, That no Sheep or Lambs, Horſes, Aſſes, horned Cattle, Pigs or Geeſe, ſhall be depaſtured or kept in any of the ſaid new intended Incloſures, during the Space of Ten Years from the Execution of the Award of the ſaid Commiſſioner, unleſs the Perſons reſpectively ſo depaſturing or keeping ſuch Sheep or Lambs, or Horſes, Aſſes, horned Cattle, Pigs or Geeſe therein, do at their own Expence ſtaff-hold the ſame, or effectually guard and fence the Quickſets or Hedges of ſuch Allotment or Allotments, whether ſuch Quickſets or Hedges ſhall belong to the Owner or Owners of ſuch Allotment, or to the Owner or Owners of the Allotment or Allotments adjoining to ſuch Incloſure reſpectively, in which Sheep or Lambs, Horſes, Aſſes, horned Cattle, Pigs or Geeſe ſhall be depaſtured and kept as aforeſaid, ſo as to prevent any Damage or Injury being done to ſuch Fences or Quickſets by any ſuch Sheep or Lambs, Horſes, Aſſes, horned Cattle, Pigs or Geeſe.

No Cattle to be turned into the Roads.

XXXIII. And be it further enacted, That if any Perſon ſhall, from and after the Execution of the Award of the ſaid Commiſſioner, turn or put, or cauſe to be turned or put any of his, her, or their Sheep or Lambs, Horſes, Aſſes, horned Cattle, Pigs or Geeſe, into any of the Roads to be ſet out by virtue of this or the ſaid recited Act, which ſhall be fenced on

both

both Sides thereof, it shall be lawful for the Person or Persons whose Hedges, Fences, Crops or Grounds shall be damaged thereby, or any other Person or Persons, to impound such Sheep or Lambs, Horses, Asses, horned Cattle, Pigs or Geese.

Expences of the Act and Inclosure.

XXXIV. And be it further enacted, That the Costs and Charges of and incident to and attending the obtaining and passing of this Act, of surveying, admeasuring, planning, dividing, and allotting the Commons and Waste Grounds hereby directed to be divided and inclosed, and the Lands, Grounds, and Hereditaments to be exonerated from Tithes, and attending the carrying into Execution such Exoneration and Commutation by Corn Rents in lieu of Tithes, as directed by this Act, and of making the public Roads to be set out, and of fencing the Rector's Allotment, and of preparing and inrolling the Award of the said Commissioner, and all the Charges and Expences of such Commissioner, and of the several Clerks, Surveyors, and Persons to be employed by him, either before or after the Execution of the said Award, in, about, or concerning the Execution of this or the said recited Act, and generally all other the Costs and Expences, by effectuating the Purposes of this or the said recited Act, to be created and to be borne as a public Charge, shall be borne, paid, and defrayed by all the Proprietors and Owners of, or Persons having Rights or Interests in, the said Commons and Waste Grounds hereby directed to be divided and inclosed, and in the Lands, Grounds, and Hereditaments to be exonerated from Tithes as aforesaid (except the said *Andrew Ewbank* and his Successors, Rectors for the Time being of the said Rectory of *Burghwallis*, in respect of the Allotment to be made to him and them respectively, and also except the Purchaser (if any) of the said Allotment for Materials for Roads) in such Proportions, and shall be paid to such Person or Persons, and at such Time or Times, either before or after the Execution of the said Award, as the said Commissioner shall order, direct or appoint; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share or Proportion of such Costs, Charges, Sums of Money and Expences as aforesaid, within the Time, in Manner, and to such Person or Persons as the said Commissioner shall appoint, then the same shall be levied and recovered by Distress and Sale in the Manner prescribed or directed by the said recited Act, or otherwise it shall be lawful for the said Commissioner, or any Person or Persons authorized by him, to enter upon and take Possession of the Messuages, Tenements, Orchards, Homecloses and other ancient Inclosures, Lands, Grounds and Hereditaments, partitioned or discharged from Tithes as aforesaid which belong, and also of the several Allotments made to such Person or Persons so refusing or neglecting to pay as aforesaid, and to receive and take the Rents and Profits thereof, until thereby, therewith, or otherwise, the Share or Shares, Proportion or Proportions of the said Costs, Charges, Sums of Money and Expences, so ordered and directed to be paid by such Person or Persons as aforesaid, and all Interest on such Share or Shares, Proportion or Proportions, to be computed from the Time the same shall be directed to be paid as aforesaid, and also all Costs, Charges and Expences, occasioned by or attending such Entry upon such Premises and Receipt of the Rents and Profits of the Premises aforesaid, shall be fully paid and satisfied.

XXXV. Pro-

Parties to pay their own Expences at Meetings.

XXXV. Provided always, and be it further enacted, That all Proprietors, their Attornies and Agents, ſhall pay their own Expences when they or any of them ſhall attend the ſaid Commiſſioner at any Meeting or Sitting to be held in purſuance of this Act.

Money advanced to be repaid with Intereſt.

XXXVI. And be it further enacted, That the Money that ſhall be advanced by any Perſon or Perſons for the Purpoſe of defraying the Expences of applying for and obtaining this Act, or which ſhall at any Time before the Execution of the Award be advanced or lent to, or be paid by the Direction of the ſaid Commiſſioner for carrying the ſame into Execution, ſhall be repaid with lawful Intereſt to the Perſon or Perſons lending, advancing, or paying the ſame, out of the firſt Money to be raiſed for defraying the Expences of obtaining and executing this Act.

Commiſſioner's Allowance.

XXXVII. And be it further enacted, That the Commiſſioner acting in Execution of the Truſts and Powers hereby veſted in him, ſhall be allowed and paid, in Satisfaction for his Trouble and Expences, the Sum of Three Guineas and no more, for every Day on which he ſhall be employed in travelling to, attending on, or returning from ſo acting; and at all Meetings or Sittings to be held in purſuance of this Act, the ſaid Commiſſioner ſhall pay his own Expences, and ſhall not be allowed for more than One Day in travelling to, and One Day in travelling from, the Place of Meeting.

Commiſſioner to lay his Accounts before a Juſtice.

XXXVIII. And be it further enacted, That once at leaſt in every Year during the Execution of this Act (ſuch Year to be computed from the Day of the paſſing of this Act) the ſaid Commiſſioner ſhall and he is hereby required to make a juſt and true Statement or Account of all Sums of Money by him received and expended, or due to him for his Trouble and Expences in the Execution of this and the ſaid recited Act; and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be by him laid before any Juſtice or Juſtices of the Peace for the ſaid Weſt Riding of the County of *York*, (not intereſted in the Incloſure) to be by him or them examined and balanced, and ſuch Balance ſhall by ſuch Juſtice or Juſtices be ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioner; and no Charge or Item in ſuch Account 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.

Award to be depoſited.

XXXIX. And be it further enacted, That the Award to be made by the ſaid Commiſſioner, when inrolled in Manner directed by the ſaid recited Act, in the Regiſter Office at *Wakefield*, in and for the Weſt Riding of the County of *York*, ſhall, together with a Plan and Schedule of Corn Rents annexed, be depoſited in a Tin Box in the Pariſh Church of *Burghwallis* aforeſaid.

Appeal to Quarter Seſſions.

XL. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done or omitted to be done by or under the Authority of the ſaid Commiſſioner, in purſuance of this or the ſaid recited Act, (other than and except ſuch Claims, Matters, and Things as are herein-before directed or authorized to be aſcertained, ſettled, tried, or determined by the Verdict of a Jury,

a Jury, or where by any of the Provisions of the said recited Act or of this Act, the Determinations, Acts, or Proceedings of the said Commissioner are directed to be final and conclusive), then and in every such Case he, she, or they may appeal to any General Quarter Sessions of the Peace which shall be holden for the said West Riding, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner, and to the Party or Parties concerned, Fourteen Days Notice in Writing of such Appeal and of the Matter thereof; and the Justices (not interested in the Premises) in their said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) upon Demand to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in Manner as aforesaid.

Saving Manorial Rights.

XLI. And be it further enacted, That nothing in this or the said recited Act contained shall defeat, lessen, or prejudice the Right, Title or Interest of the Lord of the said Manor for the Time being of or to the Mines, Beds and Seams of Coal, Iron Stone or other Minerals, in or under the said Commons and Waste Grounds hereby intended to be divided, allotted and inclosed, or to any Seigniories or Royalties incident and belonging to the said Manor, the same being hereby reserved to the Lord of the said Manor for the Time being, with full Power at all Times to hold and enjoy all Quit Rents, Free Rents and other Rents, Reliefs, Duties, Customs and Services, and all Courts, Perquisites and Profits of Courts, and all other Rights, Royalties, Jurisdictions, Franchises and Privileges whatsoever to the said Manor incident or appertaining, in as full, ample and beneficial a Manner, to all Intents and Purposes, as if this Act had not been passed; and that the Lord of the said Manor for the Time being shall and may at all Times hereafter have, hold, win, work, and enjoy all Mines of Coal, Iron Stone, and other Minerals, of what Kind or Nature soever, under the said Commons and Waste Grounds, and the Allotments to be made therefrom, together with all convenient and necessary Ways, Roads, and Passages, and Liberty of laying, making and repairing Waggon-ways and other Ways, in, under and along the same, or any of them, or any Part thereof, and searching for, winning and working the said Mines and Minerals, and getting and loading and carrying away the Coals, Iron Stone, Minerals and other Produce thereof, and of making Pits, Shafts, Pit Rooms, Air Pits, Heap Rooms, Stand Yards, Drifts, Levels, Ways and Watercourses, and of erecting and using Fire Engines and other Engines and necessary Buildings, and of altering, changing, pulling down, and carrying away the same or any Part of the Materials thereof, at his and their own free Will and Pleasure, and doing all

all such other Acts, Matters and Things, as may be necessary and convenient for the full and complete Enjoyment thereof, in as full, ample and beneficial a Manner, to all Intents and Purposes, as they could or might have done in case this Act had not been passed; and also that it shall and may be lawful to and for the Lord or Lady, Lords or Ladies of the said Manor, at all Times for ever hereafter, to make or cause to be made any Soughs, Drains, or other covered or open Watercourses, to run and pass in, through, and over any Part or Parts of the said Commons and Waste Grounds, hereby intended to be divided, allotted and inclosed, for the Purpose of draining and carrying away the Water from, and the more convenient winning and working any Coals, Coal Pits or other Pits which may hereafter be opened and worked in the ancient Fields, Closes and Inclosures of the Lord or Lady, Lords or Ladies of the said Manor for the Time being, situate within and Parcel of the said Manor, in such and the like Manner as if this Act had not been passed: Provided always nevertheless, that the Lord or Lady, Lords or Ladies of the said Manor for the Time being, shall be obliged to pay and shall pay to the respective Owners or Occupiers of such Allotments respectively, a full Recompence and Satisfaction for all such Damages or Loss as shall from Time to Time be thereby done to or sustained by such Owners or Occupiers respectively: Provided also, that nothing herein contained shall authorize or empower the Lord of the said Manor for the Time being, to sink, open or make any Pit or Shaft, Quarry or other Works, or to break, spoil or damage the Surface of or in any Garden, Orchard or Plantation of Ground which may be made or taken in, upon, or from the said Commons and Waste Grounds, or any Allotment or Allotments thereof, or in anywise to damage any House, Building, Court Yard or Avenue, by sinking for, getting or carrying away any of the Mines or Minerals, Coals, Ironstone or other Minerals as aforesaid.

General Saving.

XLII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, and their Heirs, Successors, Executors and Administrators, all such Estate, Right, Title and Interest (other than and except such as are intended to be barred, destroyed, or extinguished by virtue of this Act) as he, she, or they, every or any of them had or enjoyed, of, in, to, or out of or in respect of the said Commons and Waste Grounds to be divided, allotted and inclosed or exchanged by virtue of this Act, at any Time before the passing of this Act, or could or might or ought to have had or enjoyed, in case this Act had not been passed.

Act to be printed by the King's Printer.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1813.