ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 134.

An Act for incloſing Lands in the Townſhip of *Cadeby* and Pariſh of *Sprotbrough*, in the County of *York*. [27th *May* 1809.]

WHEREAS there are within the Townſhip of *Cadeby* and in the Pariſh of *Sprotbrough*, in the Weſt Riding of the County of *York*, certain Open and Common Fields, and a certain Common Paſture containing together, by Eſtimation, Five hundred Acres or thereabouts, and certain Commons or Tracts of Waſte Land containing, by Eſtimation, One hundred and eighty Acres or thereabouts: And whereas the King's moſt Excellent Majeſty is, in right of his Duchy of *Lancaſter*, Owner of the Honor of *Tickhill*, in the ſaid County of *York*, and claims to be entitled to certain Rights and Privileges over or upon the ſaid Commons and Waſte Lands, as being within the ſaid Honor: And whereas Sir *Joſeph Copley* Baronet, is entitled to Nine-tenth Parts, or thereabouts, of the ſaid Open and Common Fields, and Common Paſture; and *Richard Fountayne Wilſon* Eſquire, is entitled to the Reſidue thereof: And whereas the ſaid Sir *Joſeph Copley* is Lord of the Manor of *Sprotbrough* aforeſaid, and in Right thereof, or otherwiſe, claims to be entitled to the Soil of the ſaid Commons and Waſte Lands called *Cadeby Common* and *Hanging Cliff Common*; and the ſaid Sir *Joſeph Copley* and *Richard Fountayne*

Wilson are respectively Owners or Proprietors of all the Messuages, Lands, and Tenements within the Township of *Cadeby* aforesaid, and in respect thereof are entitled to have and enjoy Rights of Common in and upon the said Commons and Waste Lands: And whereas it would be for the Benefit of all Persons interested in the said Open and Common Fields, Common Pasture, Commons, and Waste Lands, that the same should be divided, allotted, and inclosed, and specific Shares thereof assigned and allotted to them, according to their respective Properties, Rights, and Interests therein, but such Division, Allotment, and Inclosure, cannot be effected without the Aid 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 *Thomas Dyson*, of *Doncaster*, in the County of *York*, Gentleman, shall be, and he is hereby appointed, sole Commissioner for dividing, allotting, and inclosing the said Open and Common Fields, Common Pasture, Commons, and Waste Lands, and for putting this Act in Execution, in such manner and subject to such Regulations as are herein-after mentioned, and with such of the Powers, and subject to such of the Rules, Orders, Directions, Authorities, Regulations, Restrictions, and Provisions, contained in an Act 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*, as are not controuled by, or repugnant to, any of the Clauses, Provisions, or Regulations contained in this Act; and if the said Commissioner shall die, become incapable of acting, or refuse or neglect to act as a Commissioner in the Execution of this Act, it shall and may be lawful to and for the said Sir *Joseph Copley* and *Richard Fountayne Wilson*, or for the Persons who, for the Time being, shall be intitled to their respective Shares, Rights, and Interests, in the Lands and Grounds hereby intended to be divided and inclosed, or to the Allotments which shall have been made in respect thereof, and if such Persons or any of them shall be Minors, then for the Guardian or Guardians of such of them as shall be Minors, and they are hereby required from Time to Time, as often as there shall be occasion, to elect and appoint a Commissioner (not interested in the said Division), in the place of him so dying, or refusing, neglecting, or becoming incapable of acting as aforesaid; and every such new Commissioner shall, immediately after the Execution of such Instrument or Instruments, have such and the like Powers and Authorities to put this Act into Execution as if he had been named or appointed a Commissioner herein.

Commissioner appointed.

II. And be it also enacted, That it shall and may be lawful for any One or more of His Majesty's Justices of the Peace for the West Riding of the County of *York*, to administer, and he, and they, is, and are hereby empowered and required to administer to the said Commissioner, and every future Commissioner who shall be appointed in pursuance of this Act, the Oath which is set forth and prescribed by the said Act of the Forty-first Year of His present Majesty's Reign.

How the Commissioner's Oath is to be administered.

III. And

Surveyor appointed.

III. And be it further enacted, That *Robert Rodgers*, of *Treeton*, in the said County of *York*, Land Surveyor, shall be Surveyor, for the Purpose of surveying, admeasuring, planning, and valuing all the said Open and Common Fields, Common Pasture, Commons and Waste Lands so intended to be divided and inclosed as aforesaid, according to the Directions contained in the said Act of the Forty-first Year of His present Majesty's Reign, and in case of his Death, Refusal, Incapacity, or neglect to act, then the said Lands and Grounds shall be so surveyed, admeasured, planned, and valued by the said Commissioner, or such other Person or Persons as he shall nominate and appoint.

Commissioner to give Notice of holding his Sittings.

IV. And be it further enacted, That the said Commissioner shall, and he is hereby required to cause a Public Notice to be given upon some *Sunday*, before or during Divine Service, by Writing, to be affixed upon One of the Principal Outer Doors of the Parish Church of *Sprotbrough*, and also to be inserted in the *York Chronicle* and *Doncaster Gazette* Newspapers, of the Time and Place of his First and every other Attendance or Sitting, for putting this Act into Execution, at least Fourteen Days before such Attendance, (Attendances by Adjournment only excepted), and that the said Commissioner shall and may adjourn any such Attendance, from Time to Time, and from Place to Place, as he shall see Occasion, provided that all the Meetings of the said Proprietors and the Attendances of the said Commissioner for putting this Act into Execution, shall be holden within the Parish of *Sprotbrough*, or within Eight Miles of the Boundary thereof.

How certain Notices are to be given.

V. And be it further enacted by the Authority aforesaid, That all other Notices necessary to be given by the said Commissioner, in pursuance of the said Act of the Forty-first Year of His present Majesty's Reign, or of this Act, unless particularly otherwise directed, shall be given by Advertisement in the said *York Chronicle* and *Doncaster Gazette* Newspapers, or if neither of the same Newspapers shall be then published, then in some One or more Newspaper or Newspapers generally circulated in the said West Riding.

Commissioner empowered to determine Differences.

VI. And be it further enacted by the Authority aforesaid, That if any Dispute shall arise between any of the said Parties, who now are or who shall before the making of the Award of the Commissioner, be interested in the said Lands and Grounds hereby directed to be divided and enclosed, touching the Extent, Identity, or Possession of any Plot, Parcel, or Portion thereof, or touching or concerning the respective Shares or Proportions, Rights and Interests, which either or any of them shall claim of and in the said Lands and Grounds, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, and Inclosure, then it shall and may be lawful for the said Commissioner, and he is hereby empowered to inquire into, hear, and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioner to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever.

VII. And

Commissioner not to determine Rights contrary to Possession.

VII. And be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioner to determine any Rights between any Parties contrary to the Possession of any such Parties; 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 taken from such Person or Persons by Ejectment or other due Course of Law.

Power to assess Costs.

VIII. 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 Act of the Forty-first Year of His present Majesty's Reign, 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 overruled; and in Case the Person or Persons who shall be liable to pay such Costs and Charges, shall refuse or neglect to pay the same on Demand, then and in every such Case it shall and may be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant under his Hand, directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Power to try disputed Claims at Law.

IX. Provided always, and be it further enacted, That if any Person or Persons, making any Claim or Claims to any Lands or Hereditaments, intended to be divided or affected by this Act, or any Rights or Interests therein, or Objection to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioner, and shall be desirous of having such Claim or Claims, Rights and Interests respectively, tried at Law, and the Person or Persons so desirous to have the same tried at Law, shall by themselves, or their respective Agents or Attornies, give Notice thereof, in Writing, to the said Commissioner, within Two Calendar Months next after such Determination shall have been so made by the said Commissioner as aforesaid, (of which Notice the said Commissioner is hereby required, immediately on Receipt thereof, or as soon after as conveniently may be done, to give Information to the adverse Party or Parties, or his, her, or their respective Agents or Attornies, by Writing under his Hand, to be delivered to or left at the usual Place of Abode of such Party or Parties, Agent or Attornies, respectively), then, but not afterwards or otherwise, it shall and may be lawful for the Person or Persons giving such Notice as aforesaid, their respective Heirs or Assigns, to proceed to a Trial at Law for the same, at the First or Second Assizes to be holden for the County of *York*, next after such Notice given as aforesaid, in a feigned Action or Actions, to be commenced for that Purpose in One of His Majesty's Courts of

of Record at *Weſtminſter*, by the Perſon or Perſons, their reſpective Heirs or Aſſigns, giving ſuch Notice as aforeſaid, againſt the adverſe Party making ſuch Claim or Objection as aforeſaid; and the Defendant or Defendants in ſuch Action or Actions ſhall forthwith name an Attorney or Attornies, who ſhall file Common Bail, or appear and accept One or more Iſſue or Iſſues, whereby all and every ſuch Claim or Claims, and Rights and Intereſts may be properly tried and determined, ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court wherein ſuch Action or Actions ſhall be commenced, if the Parties ſhall differ about the ſame; and if at the Trial of any ſuch Iſſue or Iſſues, it ſhall appear that the Party claiming is intitled to any qualified or leſs Right or Rights or Intereſts than was or were claimed by ſuch Party, then it ſhall and may be lawful for the Jury by whom ſuch Iſſue or Iſſues ſhall be tried, to find and declare the ſame by their Verdict, which ſhall be endorſed on the Poſtea, in addition to the Verdict given on the Iſſue or Iſſues joined; but nevertheleſs the Coſts of ſuch Action or Actions ſhall abide and be determined by the Verdict given upon the Iſſue or Iſſues joined, as if no ſuch ſpecial finding had been made; and the Verdict or Verdicts which ſhall be given, in ſuch Action or Actions, upon the Iſſue or Iſſues therein joined, in caſe there ſhall be no ſuch ſpecial finding and Indorſement, or ſuch ſpecial finding and Indorſement, if any ſuch ſhall be made, ſhall be final and concluſive to all and every Perſon or Perſons whomſoever, unleſs the Court wherein ſuch Action or Actions ſhall be brought, ſhall ſet aſide ſuch Verdict or Verdicts, or finding and Indorſement, and order a new Trial or new Trials to be had thereupon, which it ſhall be lawful for the Court to do; and alſo, upon ſufficient Cauſe ſhewn, to put off the Trial of ſuch Iſſue, as is uſual in other Caſes, although the Time herein-before limited for the Trial of ſuch Action or Actions may be thereby exceeded; and after ſuch Verdict or Verdicts, or ſpecial finding or Indorſement, 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, Right or Rights, or Intereſt or Intereſts, thereby determined, according to ſuch Verdict or Verdicts, or finding and Indorſement as aforeſaid: Provided always, that the Determination of the ſaid Commiſſioner touching ſuch Rights or Intereſts in, over, or upon the ſaid Lands and Grounds, hereby directed to be divided, allotted, and incloſed, or any Part thereof, which ſhall not be objected to as aforeſaid, 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 to all Parties.

If any of the Parties die, Proceedings not to abate.

X. 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 ſhall be proceeded in as if no ſuch Event had happened, and the Executors and Adminiſtrators of the deceaſed ſhall be liable to the Coſts thereof, as if ſuch Action had been tried and Judgement given therein in the Life-time of their Teſtator or Inteſtate; but ſo nevertheleſs as not to affect any Payment made, before ſuch Judgement ſhall be ſigned, or to make any Executor or Adminiſtrator liable to be charged with a Devaſtavit by reaſon thereof.

Allowing Actions to be brought after Deaths of Parties.

XI. Provided alſo, and be it further enacted, That if any Perſon or Perſons, in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politick or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the ſaid Commiſſioner with Notice of ſuch Action or Actions, in the ſame Manner as if ſuch Perſon or Perſons were living; and it ſhall 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 Right of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

Allotment to His Majeſty.

XII. And be it further enacted by the Authority aforeſaid, That the Commiſſioner ſhall (after having ſet out the neceſſary Carriage Roads and Highways through and over the ſaid Commons and Waſte Lands) ſet out, allot, and award to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, in Right of His Duchy of *Lancaſter*, as Lord of the Honor of *Tickhill* aforeſaid, ſuch Part or Parcel of the Reſidue of the ſaid Commons and Waſte Lands as ſhall be equal in Value to One-ſixtieth Part thereof, in lieu of, and as a Compenſation for, the Right and Intereſt of His ſaid Majeſty, to or in the ſaid Commons and Waſte Lands.

Allotment to the Perſon entitled to the Soil.

XIII. And be it further enacted by the Authority aforeſaid, That the Commiſſioner ſhall (after having ſet out the neceſſary Carriage Roads and Highways through and over the ſaid Commons and Waſte Lands) ſet out, appoint, and apportion, One full Eighteenth Part of the Reſidue of the ſaid Commons and Waſte Lands, and no more, to and for the Perſon or Perſons entitled to the Soil of the ſame Commons and Waſte Lands, in Recompence and full Satisfaction for the Right and Intereſt in and to the Soil thereof, excluſive of ſuch Share thereof as he, ſhe, or they, are or may be entitled to in reſpect of his, her, or their Meſſuages, Lands, and Tenements, to which a Right of Common on the ſaid Commons and Waſte Lands is appendant or appurtenant as aforeſaid.

Allotments to be made of the Reſidue.

XIV. And be it further enacted by the Authority aforeſaid, That after ſetting out all the Public and Private Roads and Ways, and other Conveniences, as by the ſaid Act of the Forty-firſt Year of His preſent Majeſty's Reign is directed, and the Allotments herein-before directed to be made to the King's moſt Excellent Majeſty, and to the Perſon or Perſons entitled to the Soil of the ſaid Commons and Waſte Lands, the ſaid Commiſſioner ſhall ſet out, divide, and allot all the Reſidue of the Lands and Grounds directed by this Act to be divided and incloſed unto, between, and amongſt the ſeveral Proprietors and Owners thereof, and other Perſons intereſted therein,

therein, according, and in Proportion to their reſpective Shares, Rights, and Intereſts therein.

Allotments to be fenced.

XV. And be it further enacted, That the ſeveral Allotments to be made by virtue of this Act, ſhall be well and ſufficiently incloſed, hedged, ditched, and fenced, at the Expence of the reſpective Proprietors to whom ſuch Fences ſhall be allotted or directed to belong, with Quickſets, or in ſuch other Manner, and within ſuch Time or Times as the ſaid Commiſſioner ſhall, by his Award, or any other Writing under his Hand, direct or appoint.

Commiſſioner to direct courſe of Huſbandry.

XVI. And be it further enacted, That in the mean Time and until ſuch Diviſion and Allotments ſhall be made, all Tillage and other Lands lying in the ſaid ſeveral Open Fields, hereby directed to be allotted and incloſed, ſhall be ſtocked with ſuch Cattle, and ſhall be cropped or ſown, by the reſpective Owners thereof, with ſuch Sorts of Corn, Grain, and Seeds, and in ſuch Proportions, and ſhall be kept, ordered, and continued in ſuch Courſe of Huſbandry as the ſaid Commiſſioner ſhall, by Writing under his Hand in that Behalf, order, direct, and appoint, any Uſage or Cuſtom of ſtocking with Cattle, ſowing, cropping, or otherwiſe managing the ſaid Tillage or other Lands to the contrary notwithſtanding.

For making Compenſation for Crops growing on the Lands, &c.

XVII. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioner to ſettle and aſcertain what Recompence ſhall be paid to the Owner of any Crop growing, at the Time of the Diviſion of the ſeveral Allotments, for the Value of the ſaid Crop, by the Perſon to whom the Land on which ſuch Crop is growing is allotted, or otherwiſe that the Owner of ſuch Crop ſhall be at Liberty to lead and carry away the ſame within the Term to be limited for that Purpoſe by the ſaid Commiſſioner, without any Moleſtation or Hindrance from the Perſon to whom the Land on which the Crop was growing ſhall be allotted, the Owner of ſuch Crop, on carrying away the ſame, making ſuch Satisfaction to the Perſon who ſhall be entitled to the Land on which the Crop was growing as the ſaid Commiſſioner ſhall direct for the Standage thereof, and for Manure and Tillage by the Perſons to whom the ſame ſhall be allotted; and in caſe any Perſon or Perſons who ſhall be directed to pay any Sum or Sums of Money, on ſuch Accounts, ſhall refuſe or neglect to pay the ſame on Demand, the ſame ſhall be recoverable for the Uſe and Benefit of the Perſon and Perſons entitled thereto, by ſuch Ways and Means as the Charges and Expences of obtaining and executing this Act ſhall or may be raiſed or levied.

Leaſes at Rack Rent to be void.

XVIII. 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, or which ſhall be exchanged in purſuance of this Act, and of all Meſſuages, Cottages, Lands, and Tenements, ſituate in the ſaid Townſhip of *Cadeby* or Pariſh of *Sprotbrough* 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, Cottages, Lands or Tenements, do before or at the reſpective Times at which ſuch

The Leſſors making Satisfaction.

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 reſpectively, as ſhall be mutually ſettled and agreed between them, or as the ſaid Commiſſioner, being thereto required by either of the Parties, ſhall aſcertain and direct: Provided always, that if there be any ſuch Leaſe of Lands, Part of which ſhall lie in the ſaid Manor or Pariſh, and Part in any adjoining Manor or Pariſh, all and every ſuch Leaſe or Leaſes upon Rack-Rent may be vacated; but where any Lands ſhall have been taken in Exchange, which Lands ſhall be held under ſuch Leaſe or Agreement, and wholly ſituate in any adjoining Manor or Pariſh, ſuch laſt mentioned Leaſe ſhall not be vacated.

Allotments to be of the ſame Tenure as the ancient Eſtates.

XIX. And be it further enacted, That all ſuch Lands and Grounds as ſhall, by virtue of this Act, be allotted to any Perſon or Perſons for or in reſpect of their reſpective Meſſuages, Lands, Tenements, or Hereditaments, ſhall be held by ſuch Perſon or Perſons reſpectively, in the ſame Manner, and ſhall be of the ſame Nature and Tenure as their reſpective Meſſuages, Lands, Tenements, or Hereditaments, in right of or for which ſuch Allotments or Parcels of Ground ſhall be ſo allotted, are holden reſpectively.

Money advanced to be paid firſt, with Intereſt.

XX. And be it further enacted, That if any Perſon or Perſons ſhall advance any Sum or Sums of Money for the Purpoſe of defraying the Expences of applying for, obtaining, and paſſing this Act, and of carrying the ſame into Execution, every ſuch Perſon ſhall be repaid the ſame, together with lawful Intereſt from the Time of advancing thereof, out of the firſt Money which ſhall be raiſed for the Purpoſes of this Act.

Award to be inrolled in the Regiſter Office for the Riding.

XXI. And be it further enacted by the Authority aforeſaid, That the Award or Awards which ſhall be made and executed by the ſaid Commiſſioner, in purſuance of this Act, and alſo of the ſaid Act of the Forty-firſt Year of His preſent Majeſty's Reign, ſhall, with all convenient Speed, be enrolled and entered at full Length in the Regiſter Office at *Wakefield*, in the ſaid Weſt Riding, eſtabliſhed by an Act paſſed in the Second and Third Year of the Reign of Her late Majeſty Queen *Anne*, intituled, *An Act for the public regiſtering of all Deeds, Conveyances and Wills that ſhall be made of any Honors, Manors, Lands, Tenements, or Hereditaments within the Weſt Riding of the County of* York, *after the Nine and twentieth Day of* September *One thouſand ſeven hundred and four*, and the Regiſter, appointed to execute the ſaid Office, or his Deputy for the Time being, is hereby required on Payment of the uſual Fees, to enrol or enter at full Length, the ſaid Award or Awards, and the ſaid Regiſter or his Deputy ſhall permit and ſuffer any Perſon or Perſons at all Times within the uſual Office Hours of Attendance, to peruſe and inſpect the Enrolment of the ſaid Award or Awards reſpectively, at the ſaid Public Office, paying or tendering to the ſaid Regiſter or his Deputy, for every ſuch Peruſal or Inſpection, One Shilling and no more; and that the ſaid Award or Awards, when enrolled at the ſaid Office, ſhall, with all convenient Speed, be afterwards lodged in the Veſtry of the Church of *Sprotbrough* aforeſaid, in a Box to be provided by

the Commiſſioner for that Purpoſe, in order that any Perſon intereſted in the ſaid Incloſure may at all reaſonable Times have Recourſe thereto, and take a Copy thereof, or Extracts therefrom.

Commiſſioner to divert Roads.

XXII. And be it further enacted, That the ſaid Commiſſioner ſhall, and he is hereby authorized and required in all Caſes where, in his Judgement, it ſhall appear to be requiſite or proper, or for the more convenient Occupation of the Lands and Tenements within the ſaid Townſhip of *Cadeby*, and Pariſh of *Sprotbrough*, to divert and turn any old or accuſtomed Road, or Way or Path, paſſing or leading through or over any Part of the Old Incloſures within the ſaid Townſhip and Pariſh, or to ſtop up or diſcontinue ſuch Roads, Ways, and Paſſages, as to the ſaid Commiſſioner ſhall ſeem meet and proper; provided always, that no ſuch Road, Way, or Path ſhall be diverted, turned, ſtopped up, or diſcontinued without ſuch Concurrence and Order, and ſubject to ſuch Appeal as is mentioned or referred to in and by the ſaid Act of the Forty-firſt Year of His preſent Majeſty's Reign.

Power to exchange Lands.

XXIII. And be it further enacted, That it ſhall be lawful for the Truſtees or Truſtee, Feoffees or Feoffee, and alſo for any Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, who are or ſhall be Proprietors or Owners of Meſſuages, Lands, Tenements, or Hereditaments, lying within the ſaid Townſhip of *Cadeby*, or Pariſh of *Sprotbrough*, alſo to and for the Huſbands, Guardians, Committees, and Truſtees of any of the ſaid Owners and Proprietors being under Coverture, Minors, Ideots, Lunatics, or beyond the Seas, or otherwiſe incapable of acting for themſelves, and alſo to and for all Perſons acting as Guardians, Truſtees, or Committees of any ſuch Owners or Proprietors, being under any Diſability whatſoever, and to and for ſuch Owners or Proprietors, whether ſuch Owners or Proprietors be Tenants in Fee Simple, Tenants for Life, with or without Impeachment of Waſte, Tenants in Fee-Tail, general or ſpecial, Tenants by the Courteſy of *England*, Tenants for Years determinable on any Life or Lives, or otherwiſe, from Time to Time to exchange all or any of his, her, or their Meſſuages, Old Incloſures, Lands, Tenements, Allotments, Rights, Intereſts, Heriots, Chief Rents, or other Hereditaments within the ſaid Townſhip of *Cadeby*, or Pariſh of *Sprotbrough*, for any other Hereditaments within the ſame Townſhip or Pariſh, or within any adjoining Townſhip or Pariſh, ſo that all and every ſuch Exchange or Exchanges be teſtified in Writing under the Common Seal of any Corporation Aggregate, and under the Hands of the other Proprietors thereto reſpectively, be made by and with the Conſent and Approbation of the ſaid Commiſſioner, and be aſcertained, ſpecified, and declared in his ſaid Award, and all and every ſuch Exchange or Exchanges ſhall be good and valid in the Law, to all Intents and Purpoſes whatſoever; provided always, that no Exchange ſhall be made by virtue of this Act, of any Lands, Tenements, or Hereditaments belonging to His Majeſty, His Heirs, or Succeſſors, in Right of his Duchy of *Lancaſter*, without the Conſent of the Chancellor of the ſaid Duchy for the Time being, or of any Lands, Tenements, or Hereditaments, holden in Right of any Church or Chapel, without the Conſent of the Patron thereof, and of the Lord Biſhop of the Dioceſe for the Time being reſpectively.

Expences of Exchanges to be borne by the Persons making them.

XXIV. And be it further enacted, That the Costs, Charges, and Expences attending the making of any Exchange or Exchanges to be made by virtue of this Act, shall be borne, paid, and defrayed by the several Persons making the same, in such Shares and Proportions as the said Commissioner shall in and by his said Award order and direct; provided always, that the said Proprietors, their Attornies or Agents, shall pay their own Expences, when they or any of them shall attend the said Commissioner at any Meeting to be holden in pursuance of this Act.

Allotment to His Majesty in lieu of certain Chief Rents.

XXV. And whereas certain Quit Rents and Fee Farm Rents are issuing out of certain Estates in the Township of *Cadeby* and Parish of *Sprotbrough* aforesaid, belonging to the said Sir *Joseph Copley* and *Richard Fountayne Wilson*, or one of them, and payable to the King's most Excellent Majesty, who is seized of the same, to Himself, His Heirs and Successors, in Fee Simple, being Parcel of the Estates and Possessions of the said Duchy of *Lancaster*, amounting to Three Pounds Two Shillings and Eight-pence, or thereabouts; and it hath been agreed that the said Estates shall be exonerated and discharged from the Payment of the said several Quit Rents and Fee Farm Rents, and an Equivalent given to His said Majesty, who is so entitled thereto as aforesaid; be it therefore further enacted, That it shall and may be lawful to and for the said Commissioner, and he is hereby authorized and required to set out and allot to the said King's most Excellent Majesty, His Heirs and Successors, as Proprietor of and entitled to the said Fee Farm Rents and Quit Rents as aforesaid, such Plots or Parcels of the said Commons and Waste Lands intended to be divided and inclosed, as in the Judgement of the said Commissioner shall be equal in Value to the Fee Simple and Inheritance of the Amount of the said Quit Rents and Fee Farm Rents, now paid or payable to the King's most Excellent Majesty, or His Lessee or Lessees thereof; and the said Commissioner is hereby empowered and required to ascertain and determine the Annual Amount of the Quit Rent or Quit Rents, Fee Farm Rent or Fee Farm Rents, payable by the said Sir *Joseph Copley* and *Richard Fountayne Wilson* respectively, and to deduct the Value of the Fee Simple of such Quit Rent or Quit Rents, Fee Farm Rent or Fee Farm Rents, from the respective Allotments to be made to each of them, and their respective Estates shall from thenceforth, or from such other Time as the said Commissioner shall appoint, be exonerated, and for ever discharged from the Payment of such Quit Rents or Fee Farm Rents respectively.

This Act not to alter any Will, Settlement, &c.

XXVI. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend, to revoke, make void, alter, or annul any Will, Settlement or other Deed, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Estates, Debts, Rents, or Incumbrances, out of, upon, or affecting any of the Lands and Hereditaments to be divided, allotted, and inclosed, or which shall be exchanged by virtue of this Act, or the said Act of the Forty-first Year of His present Majesty's Reign, or any Part or Parts thereof respectively; but that the respective Persons to whom any Lands or Hereditaments shall be divided, allotted, or given in Exchange, by virtue of this Act, or the said Act of the Forty-first Year of His present

Majeſty's Reign, ſhall be ſeized thereof to ſuch and the ſame Uſes, and for ſuch and the ſame Eſtates, and under and ſubject to ſuch and the ſame Settlements, Limitations, Remainders, Jointures, Rents, Charges, and Incumbrances, and under ſuch and the ſame Reſtrictions, Covenants, and Agreements, as the ſeveral Meſſuages, Lands, Tenements, or Hereditaments, whereof ſuch Perſons reſpectively were ſeiſed or poſſeſſed at or immediately before the Execution of the Award to be made by the ſaid Commiſſioner, or for which, or in lieu, or reſpect whereof ſuch Diviſion, Allotment, or Exchange, ſhall be made as aforeſaid, would have been ſubject to, charged with, or affected by, in caſe this Act had not been made.

Expences of paſſing and executing the Act.

XXVII. And be it further enacted, by the Authority aforeſaid, That as well the Fees and Payments of the ſaid Commiſſioner, as alſo the Charges and Expences attending the ſoliciting, obtaining, and paſſing of this Act, and the ſurveying, planning, and meaſuring, dividing, allotting, and incloſing the ſaid Open and Common Fields, Common Paſture, Commons, and Waſte Lands, and of preparing, making, executing, and inrolling the ſaid Award or Awards of the ſaid Commiſſioner, and making a Copy thereof, and of ſetting out the Highways or Roads, and of making any new Highways or Roads, which ſhall be ſet out and appointed, or directed to be made, by the ſaid Commiſſioner, and all other the Coſts, Charges, and Expences of the ſaid Commiſſioner, and of the ſaid Perſons employed and conſulted by the ſaid Commiſſioner, in carrying the ſeveral Powers of this and the ſaid Act of the Forty-firſt Year of His preſent Majeſty into Execution, or in anywiſe concerning the ſame; and all other Charges and Expences attending the Execution of this Act, ſhall be borne and defrayed, from Time to Time as the ſame ſhall be incurred, by all the Proprietors and Owners of, and Perſons intereſted in, the ſeveral Lands, Grounds, Hereditaments, and other Eſtates to be divided, allotted, or incloſed, as aforeſaid, by virtue of this Act, and the ſaid Act of the Forty-firſt Year of His preſent Majeſty's Reign, (except the King's moſt Excellent Majeſty, His Heirs and Succeſſors, for or in reſpect of any Allotment or Allotments to be made to Him or them as aforeſaid), in ſuch Shares and Proportions, and at ſuch Time or Times, Place or Places, and to ſuch Perſon or Perſons, as ſhall by the ſaid Commiſſioner, before or after the Execution of his General Award, be ordered, directed, and appointed, by Writing under his Hand, Twenty Days at leaſt, before the Time appointed for ſuch Payments, and in caſe any of the Perſons or Parties aforeſaid, ſhall refuſe or neglect to pay his, her, or their Share or Shares of ſuch Charges and Expences, or the Charges or Expences of incloſing, hedging, and ditching, his, her, or their Shares or Allotments, within the Time to be limited by the ſaid Commiſſioner, to ſuch Perſon or Perſons as he ſhall appoint; then, or in any of the ſaid Caſes, the ſame ſhall and may be levied, or recovered, in like Manner, as the Expences authorized to be raiſed by the ſaid Act of the Forty-firſt Year of His preſent Majeſty's Reign were thereby directed to be raiſed.

Power for Tenants for Life, &c. to charge

XXVIII. And be it further enacted, That it ſhall be lawful for the Huſbands, Guardians, Truſtees, Committees, or Attornies of any of the

Expences by Mortgage.

the Owners or Proprietors of such Allotments or exchanged Lands, being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability, and for any of the said Owners or Proprietors, being Tenants in Tail, or for Life or Lives, or Years determinable on a Life or Lives, or on any other Contingency, or otherwise interested as aforesaid, to charge such Allotments or exchanged Lands and Premises, with such Sum or Sums of Money as the said Commissioner shall by his Award, or by Writing under his Hand, either before or after the Execution of such Award, adjudge necessary to pay and defray the said respective Shares of the Charges and Expences incident to, and attending the obtaining such Act, and carrying the same into Execution, and of ditching, draining, and fencing their respective Allotments, and making necessary Subdivision Fences, and of charging the said Lands as aforesaid, so that the same shall not exceed Five Pounds for every Acre of such Allotments or Lands, and with lawful Interest for such Sum or Sums, and to grant, by way of Mortgage, the Lands, Tenements, and Hereditaments so to be charged, unto such Person or Persons who shall advance such Sum or Sums of Money, his, her, or their Executors, Administrators, and Assigns, or to a Trustee or Trustees, for him, her, or them, for any Term or Number of Years, for securing the Payment of such Sum or Sums which shall be so advanced, and lawful Interest, so that every such Mortgage or Charge be made with a Proviso, that the Person or Persons afterwards becoming possessed of, or intitled to, any such Lands, Tenements, or Hereditaments, shall not be liable to pay any further or larger Arrear of Interest than for Six Calendar Months, previous to the Time when the Title to such Possession shall have commenced, or in case any Person in Possession, who shall or may be liable to, and charged with, a Share of the Expences as last aforesaid, or enabled by this Act to charge such Lands and Grounds with the same, shall choose to advance, pay, and discharge such Sum or Sums of Money; then it shall be lawful for the said Commissioner, by any Deed or Writing under his Hand and Seal, to be attested by Two or more credible Witnesses, in like Manner to grant, by way of Mortgage, or otherwise subject the said Lands, Tenements, and Hereditaments to such Person or Persons respectively paying and discharging the same, his, her, or their Executors, Administrators, and Assigns, or to a Trustee or Trustees, for him, her, or them, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money so advanced, paid, and discharged as last mentioned, with lawful Interest for the same, such Interest to commence on the Termination of the Right in the Premises of the Person or Persons advancing, paying, or discharging the same, and every such Mortgage or Charge shall be good, valid, and effectual in the Law, for the Purposes thereby intended.

Commissioners Accounts.

XXIX. And be it further enacted, That Once at least in each and every Year during the Execution of this Act, (such Year to be computed from the Day of the passing thereof), the said 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 own Trouble and Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall

be by him laid before One of His Majesty's Justices of the Peace, in and for the West Riding of the said County of *York*, to be by the said Justice inspected, examined, and balanced, and such Balance shall be by him the said Magistrate, stated in the Book of Accounts to be kept in the Office of the Clerk of the said Commissioner; and that no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice.

Right of Appeal to the Quarter Sessions.

XXX. And be it further enacted, That if any Person or Persons shall think, him, her, or themselves aggrieved by any Matter or Thing whatsoever, to be done in pursuance of this Act, or the said Act of the Forty-first Year of His present Majesty's Reign (other than and except such Claims, Matters, and Things, as are in the said Act of the Forty-first Year of His said Majesty's Reign, and this Act, directed or authorized to be ascertained, settled, tried, and determined by the Verdict of a Jury; or where, by any of the Provisions of the said Act of the Forty-first Year of His said Majesty's Reign, or of this Act, the Determinations, Acts, and Proceedings of the said Commissioner are directed to be final and conclusive) then, and in any such Case, he, she, or they, may appeal to the General Quarter Sessions of the Peace, which shall be held for the West Riding of the County of *York*, within Six Calendar Months next after the Cause of Complaint shall have arisen, every such Appellant giving Twenty Days Notice previous, to the said Commissioner, of bringing such Appeal, and of the Matter thereof, and the Justices (not interested in the Premises), in their General Quarter Sessions, are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages as to them, in their Discretion, shall seem reasonable, and by their Order or Warrant to levy the Damages and Costs which shall be so awarded by them, by Distress and Sale of the Goods and Chattels of the Party or Parties made liable to the Payment thereof, rendering the Overplus, if any, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such Distress and Sale; and every Order or Determination of the said Justices, upon every such Appeal, shall be final and conclusive to all Parties concerned, and shall not be subject or liable to be moved by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; and 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, to be levied in Manner aforesaid.

General Saving.

XXXI. Saving always to the King's most Excellent Majesty, His Heirs and Successors, as well in Right of His Crown as in Right of His Duchy of *Lancaster*, and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, and their Heirs, Executors, and Administrators, all such Estate, Right, Title, and Interest (other than such as are meant and intended to be compensated for, barred, or destroyed by this Act), of, in, to, or in respect of the said Open and Common Fields, Common Pasture, Commons, and Waste Lands, to be divided, allotted, inclosed,

inclosed, or exchanged by virtue of this Act, or the said Act of the Forty-first Year of His Majesty's Reign, as he, she, or they might or could have enjoyed, in case this Act had not been made.

Act may be given in Evidence.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1809.