ANNO QUADRAGESIMO TERTIO

# GEORGII III. REGIS.

## *Cap.* 119.

An Act for incloſing Lands within the Manor and Townſhip of *Elland cum Greetland*, in the Pariſh of *Halifax* and Weſt Riding of the County of *York*.

[6th *July* 1803.]

WHEREAS there are within the Manor and Townſhip of *Elland cum Greetland*, in the Pariſh of *Halifax* and Weſt Riding of the County of *York*, ſeveral Open Fields or Meſne Incloſures, called *High Field*, *Stainland*, *Stile Field*, and *Stone Law Field* otherwiſe the *High Town Field*, the *Middle Town Field*, and the *Lower Town Field*, containing together One hundred and ſixteen Acres or thereabouts; and divers Open Commons, Moors, and Waſte Grounds called *Elland Edge*, *Whittle Green*, *Blackley*, *Elland Bank*, *Raven Stone*, *Lindwell Bank*, *Thick Hollen Moor*, and *Greetland Moor*, and various other Parcels of Waſte not diſtinguiſhed by particular Names, containing in the Whole Six hundred Statute Acres or thereabouts: And whereas the Honourable *Richard Lumley Savile* is Lord of the Manor of *Elland cum Greetland* aforeſaid, and Owner of the Soil of the ſaid Commons, Moors, and Waſte Grounds, and of the Coal, Slate, Stone, and all other Mines and Minerals therein: And whereas *Henry William Coulthurſt* Doctor in Divinity, is Vicar or Incumbent of the Pariſh of *Halifax* aforeſaid, and as ſuch entitled to the Tythe of Agiſtment, Turnips, Potatoes, Rape, Hemp, Flax, Geeſe, Cows, Pigs, and all other Vicarial or Small Tythes whatſoever within the ſaid Townſhip of *Elland cum Greetland*: And whereas

Lord of the Manor.

Vicar.

Freeholders. whereas the ſaid *Richard Lumley Savile*, and alſo the Right Honourable *John* Earl *Mexborough*, *Joſeph Radcliffe*, *Edward Dyne Briſcoe*, and *Marmaduke Langdale*, Eſquires, and divers other Perſons, are Proprietors of antient Meſſuages, Cottages, Lands, Tenements, and Hereditaments, within the ſaid Manor and Townſhip, having Right of Common in and upon the ſaid ſeveral Commons, Moors, and Waſte Grounds, and ſome of them are Owners of or intereſted in the ſaid Open Fields or Meſne Incloſures, or ſome Part or Parts thereof: 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 Lands and Grounds are in their preſent State incapable of much Improvement, and it would be very advantageous to the Proprietors thereof, and other Perſons intereſted therein, if the ſame were exonerated from the Small Tythes ariſing therefrom, and if ſuch Commons, Moors, and Waſte Grounds were divided and incloſed in Manner herein-after mentioned, and an Allotment or ſeveral Allotments made thereout to the ſaid Vicar in lieu of ſuch Tythes; and it would alſo be for the Benefit of the ſaid Proprietors of and Perſons intereſted in the aforeſaid Open Fields or Meſne Incloſures, if the ſame were divided and incloſed, and ſpecifick Shares allotted to them according to their ſeveral and reſpective Intereſts therein; but ſuch Diviſion, Allotments, and Incloſures, cannot be effected and eſtabliſhed without the Aid and Authority of Parliament: May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame,

Commiſſioner. That *Jonathan Taylor* of *Leeds* in the County of *York*, Gentleman, ſhall be and he is hereby appointed the Commiſſioner for dividing, allotting, and incloſing the ſaid Open Fields, Meſne Incloſures, Commons, Moors, and Waſte Grounds, and for carrying this Act into Execution, in Manner and ſubject to the Regulations in this Act contained, ſubject nevertheleſs to the Regulations of the ſaid recited Act, except in ſuch Caſes where the ſame are hereby varied or altered.

How a new Commiſſioner is to be appointed.

II. And be it further enacted, That if the ſaid *Jonathan Taylor*, or any other Commiſſioner that ſhall be elected and appointed as hereafter directed, ſhall die, or refuſe or become incapable to act in the Execution of this Act of Parliament, the Perſons who reſpectively for the Time being ſhall be intereſted in the Lands and Grounds to be divided and incloſed as aforeſaid, or the major Part of them in Value, who in Perſon, or by their Agent or Attorney ſhall attend at a Meeting, to be called purſuant to a Notice in Writing to be affixed on the principal outer Door of the Pariſh Church of *Halifax* aforeſaid, and the Parochial Chapel of *Elland*, on ſome *Sunday*, either during or immediately before or after Divine Service; which Notice the Perſon who acts as Clerk to the ſaid Commiſſioner is hereby required to give, within One Calendar Month next after ſuch Death, Refuſal, or Incapacity of the ſaid Commiſſioner ſhall be made known, and Ten Days at leaſt previous to ſuch Meeting ſhall and may from Time to Time, by Writing under their Hands or the Hands of their Agents or Attornies, elect, nominate, or appoint ſome other fit and proper Perſon, not intereſted in the ſaid intended Diviſion and Incloſure,

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to be the Commiſſioner in the Place and Stead of ſuch Commiſſioner ſo dying, refuſing, or becoming incapable to act as aforeſaid; which ſaid Commiſſioner, ſo to be elected and appointed, ſhall (after the taking the Oath preſcribed in that Behalf) have the like Power and Authority for carrying this Act into Execution, as if he had been the Commiſſioner originally nominated and appointed hereby.

Notice of firſt and ſubſequent Attendance.

III. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to cauſe Notice in Writing to be affixed on the principal outer Door of the Pariſh Church of *Halifax*, and the Parochial Chapel of *Elland* aforeſaid, on ſome *Sunday*, either during or immediately before or after Divine Service, of the Time and Place of his Firſt Attendance or beginning to put this Act into Execution, and alſo of ſuch other Times and Places as he ſhall appoint for the Purpoſe of receiving, adjuſting, and ſettling the Claims, Rights, Shares, and Proportions of any Perſon or Perſons intereſted in the ſaid Open Fields, Meſne Incloſures, Commons, Moors, and Waſte Grounds, hereby directed to be divided and incloſed, or for any other Purpoſe whatſoever, which ſhall or may require the Attendance of any Perſon or Perſons intereſted in the ſaid intended Diviſion and Incloſure, ſo as that the Place of every ſuch Attendance or Meeting be within Two Miles of *Elland* aforeſaid, and that Fourteen Days previous Notice be given thereof (Attendances by Adjournment only excepted).

Certain Notices to be publiſhed in the *Halifax Journal*, or in ſome other Paper uſually circulated in the Weſt Riding of the County of *York*.

IV. And be it further enacted, That the Notices required by this or the ſaid recited Act, to be given or publiſhed in ſome publick Newſpaper of ſetting out publick Carriage Roads, and of reading and executing the Award of the ſaid Commiſſioner, ſhall be given and publiſhed in the *Halifax Journal*, or if that Newſpaper ſhall not then be publiſhed, in ſome other Newſpaper uſually circulated in the ſaid Weſt Riding of the County of *York*.

For paying the Expences of this Act.

V. And be it further enacted, That the ſeveral and reſpective Perſons intereſted in the ſaid Open Fields or Meſne Incloſures ſo intended to be divided and incloſed, ſhall contribute ſuch Sum and Sums of Money towards defraying the Coſts, Charges, and Expences of preparing, obtaining, and carrying this Act into Execution, and of preparing the Award of the ſaid Commiſſioner, in Proportion and according to the Value of their ſeveral and reſpective Shares and Intereſts in and to the aforeſaid Open Fields or Meſne Incloſures, at ſuch Time and Place or Times and Places, as he the ſaid Commiſſioner ſhall, either before or after the Execution of his ſaid Award, by Notice or Notices in Writing under his Hand, direct or appoint; and in caſe any Perſon or Perſons ſhall neglect or refuſe to pay his, her, or their Share or Shares, Proportion or Proportions of ſuch Charges and Expences, or any Part or Parts thereof, within the Time or Times to be limited by the ſaid Commiſſioner, to ſuch Perſon or Perſons as he ſhall appoint to receive the ſame, then and in either of the Caſes aforeſaid, it ſhall be lawful for the ſaid Commiſſioner, by Warrant under his Hand and Seal, directed to any Perſon or Perſons whomſoever, to levy the ſame by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay, in Manner directed by the ſaid recited Act; and that the Reſidue of the ſaid Coſts and Charges of preparing, obtaining, and carrying this Act into Execution, and of preparing the ſaid Award, and alſo the Coſts

and

and Charges of forming and completing the publick Highways to be ſet out and appointed over and upon the ſaid Commons, Moors, and Waſte Grounds, hereby intended to be incloſed, and of making the outward Fences of the Allotment to the Vicar of *Halifax* aforeſaid, and likewiſe all other Coſts, Charges, and Expences whatſoever, relating to or concerning the obtaining, paſſing, and executing this Act, ſhall be raiſed, paid, and defrayed, by Sale of ſuch Part or Parts of the ſaid ſeveral Commons, Moors, and Waſte Grounds, as the ſaid Commiſſioner ſhall ſet out (purſuant to the Directions of the ſaid recited Act), and think ſufficient for that Purpoſe; and that it ſhall be lawful for the ſaid Commiſſioner to offer to Sale ſuch Part or Parts of the ſaid ſeveral Commons, Moors, and Waſte Grounds, ſo directed to be ſet out by him as aforeſaid, and ſold to defray the Expences of obtaining and carrying this Act into Execution, to the Proprietor or Proprietors whoſe antient Meſſuages, Buildings, Lands, or Grounds, adjoin or lie near thereto, at ſuch Price or Prices as he the ſaid Commiſſioner ſhall think proper; and in caſe ſuch Proprietor or Proprietors ſhall neglect or refuſe to become Purchaſer or Purchaſers thereof, at the Price or Prices fixed thereon, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner to ſell and diſpoſe of the ſame by publick Auction or private Contract, as to him ſhall ſeem beſt; any Thing herein contained to the contrary thereof notwithſtanding.

Allotment to be made to the Lord of the Manor.

VI. And be it further enacted, That the ſaid Commiſſioner ſhall, after ſetting out and appointing the neceſſary publick Carriage Roads and Highways through and over the ſaid ſeveral Commons, Moors, and Waſte Grounds, hereby directed to be divided, allotted, and incloſed, and of the neceſſary Quantity to be ſold for the Purpoſe of contributing towards and paying the Expences of the ſaid Incloſure, aſſign, ſet out, allot, and award, unto and for the ſaid *Richard Lumley Savile*, as Lord of the Manor of *Elland cum Greetland* aforeſaid, ſuch Part and Parcel of the ſaid Commons, Moors, and Waſte Grounds, as (Quantity, Quality, and Situation conſidered) ſhall in his Judgement be equal in Value to One Sixteenth Part thereof, in lieu of and as a full Recompence for his Right to the Soil of the ſaid ſeveral Commons, Moors, and Waſte Grounds.

Encroachments to be allotted and belong to the Lord of the Manor.

VII. Provided always, and be it further enacted, That all the Cottages, Buildings, and Encroachments, erected upon or taken from any Part of the ſaid ſeveral Commons, Moors, and Waſte Grounds, within the laſt Twenty Years (except ſuch Encroachments as have been made by Freeholders or Perſons entitled to Right of Common upon the ſaid ſeveral Commons, Moors, and Waſte Grounds, hereby directed to be divided, allotted, and incloſed), ſhall be allotted and awarded to the ſaid *Richard Lumley Savile*, Lord of the ſaid Manor of *Elland cum Greetland*, in Part of the Sixteenth Share of the ſaid ſeveral Commons, Moors, and Waſte Grounds, by this Act directed to be allotted and awarded to him, without conſidering the Improvements made thereon or thereto; and if it appears that any ſuch Encroachments have been ſold by the ſaid *Richard Lumley Savile*, under or by virtue of certain Acts of Parliament made in the Thirty-eighth and Thirty-ninth Years of the Reign of His preſent Majeſty for the Redemption of the Land Tax, or One of them, ſuch Encroachments ſo ſold as aforeſaid ſhall likewiſe be accepted and taken by the ſaid *Richard Lumley Savile*, as Part of his Sixteenth Share of the-

ſaid

ſaid ſeveral Commons, Moors, and Waſte Grounds; and that all Encroachments which have been made on the ſaid Commons, Moors, and Waſte Grounds, for upwards of Twenty Years from the paſſing of this Act, ſhall belong to the ſaid *Richard Lumley Savile* as his own Freehold, but ſhall not be entitled to any Allotment in reſpect thereof.

Allotment to the Vicar of *Halifax* in lieu of his Vicarial or Small Tythes.

VIII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required, in the next Place, to make a juſt and true Eſtimate of the true Value, One Year with another, of all Tythes of Agiſtment, Turnips, Potatoes, Rapes, Hemp, Flax, Geeſe, Cows, Pigs, and all other Vicarial or Small Tythes whatſoever, ariſing or payable to the Vicar of *Halifax* aforeſaid, and his Succeſſors, out of or in reſpect of the Lands and Grounds within the Manor or Townſhip of *Elland cum Greetland* aforeſaid, as well thoſe already incloſed as thoſe intended to be hereby divided, allotted, and incloſed; and after ſuch Eſtimate is made as aforeſaid, the ſaid Commiſſioner ſhall ſet out, allot, and award, unto the Vicar of *Halifax* aforeſaid, and his Succeſſors, ſuch Portion of the ſaid Commons, Moors, and Waſte Grounds, as he the ſaid Commiſſioner ſhall think equivalent or equal in Value to the ſame Vicarial or Small Tythes, which ſaid Allotment ſhall be in lieu of and in full Compenſation for all Vicarial Tythes, yearly or otherwiſe growing, ariſing, increaſing, or becoming due or payable, out of all or any Part of the ſaid Lands or Grounds, within the Manor or Townſhip of *Elland cum Greetland*.

Saving Mortuaries and Surplice Fees &c.

IX. And be it further enacted, That nothing herein contained ſhall extend to prejudice or impeach the Right of the ſaid Vicar of *Halifax*, or any of his Succeſſors, to any of his Dues not ariſing from, or for or in reſpect of the Lands and Grounds within the ſaid Townſhip or Manor of *Elland cum Greetland*, and alſo all *Eaſter* Offerings, Mortuaries, Surplice and other Fees, ſhall be and remain payable, and be recoverable in the ſame Manner as if this Act had not been made.

Allotment to the Earl of *Mexborough* in exchange for Part of his Freehold Property.

X. And be it further enacted, That the ſaid Commiſſioner ſhall and may and he is hereby authorized and required, in the next Place, to ſet out and award unto the Right Honourable *John* Earl of *Mexborough*, his Heirs and Aſſigns for ever, ſo much and ſuch Part or Parts of the ſaid ſeveral Commons, Moors, and Waſte Grounds, as ſhall in the Judgement of the ſaid Commiſſioner be a full Compenſation or Equivalent, and in exchange for Half an Acre of a certain Cloſe of Land called *The Croft*, belonging to the ſaid Earl of *Mexborough*, ſituate in *Elland* aforeſaid, and now in the Poſſeſſion of *Abraham Howarth*, his Aſſigns or Undertenants, and ſhall direct the ſame to be well and ſufficiently fenced and incloſed, the Expence of which ſhall be borne, defrayed, levied, and paid in the ſame Manner as the Coſts, Charges, and Expences of obtaining, paſſing, and executing this Act, are directed to be raiſed and paid.

Stone Quarries to be ſet out to be uſed in Repair of the Highways, and by the Lord and Freeholders.

XI. And be it further enacted, That the ſaid Commiſſioner ſhall and may in the next Place aſcertain, ſet out, and appoint certain Pieces and Parcels of Ground (Part of the ſaid ſeveral Commons, Moors, and Waſte Grounds, hereby directed to be incloſed) not exceeding Ten Acres, in ſuch Place or Places as he ſhall think proper, for getting Stone, Gravel, Sand, and Materials, not only for the Repair of the ſeveral

publick Highways and Roads within the ſaid Townſhip of *Elland cum Greetland*, and of the Roads to be made under and by virtue of this Act and of the ſaid General Incloſure Act, but to be appropriated to all other Uſes, except for the Purpoſe of Sale, by the ſaid *Richard Lumley Savile*, and all other Freeholders within the ſaid Manor.

As to Road over the Fields.

XII. And whereas the Inhabitants, and the Owners and Occupiers of Lands and Tenements within the Townſhip of *Stainland* in the Pariſh of *Halifax* aforeſaid, claim a Right to uſe and enjoy a certain Way or Road over acroſs the Town Fields of *Elland* aforeſaid, beginning at the South Weſt Extremity thereof, and leading thence to the Town of *Elland* aforeſaid, on Foot and on Horſeback, and with Horſes, Cattle, Carts, and Carriages, and for all Manner of Purpoſes, without Interruption, at all Times between the Twenty-ninth Day of *September* (Old Style) and the Twenty-fifth Day of *March* (Old Style); and in caſe the ſaid Way or Road ſhould be ſtopt or made up by or in conſequence of the ſaid intended Incloſure, the Publick, and in particular the ſaid Inhabitants, Owners, and Occupiers of Lands and Tenements within the Townſhip of *Stainland* aforeſaid (who are not intereſted in, and who derive no Benefit from the ſaid intended Diviſion and Incloſure), will ſuffer great Inconvenience, and be materially prejudiced thereby; be it therefore further enacted, That the ſaid Commiſſioner and his Succeſſor ſhall and may, and he is hereby authorized and required, within Twelve Calendar Months after the paſſing of this Act, to ſet out and appoint a Road of the Breadth of Twenty-four Feet at the leaſt between and excluſive of the Ditches or Fences, beginning at the South Weſtern Extremity of the ſaid Common Fields called *The Town Fields*, and as near the Upper or South Turn or Corner of the Angle of the preſent Highway leading to *Stainland* as may be, and leading thence as nearly as poſſible in a ſtraight Line, in an Eaſterly Direction, in, over, and acroſs the ſaid Fields ſo intended to be divided and incloſed as aforeſaid, towards and into the Town of *Elland*, at a Place there called *Kiln Lane Bottom*, which Road ſhall at all Times, after the ſame ſhall have been ſet out as aforeſaid, be kept and continued open, and ſhall and may be uſed and enjoyed by all Perſons whomſoever paſſing and repaſſing thereon on Foot and on Horſeback, and with Horſes, Cattle, Carts, and Carriages, and for all Manner of Purpoſes, from the Twenty-ninth Day of *September* to the Twenty-fifth Day of *March* (Old Style) in every Year, without any Interruption or Diſturbance whatſoever: Provided nevertheleſs, that the Inhabitants of the ſaid Townſhips of *Elland* and *Stainland*, or either of them, ſhall not be at any Expence in the making or repairing the ſaid Road.

Quarry Ground, after the Stone is gotten, to belong to the Churchwardens and Overſeers.

XIII. Provided always, and be it further enacted, That the Herbage growing in and upon the Allotment or Allotments ſo to be ſet out for furniſhing Stones, Gravel, Sand, and other Materials, and alſo the Ground and Soil of ſuch Allotment or Allotments, after the Stones, Gravel, Sand, and other Materials therein ſhall have been dug and got, ſhall be veſted in and belong to the Churchwardens and Overſeers of the Poor for the Time being of the ſaid Townſhip of *Elland cum Greetland* aforeſaid, for the Uſe of the Poor belonging to the ſaid Townſhip.

Allotment of Reſidue of Commons.

XIV. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required to aſſign, ſet out, allot, and award, the

the Reſidue of the ſaid ſeveral Commons, Moors, and Waſte Grounds, unto and amongſt the ſeveral Owners and Proprietors of antient Meſſuages, Cottages, and Tofts, having Right of Common thereon, and of the antient incloſed Lands and Grounds ſituate, lying, and being within the ſaid Manor and Townſhip of *Elland cum Greetland*, in Proportion to the Number of ſuch their reſpective Meſſuages, Cottages, and Tofts, and according to the Quantity and Value of ſuch their reſpective Lands and Grounds, in full Bar and Compenſation of their ſeveral and reſpective Rights and Intereſts upon the ſeveral Commons, Moors, and Waſte Grounds, within the ſaid Manor or Townſhip of *Elland cum Greetland*; and alſo ſhall divide, ſet out, and allot, the ſaid ſeveral Open Fields or Meſne Incloſures, ſo intended to be divided and incloſed, unto and amongſt the Proprietors and Perſons intereſted therein, according and in Proportion to ſuch their ſeveral and reſpective Rights and Intereſts in the ſame, and ſhall and may plot and lay out the Allotments of the ſaid Fields or Meſne Incloſures to each reſpective Proprietor, as nearly together and to their reſpective Property as conveniently may be.

and of Field Lands, or Meſne Incloſures.

XV. Provided alſo, and be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to ſet out the Lands or Grounds, herein-before directed to be allotted to the Vicar of the Pariſh Church of *Halifax* aforeſaid, and his Succeſſors, in reſpect of his Small Tythes within the ſaid Townſhip of *Elland cum Greetland*, together in One Plot, or ſuch Part of the ſaid ſeveral Commons, Moors, and Waſte Grounds as the ſaid Commiſſioner ſhall think fit, and that the ſaid Allotment ſo to be made and ſet out to the ſaid Vicar of *Halifax*, ſhall be well and ſufficiently incloſed or fenced with an outward Ring Fence, with a ſufficient Stone Wall, in ſuch Manner as the ſaid Commiſſioner ſhall direct; and that the Expence thereof ſhall be borne, defrayed, levied, and paid, in the ſame Manner as the Coſts, Charges, and Expences of obtaining, paſſing, and executing this Act, are herein-before directed to be raiſed and paid; and that the ſaid Fence when ſo made ſhall for ever afterwards be repaired and maintained by and at the Expence of the ſaid Vicar of *Halifax* and his Succeſſors for the Time being.

Allotments to the Vicar to be laid together, and the Expence of fencing to be defrayed in the ſame Manner as the Coſts and Charges of obtaining and carrying this Act into Execution.

XVI. And be it further enacted, That it ſhall be lawful for any of the Perſons entitled to Right of Common upon the ſaid ſeveral Commons, Moors, and Waſte Grounds, hereby directed to be incloſed, to ſell and diſpoſe of his, her, or their Right, Share, or Intereſt, in ſuch Commons, Moors, and Waſte Grounds, ſeparate and apart from the Property to which ſuch Right or Intereſt is appurtenant; and that the ſaid Commiſſioner ſhall and may award the Allotments to be made in lieu of the Right of Common ſo ſold and diſpoſed of, to the Purchaſer or Purchaſers thereof reſpectively, having received a Requeſt in Writing ſo to do, ſigned by the Owners or Proprietors of ſuch Rights of Common, in the Preſence of One or more credible Witneſs or Witneſſes; and that ſuch Purchaſer or Purchaſers ſhall hold and enjoy the ſame unto him, her, or them, his, her, or their Heirs and Aſſigns, for ever.

Proprietors may ſell their Common Right, and Commiſſioner award the ſame to the Purchaſer.

XVII. 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 Incloſure, hereby directed to be made, touching or concerning the Right to the Soil of the ſaid ſeveral Commons, Moors, and

Commiſſioner to ſettle Diſputes.

and Waſte Grounds, or any Part or Parts thereof, or touching or concerning the reſpective Rights and Intereſts therein which they or any of them have or claim to have in or to ſuch Commons, Moors, and Waſte Grounds, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion and Incloſure, it ſhall and may be lawful to and for ſuch Commiſſioner to examine 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.

Commiſſioner to award Coſts.

XVIII. 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 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 on Demand, then and in ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized, empowered, and required, by Warrant under his Hand, 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 as aforeſaid, 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.

Parties diſſatisfied may try their Rights by an Iſſue at Law.

XIX. Provided always, and be it further enacted, That in caſe any Perſon or Perſons whomſoever, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Incloſure, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioner, touching or concerning any Claim or Claims, herein-before directed to be ſettled by him, or of the Right to the Soil of the ſaid ſeveral Commons, Moors, and Waſte Grounds, or of any Rights of Common, or other Rights or Intereſts in, over, or upon the ſaid ſeveral Commons, Moors, and Waſte Grounds hereby directed to be divided, allotted, and incloſed, or any Part thereof, it ſhall and may be lawful to and 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 following Aſſizes to be held within and 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 the ſaid Determination ſhall have been made, within Two Calendar Months next after ſuch Deciſion of the ſaid Commiſſioner; and the Defendant or Defendants in ſuch Action ſhall, and he, ſhe, or they are hereby required to name an Attorney or Attornies, who ſhall appear thereto or file Common Bail, and accept One or more Iſſue or Iſſues, whereby ſuch Claim or Claims, and the Right or Rights thereby inſiſted on, may be tried

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and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Actions shall be binding on all Persons and Bodies Politick and Corporate whomsoever, unless the Court wherein 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, 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; and that 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.

Allotments to be inclosed and fenced within a certain Time, to be fixed by the Commissioner.

XX. And be it further enacted, That the several Allotments to be made as aforesaid, shall within such Time either before or after the Execution of the said Award, as the said Commissioner shall direct, be inclosed and fenced, and such Fences for ever afterwards maintained, repaired, and supported by and at the Expence of the several and respective Proprietors, in such Manner, Shares, and Proportions as the said Commissioner shall by his said Award direct.

Owners of Allotments to get Stone, but not Mines and Minerals therein.

XXI. And be it further enacted, That it shall be lawful for the Proprietors or Owners of Allotments of the said several Commons, Moors, and Waste Grounds hereby directed to be inclosed to get Stone, Slate, and Gravel (but not Coal, Lead Ore, Ironstone, and other Minerals), within their several and respective Allotments, for their own Use and Uses, and also to dispose of the same, as he, she, or they shall think proper.

No Sheep or Lambs to be kept upon the Allotments within Ten Years after the Execution of the said Award.

XXII. And be it further enacted, That if any Person or Persons whomsoever shall, during the Space of Ten Years from the Execution of the said Award, keep or depasture, or permit to be kept or depastured any Sheep or Lambs in the Allotments to be made in pursuance of this Act (unless he, she, or they shall first effectually fence and guard the adjoining Allotment or Allotments belonging to any other Proprietor or Proprietors from any Injury or Damage to their Quicksets or new planted Fences), or shall wilfully turn or put, or cause any Sheep, Lambs, Horses, Asses, or other Beasts or Cattle to be turned or put in any of the Lanes, Ways, or Roads, on either Side whereof any new growing Fences shall be planted, every Person so offending shall, upon Conviction before any One or more of His Majesty's Justices of the Peace acting in and for the West Riding of the County of *York*, upon the Oath of One or more credible Witness or Witnesses (which Oath the said Justice or Justices is and are hereby empowered to administer), forfeit and pay for every such Offence any Sum of Money not exceeding Five Pounds nor less than Fifty Shillings, over and above the Costs previous to and attending such Conviction, at the Discretion of the Justice before whom such Offender shall be convicted, to be levied by Distress and Sale of the Goods and Chattels of the Person subject to the Payment of the said Penalty, by Warrant under the Hand and Seal of such Justice, together with the Costs and Charges of the said Distress and Sale; and every such Penalty when so levied, shall be paid to the Person or Persons injured.

Leaſes at Rack Rent for any Term not exceeding 21 Years, as far as the ſame affects the ſeveral Commons hereby directed to be incloſed, to be void.

XXIII. And be it further enacted, That all and every Leaſe and Leaſes for any Term not exceeding Twenty-one Years, ſubſiſting at rack, improved, or extended Rent, of all or any Part of the Lands or Grounds hereby intended to be incloſed as aforeſaid, and all Right of Common in and upon the ſame, and all other Agreements for any Term or Time at rack, improved, or extended Rent, ſhall, as to the ſaid ſeveral Commons, Moors, and Waſte Grounds ſo intended to be divided and incloſed as aforeſaid, upon the Firſt Day of *January* which will be in the Year of our Lord One thouſand eight hundred and four, ceaſe and be void, the reſpective Perſons who have made or entered into any ſuch Leaſes or Agreements, making ſuch reaſonable Satisfaction for the ſame to the Leſſee or Leſſees, Tenant or Tenants, when required, as the ſaid Commiſſioner ſhall appoint or direct on Account thereof or as an Equivalent for the ſame.

Settlements, Deeds, or Wills not to be affected.

XXIV. Provided always, and be it further enacted, That nothing contained in this Act ſhall extend, or be deemed or taken to revoke, make void, alter, or annul any Settlement, Deed, Will, or Limitation, or to prejudice any Perſon having or claiming any Jointure, Dower, Portion, Reverſion, Rent, Service, Debt, Charge, or Incumbrance of, in, out of, upon, or affecting any of the Lands and Grounds ſo intended to be divided and incloſed, or which ſhall be exchanged in purſuance of this Act, or any Part thereof reſpectively; but that the ſeveral Lands and Grounds to be aſſigned and allotted upon ſuch Diviſion and Incloſure to the ſeveral Parties concerned or their Truſtees, and which ſhall be taken in Exchange in purſuance of this Act, ſhall, immediately after ſuch Allotments and Exchanges are made, be, remain, and enure, and the ſeveral Perſons to whom the ſame ſhall be allotted and aſſigned or given in Exchange as aforeſaid, ſhall from thenceforth ſtand and be ſeiſed thereof to and for ſuch and the ſame Uſes and Eſtates, and ſubject to ſuch and the ſame Wills, Settlements, Limitations, Remainders, Charges, Tenures, Rents, Services, Quit Rents, and Incumbrances as the ſaid ſeveral Lands, Grounds, Tenements, or Hereditaments, in lieu or in reſpect whereof ſuch Allotments and Exchanges ſhall be made as aforeſaid, now are, or ſhould or would have been ſubject and liable to be charged with or affected by in caſe the ſame had remained unincloſed and unexchanged, or this Act had not been made.

Allowance to the Commiſſioner.

XXV. And be it further enacted, That the ſaid Commiſſioner ſhall be paid the Sum of One hundred and eighty Pounds and no more, in full Satisfaction for all his Trouble and the Expence he ſhall incur in the ſurveying, admeaſuring, planning, and valuing all the Lands and Grounds hereby directed to be divided, allotted, and incloſed, and alſo the Meſſuages, Cottages, Orchards, Gardens, Homeſteads, ancient incloſed Lands and Grounds within the ſaid Manor or Townſhip of *Elland cum Greetland*, and likewiſe for all his Trouble and the Expences which he ſhall incur in the dividing, allotting, and incloſing the ſaid ſeveral Open Fields or Meſne Incloſures, Commons, Moors, and Waſte Grounds, and alſo the further Sum of Two Pounds and Two Shillings for his Trouble and Expences on each and every Day that he ſhall attend or be engaged or employed for the Purpoſe of enquiring into, examining Witneſſes, and ſettling and determining any objected or diſputed Claims, or any other Diſputes or Differences which ſhall or may ariſe or happen touching

touching or concerning the ſaid Diviſion or Incloſure, and hereby referred to the ſaid Commiſſioner, the ſaid Sum of Two Pounds and Two Shillings, to be paid by the Perſon or Perſons againſt whom the Award of the ſaid Commiſſioner ſhall be made in caſe of a Reference to him, as herein-before expreſſed; and in caſe of Refuſal to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo refuſing to pay as aforeſaid by Warrant under the Hand of the ſaid Commiſſioner directed to any Perſon or Perſons whomſoever, rendering the Overplus (if any) after deducting the reaſonable Expences of ſuch Diſtreſs and Sale.

For paying Expences of Exchanges.

XXVI. And be it further enacted, That all Coſts, Charges, and Expences attending the making of any Exchanges and Partitions by virtue of the ſaid recited Act, ſhall be paid, borne, and defrayed by the ſeveral Perſons making ſuch Exchanges and Partitions, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioner ſhall by his Award order or direct.

Proprietors and others to pay their own Expences at Meetings.

XXVII. Provided always, That the ſaid Proprietors or Perſons intereſted in the ſaid Diviſion and Incloſure, their Agents and Attornies, ſhall pay their own Expences when they or any of them ſhall attend the ſaid Commiſſioner in the Execution of this Act.

Perſons advancing Money to be repaid with legal Intereſt.

XXVIII. And be it further enacted, That if any of the ſaid Proprietors or any other Perſon or Perſons whomſoever ſhall advance and pay any Money in Diſcharge of the Fees or other Expences of obtaining, paſſing, and executing this Act, the Money ſo paid and advanced ſhall be repaid and ſatisfied, by the Direction of the ſaid Commiſſioner, together with lawful Intereſt for the ſame.

Award of the Commiſſioner to be inrolled at the Office of the Regiſter of the Weſt Riding of the County of *York* or his Deputy.

XXIX. And be it further enacted, That within Three Calendar Months after the ſaid Commiſſioner ſhall have made and executed his ſaid Award, the ſame ſhall be inrolled or tranſcribed at the Office of the Regiſter of the Weſt Riding of the County of *York*, or his Deputy, and that a true Copy of ſuch Inrolment, or any Part thereof, ſigned by the ſaid Regiſter or his Deputy (for which no more than Four-pence a Sheet of Seventy-two Words ſhall be paid), and alſo the ſaid original Award, ſhall be admitted and allowed as legal Evidence in all Courts and upon all Occaſions whatſoever; and the ſeveral Allotments, Diviſions, and Exchanges, and all Orders, Directions, Regulations, Determinations, Matters, and Things which ſhall be made, ſpecified, and ſet forth in and by the ſaid Award, in purſuance of this Act, ſhall be final, binding, and concluſive upon all Parties and Perſons intereſted therein.

Commiſſioner to lay his Accounts before Two Juſtices Once in every Year.

XXX. 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 true and juſt 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 any Two or more of His Majeſty's Juſtices of the Peace for the Weſt Riding of the ſaid County

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of *York*, to be by them examined and balanced, and such Balance shall be by such Justices 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 Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justices.

Mines and Minerals and Manorial Rights reserved to the Lord of the Manor.

XXXI. Provided always, and be it further enacted, That nothing contained in this Act shall defeat, lessen, or prejudice the Right, Title, or Interest of the said *Richard Lumley Savile*, as Lord of the said Manor of *Elland cum Greetland*, his Heirs or Assigns, of or to the Mines, Beds, Veins, or Seams of Coal, or any Mines of Iron, Ironstone, or other Mines or Minerals in or under the said several Commons, Moors, and Waste Grounds hereby intended to be inclosed, or to any Seigniories or Royalties incident and belonging to the said Manor, the same being hereby reserved to him the said *Richard Lumley Savile*, his Heirs and Assigns, as Lord or Lords of the said Manor, with full Power to him and them 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 Liberty of Hawking, Hunting, Fishing, and Fowling within the said Manor, and all Goods and Chattels of Felons and Fugitives, Felons of themselves, Persons outlawed, waived, and put in Exigent, Deodands, Treasure Trove, Waifs, Estrays, Forfeitures, Royalties, Jurisdictions, Franchises, and Privileges whatsoever to the said Manor incident or appertaining (other than and except such Common Rights, and Rents of Cottages and Encroachments, as could or might be claimed by him as Owner of the Soil and Inheritance of the said Commons, and the Quarries of Stone therein), in as full, ample, and beneficial a Manner, to all Intents and Purposes, as if this Act had not been made; and that the said *Richard Lumley Savile*, his Heirs and Assigns, shall and may at all Times hereafter have, hold, win, work, get, and enjoy all Mines, Coal, Ironstone, and Minerals, of what Nature or Kind soever (Quarries of Common Stone only excepted), under the said several Commons, Moors, and Waste Grounds, and the Encroachments, Allotments, and Improvements made and to be made therefrom, together with all convenient and necessary Ways, Roads, and Passages already made and hereafter to be made, and Liberty of laying, making, and repairing Waggon Ways and other Ways in, over, and along the same, or any of them, or any Part thereof, and searching for, winning, and working the said Mines and Minerals, and loading and carrying away the Coal, Ironstone, Lead Ore, Minerals, and other Produce thereof, and of making Pits, Shafts, Pit Rooms, Air Pits, Heap Rooms, Stand Yards, Drifts, Levels, Ways, and Warehouses (as well as using and continuing those already made), 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 of the Materials thereof, at his and their own free Will and Pleasure, and doing all such other Acts and Things, either now in Use or hereafter to be invented, as may be necessary and convenient for the full and complete Enjoyment thereof, in as full, ample, and beneficial Manner, to all Intents and Purposes, as he or they could or might have done in case this Act had not been made; yet nevertheless that the said *Richard Lumley Savile*, his Heirs or Assigns, shall be obliged to pay, and shall annually

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pay to the ſeveral Owners or Occupiers of ſuch Allotments reſpectively, a reaſonable and adequate Recompence and Satisfaction for all ſuch Damages as ſhall from Time to Time be thereby done thereto, in Proportion to the Loſs ſuſtained by ſuch Owners and Occupiers reſpectively, according to their Rights and Intereſts therein.

Lord not to ſink Pits, *etc.* in any Garden, Orchard, &c.

XXXII. Provided alſo, That nothing herein contained ſhall authorize or empower the ſaid *Richard Lumley Savile*, his Heirs or Aſſigns, or any of them, to ſink any Pit, Shaft, Quarry, or other Work, or break, ſpoil, or damage the Surface of or in any Garden, Orchard, or Plantation, not exceeding Half an Acre of Ground, which may be made or taken, in, upon, or from the ſaid ſeveral Commons, Moors, and Waſte Grounds, or any Allotment or Allotments thereof, or in any wiſe to damage any Houſe, Building, Court Yard, or Avenue, by ſinking, ſearching for, getting, or carrying away any of the Mines or Minerals aforeſaid, or the Produce thereof.

Perſons aggrieved may apply to the General Quarter Seſſions of the Peace in the Weſt Riding of the County of *York*.

XXXIII. And be it further enacted, That if any Perſon or Perſons whomſoever ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance of this Act, then and in every ſuch Caſe (except as to ſuch Claims, Matters, and Things as are herein-before directed or authorized to be tried, ſettled, or determined by the Verdict of a Jury, or where any of the Clauſes or Proviſions of the ſaid recited Act or of this Act ſhall expreſs that the ſame ſhall be final and concluſive), ſuch Perſon or Perſons may appeal to any General Quarter Seſſions of the Peace to be held in and for the ſaid Weſt Riding of the County of *York*, within Six Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving Thirty Days Notice to the ſaid Commiſſioner of his, her, or their Intention of appealing; and the Juſtices at ſuch Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and to award ſuch Coſts as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order or Warrant to levy the Coſts and Charges which ſhall be ſo awarded by Diſtreſs and Sale of the Goods and Chattels of the Party liable to pay the ſame, rendering the Overplus (if any) to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale; which Determination of the ſaid Juſtices ſhall be final and concluſive on all Parties, and ſhall not be removed or removeable 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 and may, and they are hereby authorized and empowered to award ſuch Coſts to be paid by the Appellant or Appellants, and to be levied in Manner aforeſaid, as to them in their Diſcretion ſhall ſeem reaſonable.

General Saving.

XXXIV. Saving and always reſerving to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politick and Corporate, his, her, or their Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, (other than and except the ſeveral and reſpective Perſons to whom any Allotment or Allotments of Lands or other Compenſation ſhall be made or provided by virtue of this Act, in reſpect of the Intereſt or Property for which ſuch

Allotment or Compenſation ſhall be made, and except ſuch other Rights and Intereſts as the Intent and Purpoſes of the Diviſion, Allotments, and Incloſure hereby authorized ſhall abſolutely require to be barred, deſtroyed, or extinguiſhed by this Act), all ſuch Eſtates, Rights, and Intereſts as they, every, or any of them had or enjoyed of, in, to, or in reſpect of the ſeveral Open Fields, Meſne Incloſures, Commons, Moors, and Waſte Grounds hereby directed to be divided and incloſed, before the paſſing of this Act, or could or might have had or enjoyed if this Act had not been made.

Declaring the Act publick.

XXXV. And be it further enacted, That this Act ſhall be printed by the Printer to the King's moſt Excellent Majeſty, and when ſo printed may be given in Evidence in all Courts of Juſtice, and before all Judges and Juſtices whomſoever, who ſhall take judicial Notice thereof in like Manner as if the ſame had been declared to be a publick Act.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1803.