GEORGII III. REGIS.

ANNO QUADRAGESIMO OCTAVO

Cap. 152.

An Act for incloſing Lands in the Pariſh of *Kirk-Smeaton*, in the Weſt Riding of the County of *York*. [30th *June* 1808.]

WHEREAS there are in the Pariſh of *Kirk-Smeaton*, and within the Manor of *Kirk-Smeaton*, in the Weſt Riding of the County of *York*, ſeveral Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds, containing by Eſtimation, Nine Hundred Acres, or thereabouts, and alſo ſeveral incloſed Lands and Grounds: And whereas *Joſeph Madocks*, and *William Alexander Madocks* Eſquires, are Lords of the ſaid Manor of *Kirk-Smeaton*: And whereas the Reverend *Richard Paver*, Clerk, is the Rector of the Rectory of *Kirk-Smeaton* aforeſaid, and as ſuch is entitled to all the Great and Small Tithes ariſing within the ſaid Pariſh, and the ſaid Rector is alſo entitled to certain Glebe Lands in the ſaid Pariſh, and the Right Honourable Earl *Fitzwilliam* is the preſent Patron of the ſaid Rectory: And whereas the ſaid *Joſeph Madocks*, and *William Alexander Madocks*, and the Reverend *Richard Perryn*, Clerk, and divers other Perſons are Proprietors of the Lands and Grounds in the ſaid Open and Common Fields, and the Lands and Grounds of the ſaid ſeveral Proprietors lie greatly intermixed and diſperſed, and are otherwiſe inconveniently ſituate, and the Proprietors of all the ſaid Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds are deſirous that the ſame ſhould be divided and allotted unto and among them proportionably, and according to the Value of their reſpective Eſtates, Rights, and

Intereſts therein, and that ſuch Allotments ſhould be incloſed, and held in Severalty, and alſo that, in conſideration of an adequate Compenſation all the Lands and Tenements in the ſaid Pariſh, as well open as incloſed, ſhould be diſcharged from Tithes; but the ſeveral beneficial Purpoſes aforeſaid 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 Kings 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 Whitelock*, of *Brotherton*, in the ſaid County of *York*, Gentleman, ſhall be, and he is hereby appointed ſole Commiſſioner for ſetting out, dividing, and allotting all the ſaid Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds, and for putting this Act into Execution, in ſuch Manner, and ſubject to ſuch Regulations, as are hereinafter contained, 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.

Commiſſioner appointed.

Power to appoint new Commiſſioner.

II. And be it further enacted, That if the ſaid *William Whitelock* ſhall die, or refuſe to act, or become incapable of acting as a Commiſſioner in the Execution of this Act, before all the Powers, Authorities, and Truſts hereby repoſed in the ſaid Commiſſioner ſhall be fully executed and performed, it ſhall and may be lawful for the Majority in Value of the Proprietors of Lands and Grounds hereby directed to be divided and allotted, or their reſpective Agents or Attornies preſent at a Meeting to be holden for that Purpoſe, by Writing, under their reſpective Hands, to nominate and appoint one other fit and proper Perſon not intereſted in the Premiſes, to be a Commiſſioner in the Place of the ſaid *William Whitelock*, provided that Ten days Notice of the Time, Place, and Purpoſe of ſuch Meeting ſhall be given by Six or more of the ſaid Proprietors, in like Manner as hereinafter is directed with reſpect to the Attendances or Sittings of the ſaid Commiſſioner, and that ſuch Attendings or Sittings ſhall be held in the Pariſh of *Kirk-Smeaton* aforeſaid, or within the Diſtance of Eight Miles from the ſaid Pariſh, and if any Commiſſioner or Commiſſioners, who ſhall be appointed in the Place of the ſaid *William Whitelock*, ſhall die, refuſe to act, or become incapable of acting as aforeſaid, ſuch future Vacancies ſhall, in like Manner, be filled up by the Majority in Value of the ſaid Proprietors, and ſo from Time to Time as there ſhall be Occaſion; and if any ſuch Commiſſioner ſhall neglect to attend Three ſucceſſive Sittings of the Commiſſioners, unleſs prevented by Sickneſs, ſuch Neglect ſhall be deemed and taken to be a Refuſal to act in the Execution of this Act, and every Perſon who ſhall be nominated and appointed a Commiſſioner in Manner aforeſaid, ſhall have the like Powers and Authorities in the Execution of this Act, as if he had been appointed a Commiſſioner in and by this Act.

Surveyor appointed.

III. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioner, by and with the Approbation of the Majority in Value

Value of the Proprietors, or their known Agents or Attornies, preſent at a Meeting to be holden for that Purpoſe, in like Manner as is hereinbefore directed with reſpect to the Meeting for appointing a new Commiſſioner, teſtified by Writing under their reſpective Hands, to appoint One or more fit and proper Perſon or Perſons not intereſted in the Premiſes, to be Surveyor or Surveyors for the Purpoſes of this Act, and on any future Vacancy, in like Manner to appoint ſome other Surveyor or Surveyors, and ſo from Time to Time, as often as there ſhall be Occaſion; and every ſuch Surveyor ſhall, at the Firſt Sitting of the ſaid Commiſſioner, after his Appointment, take and ſubſcribe an Oath in the Form hereinafter ſet forth.

IV. And be it further enacted, That no Perſon ſhall be capable of acting as a Surveyor, in the Execution of this Act, until he ſhall have taken and ſubſcribed an Oath, in the Form following, viz.

Surveyor's Oath.

'I do ſincerely promiſe and ſwear that I will act in the Execution of the 'Powers, Authorities, and Truſts repoſed in me as a Surveyor, by virtue of an Act paſſed in the Forty-eighth Year of the Reign of King 'George the Third, intituled 'An Act for incloſing Lands in the 'Pariſh of *Kirk-Smeaton*, in the Weſt Riding of the County of *York*,' 'truly, impartially, and honeſtly, according to the beſt of my Skill, 'Judgment, and Ability, without Favour or Affection, Prejudice or 'Malice, to any Perſon or Perſons whomſoever.

'So help me GOD.'

V. And the Commiſſioner is hereby authorized to adminiſter the ſaid Oath to the ſaid Surveyor, and the Oath ſo taken and ſubſcribed by each Surveyor, ſhall be enrolled with the Award of the Commiſſioner.

Commiſſioner's Sittings.

VI. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby required to cauſe a Notice in Writing, under his Hand, ſpecifying the Time and Place of his Firſt Sitting for executing this Act, to be affixed on the Principal Door of the Church of *Kirk-Smeaton* aforeſaid, on ſome *Sunday* before Divine Service, Ten Days at leaſt before ſuch Sitting; and alſo to cauſe the like Notice to be given of every ſuch ſubſequent Sitting, (Sittings by Adjournment only excepted,) and it ſhall be lawful for the ſaid Commiſſioner to adjourn his Sittings, from Time to Time, as he ſhall ſee Occaſion, for the Execution of this Act; and all the Sittings of the ſaid Commiſſioner ſhall be held at ſome Place within the Pariſh of *Kirk-Smeaton* aforeſaid, or within the Diſtance of Eight Miles therefrom.

Commiſſioner to determine Differences.

VII. And be it further enacted, That in caſe any Diſpute or Difference ſhall happen to ariſe between the Parties, that now are or ſhall before the making of the Award hereinafter-mentioned, be intereſted in the ſaid intended Diviſion and Incloſure, or any of them touching or concerning the reſpective Shares or Proportions which they or any of them ſhall claim in the ſaid Lands and Grounds hereby intended to be divided and incloſed as aforeſaid, or touching or concerning the reſpective Shares and Proportions, which they or any of them ought to have, of or in the ſaid intended Diviſion and Incloſure, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required to hear and determine the ſame, provided that nothing herein contained ſhall authorize the ſaid Commiſſioner to determine any Diſpute or Difference which may ariſe,

touching

touching or concerning the Title of any Perſon or Perſons to any Lands, Tenements, or Hereditaments whatſoever.

May award 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 the ſaid Act, or 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 authoriſed and required, by Warrant under his Hand and Seal, 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 objecting 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 of having the ſame tried at Law, ſhall by themſelves, or their reſpective Stewards, Receivers, Attornies, or Agents, give or cauſe to be given, 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, (of which Notice, the ſaid Commiſſioner is hereby required, immediately on Receipt thereof, or as ſoon after as conveniently may be, to give Information to the adverſe Party or Parties, or his, her, or their reſpective Stewards, Receivers, Attornies, or Agents, by Writing, under his Hand, to be delivered to or left at the uſual Place of Abode of ſuch Party or Parties, Stewards, Receivers, Attornies, or Agents, as aforeſaid,) then, but not afterwards, it ſhall be lawful for the Perſon or Perſons giving ſuch Notice as aforeſaid, their reſpective Heirs, Succeſſors and Aſſigns, and he, ſhe, or they is and are hereby required to proceed to a Trial or Trials at Law, of the ſame in a feigned Action or Actions for that Purpoſe to be commenced in any of His Majeſty's Courts of Record at *Weſtminſter* by the Perſon or Perſons giving ſuch Notice as aforeſaid, againſt any Perſon or Perſons intereſted in the ſaid Diviſion who ſhall make ſuch Objection or Objections, within Two Calendar Months, next after ſuch Notice ſhall be given to the ſaid Commiſſioner 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 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 ſhall be brought; if the Parties differ about the ſame, and the Verdict or Verdicts which ſhall be given in the ſaid Action or Actions ſhall be final and concluſive to all Perſons whomſoever; and after any Verdict or Verdicts ſhall have been obtained, and not ſet aſide by the Court, the ſaid Commiſſioner ſhall and he is hereby authorized and required to conform thereto; but if no ſuch Action or Actions at law ſhall be brought or commenced by the Perſon or Perſons giving ſuch Notice, within the Time aforeſaid, or if ſuch Action or Actions ſhall not be proceeded in to a Trial or Trials, within Eight Calendar Months, from the Day of giving ſuch Notice, by or on account of the Neglect or Default of the Plaintiff or Plaintiffs therein, then and in ſuch Caſe the Determination of the Commiſſioner ſhall be final, binding and concluſive unto and upon all Parties whomſoever; provided that it ſhall be lawful for the Court in which any Action commenced, in purſuance of this Act, ſhall be depending, upon ſufficient Cauſe ſhewn, to put off the Trial of ſuch Action, or to award a new Trial therein, although the Time herein-before limited for the Trial of ſuch Action may be thereby exceeded. Provided alſo, 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.

Actions not to abate by Death of the Parties.

X. And be it further enacted, That all Incloſures and Encroachments which ſhall have been taken in, and made from, the ſaid Lands and Grounds hereby directed to be divided and incloſed (ſave and except ſuch as have been peaceably and quietly enjoyed for the Space of Twenty Years laſt paſt, or upwards, without any Interruption or Payment of any Acknowledgement) ſhall be deemed Part and Parcel of the ſaid Lands and Grounds to be divided and incloſed in purſuance of this Act; and in caſe any Difference or Diſpute ſhall ariſe, touching any ſuch Incloſures or Encroachments being deemed Part or Parcel of the ſaid Lands and Grounds ſo to be divided and incloſed, ſuch Differences or Diſputes ſhall be examined into, and determined by, the ſaid Commiſſioner.

Encroachments, except thoſe made for Twenty Years, to be deemed Part of the Lands to be divided.

XI. Provided always, and be it further enacted, That nothing herein contained ſhall authoriſe ſuch Commiſſioner to ſet out, allot, or incloſe any of the ſaid Commons, Waſtes, or other Commonable Lands and Grounds adjoining the great Turnpike-Road leading from *London* to *Edinburgh*, within Thirty Feet from the Centre of the ſame.

Lands not to be incloſed within thirty Feet of the Centre of the Turnpike Road.

XII. And be it further enacted, That the ſaid Commiſſioner ſhall ſet out, and appoint, and allot ſuch and ſo many Gravel Pits and Stone Quarries, as he ſhall think neceſſary, for the Uſe and Benefit of the Proprietors and Occupiers of the ſeveral Allotments which ſhall be ſet out in purſuance of this Act, and of all the Lands and Tenements in reſpect of which any ſuch Allotment ſhall be made, to be uſed in or upon ſuch Allotments, Lands, and Tenements reſpectively, or for making and repairing the Public Highways and Roads in the ſaid Pariſh, or to be ſet out in purſuance of the ſaid Act, and this Act, but not for Sale, or for any other Uſe or Purpoſe; and the ſaid Commiſſioner ſhall, by his Award, order and direct how and in what Manner the ſame ſhall be reſpectively worked for the general Advantage of the reſpective Perſons intereſted therein.

Commiſſioners to ſet out Gravel Pits and Mortar Pits, and how to be enjoyed.

Directing Lands to be ſold for paying the Expenſes of obtaining and executing the Act.

XIII. And be it further enacted, That the ſaid Commiſſioner ſhall, in the next Place, mark and ſet out ſuch Part and Parts of the ſaid Commons and Waſte Grounds as will, by the Sale thereof, be fully ſufficient to defray and diſcharge all the Coſts, Charges, and Expences incident to and attending the obtaining and paſſing of this Act, and of ſurveying, admeaſuring, planning, valuing, dividing, fencing, and allotting the Lands and Grounds to be divided, allotted, and incloſed by virtue thereof, and all the Charges of the ſaid Commiſſioner, his Aſſiſtants and Servants, and all the other neceſſary Expenſes of the ſeveral Perſons to be employed by the ſaid Commiſſioner in and about the Premiſes, and all the Expenſes of forming, completing, and repairing the Public Carriage Roads and Highways to be ſet out and appointed by the ſaid Commiſſioner, and of ring-fencing the Allotments for Tithes, and all other Expenſes of carrying this Act into complete Execution, ſubject to the Proviſo hereinafter contained reſpecting the ſaid Open and Common Fields; and the ſaid Commiſſioner ſhall, and he is required to ſell the Lands and Grounds ſo marked and ſet out in ſuch Allotment or Allotments as to him ſhall ſeem right and proper, to any Perſon or Perſons, for the beſt Price or Prices that can be gotten for the ſame, by private Contract, or by public Auction or Auctions, to be holden for that Purpoſe, of which Six Weeks previous Notice ſhall be given; and the Perſon or Perſons ſo purchaſing the ſame ſhall immediately pay, by way of Depoſit, into the Hands of the ſaid Commiſſioner, or unto ſuch Perſon or Perſons as he ſhall direct or appoint, One-tenth Part of his, her, or their Purchaſe Money, and pay the Remainder thereof within Three Calendar Months next after or at ſuch other Time as the ſaid Commiſſioner ſhall appoint; and in default thereof, the Money ſo depoſited ſhall be forfeited, and ſhall be applied towards carrying this Act into Execution; and the Allotment or Allotments for which the whole of ſuch Purchaſe Money ſhall not have been ſo paid, or for which there ſhall be no Bidding at ſuch Auction, ſhall be again put up to Sale, and ſold in Manner aforeſaid, for the beſt Price or Prices that can be gotten for the ſame, or be ſold by the ſaid Commiſſioner by private Contract, for any Sum or Sums not leſs than the remaining Nine-tenths of the Price or reſpective Prices for which the ſame was or were reſpectively before ſold, or the Amount of one Bidding above the Sum or reſpective Sums at which the ſame was or were reſpectively put up in the ſaid former Auction; and every Allotment for which the full Purchaſe Money ſhall be paid ſhall immediately thereupon be abſolutely diſcharged of and from all Common and other Right thereon or therein, and be veſted in Fee-ſimple in, and be incloſed and thenceforth held in Severalty, by and at the Expence of ſuch Purchaſer or Purchaſers thereof reſpectively, as his, her or their private and abſolute Property, and ſhall be allotted accordingly by the ſaid Commiſſioner; and the ſaid Purchaſe Money ſhall be applied by the ſaid Commiſſioner in defraying ſuch Coſts, Charges, and Expenſes as aforeſaid; and the Overplus of ſuch Purchaſe Money, (if any), after defraying ſuch Coſts, Charges, and Expenſes, ſhall be equally diſtributed amongſt the ſeveral Perſons intereſted in the ſaid Commons and Waſte Grounds in proportion to their ſeveral and reſpective Rights and Intereſts therein; and ſuch Money ſhall be paid to ſuch Perſons, or applied and diſpoſed of by the ſaid Commiſſioner, in Manner directed by the ſaid Act, made in the Forty-firſt Year of the Reign of His preſent Majeſty, whenever any Sum of Money is to be paid for the Purchaſe or Exchange of any Lands, Tenements, or Hereditaments

Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments to be ſettled to the ſame Uſes.

An Allotment to be made to His Majeſty, as Lord of the Honour of Pontefract.

XIV. And whereas the King's moſt Excellent Majeſty, in Right of his Duchy of *Lancaſter* is ſeiſed to himſelf, his Heirs and Succeſſors, of the Honour of *Pontefract*, in the County of *York*, in which Honour the ſaid Lands and Grounds are ſituate, lying, and being; be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authoriſed and required to ſet out and allot unto the King's moſt Excellent Majeſty, his Heirs and Succeſſors, in Right of his Duchy of *Lancaſter*, as Lord of the Honour of *Pontefract*, ſuch Plot or Plots of the Lands and Grounds hereby directed to be divided and allotted, as ſhall in the Judgment of the ſaid Commiſſioner, be equal to One-thirty-ſixth Part of the Waſte Lands within the ſaid Manor of *Kirk-Smeaton*, as a Compenſation for the Right and Intereſt of the ſaid King's Majeſty in, over, and upon the Waſte Lands within the Manor hereby directed to be divided and allotted; and the ſaid Commiſſioner ſhall, and he is hereby required, within Three Months after the Execution of the Award, to make an Extract on Parchment, under his Hand, of ſo much thereof as ſhall contain an accurate Deſcription of the Allotment or Allotments which ſhall be made to His ſaid Majeſty, together with ſuch Regulations or Proviſions relative to ſuch Allotment or Allotments, or to any other Rights or Intereſts of His ſaid Majeſty, as may be contained in ſuch Award, and ſhall annex to ſuch Extract a Map or Plan of ſuch Allotment or Allotments, and tranſmit the ſame to the Clerk of the Council of His Majeſty's Duchy of *Lancaſter*, for the Time being.

Directing how the Land ſhall be allotted.

XV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authoriſed and required, to divide, ſet out, and allot all the Reſidue of the Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds, directed and intended to be divided and allotted by virtue of this Act, in Manner following, that is to ſay, the ſaid Commiſſioner ſhall ſet out and allot unto and for the Lords or Lord of the Manor of *Kirk-Smeaton* ſuch Plot or Plots of the Lands and Grounds hereby directed to be divided and allotted, as ſhall, in the Judgment of the ſaid Commiſſioner, be equivalent to One-Thirty-ſixth Part of the Waſte Lands within the ſaid Manor, as a Compenſation for the Rights and Intereſt of the Lords and Lord of the ſaid Manor in and to the Soil of all the Waſte Lands within the ſaid Manor hereby directed to be divided and allotted; and the ſaid Commiſſioner ſhall ſet out unto and for the Rector of the ſaid Pariſh of *Kirk-Smeaton*, previous to any Allotment for Sale as hereinbefore expreſſed, ſuch Plot or Plots of the ſaid Lands and Grounds hereby directed to be divided and allotted, as ſhall, in the Judgment of the ſaid Commiſſioner, be equivalent to One-fifth Part of all the Open, Arable, or Tillage Lands, and One-ninth of all the Common Paſture, Commons, Waſtes, and other Commonable Lands, and One-ſeventh Part of all the ancient incloſed Lands, within the ſaid Pariſh, which are ſubject and liable to the Payment of Tithes to the ſaid Rector, and which ſhall remain after the Roads, and other public Conveniences hereby directed to be ſet out in the

ſame Pariſh, ſhall be deducted therefrom; and ſuch Allotment or Allotments, when ſo aſſigned, ſet out, and allotted to the ſaid Rector and his Succeſſors, ſhall be, and be deemed to be a full Satisfaction and Compenſation to the ſaid Rector and his Succeſſors for all Tithes both great and ſmall, and all Moduſes, and all other eccleſiaſtical Dues and Payments whatſoever (Mortuaries, *Eaſter* Offerings, and Surplice Fees excepted) yearly iſſuing, ariſing, renewing, increaſing, or payable out of or from all the Lands and Grounds by this Act directed to be divided, allotted, and incloſed, and out of all and every of the Meſſuages, Tenements, Gardens, Orchards, and old Incloſures within the ſaid Pariſh; and ſuch Allotment or Allotments, when ſo aſſigned, ſet out, and allotted, ſhall be, and be deemed and taken to be Freehold, and ſhall be ring-fenced, and which Fences to be made in a proper and effectual Manner, on the outſide, with Poſts, double Rails, Quickſets, and the neceſſary Gates, by and under the Direction of the ſaid Commiſſioner, at the Expence of the ſaid Proprietors; and that the Allotments ſo to be made to the ſaid Rector and his Succeſſors in lieu of Tithes of the Open Lands and Ancient Incloſed Fields ſhall be made out of and from the ſaid Open Arable Lands, Paſture, Commons, and Waſte Grounds; and laſtly, the ſaid Commiſſioner ſhall ſet out and allot all the Reſidue and Remainder of the ſaid Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds hereby directed or intended to be divided or allotted, unto, for, or among the ſaid *Joſeph Madocks*, and *William Alexander Madocks*, *Richard Perryn*, and the ſeveral other Proprietors, their reſpective Heirs, Succeſſors, or Aſſigns, or the Perſon or Perſons ſeiſed for their reſpective Eſtates, for the Time being, and all other the Proprietors of Lands or other Hereditaments therein for which no Allotment or other Compenſation is herein ſpecially directed to be made, in ſuch Quantities, Parts, Shares, and Proportions as the ſaid Commiſſioner ſhall adjudge and determine to be a juſt Equivalent, Compenſation, and Satisfaction, for their ſaid ſeveral Lands and other Hereditaments, in proportion to the reſpective Values thereof, ſubject nevertheleſs to ſuch particular Directions as are herein contained, or referred to concerning the ſame. And in ſetting out all ſuch Allotments as aforeſaid, the ſaid Commiſſioner ſhall have due Regard to the Quantity, Quality, Situation, and Convenience thereof; and ſhall lay the ſame as contiguous as may be to the Meſſuages, Buildings, and incloſed Lands of the Proprietors to whom ſuch Allotments ſhall be made.

XVI. Provided always, and be it further tenacted, That the ſaid Commiſſioner ſhall, and he is hereby authorized and required to divide ſuch Reſidue as aforeſaid of the ſaid Commons and Waſtes among the ſeveral Parties intereſted, in Manner following (that is to ſay), one Moiety or equal Half Part thereof amongſt the ſeveral Perſons, Bodies Politic or Corporate, who, at the Time of making ſuch Allotment, ſhall be Owners of ancient Meſſuages and Cottages or Frontſteads, having Right of Common on the ſaid Commons and Waſtes, and the other Moiety thereof among the Owners of ancient incloſed and open Field Lands in the ſaid Pariſh having Common Rights upon the ſaid Commons and Waſtes.

Forexonerating of ancient Incloſures,

XVII. Provided always, and be it further enacted, That in caſe the Proprietor or joint Proprietors of any Meſſuages, Cottages, Homeſteads, Gardens,

Gardens, Orchards, or Incloſed Lands or Grounds, in the ſaid Pariſh of *Kirk-Smeaton*, ſhall not be entitled, upon the ſaid Diviſion, to a ſufficient Quantity of the Lands and Grounds hereby directed to be divided and allotted to exonerate the ſaid Meſſuages, Cottages, Homeſteads, Gardens, Orchards, or incloſed Lands or Grounds from Tithes, then, and in ſuch Caſe or Caſes, the Commiſſioner ſhall, and he is hereby authorized and empowered to charge the Proprietor or joint Proprietors thereof reſpectively with ſuch Sum or Sums of Money as ſhall, in the Judgment of the ſaid Commiſſioner, be a juſt and full Compenſation and Satisfaction for the Fee-ſimple of the Tithes thereof reſpectively, according to the Proportions aforeſaid, and ſuch Sum and Sums of Money ſhall be paid by ſuch Proprietor or joint Proprietors reſpectively, to the ſaid Commiſſioner, to be by him applied in ſuch Manner as he ſhall think proper, towards defraying the Expences of obtaining this Act, and carrying the ſame into Execution, and in caſe of Non-payment thereof, at the Time appointed by the Commiſſioner for that Purpoſe, the ſame ſhall be raiſed and levied, in ſuch Manner as is provided for raiſing and levying the Expenſes of obtaining and executing this Act, in caſe of Neglect or Refuſal to pay the ſame. Provided that in caſe more Money ſhall be paid to the ſaid Commiſſioner, in reſpect of Tithes, than will be required to defray ſuch Expenſes as laſt aforeſaid, the Surplus Money ſhall be divided and apportioned among the Proprietors of the ſeveral Allotments to be ſet out in purſuance of this Act, in ſuch Shares and Proportions as the ſaid Commiſſioner ſhall direct, and the Shares of ſuch of them as ſhall be Tenants of their Eſtates in Fee-ſimple, ſhall be paid to them reſpectively, and the Shares of the other Proprietors in ſuch Surplus Money ſhall be applied in Manner directed by the ſaid Act, in Caſes where any Money is to be paid for any Lands or Hereditaments, or any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments to be ſettled to the ſame Uſes.

&c. of Proprietors not having Open Field Property.

XX. And be it further enacted, That the ſeveral Allotments herein directed to be made to the ſaid Rector, and his Succeſſors, ſhall be in full Satisfaction and Diſcharge of and from all Tithes both great and ſmall, and all Moduſes and other Eccleſiaſtical Dues and Payments whatſoever, (Mortuaries, *Eaſter* Offerings, and Surplice Fees excepted), iſſuing, ariſing, renewing, or payable to the ſaid Rector, and his Succeſſors, from and out of ſuch of the Lands and Grounds by this Act directed to be divided, allotted, and encloſed, and out of ſuch of the ſeveral Meſſuages, Tenements, Gardens, Orchards, and old Incloſures, lying and being within the ſaid Pariſh of *Kirk-Smeaton*, for which ſuch Satisfaction or Compenſation ſhall have been made in Manner aforeſaid.

Allotment be made to the Rector to be in lieu of all his Tithes.

XXI. Provided always, and be it further enacted, That until the Execution of the Award to be made by the ſaid Commiſſioner, or until ſuch other Time previous thereto, as the ſaid Commiſſioner ſhall, by Writing under his Hand, direct or appoint, and until Satisfaction and Compenſation ſhall have been made as aforeſaid, the ſaid Rector and his Succeſſors ſhall be entitled to, and ſhall have, receive, and enjoy all his and their reſpective Tithes, in ſuch Manner as he and they reſpectively could or might have had, received, and enjoyed the ſame, in caſe this Act had not been made.

Rector to be entitled to Tithes, until he receives the Compenſation.

XXII. And be it further enacted, That when the Proprietor or Proprietors of any Lands or other Hereditaments, which ſhall be allotted or exchanged by virtue of this Act, ſhall hold their ſaid reſpective Lands or Hereditaments by different Tenures or for different Eſtates, or under different Titles, the ſaid Commiſſioner ſhall, upon the Requeſt of ſuch reſpective Proprietors, in Writing under their Hands, aſcertain and diſtinguiſh the Lands or other Hereditaments held by each of ſuch Tenures for each of ſuch Eſtates, and under each of ſuch Titles reſpectively, and ſhall, accordingly in his ſaid Award, ſet out and diſtinguiſh diſtinct and ſeveral Allotments for ſuch reſpective Lands or other Hereditaments.

Authorizing the Commiſſioner to make Exchanges.

XXIII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner to ſet out, allot, and award any Lands, Tenements, or Hereditaments whatſoever, within the ſaid Pariſh of *Kirk-Smeaton*, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments whatſoever, within that Pariſh, or within any adjoining Pariſh, Hamlet, or Townſhip, ſo as all ſuch Exchanges be aſcertained, ſpecified, and declared in the ſaid Award of the ſaid Commiſſioner, and be made with the Conſent of the reſpective Owners or Proprietors; or *Ceſtui que Truſts*, being beneficially entitled for not leſs than a Life Eſtate of and in the Lands, Tenements, or Hereditaments which ſhall be ſo exchanged, or with the Conſent of the Guardians, Truſtees, Feoffees for charitable and other Uſes, Huſbands, Committees, or Attornies of, or acting for any ſuch Proprietors or Owners 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 who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf, (ſuch Conſent to be teſtified in Writing under the common Seal of any Corporation aggregate, and under the Hands of the other conſenting Parties reſpectively); and that 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 or Hereditaments held in Right of any Church, Chapel, or other eccleſiaſtical Benefice, without the Conſent of the Patron thereof, and the Biſhop of the Dioceſe, reſpectively teſtified as aforeſaid.

Expenſes of Exchanges and Partitions to be paid by the Parties intereſted.

XXIV. Provided always, and be it further enacted, That all Coſts, Charges, and Expenſes attending the making and completing any Exchanges and Partitions, ſhall be paid and borne by the ſeveral Perſons making any ſuch Exchanges or Partitions, in ſuch Manner, and in ſuch Proportions, as the ſaid Commiſſioner ſhall order and direct.

For ſuſpending or extinguiſhing Common Rights.

XXV. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby empowered, at any Time or Times before the Execution of the ſaid Award, by giving Thirty Days' Notice in Writing, under his Hand, to be affixed upon the Doors of the Pariſh Church of *Kirk-Smeaton* aforeſaid, ſuch Notice to be given previouſly to *Old Lady Day*, and otherwiſe not until after *Old Midſummer Day*, in any Year, to order and direct all or any Part of the Rights of Common in, over, and upon the ſaid Commons and Waſte Grounds or any Part thereof, to be extinguiſhed, or the Exerciſe thereof to be ſuſpended, for and during ſuch Time as ſhall be expreſſed in ſuch Writing; and that all

all ſuch Rights of Common as the ſaid Commiſſioner ſhall, by ſuch Writing, order and direct to be extinguiſhed, or the Exerciſe thereof to be ſuſpended as aforeſaid, ſhall, from the Time of affixing ſuch Writing on the ſaid Church Doors, ceaſe, determine, and be extinguiſhed, or the Exerciſe thereof be ſuſpended accordingly, any Law, Uſage, or Cuſtom to the contrary thereof notwithſtanding.

Authoriſing the Proprietors to ſell their Allotments before the Award.

XXVI. And be it further enacted, That it ſhall and may be lawful to and for any Perſon or Perſons beneficially intereſted in the ſaid Incloſure (other than and except only the ſaid Rector for the Time being, and thoſe to whom Allotments or Allotment may be made in truſt for any College, Chapel, School, Hoſpital, or other public Uſe or Charity), at any Time before the Execution of the Award to be made by the ſaid Commiſſioner, to ſell, or mortgage, or convey all or any Part of ſuch Eſtate, Right, Title, Intereſt, Lands, Allotments, and Property as he, ſhe, or they now have or hath, or ſhall or may hereafter have in or to any Right of Common in or upon the ſaid Common Fields, Waſte and other Commonable Lands, or in or to any Allotment or Allotments to be made in reſpect thereof by virtue of this Act ſeparate and apart from the Eſtate in Right whereof he, ſhe, or they is, are, or ſhall be ſo entitled or intereſted; and that in caſe of any ſuch Sale previouſly to the Execution of ſuch Award, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required, at the Requeſt of the Vendor or Vendors, ſignified in Writing to the Commiſſioner, under the Hand or Hands of ſuch Vendor or Vendors, to allot the ſame at once and directly to the Purchaſer and Purchaſers thereof reſpectively, who ſhall and may immediately thereupon have, hold, uſe, and enjoy the Allotment or Allotments purchaſed by him, her, or them as aforeſaid, in as full, large, ample, and beneficial a Manner, to all Intents and Purpoſes whatſoever, and upon the ſame Tenure as the Vendor or Vendors thereof could or might have done and held the ſame in caſe ſuch Sale had not been made, but ſubject nevertheleſs to the ſeveral Rules, Orders, Conditions, and Reſtrictions contained in or authoriſed by this Act; and that the Expenſes attending ſuch Sale or Sales ſhall be paid by the Purchaſer or reſpective Purchaſers when and as the Commiſſioner ſhall order and direct.

Allotments that may happen to be ſold may, on Requeſt, be allotted to the Purchaſers by the general Award.

XXVII. And be it further enacted, That if any Perſon or Perſons, entitled in Fee-ſimple to any Allotment or Allotments of the ſaid Open Fields and other Commonable Lands, ſhall, by any Writing under his, her, or their Hand or Hands, to be delivered to the ſaid Commiſſioner at any of his Sittings previouſly to preparing the Draft of his Award, ſignify that he, ſhe, or they hath or have ſold and diſpoſed of his, her, or their Allotment or Allotments to any Perſon or Perſons to be named and deſcribed in ſuch Writing, and ſhall deſire the ſame to be ſet out, allotted, and appointed to the Perſon or Perſons ſo purchaſing the ſame, the ſaid Commiſſioner, in every ſuch Caſe ſhall, and he is hereby authoriſed to ſet out, and allot, and appoint the ſaid Allotment or Allotments of the Perſon or Perſons who ſhall have given ſuch Notice, to the Perſon or Perſons mentioned in ſuch Notice to be the Purchaſer or Purchaſers thereof, and ſuch Allotment and Allotments, ſo ſold and diſpoſed of, ſhall in every ſuch Caſe, from and after the Execution of the ſaid Award, become, and the ſame is and are hereby declared to be veſted in Fee-ſimple in the Perſon or Perſons to whom the ſame ſhall have been by ſuch Notice in Writing

Writing as aforesaid so signified and declared to be sold and disposed of and his, her, and their Heirs and Assigns, to all Intents and Purposes whatsoever.

Fencing the Rector's Allotments.

XXVIII. And be it further enacted, That the Plot or Plots of Land which in Manner aforesaid shall be allotted to the Rector of *Kirk-Smeaton* for his Glebe Lands, and Tithes of or belonging to the said Rectory, shall be inclosed and fenced round the Boundaries thereof with Ditches and Quickset Hedges, or other proper Fences, to be made in such Time and Manner, and at the Expense of such of the Proprietors of the Lands and Tenements to be exonerated from Tithes by virtue of this Act, and in such Proportions as the said Commissioner shall direct; and the said Commissioner shall direct what Parts and Proportions of the said Fences shall belong to and afterwards be kept in Repair by the said Rector, and his Successors, and the other Proprietors of Allotments respectively; and the several other Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched, and fenced, at the Expense of the respective Proprietors to whom such Fences shall be allotted or directed to belong, with Quicksets, and in such other Manner, and within such Time as the said Commissioner shall, by his said Award, or any other Writing under his Hand, direct or appoint.

For determining Leases at Rack Rent.

XXIX. And be it further enacted, That it shall be lawful for the Commissioner, at any Time previous to the Execution of the said Award, in all Cases where he in his Discretion shall deem it necessary or expedient for the due Execution of this Act, by any Writing or Writings under his Hand, to determine and make void all or any of the Leases, or Agreements for Leases, at Rack Rent, or from Year to Year then subsisting, of all or any Part or Parts of the Lands or Grounds in the said Parish of *Kirk-Smeaton* which are hereby directed to be divided and allotted, and which shall be exonerated from Tithes respectively by virtue of this Act, and of all other Lands and Hereditaments demised, or agreed to be demised by or comprised in such Leases and Agreements respectively, either as to the whole, or as to some Part or Parts only of the Hereditaments comprised in such Leases and Agreements respectively, and at such Time or Times in the Year as the said Commissioner shall in his Discretion think most convenient and expedient, according to the Circumstances of the Case; and in all Cases where any such Leases or Agreements shall be so determined as aforesaid, the said Commissioner shall ascertain and declare whether any, and what Sum and Sums of Money in gross ought to be paid, or any and what Deduction or Abatement in the reserved Rent or Rents ought to be made by the Lessors or Landlords, to the Lessees or Tenants, as a Compensation or Satisfaction for such total or partial Determination of their respective Leases or Agreements; and such Sums in gross and reduced Rents, so ascertained and declared as aforesaid, shall respectively become payable or commence at such Time or Times, and in such Manner as the said Commissioner shall direct and appoint; and all such Sums in gross shall be charged upon the Lands in respect of which the same shall be payable, and shall and may be levied and recovered in like Manner as is herinafter provided or mentioned with respect to the levying and recovering the Expenses of passing and executing this Act; and all such reduced Rents shall, after the Commencement thereof, be payable and recoverable in like Manner as the Rents originally reserved would have been

payable and recoverable if this Act had not paſſed; and in all Caſes where ſuch ſubſiſting Leaſes or Agreements ſhall continue, as to the Whole or any Part or Parts of the Hereditaments therein compriſed, it ſhall be lawful for the ſaid Commiſſioner in like Manner to aſcertain and declare whether any and what additional Rent or Rents ought to be paid by the Leſſees or Tenants to the Leſſors or Landlords for or in reſpect of any Improvement in the annual Value of the Hereditaments compriſed in ſuch Leaſes or Agreements reſpectively, by reaſon of the ſame being divided and allotted, exonerated from Tithes, and exchanged reſpectively by virtue of this Act; and ſuch additional Rents ſo aſcertained and declared as laſt aforeſaid, ſhall commence at ſuch Time or Times as the ſaid Commiſſioner ſhall direct and appoint, and ſhall afterwards be payable and recoverable in like Manner as the Rents originally reſerved would have been payable and recoverable if this Act had not paſſed; and it ſhall be lawful for the ſaid Commiſſioner in like Manner to ſettle, aſcertain, and declare the Courſe of Huſbandry to be uſed by ſuch Leſſees or Tenants during the Remainder of their ſubſiſting Leaſes or Agreements in all Caſes where they ſhall deem it neceſſary and proper ſo to do.

Commiſſioners not to regulate the Cultivation of the Lands until the Diviſion.

XXX. And be it further enacted, That from and after the paſſing of this Act, until the Execution of the Award of the ſaid Commiſſioner, all the Open and Common Fields hereby directed to be divided and allotted ſhall be ſubject and liable to ſuch Directions and Regulations as the ſaid Commiſſioner ſhall, from Time to Time, by Writing under his Hand, appoint, as well with regard to the ſtocking as to the ploughing, folding, tilling, ſowing, and laying down the ſame; and it ſhall and may be lawful to and for the ſaid Commiſſioner to order and direct ſuch Sum and Sums of Money in reſpect thereof to be paid by any Perſon or Perſons intereſted in the ſaid Open and Common Fields, his, her, or their Tenant or Tenants, as he, the ſaid Commiſſioner, ſhall think reaſonable, and alſo to aſſeſs the Value of the Crops, Seeds, Manure, and Expenſes of Dreſſings, Ploughings, and other Working of the Arable Lands, to be divided and incloſed in purſuance of this Act, and to direct what ſhould be paid, and by whom, for and in reſpect thereof, as in the Caſe between Outgoing and Incoming Tenants; and in caſe any Perſon or Perſons who ſhall be directed to pay any Sum or Sums of Money, on any of the Accounts aforeſaid, ſhall neglect or refuſe to pay the ſame on Demand, then and in ſuch Caſe, it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authorized and required, to raiſe and levy the ſame for the Uſe and Benefit of the Perſon or Perſons entitled thereto, by ſuch Ways and Means as the Coſts, Charges, and Expenſes of obtaining and executing this Act, in caſe the Money ariſing by the Sale of ſuch Lands as aforeſaid ſhall be inſufficient for ſuch Purpoſes, may be raiſed and levied.

Directing the Award to be enrolled.

XXXI. And be it further enacted, That the Award to be made by the ſaid Commiſſioner, in Manner directed by the ſaid former Act, ſhall, within the Space of Twelve Calendar Months from the Execution thereof, be enrolled in the public Regiſter Office at *Wakefield*, in the ſaid Weſt Riding of the ſaid County of *York*; and the Regiſtrar of the ſaid Office, or his Deputy, for the Time being, is and are hereby directed to cauſe the ſaid Award to be enrolled in one of the Books uſed for enrolling Bargains and Sales of Lands in the ſaid Office accordingly, and a true Copy (to be ſigned by the ſaid Commiſſioner) of the Map or Plan annexed to ſuch

Award, ſhall be alſo lodged at the ſaid Regiſter Office at the Time of the Enrolment of the ſaid Award, and there kept for ever; and the ſaid Award, together with the Map or Plan thereto annexed, ſhall, immediately after the Enrolment of ſuch Award, be put into and kept in a Tin Box, and be lodged for ſafe Cuſtody in the Pariſh Church of *Kirk-Smeaton* aforeſaid, for ever, for the Inſpection and Peruſal of the ſeveral Perſons intereſted therein, or their reſpective Agents, (who ſhall be at Liberty to inſpect and peruſe the ſame, on Application for ſuch Purpoſe, at all ſeaſonable Times), and to make Copies or Extracts therefrom; and the ſaid Regiſtrar ſhall be entitled to ſuch Fees for the Enrolment of the ſaid Award as he is entitled to for enrolling any Bargain and Sale; and the ſaid Regiſtrar, or his Deputy, for the Time being, ſhall permit any Perſon or Perſons whomſoever, from Time to Time, within the Office Hours of Attendance, to peruſe the Enrolment of the ſaid Award at the Regiſter Office, and to inſpect and examine ſuch Copy of the ſaid Map or Plan, paying for the ſame, to ſuch Regiſtrar or his Deputy, One Shilling, and no more; and ſhall, from Time to Time, upon Requeſt to him made, by any Perſon or Perſons whomſoever, cauſe a true Copy of the Whole, or any Part or Parts of the Enrolment of the ſaid Award, to be made and written out from ſuch Enrolment, and ſhall from Time to Time, when requeſted, certify the ſame, under his Hand, to be a true Copy from ſuch Enrolment; for which the ſaid Regiſtrar, or his Deputy, making the ſame, ſhall be paid after the Rate of Four Pence per Sheet, reckoning Seventy-two Words to each Sheet, and no more; and the ſaid original Award, or a true Copy of the Enrolment thereof, or any Part thereof, ſo certified under the Hand of the ſaid Regiſtrar, or his Deputy for the Time being, as aforeſaid, ſhall from Time to Time, be allowed and admitted as legal Evidence in all Courts whatſoever.

For preſerving young Fences.

XXXII. And be it further enacted, That no Cattle, Sheep, or Lambs ſhall be kept on any of the Allotments to be made by virtue of this Act out of the ſaid Open and Common Fields, Commons and Waſte Grounds during the Space of Seven Years next after the Execution of the ſaid Award, unleſs the Perſon or Perſons ſo keeping the ſame ſhall firſt at his, her, or their own Expence, make and maintain a Fence ſufficient to guard the young Quick Fences round ſuch Allotments from being cropped, hurt, or damaged by ſuch Cattle, Sheep, or Lambs, whether ſuch Quick Fences be planted or ſet by the Owners or Occupiers of ſuch Allotments as aforeſaid, or by the Owner or Occupier of the Allotment or Allotments adjoining thereto.

Commiſſioner's Allowances.

XXXIII. And be it further enacted, That the Commiſſioner who ſhall act in the Execution of this Act, ſhall be allowed and paid the Sum of Three Guineas for each Day he ſhall actually attend and be employed as a Commiſſioner in the Execution of this Act, or ſhall neceſſarily travel from Home to attend his Sittings, or when returning Home after having attended ſuch Sittings, in full Satisfaction for his Trouble and Expences in the Execution of this Act.

Expences of the Act.

XXXIV. And be it further enacted, That all the Coſts, Charges, and Expences of ſoliciting and paſſing this Act, and of ſurveying, admeaſuring, and valuing, as well the ſaid Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds hereby directed to be divided and allotted, as the ſaid incloſed Lands and Tenements hereby directed

directed to be exonerated from Tithes, and of dividing and alloting the ſame Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds, and of forming and making the public Roads, public or common Drains, Sewers, Water-courſes, Watering Places for Cattle, Wells, Bridges, and other Conveniences which ſhall be ſet out by virtue of this Act, and of making ſuch Exchanges as aforeſaid, and of preparing and enrolling the ſaid Award, and all other the Coſts, Charges, and Expences of the ſaid Commiſſioner, and of the ſeveral Perſons employed by him, either before or after the Execution of the ſaid Award, in, about, or concerning the Execution of this Act, and not herein otherwiſe directed to be paid, ſhall be paid, borne, and defrayed by the King's Majeſty, and all other the Owners of, or Perſons intereſted in, as well the ſame Open and Common Fields, Paſtures, Commons, Waſtes, and other Commonable Lands and Grounds, as the Lands, Tenements, and Hereditaments which ſhall be reſpectively exonerated from Tithes, and exchanged by virtue of this Act (except the Rector of *Kirk-Smeaton*, in reſpect of the Glebe Lands and Tithes, of or belonging to the ſaid Rectory,) in proportion as near as may be to their reſpective Eſtates and Intereſts (due Regard being had to the Expences occaſioned by each Perſon's Eſtates, and alſo to the Value and Improvement thereof,) and the Shares and Proportions of the ſaid Coſts, Charges, and Expences to be borne by the ſaid reſpective Owners and Perſons intereſted, ſhall be ſettled and aſcertained by ſuch Commiſſioner, and ſhall be paid to ſuch Perſon or Perſons, at ſuch Time or Times either before or after the Execution of the ſaid Award, as the ſaid Commiſſioner ſhall direct or appoint by Writing, under his Hand, affixed on the principal Doors of the Pariſh Church of *Kirk-Smeaton* aforeſaid; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay his, her, or their Share or Proportion of the ſaid Coſts, Charges, and Expences, according to ſuch Direction or Appointment as aforeſaid, the ſaid Commiſſioner ſhall and may raiſe and levy the ſame, by ſuch Remedies, Ways, and Means, as are provided or mentioned in and by the ſaid Act of the Forty-firſt Year of the Reign of His preſent Majeſty.

Tenants for Life empowered to charge their Eſtates with the Expences of the Inclоſure under certain Reſtrictions.

XXXV. And be it further enacted, That it ſhall and may be lawful to and for the Huſbands, Guardians, Truſtees, Committees, or Attornies of any of the Owners or Proprietors of any of the Lands hereby authoriſed to be divided or allotted, or of any incloſed Lands within the ſaid Pariſh, being under Coverture, Minors, Lunatics, beyond 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 (except the Rector of the ſaid Pariſh of *Kirk-Smeaton*) to charge ſuch 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 Charges and Expences incident to and attending the obtaining this Act and carrying the ſame into Execution, and of charging the ſaid Lands as aforeſaid, ſo that the ſame ſhall not exceed the Sum of Five Pounds for every Acre of ſuch Lands, and to grant, mortgage, leaſe, or demiſe, or otherwiſe, ſubject the Lands, Tenements, and Hereditaments ſo to be charged unto ſuch Perſon or Perſons as ſhall advance and lend the ſame reſpectively, his, her, or their Executors, Adminiſtrators,

Adminiſtrators, and Aſſigns, for any Term or Number of Years; or in caſe any Perſon in Poſſeſſion who ſhall or may be liable to and charged with a Share of the Expences as aforeſaid, or enabled by this Act to charge ſuch Lands 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, mortgage, ſurrender, leaſe, demiſe, or otherwiſe ſubject the ſaid Lands and Premiſes to ſuch Perſon or Perſons reſpectively paying and diſcharging the ſame, his, her, or their Executors, Adminiſtrators, and Aſſigns for any Term or Number of Years to and for the Payment of ſuch Sum and Sums of Money ſo advanced, paid, and diſcharged by him, her, or them; with lawful Intereſt for the ſame, to commence on the Termination of his, her, or their Right in the Premiſes; ſo that every ſuch Grant, Mortgage, Leaſe, or Demiſe, be made with a Proviſo or Condition to ceaſe and be void, or with an expreſs Truſt to be ſurrendered or re-aſſigned when ſuch Sum or Sums of Money thereby to be ſecured ſhall be fully paid and ſatisfied, and alſo with a Covenant to pay and keep down the Intereſt, ſo that no Perſon or Perſons afterwards becoming poſſeſſed or entitled to any ſuch Lands and Premiſes ſhall be liable to pay any further or larger Arrear of Intereſt than for Six Calendar Months preceding the Time when the Title to ſuch Poſſeſſion ſhall have commenced, and that every ſuch Charge, Grant, Mortgage, Leaſe, or Demiſe ſhall be good, valid, and effectual in the Law, for the Purpoſes thereby intended.

Proprietors to pay their own Expences at Meetings.

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

Money advanced for paſſing the Act to be repaid with Intereſt.

XXXVII. And be it further enacted, That the Money which ſhall be advanced or lent for the Purpoſe of obtaining and paſſing this Act ſhall be repaid, with lawful Intereſt, to the Perſon or Perſons who ſhall advance or lend the ſame, his Executors, Adminiſtrators, or Aſſigns, out of the firſt Monies which ſhall be raiſed for defraying the Expences of paſſing and executing this Act.

Allotments to be of the Tenures, and to go to the ſame Uſes as the Eſtates in lieu of which they were made.

XXXVIII. And it is hereby further enacted and declared, That the ſeveral Lands, Tenements, and Hereditaments which ſhall be reſpectively allotted and exchanged by virtue of this Act, ſhall, upon the Allotment and Exchange thereof reſpectively, go and remain to the ſame Perſons for the ſame Eſtates and Intereſts, and to the ſame Uſes, upon the ſame Truſts, and to and for the ſame Intents and Purpoſes, and be under and ſubject to the ſame Powers, Proviſoes, Limitations, Conditions, Covenants, Agreements, Debts, Charges, Incumbrances and Proviſions of every Kind, and in the ſame Manner as the Hereditaments, in reſpect whereof the ſame Lands, Tenements, and Hereditaments, ſhall be reſpectively allotted and exchanged, would belong or ſtand, or be limited to or upon, or ſubject unto, if ſuch Allotment and Exchange thereof had not been made, or this Act had not been paſſed, but ſuch Allotments ſhall, nevertheleſs, be ſubject to ſuch Charges and Incumbrances thereon as ſhall be made in purſuance of this Act.

XXXIX. And

Commissioners to account.

XXXIX. And be it further enacted, That the said Commissioner shall, and he is hereby required to keep, or cause to be kept, a just and true Statement and Account of all Sums of Money which shall be raised or received and laid out, or expended by him or his Order, or for his Use, under or by virtue or in the Execution of this Act, and of what shall be due and owing to him for his own Trouble or Expences, and shall truly and regularly enter all the Particulars of such Statements and Accounts, in a Book to be provided for that Purpose; and such Accounts shall, at least once in every Year from the passing of this Act, till such Accounts shall be finally allowed, together with the Vouchers relating to the same, be examined and settled by *Richard Paver*, of *Kirk-Smeaton* aforesaid, Clerk, who is hereby appointed Auditor for that Purpose; and in case of his Death, or Refusal to act, by such other fit and proper Person as shall be appointed Auditor in his Stead, by the Majority in Value of the said Proprietors, at a Meeting to be holden in like Manner as is hereinbefore directed with respect to the Meeting of the said Proprietors, for the Purpose of appointing a Commissioner in the Place of the said *William Whitelock*; and such Auditor for the Time being shall from Time to Time state in Writing under his Hand the Balance of the said Accounts, in such Book as aforesaid; and that no Charge or Item in such Accounts shall be binding on the Parties concerned, or be valid in Law, unless the same shall be duly allowed by such Auditor; and also that such Book of Accounts shall be kept at the Office of the Clerk of the said Commissioner, and shall be open to the Inspection of any of the said Proprietors or their Agents, at all reasonable Times during the Progress of the said Division and Inclosure, and until the said Accounts shall have been finally settled and allowed; and in case the said Commissioner or his Clerk shall refuse or neglect so to do, the Commissioner and Clerk respectively so refusing or neglecting, shall for every such Refusal or Neglect, forfeit and pay to any Person who shall sue for the same, the Sum of Ten Pounds, to be recovered in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt, or on the Case.

Power to appeal.

XL. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of the said Act of the Forty-first Year of His present Majesty, or of this Act, (other than and except such Claims, Matters, and Things as are by the said Act or this Act directed or authorised to be ascertained, settled, tried, or determined by the Verdict of a Jury, or where by any of the Provisions of the said Act or this Act, the Determinations, Acts, or Proceedings of the said Commissioner are directed to be final and conclusive), he, she, or they may appeal to any General or Quarter Sessions of the Peace, which shall be holden for the West Riding of the County of *York*, within Three Calendar Months next after the Cause of Complaint shall have arisen, giving Notice, in Writing, of every such Appeal, by affixing such Notice, expressing the Cause of Complaint, upon the principal Door of the Parish Church of *Kirk-Smeaton* aforesaid, Twenty Days at least before such General or Quarter Sessions; and the Justices of the Peace assembled at such General or Quarter Sessions, or at any subsequent General or Quarter Sessions to which the said Justices shall adjourn any such Appeal, either for the want of such Notice having been given as aforesaid, or for any other Cause which to the said Justices shall seem a sufficient Cause to adjourn such Appeals are hereby authorised to hear and deter-

mine the ſame, and to make ſuch Order therein, and award ſuch Damages and Coſts 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 Diſtreſs and Sale of the Goods and Chattels of the Party or Parties awarded 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 every ſuch Diſtreſs and Sale; and the Order and Determination of the ſaid Juſtices upon ſuch Appeal, ſhall be final and concluſive to all Parties concerned, and ſhall not be removed or removeable by *Certiorari*, or any Proceſs or Writ whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter*, or elſewhere.

How Notices are to be given.

XLI. Provided always, and be it enacted, That all Notices neceſſary and requiſite to be given by the ſaid Commiſſioner in purſuance of the ſaid Act or this Act, (except ſuch as are otherwiſe particularly directed by this Act) ſhall be given by Advertiſement in the *Doncaſter Gazette*, if then publiſhed; if not, then in ſome other Newſpaper or Newſpapers printed and circulated in the ſaid County of *York*.

General Saving.

XLII. Saving always to the King's moſt Excellent Majeſty, his Heirs and Succeſſors, as well in Right of his Crown, as of his Dutchy of *Lancaſter*; and to all and every other Perſon and Perſons, Bodies Politic or Corporate, his, her, and their Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, (other than and except the King's Majeſty, and the reſpective Perſons, Bodies Politic and Corporate, to whom any Allotment or Allotments of Land, or other Compenſation, ſhall be made or provided by virtue of this Act, and his, her, and their Heirs, Succeſſors, Executors, Adminiſtrators and Aſſigns, and alſo all Perſons in Remainder claiming or to claim under ſuch Perſon or Perſons, 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 this Act ſhall require to be barred, deſtroyed, or extinguiſhed) all ſuch Eſtates, Rights, and Intereſts as they or any of them had or enjoyed, of, in, and to or in reſpect of the Open and Common Fields, and other Commonable Lands and 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.

This Act to be printed by the King's Printer.

XLIII. 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 thereof by all Judges, Juſtices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1808.