ANNO QUADRAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 102.

An Act for inclosing the Commonable Lands, within the Manor and Township of *Potter Newton cum Gibton*, in the Parish of *Leeds*, in the West Riding of the County of *York*. [24th *June* 1803.]

WHEREAS within the Manor and Township of *Potter Newton cum Gibton* in the Parish of *Leeds*, in the West Riding of the County of *York*, there is a large Common or Tract of Waste Ground, called *Potter Newton Common*, and also several Pieces or Parcels of Common or Waste Ground lying dispersed in different Places within the said Manor and Township, containing together One hundred and sixty Acres or thereabouts: And whereas the Right Honourable *John* Earl *Mexborough* is Lord of the Manor of *Potter Newton cum Gibton* aforesaid, and Owner of the Soil of the said Commons and Waste Grounds (save and except a Piece of Land, as the same is now and for some Time past has been marked and set out by Metes and Bounds, containing Sixty-seven Acres and Two Roods or thereabouts, Parcel of the said Common called *Potter Newton Common*, which is the Soil and Property of the King's most Excellent Majesty, in Right of His Duchy of *Lancaster*, subject

Earl *Mexborough* Lord of the Manor of and Owner of the Soil, except 67 Acres 2 Roods, the Property of His Majesty, in Right of His Duchy of *Lancaster*.

Land Owners.

subject to a Grant or Lease thereof from His said Majesty to the said Earl *Mexborough*, for the Term of Thirty-one Years, Eighteen Years whereof or thereabouts are now unexpired): And whereas the said Earl *Mexborough*, the Right Honourable *Peter Leopold Louis Francis Nassau Clavering Cowper* Earl *Cowper*, *Thomas Strother* Esquire, *John Dixon* Esquire, *Griffith Wright* Esquire, Master *Samuel Lepage*, and others, are severally Owners of Lands and Tenements having Right of Common upon the said Commons or Wastes; and it would be of great Advantage to them, and they are desirous that the same may be divided and inclosed, and that specifick Shares thereof may be assigned and allotted to and amongst the Proprietors thereof and Persons interested therein, in Severalty, in lieu of such their Rights and Interests respectively; but although such Division and Inclosure would be a manifest Advantage to all Parties concerned, and would tend to the Improvement of their respective Estates, yet the same cannot be accomplished and effectually established without the Aid and Authority of Parliament: 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*: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the said Commons and Waste Grounds herein-before mentioned, shall, as soon as conveniently may be, be set out, divided, and allotted, by *William Whitelock* of *Brotherton* in the said County of *York*, Gentleman, sole Commissioner appointed by this Act, or his Successor to be chosen as herein-after mentioned, unto and amongst the said several Owners and Proprietors, and other Persons interested as aforesaid, according to their respective Rights, Shares, and Interests, and agreeable to the Directions of this Act, and to the Rules, Orders, and Directions, inserted and contained in the said recited Act, and subject thereto in all Respects, except in Cases where the same are hereby varied or altered; and that *Jonathan Taylor* of *Leeds* aforesaid, Land Surveyor, be, and he is hereby nominated and appointed Surveyor, to survey, admeasure, plan, and value upon Oath (pursuant to the several Provisions of the said recited Act) the Lands, Tenements, Commons, Waste Grounds, Old Inclosures, Buildings, and Hereditaments, the Quantity or Value of which it may be necessary to ascertain for the Purposes of this Act, the said Survey, Admeasurement, Plan, and Valuation, to be subject nevertheless to the Opinion, Correction, and Determination of the said Commissioner; and in case of the Death, Refusal to act, or Resignation of the said *Jonathan Taylor*, it shall and may be lawful to and for the said Commissioner, or his Successor, and he is hereby authorized to appoint another Person to be such Surveyor as aforesaid, and so from Time to Time as often as Occasion shall require.

Recital of General Inclosure Act.

Commissioner.

Power of choosing another Commissioner in case of Death, Refusal, &c.

II. And be it further enacted, That if the said *William Whitelock*, the Commissioner appointed by this Act, or any other Commissioner to be appointed in his stead as herein-after mentioned, shall die, refuse, or become unable to act, before the Powers hereby vested in him shall be executed, then and so often as it shall so happen, the Persons who respectively

tively for the Time being shall be interested in the said Commons or Waste Grounds so intended to be divided and inclosed as aforesaid, or the major Part of them in Value, by and with the Consent of the Chancellor of the Duchy of *Lancaster*, or the Clerk of the Council of the said Duchy, or his Deputy for the Time being, shall and may, by themselves or their Agents, within Thirty Days next after such Commissioner shall happen to die, refuse, or become unable to act, at a publick Meeting of the Proprietors or their Agents, to be held for that Purpose, of which Ten Days previous Notice shall be given in One of the *Leeds* Newspapers, elect and appoint some other Person, not interested in the said Division and Inclosure, to be a Commissioner in the room or stead of him so dying, refusing, or becoming unable to act; and the Person so to be elected shall be invested with, and have the same Powers and Authorities in all Respects as the Commissioner whom he shall succeed had, or would have had, if living or acting in the Premises.

Commissioner to give Notice of Meetings.

III. And be it further enacted, That the said Commissioner, or the Commissioner to be appointed as aforesaid, shall and he is hereby required to give, or cause to be given, publick Notice in the Parish Church of *Leeds* aforesaid, upon some *Sunday* immediately after Divine Service, or by Writing signed by him, to be affixed on the principal Door of the said Parish Church, and also inserted in One or more of the *Leeds*-Newspapers, of the Time and Place of his First and Second Attendance, at least Ten Days before such Attendance, and Notice of all other Meetings or Attendances shall be affixed on the principal Door of the Parish Church of *Leeds* aforesaid, Six Days at the least before such Meeting or Attendance (such as are by Adjournment only excepted, which Adjournment the said Commissioner is hereby authorized to make); and that all Meetings or Attendances of the said Commissioner for executing this Act, during the Time of making the Valuations, and until the Time of finishing and staking out the several Allotments of the Lands and Grounds hereby directed to be divided and inclosed, and of the said Commissioner making his Award, shall be held within the Parish of *Leeds* aforesaid, and not more than Six Miles from *Potter Newton* aforesaid; and that the several Proprietors interested in the said Division and Inclosure, shall at all Meetings for executing this Act pay their own Expences.

Commissioner to settle Disputes.

IV. 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 intended Division and Allotments, touching or concerning the respective Rights and Interest which they or any of them shall claim to have of or in the same, or touching or concerning any other Matter or Thing relating to the said Division, Allotments, and Inclosure, it shall and may be lawful to and for the said Commissioner, and he is hereby authorized and required to examine into, hear, and determine the same.

Commissioner to assess Costs.

V. 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 and may be lawful to and 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

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 and may be lawful to and for the said Commissioner, and he is hereby authorized 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.

Allowing Parties to try their Rights by an Issue at Law.

VI. Provided always, and be it enacted, That in case any Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division and Allotments, shall be dissatisfied with any Determination of the said Commissioner, touching or concerning any Claim or Claims, or other Rights or Interests, in, over, or upon the Lands and Grounds herein 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 at the following Assizes to be holden for the said County of *York*, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioner, shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Two Calendar Months next after such Determination of the said Commissioner; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they, is and are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted upon, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive, upon all and every Person and Persons whomsoever, Body and Bodies Politick, Corporate, or Collegiate, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, 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, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioner touching such Claim or Claims, or other Rights or Interest, in, over, or upon, the Lands and Grounds herein directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive on all Parties: Provided also, that nothing in this Act contained shall

Commissioner not to determine Titles.

authorize

authorize the ſaid Commiſſioner to determine the Title to any Meſſuages, Cottages, Lands, Tenements, or Hereditaments whatſoever.

Allotments of the Common.

VII. And be it further enacted, That the ſaid Commiſſioner or his Succeſſor ſhall in the next Place ſet out and allot to and for the King's Majeſty, His Heirs and Succeſſors (yet nevertheleſs to and for the Uſe and Benefit of the ſaid *John* Earl *Mexborough*, Leſſee as aforeſaid, during the Term of his ſaid Leaſe) One-ſixteenth Part of the ſaid Piece or Parcel of Waſte Land, containing Sixty-ſeven Acres and Two Roods, the Soil and Property of His ſaid Majeſty, in lieu of and as a Compenſation for all the Right of His Majeſty, His Heirs and Succeſſors, of, in, or to the Soil of the ſame laſt mentioned Piece or Parcel of Common or Waſte Ground, or any Part thereof; and ſhall in the next Place ſet out, aſſign, and allot, unto and for the ſaid *John* Earl *Mexborough* Lord of the ſaid Manor, as a Compenſation for his Right and Intereſt in and to the Soil of the Reſidue of the ſaid Commons or Waſte Grounds, One full Sixteenth Part of the Whole of ſuch Reſidue of the ſaid Commons or Waſte Grounds hereby intended to be incloſed (the ſaid Sixty-ſeven Acres and Two Roods, the Soil and Property of His ſaid Majeſty, ſubject as aforeſaid only excepted); and ſhall alſo in like Manner (after ſetting out and making ſuch Allotment as aforeſaid, and after ſetting out the high Roads, private Roads, and Stone Quarries, as herein-after mentioned) ſet out, aſſign, and allot, the Reſidue of the ſaid Commons and Waſte Grounds unto and amongſt the Owners of ancient Meſſuages, Cottages, and Scites of ancient Meſſuages, Cottages, Lands, and Tenements, within the ſaid Manor and Townſhip of *Potter Newton cum Gibton*, having Right of Common thereon, or any other Perſon or Perſons having Right of Common thereon, and having duly preferred their reſpective Claims as aforeſaid, in due Proportion to the real Value of their reſpective Lands and Tenements, to be ſettled and determined by the Commiſſioner making the Allotments, and ſhall and may plot and lay out the Allotments to be made to each reſpective Proprietor as nearly together as conveniently may be.

To His Majeſty for the Crown Land.

To Earl *Mexborough* as Lord of the Manor.

Allotments of the Reſidue of the Common.

For vacating Leaſes at Rack Rent.

VIII. And be it further enacted, That all and every Leaſe and Leaſes, or other Agreements at Rack Rent, ſubſiſting of all or any Part or Parts of any Meſſuages, Lands, Tenements, or Hereditaments, within the Manor and Townſhip of *Potter Newton cum Gibton* aforeſaid, for any Term or Number of Years unexpired, ſhall immediately, upon ſuch Allotments being made, or ſo ſoon after as the ſaid Commiſſioner ſhall by his ſaid Award direct, ceaſe, determine, and be void in reſpect of the ſaid Commons and Waſte Grounds, or of any Lands or Grounds to be exchanged in purſuance of the ſaid recited Act or of this Act, the reſpective Owners and Proprietors of the ſaid Meſſuages, Lands, Tenements, or Hereditaments ſo in Leaſe as aforeſaid, making ſuch Satisfaction to the Leſſee or Leſſees, Tenant or Tenants, as the ſaid Commiſſioner ſhall direct or appoint on Account thereof, or as an Equivalent for the ſame: Provided always, that if there ſhall be any Leaſe of Lands, Part of which ſhall lie in the ſaid Manor and Townſhip, and Part in any adjoining Manor or Townſhip, all and every ſuch Leaſe or Leaſes at Rack Rent, now ſubſiſting, may be vacated; but where ſuch Land ſhall have been taken in Exchange, which Land ſhall be under Leaſe, and ſituate in an adjoining Manor or Townſhip, the Leaſe of ſuch laſt mentioned Land ſhall not be vacated.

Award to be inrolled.

IX. And be it further enacted, That the Award of the said Commissioner or his Succeſſor, to be formed and drawn up pursuant to the Directions of the said recited Act, shall be inrolled in the Publick Register Office kept at *Wakefield*, in and for the West Riding of the said County of *York*; and when so inrolled, shall be lodged in the Box or Chest kept within the Parish Church of *Leeds* aforesaid, to the End Recourse may be had thereto by any Person or Persons interested in the said Inclosure, who are hereby empowered to inspect the same, on Payment of One Shilling for every such Inspection; and the Register for the Time being, or his Deputy, is hereby required to inrol the said Award or Instrument in the proper Book for the Inrolment of such Instruments in the said Office, and a true Copy of such Inrolment, or of any Part or Parts thereof, under the Hand of the said Register or his Deputy, shall be admitted and allowed as legal Evidence in all Courts and upon all Occasions whatsoever, and which Copy the said Register, or his Deputy for the Time being, is hereby required to make, attest, and deliver, to any Person or Persons requesting the same, he or they paying for such Copy after the Rate of Sixpence for every One hundred Words; and the said Register or his Deputy shall be entitled to such Fees for such Inrolment, as are allowed him by the Act for inrolling any Bargain and Sale; and the said Register or his Deputy shall permit any Person or Persons, within the Office Hours of Attendance, to peruse and inspect the Inrolment at the said Publick Office, he and they paying for every such Perusal and Inspection Two Shillings and no more.

Extract of the King's Allotment to be made and transmitted to the Clerk of the Council of the Duchy.

X. And be it further enacted, That the said Commissioner shall and he is hereby required to make an Extract on Parchment under his Hand and Seal, of so much of his General Award herein-before directed to be made, as shall contain an accurate Description of the Allotment or Allotments so to be made to His Majesty, or His Lessee or Lessees, together with such Regulations or Provisions relative to the said Allotment or Allotments, or to any other Rights or Interest of His Majesty, or His Lessee or Lessees, as may be contained in such Award, and also 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, within Two Calendar Months after the making and executing the said Award.

Proprietors may inclose before Award signed.

And preserve Quickſets, &c.

XI. And be it further enacted, That it shall and may be lawful to and for any of the said Proprietors, after their respective Allotments shall have been marked and staked out by Order of the said Commissioner or his Succeſſor, before the signing of the said Award, to ditch and fence their own particular Allotments in such Manner as the said Commissioner or his Succeſſor shall order and direct; and to make sufficient Walls or plant Quickſets, in order for the better Division and Separation thereof; and that no Person or Persons shall depasture with Sheep or any other Cattle, any of the Highways or Lanes which shall be made by virtue of this Act, for the Term of Ten Years next after the Execution of the said Award; nor shall it be lawful for any of the Proprietors, Owners, or Occupiers, of any Part of the Lands or Grounds intended to be divided and inclosed, to keep or depasture any Sheep or other Cattle in any of the Allotments intended to be made, for the Term of Ten Years next after the setting out such Allotments, unless the Person or Persons so keeping and depasturing Sheep or other Cattle, shall first make or cause

to

to be made a Fence sufficient to guard the Quick Fences round such Allotments from being cropped or damaged by such Sheep or other Cattle, whether such Quick Fences be planted or set by the Owners or Occupiers of such Allotments as aforesaid, or by the Owners or Occupiers of the Allotments adjoining thereto.

Encroachments.

XII. And be it further enacted, That all Inclosures taken in or made in, upon, or from any Part of the said Commons or Waste Grounds (save and except such as have been taken in, inclosed, held, and enjoyed, for Twenty Years next before the passing of this Act without Interruption), shall be deemed Part and Parcel of the said Commons or Waste Grounds: Provided always, that if any Cottage, or other Building or Inclosure, hath been built upon or taken from the said Commons or Waste Grounds within the Space of Twenty Years next before the passing of this Act, all such Cottages, or other Buildings and Inclosures, shall be deemed and taken as Part of the said Commons or Waste Grounds, and shall be allotted to the present Proprietor or Proprietors thereof, subject to such annual or Ground Rents as are now paid or payable for the same, as the Whole or Part of the said Commons to be allotted to him, her, or them respectively, pursuant to this Act; but in the Valuation of such Lands, the Buildings erected thereupon shall not be included, nor the Lands themselves estimated, at a higher Rate or Price than the present Value of the said Common or Waste Ground adjoing thereto.

Commissioner to lay his Accounts before a Justice Once in every Year.

XIII. 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 or Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by him laid before One of His Majesty's Justices of the Peace in and for the said County of *York*, to be by him examined and balanced; and such Balance shall be by such Justice stated in the Book of Accounts to be kept in the Office of the Clerk of 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 Justice:

Power of Appeal.

XIV. Provided always, and be it further enacted, That if any Person or Persons shall think him, her, 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) he, she, or they, may appeal to the General Quarter Sessions of the Peace which shall be held in and for the West Riding of the County of *York*, within Two Calendar Months next after the Cause of Complaint shall have arisen; and the Justices in their said Quarter Sessions, on Proof of due Notice of the said Appeal, and the Matter and Cause thereof, are hereby required to hear and determine the same, and to make such Order therein as

as to them shall seem reasonable; which Determination of the said Justices shall be binding and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari* or otherwise, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

Saving the Rights of Seigniories and Royalties.

XV. And be it further enacted and declared, That nothing herein contained shall be construed to defeat, lessen, or prejudice the Right, Title, or Interest, of the said *John* Earl *Mexborough*, of, in, or to the Seignory and Royalties belonging to him as Lord of the Manor of *Potter Newton cum Gibton* aforesaid; but that the said Earl *Mexborough*, and all future Lords of the said Manor, shall and may, from Time to Time and at all Times for ever hereafter, hold and enjoy all Rents, Services, Courts, Perquisites, and Profits of Courts, and other Royalties and Seigniories to the same Manor belonging or appertaining, as fully, amply, and beneficially, to all Intents and Purposes, as he or any other Lord might or could have had, held, and enjoyed the same, in case this Act had not been made, other than and except such Right of Common or Soil as could or might be claimed by him or them respectively, as Lord of the same Manor or otherwise, in or upon the Premises so intended to be divided and inclosed, or any of them.

General Saving.

XVI. Saving always to the King's most Excellent Majesty, His Heirs and Successors, as well in Right of His Duchy of *Lancaster*, as of the Crown, and all and every other Person and Persons, Bodies Politick and Corporate, his, her, and their Successors, Heirs, Executors, and Administrators (other than the several Proprietors and Persons to whom any Allotment or Allotments shall be awarded by virtue of this Act, in respect of the Interest or Property for which such Allotments shall be awarded), all such Estate, Right, Title, and Interest, as they, every, or any of them had and enjoyed, of, in, to, or out of the said Commons, Waste Lands, and Grounds so intended to be inclosed, before the passing of this Act, or could or ought to have had and enjoyed in case the same had not been made.

Act to be printed by the King's Printer.

XVII. 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.