ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 104.

An Act for incloſing Lands in the Manor and Townſhip of *Wike*, in the County of *York*.

[21ſt *May* 1813.]

WHEREAS there are within the Manor and Townſhip of *Wike*, in the Pariſh of *Birſtall*, in the Weſt Riding of the County of *York*, ſeveral Open Commons, Moors, Waſte, and other Commonable Lands and Grounds, containing in the Whole Two hundred Acres, or thereabouts: And whereas *Charles Mayer* Eſquire is Lord of the Manor of *Wike* aforeſaid, and Owner of the Soil of the ſaid Commons, Moors, and Waſte Grounds, and of the Coal Mines, Veins and Seams of Coal, and all other Mines and Minerals therein: And whereas the ſaid *Charles Mayer*, and alſo *Frances Mary Richardſon Currer* Spinſter, *William Wainman* Eſquire, and divers other Perſons, are Proprietors of Meſſuages, Cottages, Tofts, Lands, and Hereditaments within the ſaid Manor and Townſhip, having Right of Common in and upon the ſaid ſeveral Commons, Moors, and Waſte Grounds: 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 it would be of very great Advantage to the ſeveral Owners and Proprietors of and Perſons intereſted in the ſaid ſeveral Commons, Moors and Waſte Grounds, if the ſame were divided and incloſed, and ſpecific Parts thereof divided and allotted unto and amongſt the ſeveral Perſons intereſted therein, according to their reſpective Rights, Shares, and Intereſts; but ſuch Diviſion, Allotment and Incloſure, cannot be effectually 41 G. 3. c. 109.

tually carried into Execution 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 *Thomas Buttle* of *Kirkby Lonſdale*, in the County of *Weſtmoreland*, Gentleman, ſhall be and he is hereby appointed the Commiſſioner for dividing, allotting, and incloſing the ſaid Commons, Moors and Waſte Grounds, purſuant to this Act, and for carrying this Act and the ſaid recited Act into Execution, under and ſubject to ſuch of the Regulations, Proviſions, Directions, and Reſtrictions contained in the ſaid recited Act, as are not altered, varied, or controlled by or repugnant to the Powers or Proviſions of this Act.

How a new Commiſſioner is to be appointed.

II. And be it further enacted, That if the ſaid *Thomas Buttle*, or any other Commiſſioner who ſhall be elected and appointed as herein-after directed, ſhall die, or refuſe or become incapable to act in the Execution of this Act, 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 Number or Value, (ſuch Value to be aſcertained by the Land Tax Aſſeſſment,) who in Perſon, or by their Agent or Attorney, ſhall attend at a Meeting to be called purſuant to Notice in Writing to be affixed on the principal Door of the Pariſh Church of *Birſtall* aforeſaid, upon 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 authoriſed 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, and appoint ſome other fit, competent, and impartial Perſon, not intereſted in the ſaid intended Diviſion and Incloſure, to be the Commiſſioner in the Place and Stead of ſuch Commiſſioner ſo dying, refuſing, or becoming incapable to act; which ſaid Commiſſioner ſo to be elected and appointed as aforeſaid ſhall, after taking the Oath preſcribed in that Behalf, have the like Power and Authority for carrying this Act and the ſaid recited Act into Execution, as if he had been the Commiſſioner originally named and appointed hereby.

Notice of the firſt and ſubſequent Meetings.

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 Door of the Pariſh Church of *Birſtall*, as alſo upon the Door of the Chapel called *White Chapel*, within the Townſhip of *Scholes* and *Cleckheaton*, 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 all 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 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 Eight

Miles of *Wike* aforesaid, and that Fourteen Days previous Notice be given thereof (Meetings by Adjournment only excepted).

Notice to be published in the Leeds Newspapers.

IV. And be it further enacted, That the Notices required by this and the said recited Act to be given or published in some public Newspaper, of setting out public Carriage Roads, and of reading and executing the Award of the said Commissioner, shall be given and published in both the *Leeds* Newspapers; and if those Newspapers, or either of them, shall cease to be published, then in some other Newspaper published and usually circulated in the said West Riding of the County of *York*.

Commissioner to determine Disputes.

V. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Division and Inclosure hereby directed to be made, touching or concerning any Right or Interest in, over, or upon the said Commons, Moors and Waste Grounds, or any Part or Parts thereof, 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 the said Commissioner to examine into, hear, and determine the same.

Commissioner not to determine Titles, nor molest Possession.

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

And award Costs, &c.

VII. And be it further enacted, That in case the said Commissioner shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections to be delivered to him in pursuance of this 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 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 for the said Commissioner, and he is hereby authorised and required, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

VIII. Provided

Parties diſſatisfied may try their Rights at Law by a feigned Iſſue.

VIII. Provided always, and be it further enacted, That in caſe any Perſon or Perſons intereſted or claiming to be intereſted in the ſaid intended Diviſion and Incloſure ſhall be diſſatisfied with any Determination of the ſaid Commiſſioner, touching any Claim or Claims of the Right to the Soil of the ſaid Commons, Moors and Waſte Grounds, or of any Rights of Common, or other Rights or Intereſts in, over, or upon the ſaid Commons, Moors, and Waſte Grounds hereby directed to be divided, allotted and incloſed, or any Part thereof, it ſhall and may be lawful for the Perſon or Perſons ſo diſſatisfied to proceed to a Trial at Law of the Matter ſo determined by the ſaid Commiſſioner, at the 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 ſame 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 Four 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 on, may be tried 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 Action ſhall be binding upon all Perſons and Bodies Politic 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.

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

IX. And be it further enacted, That if any of the Parties in any Action to be brought in purſuance of this Act ſhall die pending the ſame, ſuch Action ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened or taken place.

In caſe of Deaths of Parties before Actions brought, the ſame to be carried on and defended in their Names.

X. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe Favour any ſuch Determination ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politic or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame, within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioner with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, as if ſuch Perſon or

Perſons

Perſons had been actually living, and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

Survey to be made.

XI. And be it further enacted, That for the more juſt and regular Diviſion of the ſaid Lands and Grounds hereby directed to be divided and incloſed, a perfect Survey and Admeaſurement and Map thereof, and alſo of all the old incloſed Lands within the ſaid Manor of *Wike*, ſhall be made by *Samuel Swire* the younger of *Halifax*, in the ſaid County of *York*, Land Surveyor, and in caſe of his Death, Inability, or Refuſal to act, by ſuch other fit, competent, and impartial Perſon as the ſaid Commiſſioner ſhall appoint; and ſuch Survey and Admeaſurement ſhall be reduced into Writing, and the Number of Acres, Roods, and Perches in the ſaid Commons, Moors and Waſte Grounds, and alſo the Number of Acres, Roods, and Perches belonging to each Proprietor in the ſaid old incloſed Lands, ſhall be therein ſet forth and aſcertained, and ſuch Survey and Admeaſurement and Map ſhall be laid before the ſaid Commiſſioner, to be uſed by him for the Purpoſes of this Act; and the ſaid Surveyor and the ſaid Commiſſioner, their Aſſiſtants and Servants reſpectively, ſhall have full Power and Authority at any Time, until the ſaid intended Incloſure be completed and the Award of the ſaid Commiſſioner duly ſigned and perfected, to enter upon, view, examine, and admeaſure the ſaid Lands and Grounds hereby directed to be divided and incloſed, and alſo the ſaid old incloſed Lands and Grounds, for the Purpoſes aforeſaid.

XII. And be it further enacted, That no Perſon ſhall be capable of acting as a Surveyor under this Act, until he ſhall have taken and ſubſcribed the following Oath or Affirmation (as the Caſe may be); *videlicet*,

Oath of Surveyor.

'I do ſwear [*or*, affirm, *as the Caſe may be*], That I will faithfully, impartially and honeſtly, according to the beſt of my Skill and Judgment, make a true, accurate, and diſtinct Survey and Admeaſurement of all the Lands and Grounds within the Manor and Townſhip of *Wike*, in the Pariſh of *Birſtall*, in the Weſt Riding of the County of *York*, under the Directions of the Commiſſioner appointed to put in Execution '*An Act for incloſing Lands in the Manor and Townſhip of* Wike, *in the County of* York;' and will lay ſuch Survey and Admeaſurement before ſuch Commiſſioner.

'So help me GOD.'

Which Oath or Affirmation it ſhall and may be lawful for the ſaid Commiſſioner to adminiſter, and he is hereby empowered and required to adminiſter the ſame accordingly.

Encroachments within Sixty Years to be deemed Part of the Commons.

XIII. And be it further enacted, That all Encroachments which within Sixty Years now laſt paſt have been made upon or taken from the ſaid Commons, Moors and Waſte Grounds, ſhall be deemed Part of the Lands and Grounds to be divided and allotted by virtue of this Act; and in caſe any Diſpute ſhall ariſe touching any ſuch Encroachments, or the Extent thereof, ſuch Diſputes ſhall be determined by the ſaid Commiſſioner: Provided always, that all ſuch Encroachments which ſhall have been made or taken by any Perſon or Perſons entitled to Right of Common on the ſaid Commons, Moors and Waſte Grounds, or a ſufficient Part thereof, ſhall be conſidered as the Share or Allotment to be

made to the Perſon or Perſons who ſhall then be in Poſſeſſion or entitled to the improved Rents and Profits thereof, without conſidering the Improvements made thereto, and the Value thereof ſhall be eſtimated in reference to ſuch other Part of the ſaid Commons, Moors and Waſte Grounds, as adjoins or is neareſt thereto; and that ſuch Encroachment or Encroachments ſhall be allotted and accepted by ſuch Perſon or Perſons as the Whole or Part or Share of the Allotment or Allotments to be aſſigned or allotted to him, her, or them reſpectively; and if any ſuch Perſon or Perſons ſhall not be entitled to any Allotment or not to any Allotment equal to the Value of ſuch Encroachment or Encroachments ſo to be eſtimated as aforeſaid, but ſhall be willing to purchaſe the ſame, then the ſaid Commiſſioner ſhall aſcertain the Price thereof, or of ſuch Part thereof as ſhall exceed the Right of each Poſſeſſor or Poſſeſſors thereof in reſpect of any other Property as aforeſaid; on Payment of which Price to the ſaid Commiſſioner at ſuch Time and Place as he ſhall appoint, and on his giving a Receipt or Receipts for the ſame, every ſuch Encroachment, or ſuch Part thereof as ſhall be ſo purchaſed, and alſo all Buildings and Improvements thereon, ſhall thereupon by virtue of this Act become veſted in ſuch Purchaſer or Purchaſers, and his, her, or their Heirs and Aſſigns, in Fee Simple, without any further or other Conveyance or Aſſurance, Inſtrument or Writing whatſoever; and the ſaid Commiſſioner ſhall apply ſuch Purchaſe Money as Part of the Monies to be raiſed for the defraying the Expences of obtaining and paſſing this Act and of carrying the ſame into Execution: Provided always, that all Encroachments made upon the ſaid Commons and Waſte Lands, within the Space of Twenty Years immediately preceding the paſſing of this Act, ſhall be thrown open, without any Recompence whatſoever to be made to the Poſſeſſor or Poſſeſſors thereof, for or in reſpect of the ſame.

Allotments to the Lord.

XIV. And be it further enacted, That the ſaid Commiſſioner ſhall, after ſetting out and appointing the neceſſary public Carriage Roads and Highways through and over the ſaid Commons, Moors, and Waſte Grounds hereby directed to be divided, allotted, and incloſed, aſſign, ſet out, allot, and award unto and for the ſaid *Charles Mayer*, as Lord of the Manor of *Wike* aforeſaid, ſuch Part and Parcel of the Reſidue of the ſaid Commons, Moors and Waſte Grounds, as (Quantity, Quality, and Situation conſidered) ſhall in his Judgment 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 Commons, Moors and Waſte Grounds, and for his Conſent to the Diviſion and Incloſure thereof.

Power for Commiſſioner to ſell Land to defray Expences of this Act.

XV. And be it further enacted, That for the Purpoſe and towards defraying the Coſts and Charges of preparing, obtaining, and carrying this Act into Execution, it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authoriſed and empowered, to ſell ſuch Part or Parts of the ſaid ſeveral Commons, Moors and Waſte Grounds, as he the ſaid Commiſſioner ſhall ſet out (purſuant to the Directions of the ſaid recited Act) and as he ſhall think moſt eligible for that Purpoſe, not exceeding Fifteen Acres in the Whole; and that it ſhall be lawful for the ſaid Commiſſioner to ſell and diſpoſe of the ſame by public Auction to the beſt Bidder; any Thing herein contained to the contrary thereof notwithſtanding.

XVI. And

Allotment of the Reſidue.

XVI. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authoriſed and required to aſſign, ſet out, allot, and award the Reſidue of the ſaid ſeveral Commons, Moors and Waſte Grounds, unto and amongſt the ſeveral Owners and Proprietors of ancient Meſſuages, Cottages and Tofts, having Right of Common of Paſture thereon, and of the ancient incloſed Lands and Grounds ſituate, lying, and being within the ſaid Manor and Townſhip of *Wike*, in ſuch Parts, Shares and Proportions, and in ſuch Manner as is herein-after mentioned; that is to ſay, One Twenty-ſixth Part in Value of ſuch Reſidue of the ſaid Commons, Moors and Waſte Grounds, unto and amongſt the ſeveral and reſpective Owners and Proprietors of Meſſuages, Cottages and Tofts, ſituate and being within the ſaid Manor and Townſhip of *Wike*, having in reſpect thereof Right of Common upon the ſaid Commons, Moors and Waſte Grounds, in proportion to the Number and without regarding the Value of ſuch their reſpective Meſſuages, Cottages or Tofts; and the remaining Twenty-five Twenty-ſixth Parts in Value of ſuch Reſidue of the ſaid Commons, Moors and Waſte Ground, unto and amongſt the ſeveral and reſpective Owners and Proprietors of ancient incloſed Lands or Grounds, ſituate, lying, and being within the ſaid Manor and Townſhip of *Wike* aforeſaid, in Proportion and according to the Value of ſuch their reſpective Lands and Grounds, in full Bar and Compenſation for their ſeveral and reſpective Rights of Common upon the ſaid Commons, Moors, and Waſte Grounds within the ſaid Manor and Townſhip of *Wike*.

Allotments to the Lord, and as Proprietor, to be laid together.

XVII. Provided alſo, and be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to ſet out the Land or Ground herein-before directed to be allotted to the ſaid *Charles Mayer*, as Lord of the Manor of *Wike* aforeſaid, and alſo the Allotment to be made to him in reſpect of his other Property and Eſtate within the ſaid Manor of *Wike*, together in One Lot, or adjoining to each other, on ſuch Part of the ſaid Commons, Moors and Waſte Grounds, as the ſaid Commiſſioner ſhall think fit.

Proprietors may get Stone, Slate, and Gravel, &c.

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

Allotments to be fenced.

XIX. 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 reſpective Proprietors, in ſuch Manner, Shares and Proportions, as the ſaid Commiſſioner ſhall by his ſaid Award direct.

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

XX. Provided alſo, and be it further enacted, That it ſhall and may be lawful for any of the Perſons entitled to Right of Common upon the ſaid 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 and his Heirs and Aſſigns, for ever, under and by virtue of ſuch Award, in ſuch and the ſame Manner as the Vendor in ſuch Sale, might, could, or ought to have held or enjoyed the ſame, in caſe ſuch Sale had not been made, or ſuch Right, Intereſt or Property, had been veſted in ſuch Vendor at the Time of making ſuch Allotment as aforeſaid, and without any other Conveyance; any Law to the contrary thereof notwithſtanding.

Exchanges.

XXI. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to ſet out, allot, and award any Lands, Tenements, or Hereditaments within the ſaid Townſhip, in lieu and in Exchange for any other Lands, Tenements, or Hereditaments within the ſaid Townſhip or Pariſh, or within any adjoining Pariſh, Hamlet, Townſhip or Place, provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the Award of the ſaid Commiſſioner, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors, ſhall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courteſy of *England*, or for Years determinable on a Life or Lives, or with the Conſent of the Guardians, Truſtees, Feoffees for charitable or other Uſes, Huſbands, Committees, or Attornies of or acting for any ſuch Owners or Proprietors as aforeſaid, who at the Time of making ſuch Exchange or Exchanges ſhall be reſpectively Infants, Femes Covert, Lunatics, or under any 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 the Body Politic, Corporate or Collegiate, and under the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange and Exchanges ſo to be made, ſhall be good, valid, and effectual in Law, to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made of any Lands, Tenements, or Hereditaments held in Right of any Church or Chapel, or other Eccleſiaſtical Benefice, without the Conſent, teſtified as aforeſaid, of the Patron thereof, and of the Lord Biſhop of the Dioceſe in which ſuch Lands, Tenements, or Hereditaments ſo to be exchanged ſhall lie and be ſituate.

Expences thereof how to be paid.

XXII. And be it further enacted, That all Coſts, Charges, and Expences attending the making of any Sales, Exchanges or Partitions, to be made by virtue of this Act or the ſaid recited Act, ſhall be paid, borne, and defrayed by the ſeveral Perſons propoſing or conſenting to the making any ſuch Sales, Exchanges or Partitions, in ſuch Manner and in ſuch Proportion, as the ſaid Commiſſioner ſhall by his ſaid Award, or any other Writing under his Hand, order and direct, and ſuch Coſts, Charges and Expences, may be recovered in the ſame Manner as the Coſts and Charges of obtaining and executing this Act can or may be recovered.

XXIII. And

Leaſes at Rack Rent to be void, as to the Commons.

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 Terms at Rack, improved or extended Rent, ſhall as to the ſaid Commons, Moors, and Waſte Grounds ſo intended to be divided and incloſed as aforeſaid, upon the Firſt Day of *April* One thouſand eight hundred and fourteen ceaſe and be void; the reſpective Perſons who have granted or made any ſuch Leaſes or Agreements, making ſuch reaſonable Satisfaction for the ſame to ſuch Leſſee or Leſſees, Tenant or Tenants, when required, as the ſaid Commiſſioner ſhall direct and appoint on Account thereof or as an Equivalent for the ſame.

Settlements, Deeds, and Wills not to be affected.

XXIV. Provided nevertheleſs, and be it further enacted, That nothing in this Act contained 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 or 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 or Exchanges ſhall be 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 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 paſſed.

Expences how to be paid.

XXV. And be it further enacted, That the Coſts and Charges of preparing, obtaining, and carrying this Act into Execution, and alſo the Coſts and Charges of ſurveying, meaſuring, planning, and allotting the ſaid Commons, Moors, and Waſte Grounds hereby directed to be divided and incloſed, and of ſurveying, planning, and valuing the ſaid ancient Incloſures within the ſaid Manor, and of the firſt forming and completing the public Highways, and of ſuch other Roads and Ways as the ſaid Commiſſioner ſhall deem it requiſite and neceſſary to ſet out, order, and direct to be made for the Purpoſes of this Incloſure, and alſo all Sum and Sums to be paid to the ſaid Commiſſioner for his Journies and Attendances in and about the carrying on and perfecting the ſaid Incloſure, and of preparing and perfecting the Award of the ſaid Commiſſioner, and all other reaſonable Coſts, Charges, and Expences incident thereto, ſhall be paid in Manner following; that is to ſay, out of the Money to ariſe by Sale of Land as herein-before mentioned, ſo far as the Proceeds of ſuch Sale will extend, and the Reſidue of ſuch Charges and Expences

shall be borne and paid by the several and respective Persons interested in the said Commons, Moors, and Waste Grounds hereby directed to be divided and inclosed, in Proportion and according to the Value of their several and respective Shares and Interests in and to the aforesaid Commons, Moors and Waste Grounds, and shall be paid at such Time and Place or respective 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.

No Sheep, &c. to be kept in the Allotments for the first Ten Years.

XXVI. And be it further enacted, That no 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,) nor shall any Person or Persons turn or put or cause any Sheep, Lambs, Horses, Asses, or other Beasts or Cattle, to be turned or put into any of the Lanes, Ways, or Roads on either Side whereof any new growing Fences shall be planted; and in case any Person shall keep or turn any Sheep, Lambs, Horses, Asses, or other Beasts or Cattle in any such Allotment, Lane, Way or Road, without railing of or guarding such Fences, it shall be lawful for the Owner or Occupier of any adjoining Allotment, or any of his Servants or Assistants to enter thereon, and to take, drive away, and impound such Sheep, Lambs, Horses, Asses, or other Beasts or Cattle.

Commissioners to ascertain Charges and Expences.

XXVII. And be it further enacted, That the Sum or Sums of Money to be paid to the Surveyor, for surveying, mapping and planning, and for his Journies and Attendances, and also all other Costs, Charges, Fees, and Expences whatsoever, preparatory to and attending the obtaining, passing, and executing this Act, and of the preparing and inrolling the said Award of the said Commissioner, and all other proper incidental Charges and Expences whatsoever for or by reason of the said intended Division and Inclosure, which may be over and above the Sum arising from the Sale of Land as herein-before directed, shall be settled and ascertained by the said Commissioner, and shall be borne, paid, and defrayed from Time to Time as the same shall be incurred, by the several and respective Persons to whom any Allotment or Allotments shall be made within the said Manor by virtue of this Act, in Proportion and according to the Value of their several and respective Shares and Interests in and to the aforesaid Commons, Moors and Waste Grounds: Provided always, that the said Proprietors or Persons interested in the said Division and

Proprietors to pay their

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. own Expences.

XXVIII. And be it further enacted, That in caſe any Part or Parts of the ſaid Commons and Waſte Lands ſhall be ſold for more Money than will be required to defray ſuch Charges and Expences as aforeſaid, then and in ſuch Caſe ſuch Surplus Money ſhall be divided and apportioned between and among the ſeveral Proprietors of the Lands hereby directed to be divided, allotted and incloſed, according to their ſeveral and reſpective Intereſts therein, and paid to them in caſe they ſhall be ſeiſed in Fee Simple of their ſeveral Allotments; or otherwiſe ſuch Surplus Money ſhall be paid into the Bank of *England*, in Manner directed by the ſaid recited Act in thoſe Caſes wherein any Money is to be paid for the Purchaſe or Exchange of any Lands, Tenements 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. Application of Surplus Money.

XXIX. And be it further enacted, That if any of the ſaid Proprietors, or any other Perſon or Perſons, ſhall advance and pay any Money in diſcharge of 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. Perſons advancing Money to be repaid with Intereſt.

XXX. And be it further enacted, That the ſaid Commiſſioner appointed and to be appointed by virtue of this Act, ſhall be entitled to and receive the Sum of Three Guineas *per Diem*, and no more, for each and every Day he ſhall be actually employed in the Execution of the Powers and Authorities veſted in him by this Act, including the Days in going to and returning from the Meetings or Sittings. Allowance to Commiſſioner.

XXXI. 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 of this Act,) 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 upon Oath laid before any Two or more of His Majeſty's Juſtices of the Peace for the Weſt Riding of the ſaid County 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. Commiſſioner to account.

XXXII. And be it further enacted, That the ſaid Commiſſioner ſhall make and execute a Counterpart of his general Award, and that the ſame ſhall, within Three Calendar Months next after the Execution of the ſaid Award, be depoſited with the Regiſter for the Weſt Riding of the County of *York*, and for which a Fee of Two Guineas, and no more, Award of the Commiſſioner to be depoſited in the Regiſter Office for the Weſt Riding.

more, ſhall be paid; and the ſaid Counterpart or Inſtrument when ſo depoſited, or a true Copy thereof, or of any Part thereof, ſigned by the ſaid Regiſter or his Deputy, (for which no more than Four-pence *per* Sheet ſhall be paid, each Sheet to contain Seventy-two Words,) ſhall be allowed as good and legal Evidence; and the ſaid Regiſter and his Deputy ſhall permit and ſuffer any Perſon or Perſons whomſoever, from Time to Time and at all Times within the Office Hours of Attendance, to peruſe or inſpect the ſaid Counterpart or Inſtrument ſo depoſited in the Office of the ſaid Regiſter, upon paying for every ſuch Peruſal or Inſpection One Shilling, and no more; and the ſaid Award of the ſaid Commiſſioners ſhall be put into a Tin Box, and depoſited and kept in the Pariſh Church of *Birſtall* aforeſaid.

Appeal to the Weſt Riding Seſſions.

XXXIII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done or omitted to be done in purſuance of this Act, then and in every ſuch Caſe (except where the Orders and Determinations of the ſaid Commiſſioner are directed to be final, binding or concluſive, and except in ſuch Caſes wherein an Iſſue at Law ſhall be tried as herein-before mentioned) ſuch Perſon or Perſons may appeal to any General Quarter Seſſions of the Peace to be holden for the ſaid Weſt Riding, within Six Calendar Months after the Cauſe of Complaint ſhall have ariſen, and giving Twenty Days Notice to the Commiſſioner of ſuch his, her, or their Intention of appealing; and the Juſtices at ſuch Seſſion 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 removable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts 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 authoriſed and empowered to award ſuch Coſts to be paid by the Appellant or Appellants as to them in their Diſcretion ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

Saving the Rights of the Lord of the Manor.

XXXIV. Provided always, and be it further enacted, That nothing in this Act contained ſhall be conſtrued to defeat, leſſen, or prejudice the Right, Title, or Intereſt of the Lord of the Manor of *Wike* for the Time being, of, in, and to the Seigniories and Royalties incident and belonging to the ſaid Manor, but that the Lord or Lady, Lords or Ladies of the ſaid Manor ſhall and may from Time to Time and at all Times hold and enjoy all Quit Rents, Free Rents, Reliefs, Duties, Cuſtoms and Services, and all Courts and Perquiſites and Profits of Courts within the ſaid Manor, Goods and Chattels of Felons, and Fugitives, Felons of themſelves and put in exigent, Deodands, Treaſure Trove, Waifs, Eſtrays, Forfeitures, Royalties, Juriſdictions, Franchiſes, Matters and Things whatſoever to the ſaid Manor, or to the Lord or Lords, Lady or Ladies thereof, incident, belonging or appertaining, (other than and except ſuch Common

Common Right as could or might be claimed by him, her or them, in the ſaid Commons, Moors, and Waſte Grounds, and the Right of getting Stone, Slate, and Gravel thereon, which is and are hereby intended to be barred and for ever extinguiſhed,) in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as he, ſhe, or they might have held and enjoyed the ſame if this Act had not been paſſed; and that the Lord or Lady, Lords or Ladies of the ſaid Manor for the Time being, ſhall and may from Time to Time and at all Times hereafter have, hold, win, work, and enjoy all Mines of Coal, Ironſtone and Minerals, of what Nature or Kind ſoever within and under the ſaid Commons, Moors, and Waſte Grounds hereby directed to be divided, allotted, and incloſed, together with all convenient and neceſſary Ways, Way-leaves, Roads and Paſſages already made and hereafter to be made through, over, or upon the ſaid Commons, Moors, and Waſte Grounds, and Liberty of lying, making, and repairing Waggonways, and other Ways in, over, and along the ſame, or any of them, or any Part thereof, and of ſearching for, winning, and working the ſaid Mines and Minerals, and leading and carrying away the Coal, Ironſtone, Lead and Minerals, making Pits, Shafts, Pit-rooms, Heap-rooms, Drifts, Levels, Soughs, Drains, Ways and Watercourſes, and of erecting and uſing Fire Engines and other Engines, and of altering, changing, and pulling down and carrying away the ſame, or any of the Materials thereof, in, through, over, and upon the ſaid Lands and Grounds hereby directed to be incloſed, and to have and uſe any Stone got in the Courſe of ſinking Pits or Shafts, or working or getting the ſaid Minerals ſo reſerved as aforeſaid, at his, her, and their own free Will and Pleaſure, and without any Interruption or Diſturbance of or by the ſeveral Perſons to whom the ſame Allotments ſhall be made in ſuch and the like Manner as if this Act had not paſſed: Provided always, and ſo that the Lord or Lady, Lords or Ladies ſhall not, in uſing and exerciſing any of the Liberties and Privileges aforeſaid, dig, ſink for, work or win any of the Mines or Minerals in or upon the ſaid Commons, Moors or Waſte Grounds, by or by Means of certain Pits or Shafts uſually called *Bell Pits*, or by flaſking the ſaid Mines or Minerals, or by or by Means of any other open Works of the ſame or a ſimilar Deſcription; nor ſhall nor will lay down or make more than one Way or Road for the Uſe of each one Pit or Shaft to be by him, her or them, dug and ſunk conformably to the aforeſaid Proviſo, in any of the ſaid Allotments or Shares; or otherwiſe that the Lord or Lady, Lords or Ladies for the Time being ſhall and do make Satisfaction to the Owner and Owners, Occupier and Occupiers of the ſaid Allotments or Shares, for all ſuch other Roads, if more than One, as ſhall be requiſite for the Uſe of each Pit or Shaft ſo to be dug or ſunk as aforeſaid; and ſo that the Lord or Lady, Lords or Ladies for the Time being, ſhall not, at any Time between the Months of *March* and *October*, ſink or make any ſuch Pit or Pits, or lay or make any ſuch Road or Roads, or erect any Engine or other Machine in or enter into any ſuch Allotment or Allotments reſpectively for the Purpoſes aforeſaid, or any of them, in which ſuch Works ſhall not have been previouſly commenced and proſecuted, without making to the Occupier or reſpective Occupiers of ſuch Allotment or Allotments reaſonable Satisfaction for the Damage and Injury thereby done to the Crop or Crops which ſhall or may be growing or being in or upon ſuch Allotment or Allotments reſpectively; and ſuch Lord or Lady, Lords or Ladies ſhall be obliged and compellable by an Action at Law to make ſuch Satisfaction and pay ſuch Damages, and

With Liberty to work the Mines, &c.

ſhall in like Manner be obliged and compellable well and ſufficiently to fill up all and every the Pits and Shafts, (except ſuch as are neceſſary to be kept open for Air Pits,) and to remove and carry away all and every the Pit Hills which ſhall have been ſo dug, raiſed, or made in ſearching for, winning and making the ſaid Coal, Ironſtone and other Minerals, immediately after the Expiration of Twelve Calendar Months next after any ſuch Pit or Pits ſhall from Time to Time ceaſe to be worked and uſed; or otherwiſe the Lord or Lady, Lords or Ladies for the Time being of the ſaid Manor ſhall and do, at his and their Option, in lieu thereof, from Time to Time pay to the Owner or Owners, Occupier or Occupiers reſpectively of the Allotment or Allotments in which any Pit or Pits ſhall have been dug and made as aforeſaid, at and after the Rate of Four-pence for every Square Yard of Land upon which a Pit Hill or Pit Hills ſhall be ſo dug up and raiſed as aforeſaid; and ſhall in like Manner and at the ſame Time and Times reſpectively be obliged and compellable to repair and renew, in a good, ſubſtantial, and effectual Manner, all ſuch Fences as may have been injured or deſtroyed by or by reaſon of any exerciſe of the Privileges aforeſaid, or any of them; and ſhall in like Manner, whenever any Pit or Pits ſhall be ſunk in the ſaid Allotments, or any of them, make and from Time to Time thereafter, as long as the ſame ſhall be worked, keep in Repair a good and ſufficient Fence or Fences to ſeparate and divide ſuch Pit or Pits, and alſo the Road or Roads thereto, from the Allotment or Allotments in which the ſame ſhall reſpectively be made as aforeſaid; and alſo ſhall and do, within Twelve Calendar Months next after he and they ſhall have ceaſed working the ſaid Pit or Pits, take up and remove the ſaid Fences, and convert the ſaid Road and Roads reſpectively into as good a State and Condition as the Land ſhall have been in at the Time or Times when ſuch Road or Roads reſpectively ſhall have been made.

General Saving.

XXXV. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politic and Corporate, his, her, or their Heirs, Succeſſors, Executors, Adminiſtrators and Aſſigns, (other than and except the 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 Purpoſe of the Incloſure hereby authoriſed ſhall abſolutely require to be barred, deſtroyed, or extinguiſhed by this Act,) all ſuch Eſtates, Rights and Intereſts, as he, they, every, or any of them had or enjoyed, of, in, and to or in reſpect of the Commons and Waſtes 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 paſſed.

Evidence Clauſe.

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

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