



ANNO QUADRAGESIMO SECUNDO

GEORGI III. REGIS.

Cap. 106.

An Act for dividing, allotting, and inclosing the Open and Common Fields, Common Pastures, and other Commonable Lands and Waste Grounds, within the several Townships or Hamlets of *Sewerby* and *Marlon*, and within the Manor of *Sewerby-cum-Marlon* in the Parish of *Bridlington*, in the East Riding of the County of *York*. [22d June 1802.]

WHEREAS there are within the several Townships or Hamlets of *Sewerby* and *Marlon*, and within the Manor of *Sewerby-cum-Marlon* in the Parish of *Bridlington*, in the East Riding of the County of *York*, several Open and Common Fields, Common Pastures, and other Commonable Lands and Waste Grounds, called *The Field*, *The Undergates*, *The Carr*, and *The Moor*, or by other Names, and computed to contain in the Whole Two thousand Acres or thereabouts: And whereas *John Greame* Esquire, is Lord of the Manor of *Sewerby-cum-Marlon* aforesaid, and (as such) is entitled to the Right of Soil in and over the said Commonable Lands and Waste Grounds: And whereas the said *John Greame* is entitled to the Tythes of Corn and Grain, Wool and Lamb, and all other Tythes, both Great and Small, arising within the said Townships or Hamlets, and Manor, except such of the said Tythes as belong to *George Darley* a Minor: And whereas the said *George Darley* is entitled to the Tythes of Hay, and claims to be entitled to the Tythes of Hemp and Line, and to Agistment Tythe arising within the same Townships or Hamlets, and Manor, but which Claim to Tythes of Hemp and Line, and to Agistment Tythe, is not admitted by

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Commissioners.

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the said *John Greame* : And whereas the said *John Greame*, *Sir George Strickland* Baronet, *Ralph Creyke*, and *William Carliell* Esquires, and several other Persons, are the Proprietors of the Lands in the said Open and Common Fields and Common Pastures, and entitled to Rights of Common and other Rights in the said other Commonable Lands 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 the Lands and Grounds of the respective Proprietors in the said Open and Common Fields, and Common Pastures, lie intermixed and dispersed, and are so circumstanced as to render the Cultivation and Management thereof, in their present State inconvenient; and it would tend greatly to the Advantage of the several Proprietors thereof, and of all Persons interested in the said other Commonable Lands and Waste Grounds, if the said Open and Common Fields, Common Pastures, and other Commonable Lands and Waste Grounds, were divided and inclosed, and specifick Parts thereof allotted to the several Persons interested therein, in Proportion to their respective Rights and Interests, and a Satisfaction made for the Tythes arising within the said several Townships or Hamlets, and Manor aforesaid, or any of them; but such beneficial Purposes cannot be effected without the Aid of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Joseph Dickinson* of *Beverley Park*, in the Parish of *Saint John* in *Beverley*, in the County of *York*; *John Hall* of *Scorbrough* in the same County; and *Isaac Leatham* of *Barton* in the County of *York* aforesaid, Gentlemen, and their Successors, to be appointed in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing and allotting all the Open and Common Fields, Common Pastures, and other Commonable Lands and Waste Grounds, within the said Townships or Hamlets of *Sewerby* and *Marion*, and Manor of *Sewerby cum Marion*, and for carrying the several other Purposes of this Act into Execution, and subject to the Regulations of the said former Act, except in such Cases where the same are hereby varied or altered; and that all Powers and Authorities, Orders, Directions, Acts, Matters, and Things, by this or the said former Act vested in, given to, or directed to be done or executed by or before the said Commissioners, shall be deemed and considered as vested in, and may be done or executed by or before any Two of them; and the same shall be as valid and effectual as if done or executed by or before all the said Commissioners.

II. And be it further enacted, That in Case any of the Commissioners herein-before appointed, or to be appointed as herein-after mentioned, shall die or refuse to act, or become incapable of acting as a Commissioner under or by virtue of this Act, before all the Powers, Authorities, and Trusts hereby vested in the said Commissioners, shall be fully executed and performed, a new Commissioner or Commissioners shall and may be appointed in Manner following; (that is to say), if the said *Joseph Dickinson* shall die, refuse to act, or become incapable of acting as aforesaid, it shall be lawful for the said *John Greame*, or the Lord or Lords,
Lady

Lady or Ladies of the Manor of *Sewerby-cum-Marton* aforesaid; for the Time being, by Writing under his, her, or their Hand or Hands, to appoint some other fit Person (not interested in the said intended Division and Allotment) to be a Commissioner in the room of the said *Joseph Dickinson*, and so from Time to Time as often as any Commissioner, to be appointed by the said *John Greame*, or such Lord or Lords, Lady or Ladies of the said Manor, shall die, refuse to act, or become incapable of acting as aforesaid; and that if the said *John Hall* shall die, refuse to act, or become incapable of acting as aforesaid, it shall be lawful for the major Part in Value of the Proprietors of the Lands and Grounds so intended to be divided and allotted, who shall, by themselves or Agents duly authorized, attend a Meeting or Meetings to be appointed for that Purpose as herein-after mentioned, by Writing under their respective Hands, to appoint some other fit Person (not interested in the said intended Division and Allotment) to be a Commissioner in the room of the said *John Hall*, and so from Time to Time as often as any Commissioner, to be appointed by such Proprietors, shall die, refuse to act, or become incapable of acting as aforesaid; and that if the said *Isaac Leatham* shall die, refuse to act, or become incapable of acting as aforesaid, it shall be lawful for the said *Joseph Dickinson* and *John Hall*, or the Commissioners to be appointed in their Place and Stead as aforesaid, and they are hereby required by Writing under their Hands, to appoint some other fit Person (not interested in the said intended Division and Allotment) to be a Commissioner in the room of the said *Isaac Leatham*, and so from Time to Time as often as any Commissioner, to be appointed by the said *Joseph Dickinson* and *John Hall*, or their Successors as herein-before mentioned, shall die, refuse to act, or become incapable of acting as aforesaid; provided that the surviving or remaining Commissioner or Commissioners shall appoint a Time and Place for every such Election of new Commissioners, and cause Notice thereof to be given and published, at least Fourteen Days before the Time of holding a Meeting for that Purpose, in the *York Courant*, or some other Newspaper circulated in the Neighbourhood of *Sewerby* and *Marton* aforesaid, and in the Parish Church of *Bridlington* aforesaid, on some *Sunday* immediately after Divine Service, or by Writing affixed on the principal outer Door of the same Church; and in case the Person or Persons respectively herein before authorized to appoint a new Commissioner as aforesaid, shall refuse or neglect so to do for the Space of Twenty-one Days after Notice shall have been given of a Meeting to be held for that Purpose as aforesaid, then and in such Case the surviving or remaining Commissioners or Commissioner shall from Time to Time within the Space of Fourteen Days next after the Expiration of the said Twenty-one Days, or as soon after as Occasion shall require, by Writing under their or his Hands or Hand, appoint a Commissioner (not interested in the said intended Division and Allotment) in the Place of each Commissioner so dying, refusing to act, or becoming incapable of acting as aforesaid, whose Place shall not be filled up by the Person or Persons enabled to appoint such new Commissioner; and every Commissioner so to be appointed, shall have the like Power and Authority, by virtue of this and the said former Act, as the Commissioner to whose Place he shall succeed was invested with: Provided also, that nothing herein contained shall extend or be construed to extend to authorize or empower the said *John Greame*, or the Lord or Lords, Lady or Ladies of the Manor of *Sewerby-cum-Marton* aforesaid, for the Time being, to vote in the Choice
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or Election of any Commissioner or Commissioners in the Place or Stead of the said *John Hall*, or any of his Successors respectively, appointed or to be appointed by such Proprietors as aforesaid.

Notice of Meetings.

III. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice in Writing of the Time and Place of their First and every other Meeting for the Execution of this Act, to be affixed upon a *Sunday* on One of the principal outer Doors of the Parish Church of *Bridlington* aforesaid, and to be inserted in the Newspaper called *The York Courant*, or in some other Newspaper printed or circulated within the said County of *York*, Ten Days at least before every such Meeting (Meetings by Adjournment only excepted); and it shall be lawful for the said Commissioners to adjourn their Meetings from Time to Time, as they shall see Occasion, for the due Execution of this Act; and if only One Commissioner shall be present at the Time and Place appointed for any Meeting, or to which any Meeting shall be so adjourned, it shall and may be lawful for him to adjourn such Meeting, from Time to Time, to such Time and Place as shall be by him deemed most convenient, not exceeding Twenty-one Days from the Day on which such Meeting ought to have been held, in which Case he shall cause Notice of such last mentioned Adjournment to be given to the absent Commissioner or Commissioners.

Other Notices how to of given.

IV. Provided always, and be it enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners, shall be so made and given by Writing affixed upon a *Sunday* on One of the principal outer Doors of the said Parish Church of *Bridlington*, and by Advertisements in the said Newspaper called the *The York Courant*, or in some other Newspaper circulated in the said County of *York*.

Appointment of Surveyor.

V. And be it further enacted, That *Samuel Dickinson* of *Walkington Lodge*, in the Parish of *Walkington* in the said County of *York*, Gentleman, shall be and is hereby appointed Surveyor, for the Purposes of making a Survey and Admeasurement of all the Lands and Grounds hereby directed to be divided, allotted, and inclosed; and also of all the Garths, Gardens, Orchards, ancient inclosed Lands, and other tytheable Places within the said several Townships or Hamlets of *Sewerby* and *Marton*, and Manor of *Sewerby-cum-Marton* aforesaid, in such Manner as directed in and by the said former Act; and such Surveyor shall have and is hereby invested with the same Power and Authority, as if he had been originally appointed by the said Commissioners under and by virtue of the same Act; and in case of his Death, Refusal, or Incapacity to act, or in case he shall not proceed to make such Survey and Admeasurement with such Expedition as the said Commissioners shall think proper, then the same Survey and Admeasurement shall be made by such other Person or Persons as the said Commissioners shall from Time to Time nominate and appoint in the Place and Stead of him the said *Samuel Dickinson*, under and by virtue of the Power and Authority for such Purpose given in and by the said former Act.

Commissioners to direct the Course of Husbandry.

VI. And be it further enacted, That the said Commissioners shall and they are hereby required, as soon after the passing of this Act as conveniently may be, by some Writing or Writings under their Hands, to be affixed

affixed upon a *Sunday* on One of the principal outer Doors of the said Parish Church of *Bridlington* aforesaid, to order and direct the Course of Husbandry that shall be used in, over, and upon the Lands and Grounds directed by this Act to be divided, allotted, and inclosed, until the Time when they shall have made and completed the Division and Allotment thereof, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking and eating the Fallows or Stubbles, and also the cutting, digging, or getting of Whins, Furze, or Thorns, upon the same Lands and Grounds, and by the same or any other Writing or Writings under their Hands, to be affixed in Manner aforesaid, shall and may make such Orders, Rules, and Regulations, for preventing Waste or Destruction upon any of the said Lands and Grounds, in the mean Time and until such Division and Allotment shall be effected; as to them shall seem expedient; all which Rules, Orders, and Regulations of the said Commissioners, shall be binding and conclusive upon all Parties interested, and their Tenants or Occupiers; and the said Commissioners shall set and impose such Penalties and Forfeitures on every Person not conforming to such Rules, Orders, and Regulations, as they shall think necessary.

VII. And be it further enacted, That the said Commissioners shall, by some Writing or Writings under their Hands to be affixed upon One of the principal outer Doors of the said Parish Church of *Bridlington*, ascertain, order, and appoint, what Recompence and Satisfaction in Money shall be made to the Owner or Owners of any Crops growing at the Time of the said intended Division and Allotment shall be made, for the said Crops, by the Person or Persons to whom the Lands on which such Crops are growing shall be allotted; and also what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Tenants, Occupier or Occupiers of Land, within the said several Townships or Hamlets of *Sewerby* and *Marton*, and Manor of *Sewerby-cum-Marton*, or any of them, as well for ploughing, tilling, and manuring of any of the Lands or Grounds which shall be allotted to any other Person or Persons, for the Profit and Advantage which such Person or Persons will obtain thereby, as for any Loss or Disadvantage which any such Tenant or Tenants, Occupier or Occupiers, shall or may sustain by the Loss of their following or way-going Crops in any of the Open Fields, or by means of the said Division and Inclosure; and if in any of such Cases such Recompence and Satisfaction shall not be made at the Time and in Manner to be appointed by the said Commissioners, then the said Commissioners shall and may, by Warrant or Warrants under their Hands directed to any Person or Persons whomsoever (which Warrant or Warrants they are hereby authorized and empowered to grant accordingly), cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons required to make such Recompence and Satisfaction as aforesaid, together with the Costs and Charges of such Distress and Sale, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels.

VIII. And be it further enacted, That in case any Person or Persons by whom any Roads, Hedges, Fences, Banks, Ditches, Drains, Water-courses, Sewers, Bridges, Gates, Stiles, or other Works and Improvements shall be ordered or directed by the said Commissioners to be maintained, cleansed, and kept in Repair, or his, her, or their Tenant or Tenants, shall neglect or refuse to maintain, cleanse, and keep in Repair the

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Damages to
be recovered
for not keep-
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same, or any Part thereof, for the Space of Twenty-one Days after Notice given, by the Person or Persons aggrieved, of any Default therein, then and in every such Case it shall be lawful for the Person or Persons who shall be damaged or aggrieved thereby, to make Complaint thereof upon Oath or Affirmation before any One Justice of the Peace for the East Riding of the County of *York* aforesaid (not interested in the Matter in Question), who is hereby authorized and required to administer such Oath or Affirmation, and to hear and determine the Matter of every such Complaint in a summary Way, and for that Purpose to summon the Party or Parties accused, or upon his, her, or their Neglect or Refusal to appear, except for some reasonable Excuse, to examine Witnesses upon Oath or Affirmation, (which Oath or Affirmation every such Justice is hereby empowered to administer), and thereupon to give Judgement accordingly, and condemn the Party or Parties accused in such Penalty or Penalties, Sum or Sums of Money, from Time to Time, (not exceeding at any One Time the Sum of Five Pounds), as he the said Justice shall think just and reasonable; and thereupon to issue a Warrant under his Hand and Seal, to cause such Penalty or Penalties to be levied by Distress and Sale of the Goods and Chattels of the Offender or Offenders, together with reasonable Costs, returning the Overplus (if any) on Demand, to the Owner or Owners of such Goods and Chattels; which Penalty or Penalties, Sum or Sums of Money, when so recovered, shall be paid to the Person or Persons so damaged or aggrieved as aforesaid.

Allotment to
be made for
getting Stone,
&c.

IX. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out and allot such Parcel or Parcels of Land, Part of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in such Situation or Situations as they shall think proper, for the Purpose of getting Materials for repairing the publick Roads and Highways within the said several Townships or Hamlets of *Sewerby* and *Marton*, and Manor of *Sewerby-cum-Marton* aforesaid, and for other necessary Purposes, and the same shall be inclosed and fenced, and such Fences shall be maintained by such Persons and in such Manner, and such Parcel or Parcels shall and may be used under such Regulations and Directions as the said Commissioners shall by their Award direct and appoint.

Tythe Allot-
ments.

X. And in order to the making an adequate Compensation for the Great and Small Tythes arising within the said several Townships or Hamlets of *Sewerby* and *Marton*, and within the Manor of *Sewerby-cum-Marton* aforesaid; be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out and allot in lieu of and as a Compensation for all Tythes, both Great and Small, and all Moduses, Compositions, or other Payments in lieu of Tythes (except Easter Offerings, Mortuaries, and Surplice Fees), arising, growing, renewing, increasing, happening, or payable within the said several Townships or Hamlets and Manor aforesaid, or any of them, such Parts or Parcels of the said Lands and Grounds hereby directed to be divided and allotted, as shall in the Judgement of the said Commissioners be equal in Value to One-Fifth Part of all the Common Field Arable Lands, and of the Balks and Teathering Places interspersed therein, to One-Eighth Part of the Common Pasture distinguished by the Name of *The Undergates*. (including that Part thereof called *The Carr*), and to One-Seventh Part of *The Moor*, which shall respectively remain after the Parcel or Parcels herein-before directed

directed to be allotted for getting Materials, and other necessary Purposes, shall have been set out and deducted; and to One-Seventh Part of the old Inclosures within the said Townships or Hamlets, and Manor, now subject to the Payment of Tythes in Kind to the said *John Greame* and *George Darley* respectively.

XI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to subdivide the Allotment or Allotments of Land and Ground herein-before directed to be set out and allotted in lieu of such Tythes, Moduses, Compositions, or other Payments in lieu thereof as aforesaid, into Four Parts, and to allot such Parts in Manner following; that is to say, One of such Parts to consist of an Allotment, such as in the Judgement of the said Commissioners shall be a just and adequate Proportion in respect of all such Tythes as aforesaid, except those of Hay, Hemp, and Line, and Agistment; another of such Parts to consist of an Allotment, such as in the Judgement of the said Commissioners shall be a just and adequate Proportion in respect of the Tythe of Agistment, and to allot those Two Parts unto the said *John Greame*, and the Person or Persons seised of his Estate for the Time being; another of such Parts to consist of an Allotment, such as in the Judgement of the said Commissioners shall be a just and adequate Proportion in respect of the Tythes of Hay; and the remaining Part to consist of an Allotment, such as in the Judgement of the said Commissioners shall be a just and adequate Proportion in respect of the Tythes of Hemp and Line, and to allot the Two last mentioned Parts to the said *George Darley*, and the Person or Persons seised of his Estate for the Time being; and the said Allotments shall be in lieu of and as a full Compensation for all Manner of Tythes, both Great and Small, and all Moduses, Compositions, or other Payments in lieu thereof, arising, growing, renewing, increasing, happening, or payable for or in respect of the Lands and Grounds hereby directed to be divided and inclosed, and all and every the Messuages, Lands, Tenements, and other Hereditaments already inclosed within the said several Townships or Hamlets of *Sewerby* and *Marton*, and within the Manor of *Sewerby-cum-Marton* aforesaid, or any of them (Easter Offerings, Mortuaries, and Surplice Fees excepted): Provided, that until the said Division shall be made in pursuance of this Act, and all the Allotments shall be staked out accordingly, all such Tythes, Moduses, and Compositions for Tythes, as are now payable, shall continue to be received and enjoyed as if this Act had not been made.

Subdivision of
the Tythe
Allotments.

Tythes to be
payable until
Allotments
are made.

XII. Provided, and be it enacted, That it shall be lawful for the said *George Darley*, and the Person or Persons seised of his Estate for the Time being, within the Time herein-after mentioned, to make Claim to the Allotment in lieu of Agistment Tythe, which is herein-before directed to be made to the said *John Greame*, and to try such Claim at either the First or Second Assizes to be holden for the said County of *York*, next after the passing of this Act, in a feigned Issue, in which the said *George Darley*, or the Person or Persons seised of his Estate for the Time being shall be Plaintiff or Plaintiffs, and the said *John Greame*, or the Person or Persons seised of his Estate for the Time being, Defendant or Defendants (such Issue to be settled by the proper Officer of the Court in which such Action shall be brought, in case the Parties shall differ about the same); and the Verdict which shall be given in such Action, unless set aside by such Court, and a new Trial directed, and in that Case the Verdict to be given on such

For trying the
Right to
Agistment
Tythes by an
Issue at Law.

such new Trial shall be final and conclusive to all Intents and Purposes: Provided, that in case such Claim shall not be made, or being made shall not be prosecuted within the Time aforesaid, or being prosecuted the Determination shall be against such Claim, then such last mentioned Allotment shall continue in the said *John Greame*, and the Person or Persons seised of his Estate for the Time being, and the Costs of such Action or Issue shall in that Case be paid by the Plaintiff or Plaintiffs; but if the Determination shall be in Favour of such Claim, then such Allotment in lieu of Agistment Tythe shall be awarded by the said Commissioners to the said *George Darley*, and the Person or Persons seised of his Estate for the Time being, and the Costs of such Issue shall in that case be paid by the Defendant or Defendants.

For trying the Right of Tythes of Hemp and Line, by an Issue at Law.

XIII. Provided, and be it enacted, That it shall be lawful for the said *John Greame*, and the Person or Persons seised of his Estate for the Time being, within the Time herein-after mentioned, to make Claim to the Allotment in lieu of the aforesaid Tythes of Hemp and Line, which is herein-before directed to be allotted to the said *George Darley*, and to try such Claim at either the First or Second Assizes to be holden for the said County of *York*, next after the passing of this Act, in a feigned Issue, in which the said *John Greame*, or the Person or Persons seised of his Estate for the Time being, shall be Plaintiff or Plaintiffs, and the said *George Darley*, or the Person or Persons seised of his Estate for the Time being, Defendant or Defendants (such Issue to be settled by the proper Officer of the Court in which such Action shall be brought, in case the Parties shall differ about the same); and the Verdict which shall be given in such last mentioned Action, unless set aside by such Court and a new Trial directed, and in that Case the Verdict to be given in such new Trial shall be final and conclusive to all Intents and Purposes: Provided, that in case such last mentioned Claim shall not be made, or being made shall not be prosecuted within the Time aforesaid, or being prosecuted the Determination shall be against such Claim, then such last mentioned Allotment shall continue in the said *George Darley*, and the Person or Persons seised of his Estate for the Time being; and the Costs of such last mentioned Action or Issue shall in that Case be paid by the Plaintiff or Plaintiffs; but if the Determination in such last mentioned Action shall be in Favour of such last mentioned Claim, then such last mentioned Allotment shall be awarded by the said Commissioners to the said *John Greame*, and the Person or Persons seised for the Time being of his Estate, and the Costs of such Issue shall in that Case be paid by the Defendant or Defendants.

Actions not to abate by Death of either of the Parties.

XIV. Provided, and be it further enacted, That if any of the Parties, Plaintiff or Plaintiffs, Defendant or Defendants, in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and that it shall be lawful for the Person or Persons next entitled to the Estate or Estates of the Party or Parties so dying, to apply to the Court for enlarging the Time herein-before appointed for the Trial of such respective Issues; and in case the respective Claims shall be prosecuted within the Period to be allowed by the Court, the same shall be as effectual, and be attended with the same Consequences, as if such respective Claims had been prosecuted within the Time appointed by this Act.

XV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out, allot, and appoint, unto and for the said *John Greame*, or the Person or Persons seized of his Estate for the Time being, such Parcel or Parcels of the Lands hereby authorized to be inclosed, as shall in the Judgement of the said Commissioners be equal in Value to One-Fifteenth Part of the remaining Six-Seventh Parts of the Moor adjoining to the Lordship of *Flambrough*, and Parcel of the Lands and Grounds hereby directed to be divided and inclosed, in lieu of all and every his or their Right and Interest whatsoever in or to the Soil of the Common and Waste Lands hereby directed to be divided and inclosed.

Allotment to the Lord of the Manor for the Right of Soil.

XVI. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out, divide, and allot all the then Residue and Remainder of the Lands and Grounds directed by this Act to be divided, allotted, and inclosed, unto and amongst the said *John Greame*, *George Darley*, and the several other Proprietors, their respective Heirs, Successors, or Assigns, or the Persons respectively seized of their respective Estates for the Time being, as a Compensation for their several Rights and Interests in the Lands and Grounds hereby authorized to be inclosed, for which no Allotment or Compensation is herein specifically directed to be made, in such Quantities, Parts, and Proportions, as the said Commissioners shall adjudge and determine to be a just Equivalent, Compensation, and Satisfaction for their several Rights and Interests, in Proportion to the respective Natures thereof.

Allotment of the Residue.

XVII. Provided always, and be it further enacted, That all Totts, Foundations, or Scites of ancient Commonable Messuages or Cottages, now demolished, shall, upon Proof thereof being made to the Satisfaction of the said Commissioners, be considered and deemed as Commonable Messuages or Cottages respectively; and that the respective Owners thereof shall be entitled to the same Compensation for the respective Rights of Common originally belonging thereto, as if such Messuages or Cottages had been still standing.

Totts to be deemed Commonable Messuages or Cottages.

XVIII. Provided always, and be it enacted, That if any Person or Persons hath or have sold, or contracted or agreed to sell, or shall at any Time before the Execution of the said Award sell, or contract or agree to sell, his, her, or their Right, Interest, or Property in the said Open and Common Fields, Common Pastures, and other Commonable Lands and Waste Grounds, or any Part thereof, or in such Allotment or Allotments as he, she, or they may be entitled to have made to him, her, or them, in pursuance of this Act, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required to make an Allotment of Land unto the Purchaser or Purchasers in or under such Sale, Contract, or Agreement, or to his, her, or their Heirs, Executors, Administrators, or Assigns, for or in respect of such Right, Interest, or Property so sold, or contracted or agreed to be sold as aforesaid; or to make such Allotment or Allotments so sold or contracted to be sold unto such Purchaser, or Purchasers, his, her, or their Heirs, Executors, Administrators, or Assigns; and such Purchaser or Purchasers, and his, her, or their Heirs, Executors, Administrators, and Assigns, shall and may, from and after the Execution of the said Award,

Proprietors empowered to sell their Common Rights or Allotments, etc.

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hold and enjoy the Land so to be allotted to him, her, or them as aforesaid, in the same Manner, to all Intents and Purposes, as the Vendor or Vendors in every such Sale, Contract, or Agreement, and his, her, or their Heirs, Executors, or Administrators might, could, or ought to have held and enjoyed the same in case such Sale, Contract, or Agreement had not been made.

For vacating
Leases at Rack
Rent, etc.

XIX. And be it further enacted, That all Leases and Agreements for Leases upon Rack Rent, or from Year to Year, now subsisting, of all or any Part of the Tythes aforesaid, or of all and every or any Part or Parts of the Messuages or Tenements, old Inclosures, Lands or Grounds, Hereditaments and Premises, within the said Townships or Hamlets, and Manor, shall, at such Time or Times as the said Commissioners, by Writing under their Hands affixed upon One of the principal outer Doors of the Church of the said Parish of *Bridlington*, shall direct, cease and be void, the respective Owners and Proprietors of the Hereditaments and Premises so let, or agreed to be let, making such Satisfaction in Money to such Lessee or Lessees, Tenant or Tenants, as the said respective Owners and Proprietors, and their Lessee or Lessees, Tenant or Tenants, shall agree upon; or upon Application made in Writing by either Party to the said Commissioners, then as the said Commissioners shall order and direct, to be paid to such Lessee or Lessees, Tenant or Tenants, as an Equivalent or Satisfaction for the Loss or Losses he, she, or they shall respectively suffer, on Account of the Determination of such Lease or Leases, Agreement or Agreements as aforesaid, proper Allowance being made for such Conditions in the same, as have not been fulfilled by the Lessee or Lessees: Provided always, that if there shall be any such Lease, or Agreement for a Lease of Lands, Part of which shall lie in the said Townships or Hamlets, and Manor, and Part in any adjoining Township, Hamlet, or Parish, all and every such Lease or Leases, Agreement or Agreements, may be vacated as aforesaid; but where any Land shall have been taken in Exchange, which Land shall be under any such Lease or Agreement, wholly situate in an adjoining Township, Hamlet, or Parish, the Lease or Agreement of such last mentioned Land shall not be vacated.

No Sheep or
Lambs to be
kept in the
new Inclosures
during the
Space of 10
Years, unless
Guard Fences
are put up.

XX. And be it further enacted, That no Sheep or Lambs shall be depastured or kept in any of the said intended new Inclosures, during the Space of Ten Years from the Execution of the said Award of the said Commissioners, unless the Persons respectively so depasturing or keeping such Sheep or Lambs therein do, at their own Expence, effectually guard and fence the Quickset Hedges on any other Persons Allotment adjoining to such Inclosures respectively, in which Sheep or Lambs shall be depastured and kept as aforesaid, so as to prevent any Damage or Injury being done to such Fences or Quicksets by any such Sheep or Lambs; and the Person or Persons respectively depasturing or keeping Sheep or Lambs as aforesaid, and neglecting or refusing to guard the same Quickset Hedges as aforesaid, shall forfeit and pay any Sum not exceeding Ten Pounds nor less than Twenty Shillings, for every such Offence; which, when levied, shall be paid to the Surveyor or Surveyors of the Highways of the said several Townships or Hamlets of *Sewerby* and *Marton* aforesaid for the Time being, and be applied by him or them in the Amendment of such Highways.

XXI. And

XXI. And be it further enacted, That the Charges and Expences incident to and attending the obtaining and passing this Act, and of the surveying, measuring, planning, dividing, and allotting the Lands and Grounds hereby directed to be divided and allotted, and of forming, making, and putting in good and sufficient Repair the Roads and Highways to be set out and appointed under and by virtue of this or the said former Act, and the preparing and inrolling the said Award of the said Commissioners, and all other Writings or Instruments to be executed by the said Commissioners in pursuance of this or the said former Act; and all other necessary Expences, in, about, and concerning the Execution of this Act, which are not herein otherwise directed to be borne, paid, and defrayed, shall be borne, paid; and defrayed by Sale of such Part or Parts of the Undergates or Carr, Parcel of the Lands and Grounds hereby directed to be divided and inclosed, adjoining nearest to *Bridlington Key*, in the Parish of *Bridlington* aforesaid, as in the Opinion and Judgement of the said Commissioners will raise a Sum of Money sufficient to pay and discharge all such Charges and Expences; and the said Commissioners are hereby authorized and empowered to set out, and to sell and dispose of such Part or Parts of the Undergates or Carr accordingly, upon the Terms and Conditions, and afterwards to allot the same in Manner directed in and by the said former Act; and to apply the Purchase Money in defraying the Charges and Expences hereby directed to be paid and discharged, by Sale of such Land, in such Manner and at such Time or Times as they shall think proper.

How Expences
of the Act, etc.
to be paid.

XXII. Provided always, and be it further enacted, That in case the Money arising by such Sale as aforesaid, shall not be sufficient to defray all the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up by the several Persons interested in the Lands and Grounds hereby authorized to be divided, allotted, and inclosed; and shall be paid in such Shares and Proportions, and within such Time, and to such Person or Persons, as the said Commissioners shall direct, nominate, and appoint.

Deficiency, if
any, to be
made good by
the Proprietors.

XXIII. Provided nevertheless, That all Costs, Charges, and Expences, (exclusive of the said Award of the said Commissioners), attending the making of any such Exchanges or Partitions as may be made under the Authority of the said former or this Act, shall be paid, borne, and defrayed by the several Persons making the same, in such Manner and in such Proportions as the said Commissioners shall by their said Award order and direct; and that the said Proprietors and their Attornies or Agents shall pay their own Expences when they shall attend the said Commissioners at any Meeting or Meetings in pursuance of this Act.

For paying
Expences of
making Ex-
changes and
Partitions, etc.

XXIV. And be it further enacted, That if any of the Proprietors or Persons interested in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any other Person or Persons shall advance and pay any Money in Discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid by the Direction of the said Commissioners, from and out of the Money to be raised in Manner aforesaid for the Purposes of this Act, together with lawful Interest for the same.

Money ad-
vanced to be
repaid In-
terest.

XXV. And

Commissioners with Two Justices; may order unnecessary Roads to be stopped up.

XXV. And be it further enacted, That the said Commissioners shall and may order such old or accustomed Road or Roads passing or leading through, or having any old Inclosures in the said Townships or Hamlets, and Manor on either Side thereof, as in their Judgement are unnecessary, to be stopped up and for ever discontinued: Provided, Two or more Justices of the Peace acting in and for the said East Riding, not interested in the Repair of such Road or Roads, shall concur therein, but which Order shall be subject to an Appeal to the Quarter Sessions in the Manner in such Cases directed by the said former Act.

Award.

XXVI. And be it further enacted, That the Award to be made by the said Commissioners in Manner directed by the said former Act, shall, within the Space of Twelve Calendar Months from the Execution thereof, be inrolled in the publick Register Office at *Beverlĕy*, in the said East Riding of the said County of *York*, and the Register of the said Office, or his Deputy for the Time being, is and are hereby directed to cause the said Award to be inrolled in One of the Books used for inrolling Bargains and Sales of Lands in the said Office accordingly, and a true Copy (to be signed by the said Commissioners) of the Map or Plan annexed to such Award, shall be also lodged at the said Register Office at the Time of the Inrolment 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 Inrolment of such Award, be put into and kept in a Tin Box, and be lodged for safe Custody with the said *John Greame* or the Lord or Lords, Lady or Ladies of the Manor of *Sewerby-cum-Marton* aforesaid for the Time being for ever, subject to 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 Register shall be entitled to such Fees for the Inrolment of the said Award, as he is entitled to for inrolling any Bargain and Sale; and the said Register, 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 Inrolment of the said Award at the said Register Office, and to inspect and examine such Copy of the said Map or Plan, paying for the same to such Register or his Deputy, One Shilling and no more; and shall also 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 Inrolment of the said Award, to be made and written out from such Inrolment, and shall from Time to Time, when requested, certify the same under his Hand to be a true Copy from such Inrolment, for which the said Register or his Deputy making the same, shall be paid after the Rate of Sixpence *per* Sheet, reckoning One hundred Words to each Sheet, and no more; and the said original Award, or a true Copy of the Inrolment thereof, or any Part thereof, so certified under the Hand of the said Register, 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.

Allotments to be of the same Tenure, &c. as the Lands in lieu whereof they were made.

XXVII. And it is hereby further enacted and declared, That the several Lands and Tenements which shall be respectively allotted, partitioned, and exchanged, by virtue of this or the said former Act, shall, upon the Allotment, Partition, and Exchange thereof respectively become and be of the same Tenure, and be held under the same Rents and Services,

vices, and 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, Provisoos, Limitations, Conditions, Covenants, Debts, Charges, Incumbrances, and Provisions of every Kind, and in the same Manner as the Hereditaments in respect whereof the said Lands and Tenements shall be respectively allotted, partitioned, and exchanged, would belong or stand or be limited to or upon, or be subject unto if such Allotment, Partition, and Exchange thereof had not been made, or this Act had not been passed, except as to such Leases and Agreements as shall be determined under this Act, or when any other Provisions of this or the said former Act shall be to the contrary; but such Allotments shall nevertheless be subject to such Charges and Incumbrances thereon as shall be made in pursuance of the said former or of this Act.

XXVIII. And be it further enacted, That where the Proprietor or Proprietors of any Lands or other Hereditaments, which shall be allotted, partitioned, or exchanged by virtue of this or the said former Act, shall hold their respective Lands or Hereditaments by different Tenures or for different Estates, or under different Titles, the said Commissioners 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 their said Award set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments; and where from the Want of the necessary Information before the said Commissioners, or from any other Cause, their Award shall omit discriminating as herein-before is mentioned such different Titles and different Estates, and different Tenures, and after the making of the said Award Request shall be made to the said Commissioners by any Person or Persons interested, by Writing under his, her, or their Hand or Hands, to have such Omission supplied by a separate Instrument or Instruments, then and in every such Case the said Commissioners are hereby authorized to do every Thing necessary for supplying such Omission, and so far as that Purpose shall require to examine Witnesses, and in every other Respect to proceed and act as if the Award had not been made; and when they shall have obtained what they shall think sufficient Information, they are hereby also authorized, by any Deed under their Hands and Seals, to ascertain and distinguish the Difference of Tenures, Estates, and Titles respectively, and accordingly to make distinct and several Allotments in the same Manner as is hereby required where such Determination should be contained in the said Award; and every such separate Instrument, after having been duly executed by the said Commissioners, shall have the same Effect as if it was contained in the said Award, and shall be delivered to the Person or Persons upon whose Request the said Omission shall have been supplied, or the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title to the Premises in Question shall, in the Opinion of the said Commissioners, most properly belong for the Time being; and all Expences which shall be reasonably incurred in and about any such supplementary Instrument as aforesaid, shall be payable by the Person or Per-

Allotments
to Proprietors
having Lands,
etc. held under
different
Titles.

sons who shall have so requested the said Commissioners as aforesaid, or by his, her, or their Heirs, Executors, or Administrators.

Commissioners to lay their Accounts before a Barrister.

XXIX. And be it further enacted, That Once at least in each and every Year, during the Execution of this Act (such Year to be computed from the Day of the passing thereof), the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their 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 them referred to and laid before *Daniel Sykes* of *Kirk Ella*, in the said East Riding of the County of *York*, Esquire, Barrister at Law, to be by him examined and balanced, and such Balance shall be by such Referree stated in the Book of Accounts, to be kept in the Office of the Clerk to the said Commissioners.

In case of the Death of Mr. *Sykes*, another Referree to be appointed.

XXX. Provided always, and be it further enacted, That in case the said *Daniel Sykes*, or any future Referree, to be appointed as herein-after is mentioned, shall die or refuse to act, or become incapable of acting as a Referree as aforesaid, before the Matters and Things to be done by virtue of this Act shall be fully performed, it shall be lawful for the Majority in Value of the Proprietors of the Lands and Grounds hereby authorized to be divided and inclosed, assembled at a Meeting specially convened for that Purpose, by Notice in Writing under the Hands of the said Commissioners, to be affixed on the principal outer Door of the said Parish Church of *Bridlington*, and also by Advertisement in the said Newspaper called *The York Courant*, or in some other Newspaper circulated in the said County of *York*, Ten Days at the least before the Time appointed for holding such Meeting, to appoint, by Writing under the Hands of such Majority, some other fit and proper Person (not interested in the said Division and Inclosure), to be a Referree for the Purpose aforesaid, in the Place and Stead of the said *Daniel Sykes*, or of such other Referee as aforesaid.

Accounts not to be binding till allowed by Referee.

XXXI. And be it further enacted, That no Charge or Item in such Accounts shall be binding on any of the Parties interested, until the same shall have been duly allowed by the said *Daniel Sykes*, or such other Referee as aforesaid.

Appeal to the Quarter Sessions.

XXXII. 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 this Act (other than and except such Acts, Orders, and Determinations of the said Commissioners as in this or the said former Act are directed to be final, binding, and conclusive, and also except where an Issue at Law may be had in pursuance of the Directions herein-before given) he, she, or they may appeal to the General Quarter Sessions of the Peace for the East Riding of the said County of *York*, within Six Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners, and to the Party or Parties concerned, Twenty-one Days Notice in Writing of such Appeal, and the Matter thereof; and the Justices (not interested in the Premises) in their said General Quarter Sessions are hereby required to hear and determine the Matter

Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels, of the Party or Parties 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 Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari*, or any other Writ or Process, whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

XXXIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators (except the several Persons to whom any Allotment or Allotments shall be made in pursuance of this Act, in respect of the Interest or Property for which such Allotment or Allotments shall be made, and all Persons claiming under them, or in Remainder after them, or claiming in respect of any such Rights or Interests, as the Intent and Purposes of the Inclosure hereby authorized, shall absolutely require to be barred, destroyed, or extinguished), all such Right, Title, and Interest, as they, every, or any of them could or ought to have had and enjoyed in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, before the passing of this Act, or would or ought to have had and enjoyed in case this Act had not been made.

General
Saving.

XXXIV. And be it further enacted, That this Act shall be adjudged, deemed, and taken to be a publick Act, and as such be judicially taken Notice of by all Judges, Justices, and other Persons whomsoever, without specially pleading the same.

Publick Act.

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