



ANNO QUADRAGESIMO SECUNDO

# GEORGI III. REGIS.

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## Cap. 107.

An Act for dividing, allotting, and inclosing, the Open Arable Fields, Meadows, Pastures, Ings, Carr, Common and Waste Lands and Grounds, within the Township of *Flixton* otherwise *Fleeceton* in the Parish of *Folkton*, in the East Riding of the County of *York*. [22d June 1802.]

**W**HEREAS there are within the Township of *Flixton* otherwise *Fleeceton* in the Parish of *Folkton*, in the East Riding of the County of *York*, several Open Arable Fields, Meadows, Pastures, Ings, Carr, Common, and Waste Lands and Grounds respectively, called *The Wold Field*, *Wold Brow*, *Low Field*, *Low Sands*, *Ings*, *Moor*, *Carr*, or *Common Pasture*, or, by what other Names soever called or distinguished; computed to contain in the Whole upwards of Two thousand six hundred Acres: And whereas *Robert Carlile Broadley* Esquire, claims to be Lord of the Manor of *Flixton* otherwise *Fleeceton* aforesaid, and (as such) to be entitled to the Right of Soil within the same Manor: And whereas *James Bell* Esquire, a Lunatick, by the Committees of his Person and Estate, also claims to be Lord of the said Manor, and (as such) to be entitled to the Right of the Soil within the same Manor; neither of which Claims are allowed by the other Proprietors of and Persons interested in the Lands and Grounds within the said Township: And whereas *Humphrey Osbaldeston* Esquire, is Patron of the Parish Church of *Folkton* aforesaid: And whereas *Samuel Herbert* Doctor in Divinity, is Rector of the Rectory and Parish Church of *Folkton* aforesaid, and (as such) entitled to certain Glebe Lands, and to the Rectorial or Great Tythes

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Tythes arising within the Township of *Flixton* otherwise *Fleeceton* aforesaid: And whereas the said *Samuel Herbert* is Patron of the Vicarage of *Folkton* aforesaid; and *Francis Wrangham* Master of Arts, is the Vicar of the said Parish Church of *Folkton*, and (as such) entitled to all the Vicarial or Small Tythes arising or renewing within the Township of *Flixton* otherwise *Fleeceton* aforesaid, and also to certain small annual Payments arising out of Lands therein, and to the *Easter Dues*, Oblations, Obventions, Mortuaries, and other Ecclesiastical Dues within the same Township: And whereas the said *Robert Carlile Broadley*, *Humphrey Osbaldeston*, *Theophilus Nesfield*, *Charles Ringrose*, and others, are Proprietors of the Lands in the said Open Arable Fields, Meadows, Pastures, and Ings, and entitled to Rights of Common and other Rights in the said Carr, and 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 of the several Proprietors in the said Open Arable Fields, Meadows, Pastures, and Ings, lie intermixed and dispersed in small Parcels, and are so circumstanced as to render the Cultivation and Management thereof in their present State inconvenient, and it would be of great Advantage to the several Proprietors thereof, and to all Persons interested in the said Carr, and Commonable Lands, and Waste Grounds, that the said Open Arable Fields, Meadows, Pastures, Ings, Carr, Common and Waste Lands and Grounds, should be 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 Township of *Flixton* otherwise *Fleeceton* aforesaid; but such beneficial Purposes cannot be effected 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, 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 same County, 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 Arable Fields, Meadows, Pastures, Ings, Carr, Common, and Waste Lands and Grounds within the Township of *Flixton* otherwise *Fleeceton* aforesaid, and for carrying the several other Purposes of this Act into Execution, subject to the Regulations of the said former Act, except in such Cases where the same are hereby varied or altered; and that all Acts, Matters, and Things, done by any Two of the said Commissioners, shall be, to all Intents and Purposes, binding and conclusive, and equally valid and effectual as if the same were transacted by all the said Commissioners: Provided nevertheless, that all the said Commissioners shall be present on making the Valuation, Division, and Allotment, under or by virtue of this or the said former Act.

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Commission-  
ers.

Two Commis-  
sioners may  
act.

Appointment  
of new Com-  
missioners.

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

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 nominated and 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 *Samuel Herbert* (as Rector of the Parish of *Folkton* aforesaid), and the said *Francis Wrangham* (as Vicar of the said Parish), and their respective Successors, by Writing under their Hands, jointly to appoint some other fit Person, not interested in the said intended Division, Allotment, and Inclosure, 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 *Samuel Herbert* and his Successors, Rectors as aforesaid, and the said *Francis Wrangham* and his Successors, Vicars as aforesaid, 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 said *Robert Carlile Broadley*, his Heirs or Assigns, by Writing under his, her, or their Hand or Hands, to appoint some other fit Person, not interested in the said intended Division, Allotment, and Inclosure, to be a Commissioner in the Room of the said *John Hall*, and so from Time to Time as often as any Commissioner so to be appointed by the said *Robert Carlile Broadley*, his Heirs or Assigns, 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 major Part in Number and Value of the Proprietors of the Lands and Grounds so intended to be divided, allotted, and inclosed (except the Rector and Vicar aforesaid for the Time being, and the said *Robert Carlile Broadley*, his Heirs and Assigns), 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, Allotment, and Inclosure, 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 such Proprietors shall die, refuse to act, or become incapable of acting as aforesaid: Provided, that the surviving or remaining Commissioner or Commissioners shall and they are hereby required to 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 *Flixton* otherwise *Fleeceton* aforesaid, and in the Parish Church of *Folkton* 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 enabled and authorized to appoint a new Commissioner as aforesaid, shall refuse or neglect so to do for the Space of Twenty-one Days after Occasion shall require, or after Notice shall have been given of a Meeting to be held for that Purpose as aforesaid, as the Case may be, 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 his or their Hand or Hands, appoint a Commissioner, not interested in the said intended Division, Allotment, and

and Inclosure, 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 Act, as the Commissioner in whose Place he shall succeed was invested with.

Notice of Meetings.

III. And be it further enacted, That the said Commissioners shall and they are hereby required to give Notice in the *York Courant*, or in some other Newspaper circulated in the Neighbourhood of *Flixton* otherwise *Fleeceton* aforesaid, and also in the Parish Church of *Folkton* aforesaid, upon some *Sunday* immediately after Divine Service, or by Writing to be affixed upon the principal outer Door of the same Church, of the Time and Place of their First Meeting for executing the Powers hereby and by the said former Act vested in them, at least Ten Days before such Meeting, and shall in like Manner also give at least Ten Days Notice of every subsequent Meeting for that Purpose (Meetings by Adjournment only excepted); and the said Commissioners shall and may adjourn themselves from Time to Time as they shall see Occasion, for the due Execution of this or the said former Act; and in case the said Commissioners shall not all meet at the Time and Place appointed for any Meeting, or to which any Meeting shall be so adjourned, it shall be lawful for the said Commissioners or Commissioner present to adjourn to such other Time and Place as shall be by him or them attending deemed most convenient, not exceeding Twenty-one Days from the Day on which such Meeting ought to have been held, and shall cause Notice of such last mentioned Adjournment to be given to the absent Commissioner or Commissioners.

Other Notices how to be given.

IV. Provided always, and be it enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners, under or by virtue of this or the said recited Act, shall be so made and given by Advertisements in the *York Courant*, or in some other Newspaper circulated in the Neighbourhood of *Flixton* otherwise *Fleeceton* aforesaid, and also in the Parish Church of *Folkton* aforesaid, upon some *Sunday* immediately after Divine Service, or by Writing to be affixed upon the principal outer Door of the same Church.

Appointment of Surveyors.

VI. And be it further enacted, That *Samuel Dickinson* of *Walkington Lodge* in the Parish of *Walkington*, in the said County of *York*, and *Thomas Barrow* of *Welton*, in the same County, Gentlemen, shall be and they are hereby appointed joint Surveyors for the Purpose 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 Grounds, and other tytheable Places within the Township of *Flixton* otherwise *Fleeceton* aforesaid, in such Manner as directed in and by the said former Act; and such Surveyors shall have and are hereby invested with the same Powers and Authorities, as if they had been originally appointed by the said Commissioners under or by virtue of the said former Act; and in case of their or either of their Death, Refusal, or Incapacity to act, or in case they or either of them shall not proceed to make such Survey and Admeasurement with such Expedition as the said Commissioners shall think proper and necessary, then the same Survey and Admeasurement shall be made by such other

other Person or Persons as the said Commissioners shall from Time to Time (under and by virtue of the Power and Authority for such Purpose given in and by the said former Act), nominate and appoint in the Place and Stead of them the said *Samuel Dickinson* and *Thomas Barrow* respectively.

VI. And be it further enacted, That in order to shorten the Boundary Fence or Fences between the Township of *Flixton* otherwise *Fleeceton* aforesaid, and any adjoining Parish, Township, or Place, it shall be lawful for the said Commissioners (with the Consent in Writing under the Hand or Hands of the Lord or Lords, Lady or Ladies of the Manor or Manors, and under the Hands of the major Part in Value of the Land Owners in any Parish, Township, or Place interested in any Open Commonable Lands, or in any Common or Waste Ground, adjoining to the Township of *Flixton* otherwise *Fleeceton* aforesaid, or under the Hand or Hands of the Owner or Owners of any adjoining Lands upon which such Fence or Fences as next herein-after mentioned are intended to be made), to set out and ascertain the Boundary Fence or Fences to be made between the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and such adjoining Open Commonable Lands, Common, or Waste Ground, in such Manner as they shall judge proper for that Purpose; and after such Boundary Fence or Fences shall be set out and ascertained as aforesaid, the same shall be fenced by such Person or Persons, in such Manner, and at such Time or Times, as the said Commissioners shall order and direct in and by their Award, and shall for ever thereafter be deemed and taken to be the Boundary or Boundaries between the Township of *Flixton* otherwise *Fleeceton* aforesaid, and such adjoining Parish, Township, or Place; any Law, Usage, or Custom to the contrary notwithstanding.

For shortening  
Boundary  
Fences.

VII. And be it further enacted, That in case any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, touching or concerning the respective Shares, Rights, or Interests, which they or any of them shall have or claim to have in or to the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or touching or concerning the respective Shares or Allotments which they or any of them ought to have of or in the same, it shall be lawful for the said Commissioners, and they are hereby authorized and required to examine into, hear, and determine the same, and their Determination therein shall be binding and conclusive (save and except as herein-after is mentioned): Provided always, that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever.

Commission-  
ers to settle  
Disputes.

VIII. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall

Power to  
assess Costs.

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be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

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

IX. And be it further enacted, That in case the respective Claims made by or on Behalf of the said *Robert Carlile Broadley* and *James Bell*, to be Lord of the Manor of *Flixton* otherwise *Fleeceton* aforesaid, shall be resisted or controverted, and Notice thereof in Writing, signed by the said Commissioners, given to the said *Robert Carlile Broadley* and to the Committees of the said *James Bell* respectively (and which Notice the said Commissioners are hereby authorized and required to give accordingly), or in case any Person or Persons interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with the Determination of the said Commissioners, touching or concerning any Claim or Claims to any Right of Common, or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, it shall and may be lawful for the Person or Persons whose Claim shall be so resisted or controverted, or who shall be so dissatisfied with the Determination of the said Commissioners as aforesaid, to proceed to a Trial at Law of such respective Claims at the First following Assizes to be holden for the said County of *York*, provided such Notice as aforesaid shall be given, or such Determination shall be made above the Space of Three Calendar Months previous to the Time of holding such Assizes, but if such Notice or Determination shall not be within that Time, then at the Second Assizes next after such Notice or Determination, and not otherwise, and no further Time shall be allowed for the Trial thereof; and for that Purpose the Person or Persons to whom such Notice as last aforesaid shall be given by the said Commissioners, or who shall be so dissatisfied, 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 the Time herein-before appointed for that Purpose; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted upon, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action 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 or Actions, shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Case;

Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners touching such Claim or Claims of Right to the Soil as aforesaid, or of any Rights of Common or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive upon all Parties: Provided always, that the last mentioned Limitation of Three Calendar Months, shall, in the Case of the said *James Bell*, and as applicable to any Action that shall or may be brought or commenced by him or his Committees on his Behalf, be and the same is hereby extended to Six Calendar Months; any thing herein contained to the contrary notwithstanding.

X. 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.

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

XI. And be it further enacted, That the said Commissioners shall set out and allot, unto the Surveyors of the Highways within the Township of *Flixton* otherwise *Fleeceton* aforesaid, such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, as they shall think necessary, as and for publick Stone and Gravel Pits; and the same Part or Parts, when set out, shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Houses, Lands, Tenements, and Hereditaments within the same Township for the Time being, in such Manner, and under such Rules and Regulations, as the said Commissioners shall by their said Award direct or appoint.

Allotments for Stone and Gravel Pits.

XII. And be it further enacted, That the said Commissioners shall and they are hereby required, in the next Place to set out, allot, and award unto the said *Samuel Herbert* (as Rector of the Parish Church of *Folkton* aforesaid) and his Successors, such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, as in the Judgement of the said Commissioners shall be a full Equivalent and Compensation for the Glebe Lands and Rights of Common now belonging to the said Rector.

Allotments in lieu of Rectors Glebe and Right of Common.

XIII. And, in order to the making an adequate Compensation to the said Rector and Vicar respectively, and their respective Successors, for the Great and Small Tythes, and other Ecclesiastical Dues and Payments arising, growing, renewing, increasing, happening, or payable, within the Township of *Flixton* otherwise *Fleeceton* aforesaid, be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out and allot, unto and for the said *Samuel Herbert* as Rector, and *Francis Wrangham* as Vicar of *Folkton* aforesaid, and their respective Successors, for and in lieu of all Tythes, both Great and Small, and all Moduses, Compositions, or other Payments in lieu of Tythes, and all other Ecclesiastical Dues and Payments whatsoever (except *Easter Offerings*, *Mortuaries*, and *Surplice Fees*), arising, growing, renewing, increasing,

Allotment in lieu of Great and Small Tythes.

creasing, happening, or payable, within the Township of *Flixton* otherwise *Fleeceton* aforesaid, such Part or Parts, Parcel or Parcels, of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, 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 interspersed therein, as also of the Sheep Walk or Sheep Pastures on the Wolds (which Balks, and Sheep Walk or Sheep Pastures, are Part and Parcel of the same Common Field) to One-Seventh Part of the old Inclosures and Ings, and to One-Tenth Part of the said Carr in the said Township of *Flixton* otherwise *Fleeceton*, which are now respectively subject and liable to the Payment of Tythes in Kind, to the said *Samuel Herbert* and *Francis Wrangham*, and their Successors, Rectors and Vicars as aforesaid, and which shall remain after the Allotment or Allotments herein-before directed to be made, shall have been set out and deducted.

Tythe Allotment to be divided between the Rector and Vicar.

XIV. 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 Tythes (both Great and Small) and all Moduses, Compositions, or other Payments in lieu thereof, arising, growing, renewing, increasing, happening, or payable, within the Township of *Flixton* otherwise *Fleeceton* aforesaid, between the said Rector and Vicar, and their respective Successors, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be a just Compensation, Equivalent, and Satisfaction for their respective Shares, Rights, and Interests of and in the Tythes, Moduses, or Compositions, or other Dues and Payments, for or in respect of which such Allotment or Allotments of Land and Ground shall be set out and allotted as aforesaid; and the said Allotment or Allotments to the said Rector and Vicar respectively, or their respective Successors, shall be in lieu, and as a full Compensation for all Tythes (both Great and Small) and all Ecclesiastical Dues and Payments whatsoever, arising, growing, renewing, increasing, happening, or payable within the said Township of *Flixton* otherwise *Fleeceton*, to the said Rector and Vicar respectively, or to their respective Successors (Surplice Fees, Mortuaries, and *Easter Offerings* only excepted).

The Rector's Tythe and Glebe Allotments to be belaid together.

XV. Provided always, and be it further enacted, That the Allotment or Allotments, of Land and Ground herein-before directed to be set out and allotted to and for the said *Samuel Herbert* (as Rector of *Folkton* aforesaid), and his Successors, for and in lieu or in respect of his Glebe Lands, Rights of Common, and Tythes, shall be allotted and awarded by the said Commissioners in the said Open Common Fields adjoining to each other, and as near as may be to the Township of *Folkton* aforesaid, and not elsewhere, and the said Commissioners are hereby required to make such respective Allotments accordingly.

A Money Payment to be made for the Tythes of the old Inclosures in certain Cases.

XVI. And be it further enacted, That in case there are any Homesteads, Gardens, Orchards, Homecloses, old Inclosures, or ancient inclosed Lands and Grounds in the Township of *Flixton* otherwise *Fleeceton* aforesaid, subject or liable to the Payment of Tythes in Kind, or to any Modus or other Composition in lieu of Tythes, the respective Proprietors whereof shall not happen to be entitled to any or a sufficient specifick Allotment of Land



Land to make Compensation for the Tythes; or any Modus, Rent, or Compensation payable out of such Homesteads, Gardens, Orchards, Homeclofes, old Inclosures; or ancient inclosed Lands and Grounds respectively, in lieu of Tythes, such Proprietors shall respectively pay or cause to be paid unto such Person or Persons, and at such Time or Times as the said Commissioners shall direct or appoint, such Sum or Sums of Money as they shall adjudge and determine to be a full Compensation and Satisfaction for the Tythes or other Payments issuing or payable out of such Homesteads, Gardens, Orchards, Homeclofes, old Inclosures, and ancient inclosed Lands and Grounds respectively, or for such Part thereof for which a Compensation in Land cannot be made by the Proprietors thereof as aforesaid; which Sum or Sums of Money shall be applied towards Payment of the Charges and Expences of obtaining and passing this Act, and carrying the same into Execution, and shall and may be raised, levied, and recovered, in like Manner as the Charges and Expences of obtaining and passing this Act, and carrying the same into Execution, are herein-after directed to be raised, levied, and recovered.

XVII. And be it further enacted, That until the said Division and Allotment shall be made, and the several Allotments shall be staked out in pursuance of this or the said recited Act, the said Rector and Vicar and their Successors shall be entitled to, and shall respectively receive and enjoy such and the same Tythes as they the said Rector and Vicar or their Successors could, might, or ought to have severally and respectively received in case this Act had not passed.

Tythes to the Rector and Vicar to be payable until Allotments are made.

XVIII. And be it further enacted, That the several Allotments of Land and Ground so to be set out and allotted to and for the said Rector and Vicar, and their Successors respectively as aforesaid, shall be inclosed and fenced round with Posts and Rails, Ditches and Quickset Hedges, and other proper Mounds and Fences, at the Expence of the several other Proprietors of the Allotments to be set out by virtue of this Act, in such Shares and Proportions as they the said Commissioners shall direct; and the said Commissioners shall in and by their said Award direct and appoint what Part of the said Ditches, Mounds, and Fences shall afterwards respectively belong to the said Rector and Vicar respectively, and to their respective Successors, and which Part to any other of the said Proprietors; and the said Ditches, Mounds, and Fences, when properly made, shall thereafter for ever be maintained, supported, and scoured out by and at the Expence of the Person or Persons to whom the same shall be ordered and appointed to belong as aforesaid.

Allotments to the Rector and Vicar to be ring-fenced by the Commissioners at the Expence of the other Proprietors.

XIX. And be it further enacted, That the said Commissioners shall in the next Place assign and set out such Part or Parts of the said Carr hereby directed to be divided, allotted, and inclosed, as shall in the Judgment of the said Commissioners be equal to One-Sixteenth Part thereof, which they shall afterwards allot unto such Person or Persons as shall thereafter appear to have (as Lord or Lords of the Manor of *Flixton* otherwise *Fleeceton* aforesaid) an absolute and legal claim to the Soil as aforesaid.

Allotment for Right of Soil.

XX. And be it further enacted, That the said Commissioners shall, after having made such several Allotments as herein-before directed, in the

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next

Allotments to the other Proprietors.

next Place set out, allot, and award, unto the several Owners and Proprietors thereof, and Persons having Right of Common therein, all the then Residue and Remainder of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, in such Quantities, Shares, and Proportions, and in such Place or Places, as they the said Commissioners shall adjudge and deem to be a just Compensation and Satisfaction for, and equal to the several and respective Lands, Grounds, Rights of Common, and other Rights and Interests of such Proprietors respectively therein.

If no Allotment made of One-Sixteenth of the Carr, for Right of Soil, the same to be allotted amongst the other Proprietors.

XXI. Provided always, and be it further enacted, That in case no such Allotment as aforesaid shall be made to any Lord or Lords of the said Manor, in Right of Soil as aforesaid, then the said One-Sixteenth Part of the said Carr, intended to be so allotted for such Right of Soil, shall be divided and allotted unto and amongst the Owners and Proprietors of the last mentioned Residue and Remainder of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, in such Manner as is herein-before directed to be made with regard to such Residue and Remainder.

Power to sell Common Rights, etc. separate from the Property to which the same are appurtenant.

XXII. Provided always, and be it further enacted, That it shall be lawful for any Person or Persons entitled in Fee to any Right of Common or Right of Turbary in or upon the said Lands or Grounds hereby directed to be divided, allotted, and inclosed, or any of them, as appurtenant to any Estate or Property within the Township of *Flixton* otherwise *Fleeceton* aforesaid, to sell and dispose of any such Rights, separate and apart from the Property to which the same are appurtenant; and the said Commissioners shall award the Allotments to be made, in lieu of such Rights so sold and disposed of to the Purchasers thereof respectively (having received a Request in Writing so to do, signed by the Proprietors or Owners of such Rights, in the Presence of One or more credible Witness or Witnesses); any Law, Usage, or Custom to the contrary notwithstanding.

For inclosing the Allotments to the other Proprietors.

XXIII. And be it further enacted, That the several Allotments which shall be set out and allotted by virtue of this Act (except the Allotments to be made to the said Rector and Vicar and their Successors as aforesaid), shall be inclosed and fenced in such Manner, and the Fences shall be made, and for ever thereafter maintained, supported, scoured out, and kept in Repair, by and at the Expence of such Person and Persons as the said Commissioners shall direct or appoint in and by their Award.

Openings to be left in Fences for a certain Time.

XXIV. And be it further enacted, That such convenient Openings shall be left in the said Fences and Inclosures as the said Commissioners shall direct, for the Space of Six Calendar Months next after the Execution of the said Award, for the Passage of Cattle, Carts, and Carriages, through the same, unless the said Commissioners shall sooner permit the same to be made up by the Person or Persons interested therein.

No Sheep or Lambs to be kept in the new Inclosures for Ten Years, unless Guard Fences are put.

XXV. And be it further enacted, That no Sheep or Lambs shall be kept on any of the Allotments to be made by virtue of this Act, during the Space of Ten Years next after the Execution of the said Award, unless the Person or Persons so keeping the same shall first, at his, her,

OR

or their own Expence, make and maintain a Fence sufficient to guard the young Quick Fences round such Allotments from being cropped, hurt, or damaged by such Sheep or Lambs, whether such Quick Fences be planted or set by the Owner or Occupier of such Allotments as aforesaid, or by the Owner or Occupier of the Allotment or Allotments adjoining thereto.

XXVI. And be it further enacted, That, from and after the passing of this Act, until such Division and Allotment shall be made as aforesaid, all the Tillage and other Lands and Grounds by this Act directed to be divided, allotted, and inclosed as aforesaid, shall be cropped or sown by the Proprietors or Occupiers thereof in such Proportions and Manner, and shall be stocked with such Cattle or Sheep, and kept, ordered, and continued in such Course of Husbandry, as the said Commissioners shall, by Writing under their Hands, in that Behalf from Time to Time order, direct, or appoint; and that no Meadow, Pasture, or Greensward Ground, being Part of the Lands by this Act directed to be divided, allotted, and inclosed, shall, before the making of such Division and Allotment, be ploughed, broken, or converted into Tillage; and that it shall be lawful for the said Commissioners, at any Time before the making of the said Allotments, in case they shall judge it beneficial to the said Proprietors, by a Notice or Notices in Writing under their Hands, to be affixed on the principal outer Door of the Parish Church of *Folkton* aforesaid, to suspend or extinguish all or any of the Rights of Common in or upon all or any Part or Parts of the Lands or Grounds by this Act directed to be divided, allotted, and inclosed; and such Rights of Common shall be suspended, or shall cease and be for ever extinguished, according to such Notice or Notices.

Directing the  
Course of  
Husbandry:

XXVII. And be it further enacted, That it shall be lawful for the said Commissioners to settle, ascertain, and appoint, by any Writing or Writings under their Hands, what Recompence shall be paid or made, and by or to whom respectively, for Damage which shall be done by or in making Roads, or cutting of Ditches through any Land or Ground by this Act directed to be divided, allotted, and inclosed, whereon Corn shall be growing, and for the Standage of any Corn or Grain, and for the ploughing, manuring, or cultivating any of the Lands or Grounds to be divided, allotted, and inclosed as aforesaid; and that the Owner or Owners of any Crop or Crops of Corn or Hay which shall be standing or growing upon any of the same Lands or Grounds, shall be at Liberty to cut, reap, gather, lead, and carry away such Crop, within the Time to be limited by the said Commissioners, without any Molestation or Hindrance from the Person or Persons to whom the Lands on which the Crop so growing shall be allotted; paying for the Standage thereof, before the same respectively shall be reaped or cut, such Compensation as the said Commissioners shall order and direct.

Recompence  
to be made  
for Crops  
standing.

XXVIII. And be it further enacted, That the said Commissioners shall and may scour out and widen all such ancient Becks, Brooks, Rivulets, Ditches, Drains, Watercourses, Sewers, Tunnels, Gates, Banks, and Bridges, in the Township of *Flixton* otherwise *Fleeceton* aforesaid, as well in, through, and over the Lands and Grounds hereby directed to be divided, allotted, and inclosed, as also in, over, and through any ancient Inclosures within the said Township of *Flixton* otherwise *Fleeceton*; and

Commissioners may make  
Order concerning old  
Drains, &c.  
and cause new  
Drains, &c. to  
be made (if  
necessary) over  
the old Inclosures.

also shall and may set out and appoint such new Ditches, Drains, Watercourses, Sewers, Tunnels, Gates, Banks, and Bridges, in, over, and through the same old Inclosures (making such Satisfaction to the Proprietors of such ancient Inclosures for the Damage done thereby as they shall think reasonable), and of such Depth and Breadth, and in such Directions as they the said Commissioners shall think proper; and the said Commissioners shall and may, and they are hereby directed and required, in and by their said Award, to order and determine by whom, at whose Expence, at what Time or Times, and in what Manner the said Becks, Brooks, Rivulets, Drains, Ditches, Watercourses, Sewers, Tunnels, Gates, Banks, and Bridges shall be made, and afterwards cleansed, scoured, repaired, and maintained.

Damages to be recovered for not keeping Fences, etc. in Repair.

XXIX. And be it further enacted, That in case any Person or Persons by whom any Roads, Hedges, Fences, or Banks, or any Becks, Brooks, Rivulets, Ditches, Drains, Watercourses, 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 as herein-before mentioned, or his, her, or their Tenant or Tenants, shall neglect or refuse to maintain, cleanse, and keep in Repair the 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 to any Justice of the Peace for the East Riding of the said County of *York* (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, 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 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.

Compensation for Tofts.

XXX. Provided always, and be it further enacted, That all Tofts, Foundations, or Scites of ancient Commonable Messuages or Cottages, within the Township of *Flixton* otherwise *Fleeceton* aforesaid, 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.

XXXI. And

XXXI. And be it further enacted, That it shall and may be lawful for any Person or Persons who shall be entitled to any Estate, Power, Trust, or Interest of and in any Allotment or Allotments to be made by virtue of this Act, to sell and dispose of all his, her, or their Estate, Power, Trust, or Interest therein, at any Time before the Execution of the said Award; and on a proper Conveyance, Assignment, or Surrender thereof being executed or passed, every such Sale being mentioned, expressed, or declared by the said Commissioners in their said Award, shall be good, valid, and effectual in Law.

Proprietors empowered to sell their Allotments, before the Execution of the Award.

XXXII. And be it further enacted, That all and every Lease or Leases, or Agreements for any Term or Terms of Years at Rack or extended Rent, or from Year to Year, or at Will, now subsisting of all or any of the Tythes aforesaid, or of all or any Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed as aforesaid, or of any Messuages or Cottages, or Scites of Messuages or Cottages, or of old inclosed Land, or other Tenements and Hereditaments held with such Tythes, or with such Lands and Grounds so intended to be divided, allotted, and inclosed, or included in such Lease or Leases, or other Agreements, shall, at such Time or Times as the said Commissioners, by Notice or Writing under their Hands affixed upon the principal outer Door of the Parish Church of *Folkton* aforesaid, on some *Sunday* immediately after Divine Service, shall direct, cease, determine, and be void; and the respective Lessors or Landlords of such Hereditaments and Premises, shall and may enter upon the Allotments made in lieu thereof respectively, making such Satisfaction, or duly tendering the same to the respective Lessee or Lessees, Tenant or Tenants, as the said Commissioners shall ascertain reasonable to be paid to such Lessee or Lessees, Tenant or Tenants, on Account of the Avoidance of any such Lease or Leases, or Agreements, or as an Equivalent for the same (unless in such Case where any Lease or Agreement shall become void by any Proviso therein mentioned); and the respective Lessors or Landlords shall be entitled to such Rent or Rents, and Privileges, up to the Time of vacating such Leases or Agreements respectively, as the said Commissioners shall direct or appoint to be paid or given to them by such Lessees or Tenants respectively, for or in respect of such Lands, Tenements, Tythes, or Hereditaments; and if the Money so to be paid as aforesaid, shall not be paid to the Person or Persons entitled to receive the same within Forty Days after it shall become due, and Demand shall have been made thereof by the Person or Persons to whom the same shall be payable, it shall and may be lawful to and for the said Commissioners, and they are hereby required to raise and levy the same, for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act may be raised and recovered: Provided always, that if there shall be any such Lease of Lands, Part of which shall lie in the said Parish of *Folkton*, and Part in an adjoining Parish, all and every such Lease or Leases upon Rack Rent may be vacated; but when any Land shall have been taken in Exchange, which Land shall be under any such Lease or Agreement, and wholly situate in an adjoining Parish, such last mentioned Lease or Agreement shall not be vacated.

For vacating Leases at Rack Rent, etc.

No Turves, etc. to be cut without the Consent of the Commissioners.

XXXIII. And be it further enacted, That, from and after the passing of this Act, and until the several Allotments herein-before directed to be made shall be made and completed, it shall not be lawful for any Person or Persons whomsoever to cut, dig, pare, grave, take, gather, or carry away any Turves, Whins, or Furze, or any Earth, Sand, or Sods, for any Use or Purpose whatsoever, in, upon, or from any Part of the same Open Fields, Carr, Common, and Waste Lands and Grounds hereby directed to be divided, allotted, and inclosed, without the Consent of the said Commissioners being first obtained for that Purpose, in Writing under their Hands (which Consent the said Commissioners are hereby empowered to grant under such Rules, Orders, Regulations, and Restrictions as they shall think proper to insert therein); and if any Person or Persons shall cut, dig, pare, grave, take, gather, or carry away the same, without such Consent as aforesaid, and contrary to the true Intent and Meaning of this Act, then and in every such Case the said Commissioners, upon due Proof made before them upon Oath, shall and they are hereby required, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause any Sum of Money, not exceeding Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending in the Premises, rendering the Overplus (if any) upon Demand, to the Person or Persons whose Goods and Chattels shall be so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied shall be applied towards the Payment of the Costs and Charges of obtaining and executing this Act.

Money advanced to be repaid with Interest.

XXXIV. 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 on his, her, or their Behalf, 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, together with lawful Interest for the same.

Rector's and Vicar's Tythe Allotments to be exempt from Drainage Taxes, in like Manner as the Tythes.

XXXV. Provided always, and it is hereby enacted, That the Allotments herein-before directed to be made to the said *Samuel Herbert* and *Francis Wrangham* respectively, and to their respective Successors, in lieu of Tythes, and of all Moduses, Compositions, or other Payments, in lieu thereof, shall be distinguished from the Allotment or Allotments to be made for or in lieu of Glebe Land as herein-before mentioned; and such Allotments so to be made in lieu of Tythes, and of all such Moduses, Compositions, or other Payments shall be free and clear, and for ever exonerated and discharged of and from all Taxes, Rates, Assessments, Charges and Expences for or on Account of the Drainage and Improvements made or to be made under and by virtue of an Act, passed in the Fortieth Year of the Reign of His present Majesty, intituled, *An Act for draining, embanking, and preserving divers Tracts of Land within the Township of Muston in the Parish of Hunmanby, and also within sundry other Parishes, Townships, or Places adjoining or near to the Rivers Derwent and Harford in the East and North Ridings of the County of York*; any Thing herein or in the said recited Act contained to the contrary thereof in anywise notwithstanding.

XXXVI. And

XXXVI. And be it further enacted, That the Costs, Charges, and Expences of inclosing the Allotments herein directed to be made to the said *Samuel Herbert* and *Francis Wrangham* respectively, and their respective Successors, in lieu of their said Glebe Lands and Tythes, and all the Costs, Charges, and Expences incident to and attending the obtaining this Act, and of surveying, admeasuring, planning, valuing, dividing, and allotting, the Lands and Grounds to be divided and allotted by virtue of this or the said first recited Act, and of preparing and inrolling the Award of the said Commissioners, and all the Charges and Expences of the said Commissioners, their Assistants and Servants, and all other necessary Expences of the several Persons to be employed by the said Commissioners in and about the Premises, either before or after the Execution of the said Award, and all the Expences of forming, compleating, and repairing the publick Carriage Roads and Highways to be set out and appointed by the said Commissioners, and all other Expences of carrying this Act into Execution (save and except the Expences of Exchanges and Partitions as after mentioned), shall be borne and defrayed by the several Persons to whom any Allotment or Allotments shall be made by virtue of this Act (save and except the said Rector and Vicar of the said Parish of *Folkton* respectively, and their respective Successors, for or in respect of any Allotment or Allotments which shall be made to them in lieu of Glebe Land and Tythes, and also save and except the Surveyors of the Highways within the said Township for the Time being, for and in respect of any Allotment to be made to them as such, as herein-before directed); which said Costs, Charges, and Expences, together with the Proportions thereof to be paid by the several Persons hereby made liable to the Payment thereof shall be adjusted and settled by the said Commissioners; and the said Commissioners are hereby authorized and empowered from Time to Time to make and form Estimates of all such Costs, Charges, and Expences, and to raise the Amount of such Estimates by a Rate or Rates, at any Time after the Allotments shall have been staked out and confirmed, from Time to Time as they shall deem necessary and proper, in Manner directed in and by the said recited Act.

Fordefraying the Charges and Expences of obtaining and executing this Act.

Mode of recovering the Expences.

XXXVII. And be it further enacted, That all Costs, Charges, and Expences attending the making of Exchanges or Partitions, under and by virtue of the said recited Act, shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioners shall by their said Award order and direct; and the same shall and may (in case of Non-payment thereof), be recovered by Distress and Sale, in such Manner as the Expences of obtaining and executing this Act are by the said recited Act directed to be recovered.

Expences of Exchanges how to be paid.

XXXVIII. 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 and Account when so made, together with the Vouchers relating thereto, shall be by them referred to and laid before *Robert Osborne* of the Town of *Kingston-upon-Hull*, in the County of the same  
Town,

Commissioners to lay their Accounts before a Barrister.

Town, Esquire, Barrister at Law, to be by him examined and balanced, and such Balance shall be by such Referee stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioners.

In case of the Death &c. of Mr. Osborne, another Referee to be appointed.

XXXIX. Provided always, and be it further enacted, That in case the said *Robert Osborne*, or any future Referee to be appointed as herein-after mentioned, shall die, refuse, or become incapable to act as a Referee 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 major Part in Number and Value of the Proprietors of the Lands and Grounds hereby directed to be divided, allotted, and inclosed (except the Rector and Vicar for the Time being of the Parish of *Folkton* aforesaid), assembled at a Meeting specially convened by the said Commissioners for such Purpose, by Notice in Writing under their Hands, to be affixed on the principal outer Door of the Parish Church of *Folkton* aforesaid, and also by Advertisement in the Newspaper called *The York Courant*, or in some other Newspaper circulated in the Neighbourhood of *Flixton* otherwise *Fleeceton* aforesaid, Ten Days at the least before the Time appointed for the holding such Meeting, by Writing under the Hands of the major Part in Number and Value of the said Proprietors, to appoint some other fit and proper Person (being a Barrister at Law, and not interested in the said intended Division, Allotment, and Inclosure), to be a Referee for the Purposes aforesaid, in the Place and Stead of the said *Robert Osborne*, or of such other Referee as aforesaid.

Accounts not to be binding till allowed by Referee.

XL. 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 *Robert Osborne*, or such other Referee as aforesaid.

Award.

XLI. 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 *Beverley*, in the 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 which shall be made pursuant to the said former Act, and annexed to the said 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 said original Map or Plan thereto annexed, shall, immediately after the Inrolment of such Award, be put into and kept in a Tin Box, to be lodged for safe Custody in the Parish Church of *Folkton* aforesaid, or in such other Place as the said Commissioners shall appoint, and there kept for ever; for the Inspection and Perusal of the several Persons interested therein, or their respective Agents; 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 also to examine the said

Copy



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 of or 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.

XLII. 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, 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, Provisoes, 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.

Allotments to be of the same Tenures, and to be subject to the same Uses, as the Lands in lieu whereof they were made.

XLIII. 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 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,

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

Supplemental Instrument may be executed by the Commissioners subsequent to the Award, for supplying Omissions in certain Cases.

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 Persons who shall have so required the said Commissioners as aforesaid, or by his or their Heirs, Executors, or Administrators.

Appeal to  
the Quarter  
Sessions.

XLIV. 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 and by this or the said former Act are directed to be final and conclusive, and except in such Cases wherein an Issue at Law shall be tried as herein-before mentioned), then he, she, or they may appeal to the General Quarter Sessions of the Peace to be holden for the said East Riding of the 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 of 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 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.

General  
Saving.

XLV. 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

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.

XLVI. And be it further enacted, That this Act shall be adjudged, *Publick Act*, 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.

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