



ANNO QUADRAGESIMO SECUNDO

GEORGI III. REGIS

Cap. 70.

An Act for dividing, allotting, and inclosing the Moor or Common, Open Fields, Stinted Pastures, and other Commonable Lands, within the Township of *Mickleton* and Parish of *Romaldkirk*, in the North Riding of the County of *York*.

[24th May 1802.]

WHEREAS there is within the Manor and Township of *Mickleton* in the Parish of *Romaldkirk*, in the North Riding of the County of *York*, a certain Moor or Common called *Mickleton Moor*, containing by Estimation Three thousand three hundred and fifty Acres or thereabouts; and there are within the said Manor and Township divers Fields or Grounds lying together, and mostly open and uninclosed, which are called *Mickleton Town Fields*, and contain in the Whole by Estimation Four hundred and ten Acres or thereabouts; and there are also within the said Manor and Township certain Stinted Pasture Lands or Grounds, containing together by Estimation Five hundred and ninety-six Acres or thereabouts, and commonly called *Mickleton East and West Pastures*: And whereas the Right Honourable *John Bowes* Earl of *Strathmore* as Lord of the said Manor of *Mickleton* is seised of or entitled to the Soil and Royalties of and within the said Moor call *Mickleton Moor*, and is also seised of or entitled to all Mines, Minerals, and Quarries, within and under the said Stinted Pastures called *Mickleton East and West Pastures*,

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Pastures,

Pastures, and also within and under such Parts of the said Town Fields as are held under several Leases granted thereof, by some or One of his Ancestors, to divers Persons, for long Terms of Years, at and under several small reserved yearly or other Rents, Suits, Duties, and Services, payable and to be performed for or in respect of the same; and the said Earl of *Strathmore* is also seised to him and his Heirs of the Reversion and Inheritance of and in divers Messuages, Lands, and Tenements expectant on the Determination of several Leases granted thereof by some or One of his Ancestors, to divers Persons, for long Terms of Years as aforesaid; and the said several Lessees are, in respect of such Messuages, Lands, and Tenements, entitled to Right of Common in and upon the said Moor called *Mickleton Moor*; and such Leaseholders and other Persons claim to have the Right of getting Lime Stone from or under the said Moor and Town Fields respectively, for the Use of their respective Buildings, and for the manuring and improving of their respective Lands: And whereas the said Earl of *Strathmore*, *John Dent* Gentleman, *Robert Hugginson* Gentleman, *William Dent*, *John Bustin*, *John Langstaff*, *Thomas Thompson*, and several other Persons, Owners of Messuages, Mills, Lands, Tenements, or Hereditaments, or their respective Trustees, Lessees, Farmers, or Tenants, are also entitled to have and enjoy Right of Common in, upon, and over the said Moor called *Mickleton Moor*, in respect of or as appendant or appurtenant or belonging to such their said several Messuages, Lands, Tenements, or Hereditaments, and the said Earl of *Strathmore* and divers other Persons are severally Owners and Proprietors of the said Fields or Grounds called *Mickleton Town Fields*, and the said Stinted Pastures called *Mickleton East and West Pastures*, in several specifick Shares or Proportions, some whereof are of Freehold Tenure, and the other Parts thereof are held under divers Leases for long Terms of Years, granted by some or One of the Ancestors of the said Earl of *Strathmore*: And whereas the said Common or Moor called *Mickleton Moor*, and the said Stinted Pastures called *Mickleton East and West Pastures*, are in their present State but of little Use or Service, and the Lands of the several Proprietors of and in the said Fields or Grounds called *Mickleton Town Fields*, lie intermixed and dispersed in small Parcels, and are in other Respects inconveniently situated and incapable of Improvement; and therefore the said Earl of *Strathmore*, and such several other Proprietors as aforesaid, are desirous that the said Common or Moor, Town Fields, and Stinted Pastures, shall be respectively divided and inclosed, so as that specifick Shares thereof may be allotted to them respectively, according to their several Rights and Interests therein; but although such Divisions, Allotments, and Inclosures, would be of great publick Utility, yet the same cannot be effectually completed and established 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 all the said Moor called *Mickleton Moor*, the said Fields or Grounds called *Mickleton Town Fields*, and the said Stinted Pastures called *Mickleton East and West Pastures*, shall be respectively divided, set out, and allotted, as soon as may be after the passing of this Act, by *Joseph Granger* of *Flass* in the County of *Durham*, Gentleman, and *William Ullithorne* of *Lartington* in the County of *York*, Gentleman, who are hereby appointed Commissioners for the Purposes of this Act, and for carrying the same into Execution, in such Manner

Mickleton Moor, etc. to be divided by Commissioners.

Manner and subject to such Regulations as are herein-after contained, with such of the Powers, and subject to such of the Rules, Orders, Directions, and Regulations contained in an Act, passed in the last Session of Parliament, 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 passing of such Acts*, as are not controuled by or repugnant to any of the Clauses, Provisions, or Regulations contained in this Act; and the Notices by the said Act required to be given in some publick Newspaper of setting out publick Carriage Roads, and of reading and executing the Award of the Commissioners, shall be given and published in the *York Courant*, or if that Newspaper shall not then be published, in some other Newspaper published in the City of *York*.

Such of the Provisions of the General Act as are not repugnant to this Act to be put in Execution.

II. Provided always, and be it further enacted, That if the said *Joseph Granger*, or any Person who shall be appointed a Commissioner in his Place or Stead in the Manner herein-after mentioned, shall die, refuse to act, or be rendered incapable of acting as a Commissioner for the Purposes of this Act, it shall and may be lawful to and for the said Earl of *Strathmore*, or the Lord of the said Manor of *Mickleton* for the Time being, and he is hereby authorized and required from Time to Time, within Forty Days next after any such Death, Refusal, or Incapacity shall happen, or as soon afterwards as conveniently may be, by any Instrument in Writing under his Hand and Seal, to nominate and appoint a fit and proper Person (not being beneficially interested, or the Steward, Agent, Father, Son, or Brother of any Person interested in the said Division), to be a Commissioner in the Place and Stead of him so dying or refusing, or being incapable as aforesaid; and in case the said *William Ullithorne*, or any Person who shall be appointed a Commissioner in his Place or Stead in the Manner next herein-after mentioned, shall die, refuse to act, or be rendered incapable of acting as a Commissioner in the Execution of this Act, a new Commissioner shall and may from Time to Time be appointed in the Place and Stead of him so dying, refusing, or being incapable as last aforesaid, by the major Part in Value (the Lord of the said Manor of *Mickleton* for the Time being excepted), of the several Proprietors entitled to Right of Common upon the said Moor called *Mickleton Moor*, and to the said Town Fields and Stinted Pastures, who shall, as Occasion may require, be assembled at a publick Meeting to be held for that Purpose, within One Month next after any such Death, Refusal, or Incapacity as last aforesaid shall happen, or as soon afterwards as conveniently may be, of which Meeting or Meetings Fourteen Days Notice at the least shall previously be given in Writing, affixed on the Church Door of *Romaldkirk* aforesaid, and by Advertisement in some One or more of the Newspapers printed at *York*; and the said Majority in Value of the said Proprietors so convened and assembled shall and may, and are hereby required, when and so often as Occasion shall require, by some Instrument under their Hands, to nominate and appoint some such fit and proper Person as aforesaid to be a Commissioner in the Place and Stead of the said *William Ullithorne*, or any succeeding Commissioner, to be in such Manner as last aforesaid appointed in his Place and Stead; and every Person who shall be nominated and appointed a Commissioner as by this Act is directed, shall have such and the like Powers and Authorities for putting this Act into Execution as if he had been originally named in and appointed a Commissioner by this Act; and every such Instrument of Nomination and Appointment of a Commissioner, shall be deposited in the same

For appointing new Commissioners.

same Place, and Evidence thereof given in the same Manner as is hereinafter directed concerning the Award or Awards to be made by the said Commissioners.

Umpire to be appointed to settle Differences between Commissioners.

III. And be it further enacted, That if any Dispute or Difference shall happen to arise between the said Commissioners, touching or concerning any Matter or Thing in the Execution of this Act, the same shall be settled and finally determined by some proper disinterested Person, whom it shall and may be lawful for the said Commissioners by some Writing under their Hands to nominate and appoint at their First or any subsequent Meeting, to be an Umpire for that Purpose; and the Determination of such Umpire to be expressed in Writing under his Hand, shall be deposited in the same Place where the Award of the said Commissioners is hereinafter directed to be deposited, and shall be binding and conclusive to and upon all Parties interested therein; and that such Umpire shall take such or a similar Oath (to be administered by the said Commissioners, or One of them) as by the said Act of the last Session of Parliament is directed to be taken by Commissioners, and shall have and is hereby vested with the same Powers and Authorities as by the said Act and by this present Act are given to the Commissioners hereby appointed; but so nevertheless as that no such Umpire shall be empowered to act for any other Purpose than the determining of such Differences as may be so referred to him as aforesaid.

A Survey is to be made.

Surveyor appointed; if he dies or refuses to act, a new One to be appointed.

IV. And be it further enacted, That a true and accurate Survey and Admeasurement shall be taken, and a Plan or Plans shall be made of the said Moor called *Mickleton Moor*, and of all the Town Fields and Stinted Pastures so intended to be divided and inclosed as aforesaid, and a Plan shall be made thereof some Time before the Twenty-ninth Day of *September* next, or as soon after as conveniently may be, by *John Rodham* of *Richmond* in the said County of *York*, Land Surveyor; or in case of his Death, or Refusal, or Neglect to take and make such Survey, Admeasurement, and Plan, then by such other fit and proper Person or Persons, not interested in the said Division, as by the said Commissioners shall be appointed for that Purpose; which said Plan or Plans shall specify as well the Boundaries of the said Moor, Town Fields, and Stinted Pastures respectively, as the Number of Statute Acres, Roods, and Perches respectively contained therein.

Encroachments made within Forty Years to be deemed Common.

V. And be it further enacted, That all Encroachments which have been taken or made from any Part of the said Common or Moor called *Mickleton Moor* (save such as have been enjoyed peaceably and quietly for Forty Years last past, or upwards, without any Interruption given), shall be deemed Part or Parcel of the same Common or Moor to be divided and inclosed by virtue of this Act.

Surveyor to take an Oath.

VI. Provided always, and be it further enacted, That no Person or Persons shall be capable of acting as such Surveyor as aforesaid, until he shall have taken and subscribed before the said Commissioners, or One of them, an Oath in the Form following; (that is to say),

Oath.

‘ I *A. B.* do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgement, survey and admeasure
 ‘ all the Moor, Town Fields, Stinted Pastures, and other Lands intended
 to

to be divided and inclosed, by virtue of an Act, passed in the Forty-second Year of the Reign of King George the Third, intituled, [*here set forth the Title of the Act*] and make a fair Map or Plan thereof, and lay the same before the Commissioners for putting the said Act into Execution,
So help me GOD.

Which Oath shall be administered by the same Person or Persons and deposited in the same Place and at the same Time as is herein-before directed respecting the Oath to be taken and subscribed by the Commissioners.

VII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause a Notice in Writing under their Hands to be affixed upon the principal Door of the Parish Church of *Romaldkirk* and also to be inserted in One or more of the *York Papers*, of the Time and Place of their First, Second, and Third Meetings respectively, for the Execution of this Act, at least Twenty Days before such respective Meetings; and that the said Commissioners shall and may, after their said Third Meeting, from Time to Time appoint such Time and Place for every subsequent Meeting as they shall think proper, they causing a Notice in Writing under their Hands to be affixed upon the principal Door of the said Parish Church Eight Days at least before every such subsequent Meeting; but the said Commissioners, at the said First, Second, or Third, or any subsequent Meeting or Meetings, shall have full Power and Authority from Time to Time, as they shall think it convenient, to continue such First, Second, and Third, and any subsequent Meeting, or any of them, by Adjournment, for such Time or Times as they shall think proper for the due Execution of this Act, without giving any Notice thereof.

Commissioners to give Notice of holding their Meetings.

To have Power to adjourn.

VIII. And be it further enacted, That all Persons having or claiming to have any Right of Common upon the said Common or Moor called *Mickleton Moor*, or any Estate, Right, Title, or Interest, of, in, or to the said Town Fields and Stinted Pastures, intended to be hereby allotted and inclosed, or any of them, shall and they are hereby required, by themselves, their Agents or Tenants for the Time being respectively, at the First or Second Meeting of the said Commissioners to put this Act in Execution, to give and deliver or cause to be given and delivered to the said Commissioners, or One of them present at such Meeting, a full, true, and just Account or Accounts in Writing, under his, her, or their Hand or respective Hands, and to be confirmed, if required, by the said Commissioners, but not otherwise, by his, her, or their Oath or Oaths, of such his, her, or their Claim or Claims, and of the several and respective Messuages, Mills, Lands, Tenements, and Hereditaments, with the different Tenure or Tenures thereof respectively, together with the Name or Names of the several Tenant or Tenants, or Person or Persons in Possession, for or in respect whereof he, she, or they respectively claim to be entitled to Right of Common upon the said Moor called *Mickleton Moor*, and the yearly Rent or Value at which the same are or were respectively rated or assessed to the Land Tax, Poores Rates, and other Parochial Cesses, and also of the several Pieces or Parcels of Land or Ground in the said Town Fields called *Mickleton Town Fields*, whereof he, she, or they is or are respectively seised, possessed, or entitled, and the Number of Acres and different Tenures thereof respectively, and the real yearly Rents or Values thereof, with the

All Claims to be made at the First or Second Meeting of the Commissioners.

[*Loc. & Per.*]

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Name

Name or Names of the Person or Persons then occupying the same, and likewise of the Number of Beast or Cattle, or Pasture Gates, in, over, or upon the said Stinted Pastures called *Mickleton East and West Pastures*, whereof or whereto he, she, or they is or are respectively seized, possessed, or entitled, and the different Tenures thereof respectively, and the Name or Names of the Person or Persons then using or enjoying the same.

Claims on the Moor to be regulated by the Parish Rates.

IX. And be it further enacted, That the clear yearly Rent or Value of the several Messuages, Mills, Lands, Tenements, and Hereditaments respectively, situate in the said Township of *Mickleton*, for which or in respect whereof such Claims upon the said Common or Moor called *Mickleton Moor* shall be so made as aforesaid, shall be adjusted and settled by the said Commissioners according to and after the Rentals and Rates which were collected, made, and settled in the last Collections which shall have been made of the Land Tax, Poors Rate, and other Parochial Cesses within or for the said Township of *Mickleton*, next or immediately before the passing of this Act, as the same are particularized in the Books of the Collectors thereof respectively; and that the clear yearly Rent or Value of such Messuages, Mills, Lands, Tenements, and Hereditaments, situate out of the said Township of *Mickleton*, for which or in respect whereof such Claims upon the said Moor or Common called *Mickleton Moor* shall be so made as aforesaid, shall be adjusted and settled by the said Commissioners by equalizing and proportioning the Rentals and Rates collected, made, and settled for such Messuages, Mills, Lands, Tenements, or Hereditaments as last aforesaid, with or as near to the Rentals and Rates collected, made, and settled within the said Township of *Mickleton* as may be.

Commissioners to determine Differences.

X. And be it further enacted, That in case any Dispute or Difference shall happen to arise between the Parties that now are or shall, before the making the Award herein-after mentioned, be interested in the said intended Division and Inclosure, or any of them touching or concerning the respective Shares and Proportions which they or any of them shall claim in the said Lands and Grounds hereby intended to be divided and inclosed as aforesaid, or touching or concerning the respective Shares and Proportions which they or any of them ought to have of or in the said intended Division and Inclosure, it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required, to hear and determine the same; and their Determination therein shall be final, binding, and conclusive upon all Parties, except as is herein-after otherwise provided.

Power to try disputed Claims at Law.

XI. Provided always, and be it further enacted, That if any Person or Persons making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Rights or Interests therein, or objecting to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioners, and shall be desirous of having such Claim or Claims, Rights and Interests respectively tried at Law, and the Person or Persons so desirous to have the same tried at Law shall by themselves or their respective Agents or Attornies, give Notice thereof in Writing to the said Commissioners, or any Two of them, within Two Months after such Determination shall have been so made by the said Commissioners (of which Notice the said Commissioners are hereby required immediately on Receipt thereof, or as soon afterwards as conveniently

veniently may be done, to give Information to the adverse Party or Parties, or his, her, or their respective Agents or Attornies, by Writing under their respective Hands, to be delivered to or left at the usual Place of Abode of such Party or Parties, Agents or Attornies respectively), then, but not afterwards, it shall be lawful for the Person or Persons giving such Notice as aforesaid, their respective Heirs or Assigns, to proceed to a Trial at Law for the same, at the next Assizes to be holden for the County of *York* after such Notice given as aforesaid, in a feigned Action or Actions for that Purpose to be commenced in One of His Majesty's Courts at *Westminster*, by the Person or Persons, Body or Bodies Politick or Corporate, their respective Heirs, Successors, or Assigns, giving such Notice as aforesaid, against the adverse Party making such Claim or Objection as aforesaid; and the Defendant or Defendants in such Action or Actions shall forthwith name an Attorney or Attornies, who shall file common Bail or appear, and accept One or more Issue or Issues whereby all such Claim or Claims, and Rights and Interests may be properly tried and determined (such Issue or Issues to be settled by the proper Officers of the Court wherein such Action or Actions shall be commenced, if the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in the said Action or Actions, shall be final and conclusive to all and every Person and Persons, Body and Bodies Politick and Corporate whomsoever; and after any Verdict or Verdicts shall have been obtained, and not set aside by the Court, the said Commissioners shall and are hereby authorized and required to conform thereto: Provided always, that it shall be lawful for the Court in which any Action commenced in pursuance of this Act shall be depending, upon sufficient Cause shewn, to put off the Trial of such Action, or to award a new Trial therein, although the Time herein-before limited for the Trial of such Action may be thereby exceeded.

The Court may put off the Trial, or award a new Trial upon Cause shewn.

XII. Provided also, and be it further enacted, That the said Commissioners or Umpire, as the Case shall be, are and is hereby respectively empowered and required to assess such Costs and Charges as they or he shall respectively think reasonable, for the Use and Benefit of the Party or Parties in whose Favour they or he shall make their or his Awards or Determinations respectively, upon or against the Person or Persons whose Claims, Complaints, or Objections, shall be thereby disallowed, as the Case shall happen, and by Warrant under the Hands and Seals or Hand and Seal of the said Commissioners or Umpire, as the Case may happen, to levy such Costs and Charges by Distress and Sale of the Goods and Chattels of such last mentioned Person or Persons, rendering the Overplus (if any be) upon Demand, after deducting the reasonable Charges attending such Warrant, Distress, and Sale, to the Person or Persons whose Goods and Chattels shall be so distrained and sold as aforesaid.

Commissioners or Umpire to assess Costs.

XIII. And be it further enacted, That the said Commissioners shall and may, and they are hereby directed, in the First Place, to set out and appoint any Quantity of Land, not exceeding Fifty Acres, of and from the said Moor or Common called *Mickleton Moor*, for the Use of the said Proprietors and their respective Tenants for the Purpose of getting Peat, Turf, and Ling therefrom: Provided always, that nothing herein contained shall extend to authorize the said Proprietors or Tenants to sell any such Peat,

Commissioners to set out 50 Acres, for Peat, Turf, and Ling.

Turf, or Ling, or dispose of the same otherwise than in or upon the Messuages, Lands, or Tenements, in respect whereof they shall obtain an Allotment or Allotments under or by virtue of this Act, or in or upon such Allotment or Allotments respectively, or to authorize the said Proprietors or their Tenants to depasture any Sheep or Cattle in or upon such Part of the said Moor or Common as shall be so set out and appointed as aforesaid.

Manner of
Division of
the Residue of
Mickleton
Moor.

Allotment of
the Residue of
Mickleton
Moor.

XIV. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, according to the best of their Skill and Judgement, after deducting so much and such Part and Parts of the said Common or Moor called *Mickleton Moor*, as they may, in pursuance of this Act, think proper to set off, ascertain, and appoint, for Peat, Turf, and Ling; and after deducting so much of the Residue of the same Common or Moor as shall be so set out for publick Highways, Roads, and Drains, and for a common Quarry or Quarries, and common Watering Places or Wells, by virtue of this Act, to set out, allot, and appoint unto and for the said Earl of *Strathmore*, his Heirs and Assigns, as a Compensation for the Soil of the said Common or Moor called *Mickleton Moor*, as Lord of the said Manor of *Mickleton*, One full Sixteenth Part (Quantity and Quality considered) of all the Residue of the same Common or Moor, over and above and exclusive of such Share or Allotment of the said Common or Moor, or the Residue thereof, as is herein-after directed to be allotted to him in lieu of and as an Equivalent for his Right of Common thereon; and after making such Deductions as aforesaid, and after One Sixteenth Part of the whole Residue of the said Common or Moor called *Mickleton Moor*, shall have been set out and allotted to and for the said Earl of *Strathmore*, his Heirs and Assigns, as and in Manner aforesaid, the said Commissioners shall, and they are hereby authorized and required to set off, ascertain, and appoint to be sold, as herein-after mentioned, such Part or Parts of the Residue of the said Common or Moor, called *Mickleton Moor* as shall in the Judgement of the said Commissioners appear to be the least capable of Cultivation or Improvement, so as the Residue of the said Common or Moor to be divided, allotted, and inclosed by virtue of this Act, shall not be less than Five hundred Statute Acres; which Part or Parts of the said Common or Moor so to be set off, ascertained, and appointed to be sold, shall be inclosed or divided at the Expence of the Purchaser or Purchasers thereof, by a Boundary Fence or Ditch to be made round the Outsides thereof, by the Order of the said Commissioners, and shall be disposed of in such Way and Manner as herein-after is directed; and after making such Deductions as aforesaid; and after such Sixteenth Part of the Residue of the said Common or Moor called *Mickleton Moor*, shall have been set out and allotted to and for the said Earl of *Strathmore*, his Heirs and Assigns, they the said Commissioners shall and they are hereby authorized and required to set out, allot, apportion, and divide all the Residue or remaining Parts of the same Common or Moor which shall not be set off, ascertained, and appointed to be sold by them as herein-before and herein-after is mentioned, unto and amongst the said Earl of *Strathmore*, and the several other Persons having Right of Common upon such Common or Moor, in Proportion to his and their several and respective Claims, and without any Preference or Priority whatsoever.

XV. And

XV. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out, divide, and allot the said Fields or Grounds called *Mickleton Town Fields*, and the said Stinted Pastures called *Mickleton East* and *West Pastures* respectively, and which shall not be set out for the Purpose of any such Road or Way as aforesaid, unto and amongst the said Earl of *Strathmore* and the several other Owners and Proprietors of the same Town Fields and Stinted Pastures respectively, according and in Proportion to their several and respective Estates therein (Quantity and Quality being considered) and the several Allotments so to be made of and in the said Town Fields and Stinted Pastures respectively, shall be fenced and kept in Repair by such Person or Persons, and in such Manner and Form, as the said Commissioners shall by their Award order and direct.

How the Town Fields and Stinted Pastures are to be allotted.

XVI. Provided always, That nothing in this Act contained shall extend or be construed to extend to authorize the said Commissioners to set out, divide, or allot any Part or Parts of the said Town Fields called *Mickleton Town Fields*, which shall heretofore have been inclosed and fenced round by any single Proprietor or Owner thereof, unless such Proprietor or Owner shall, on giving in his or her Claim to the said Commissioners as and in Manner aforesaid, testify his or her Consent that the same shall be considered as Town Field Land, and set out, divided, and allotted accordingly.

Such Parts of *Mickleton Town Fields* as shall have been inclosed, not to be allotted without Consent of the Proprietors.

XVII. Provided always, and be it further enacted, That the Allotments to be made and set out by virtue of this Act, in Right of any Property under Lease, for any Term of Years not exceeding Twenty-one Years, at Rack Rents, shall be allotted and set out to the respective Lessors or Landlords, their Heirs or Assigns, and shall be held and enjoyed by them free from all Right and Interest of their respective Tenants; and such respective Lessors or Landlords, their Heirs or Assigns, shall make such Abatement out of the Rents reserved by such Leases respectively, on Account of their said Allotments, as the said Commissioners shall judge reasonable, and shall in and by their Award or any Writing under their Hands, ascertain, direct, or appoint: And as to so much and such Part and Parts of the said Common or Moor called *Mickleton Moor*, as shall be set off, ascertained, and appointed to be sold by the said Commissioners in pursuance of the Directions herein contained, it is hereby enacted, that the said Commissioners shall, and they are hereby authorized and required, as soon as may be after the same shall be so set off, ascertained, and appointed as aforesaid, and at such convenient Times and Places as to them shall seem meet, to cause all such Part and Parts of the said Common or Moor as shall be so set off, ascertained, and appointed to be sold as aforesaid, to be put up to publick Sale or Auction, in such Lots or Parcels as to them shall seem fit and expedient; and the same shall be accordingly sold and disposed of in such Way and Manner, and under and subject to such Directions as is and are contained in the said Act of the last Session of Parliament; and the said Commissioners shall, upon Receipt of the Purchase Money for which the same shall be so sold, and at the Costs and Charges of the respective Purchasers thereof, make and execute a Deed of Feoffment of the Land or Ground to be so sold, unto the Purchaser or Purchasers thereof, and his, her, or their Heirs and Assigns, or as he, she, or they shall direct or appoint; and from

Allotments for Property under Lease to be set out to the Owners, who shall make Compensation to the Tenants.

The Parts of *Mickleton Moor* set off to be sold.

and after the Execution of such respective Deeds of Feoffment, the Feoffee or Feoffees to be therein named, shall be and become absolutely seised of or entitled to the Lands or Grounds to be thereby enfeoffed and conveyed in Fee Simple, as or as of the Nature of Freehold Tenure.

Purchasers to keep the Fences in Repair.

XVIII. And be it further enacted, That the Persons who shall become the Purchasers of the said last mentioned Lands at such publick Sale or Sales as aforesaid, and their respective Heirs and Assigns, shall be subject and liable to the making and keeping in Repair such Parts of the Ring or Outer Fences thereof as shall be directed by the said Commissioners, and also to the due Observance and Performance of all Orders, Matters, and Directions to be made, laid down, and appointed by the said Commissioners in or by their General Award, and also to all the Manerial and other Rights, Liberties, and Privileges of the said Earl of *Strathmore*, as Lord of the Manor of *Mickleton* aforesaid, in like Manner and Form as if such Purchasers, their Heirs or Assigns, had become seised and possessed of the said Lands so by them purchased, by virtue and in respect of an original Right in a Freehold Estate, having Right of Common on the said Moor called *Mickleton Moor*.

Application of the Money to arise from Sales.

XIX. And be it further enacted, That the Monies which shall so arise by or from such Sale or Sales as aforesaid, shall be appropriated and applied by the said Commissioners (so far as the same shall extend), in or towards the Payment of the Charges and Expences attending the obtaining and Execution of this Act, and the other incidental Charges and Expences which may concern or be occasioned by the said intended Division of the said Moor called *Mickleton Moor*, or the setting out, making, forming, erecting, cutting, or opening the Highways, Roads, Bridges, or Drains, which the said Commissioners shall direct to be made or set out, or in anywise relating thereto.

Award to be complete when signed by the Commissioners.

XX. And be it further enacted, That the General Award to be formed, drawn up, and ingrossed by the said Commissioners pursuant to the Directions of the said Act of the last Session of Parliament, shall be considered as complete, after the same shall have been signed by the said Commissioners, and such Proclamation of the signing thereof shall have been made as by the said Act is directed; and the said Award, when so signed, together with such Plans or Surveys as may be annexed thereto, shall be respectively lodged and deposited in a certain Chest, to be denominated and called *The Town Chest of Mickleton* aforesaid, by the Jury of the said Manor of *Mickleton*, to be kept in such Chest, to the End that Recourse may be had thereto by any Person or Persons interested in the said Division; which said Award, and every other Award and Instrument to be lodged or deposited with the said Award, shall and may be inspected at all seasonable Times, upon reasonable Notice of the Party requiring such Inspection, such Party paying such of the Jury as may attend upon every such Occasion the Sum of Two Shillings and no more; and a Duplicate of the said General Award shall also be delivered to and deposited with the said Earl of *Strathmore*, or the Lord of the said Manor of *Mickleton* for the Time being, and a true examined Copy of all or any of the said Instruments or Awards (so to be deposited in the Town Chest as aforesaid), or of any Part or Parts thereof respectively, signed by the Steward of the said Manor for the Time being, or his officiating

Award to be deposited in *Mickleton* Town Chest, and a Duplicate thereof delivered to Lord *Strathmore*.

Proprietors to be entitled to Extracts therefrom.

officiating Deputy there, shall be admitted and received in Evidence in any Court of Law or Equity, and elsewhere; and the Steward of the said Manor and his officiating Deputy, are hereby respectively required to make and deliver to any Person or Persons requiring and offering to pay for the same, a true Copy or Copies, upon Paper, of any of the said Instruments or Awards, or of any Part or Parts thereof, under his Hand, for which he shall be paid for each Copy Two Shillings for the Jury, and after the Rate of Nine-pence for every Sheet, accounting Seventy-two Words for a Sheet (over and besides the Stamp Duties).

XXI. Provided always, and be it further enacted, That it shall and may be lawful to and for the Person or Persons to whom any Plot or Parcel of Ground upon the said Common or Moor, or in the said Town Fields and Stinted Pastures respectively, shall be allotted, staked, or set out by virtue of this Act, at any Time after the Expiration of Three Calendar Months from the Time that the said Commissioners shall have staked or set out all the Plots or Parcels of Ground intended to be allotted or awarded in pursuance of this Act (without waiting until the General Award of the said Commissioners shall be executed and proclaimed as aforesaid), to inclose, hedge, or fence his, her, and their several Allotments, Plots, or Parcels of Ground so staked and set out as aforesaid, but with the Consent and Approbation of the said Commissioners, so as to prevent the Horses, Cattle, or Sheep, belonging to any other of the Proprietors, their Lessees or Tenants, from depasturing, grazing, or coming thereon, until all the Right of Common in and upon the said Commons and other Commonable Lands shall be extinguished, as herein is mentioned.

Proprietors may fence off their respective Allotments before the Award is signed with the Consent of the Commissioners.

XXII. Provided always, and be it further enacted, That where the Proprietor or Proprietors of any Lands, or other Hereditaments which shall be allotted or exchanged by virtue of this 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 or under such respective Tenures, Estates, or Titles, and shall accordingly, in their said Award, set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments.

Separate Allotments to be made for Estates held by different Titles.

XXIII. Provided always, and be it further enacted and declared, That nothing in this Act contained shall extend, or be construed, deemed, adjudged, or taken to extend, to revoke, alter, annul, or make void any Settlement, Deed, Will, or Lease whatsoever, except so far as any such Leases shall be determined by this Act, or to prejudice any Person or Persons having any Right or Title of Dower, Jointure, Rent, Service, Debt, Charge, or Incumbrance, out of, from, upon, or affecting any of the ancient Estates entitled to Right of Common on the said Common or Moor called *Mickleton Moor*, or out of, from, upon, or affecting the said Town Fields and Stinted Pastures, but that the several Allotments of and in the said Moor or Common, Town Fields, and Stinted Pastures respectively, shall immediately after the signing and Proclamation of the General Award of the said Commissioners, be vested and be deemed to be vested, remain, continue, and enure, and be held and enjoyed, and the several

This Act not to revoke any Settlement, nor to prejudice any Right of Dower, &c.

Persons

Persons to whom the same shall be assigned and allotted respectively, shall from thenceforth stand and be seized and possessed thereof respectively, to and for such and the same Uses, Estates, Intails, Interests, Trusts, Intents, and Purposes, and be held by the same Tenures, and in such and the same Way and Manner, and subject and liable to such and the same Wills, Limitations, Estates, Conditions, Settlements, Provisoos, Remainders, Reversions, Leases (except as aforesaid), Debts, Charges, and Incumbrances, as the several Common Rights, Lands, Tenements, and Hereditaments in respect of which such Allotments shall be respectively made, were and stood limited, settled, or vested, or were severally subject and liable to at the Time of making and executing the said Award, but all such Allotments respectively shall nevertheless be subject to such Mortgage or Mortgages as shall be made by the Authority and for the Purposes of this Act, as herein is mentioned and directed.

No Sheep or
Asses to be
kept in the
Inclosures for
Ten Years.

XXIV. And be it further enacted, That if any Person shall during the Space of Ten Years from the Execution of the said Award, keep or depasture, or permit to be kept or depastured any Sheep, Lambs, or Asses, in the Allotments to be made of the said Town Fields in pursuance of this Act (unless he, she, or they, shall first effectually fence and guard the adjoining Allotment or Allotments belonging to any other Proprietor or Proprietors from any Injury or Damage to their Quicksets or new planted Fences), every Person so offending shall forfeit and pay for every such Offence, upon Conviction thereof before One or more of His Majesty's Justices of the Peace for the said North Riding of the said County of *York*, on the Oath or Oaths of One or more credible Witness or Witnesses (which Oath the said Justices or any One of them are and is hereby empowered to administer), the Sum of Forty Shillings, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending, by virtue of a Warrant under the Hand and Seal, or the Hands and Seals of any One or more of His Majesty's Justices of the Peace for the said Riding, at any Time within Six Calendar Months next after such Offence committed, rendering the Overplus (if any) upon Demand, after deducting the reasonable Charges of such Warrant, Distress, and Sale, to the Person or Persons whose Goods and Chattels shall be so distrained and sold as aforesaid; and every such Penalty so to be levied shall be paid to the Person or Persons injured.

Gaps to be
left in the
Fences.

XXV. Provided always, That convenient Gaps and Openings shall (if necessary) be left in the Hedges and Fences of the said Allotments, for the Space of Three Calendar Months next after the said Commissioners shall have staked or set out the same by virtue of this Act, for the Passage of Horses, Cattle, Carts, and Carriages, in, by, and through such Gaps and Openings, unless the said Commissioners shall order that the same be sooner fenced, made up, and inclosed.

Proprietors of
Allotments
may work
Stones within
the same, and
get Stones out
of the com-
mon Quarries

XXVI. And be it further enacted, That it shall and may be lawful to and for the Owners or Occupiers of the said Allotments, to be set out or allotted by virtue of this Act, at any Time or Times thereafter to win, get, and work Stones within the said respective Allotments, and also to win, get, and work Stones in and out of the common Quarries to be set out by the said Commissioners, as well for the Use of the Ground so to be allotted.

allotted to them, as of their ancient inclosed Grounds in respect whereof any such Allotments shall be made; but they shall not be at Liberty to sell or dispose of such Stones to any Person or Persons whomsoever.

for the Use of the Allotments only.

XXVII. Provided always, and be it further enacted; That nothing in this Act contained shall be construed or adjudged to defeat, lessen, or prejudice the Right, Title, or Interest of the said Earl of *Strathmore*, as Lord of the Manor of *Mickleton*, his Heirs or Assigns, or any of them, of, in, and to the Seignior and Royalties incident and belonging to the said Manor, but that the Lord of the said Manor, his Heirs and Assigns, shall and may from Time to Time and at all Times hereafter hold and enjoy all Courts, Perquisites and Profits of Courts, and Services, and all yearly and other Rents and Acknowledgements reserved and usually paid, and which are due and demandable for all, any, or every of the Houses, Buildings, Cottages, Intacks, or Inclosures, now built, made, being, or standing, in or upon the said Common or Moor called *Mickleton Moor*, or the Boundaries thereof, or in or upon any Ground formerly Part of the said Common or Moor now held or enjoyed in Severalty, and which heretofore have been, or which ought to be paid, made, or performed by the Owners or Possessors for the Time being of such Houses, Buildings, or Cottages, or of any of the Intacks or Inclosures heretofore Parcel of the said Common or Moor, and now held and enjoyed in Severalty, and also all Waifs, Strays, Estrays, Mines, Minerals, and Quarries, and all Royalties, Jurisdictions, Matters, and Things whatsoever, to the said Manor of *Mickleton* incident, belonging, or appertaining, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as he or they could or might have enjoyed the same if this Act had not been made; and also such full and free Liberty at all Times hereafter of making, laying, repairing, and using, and of granting to any other Person or Persons any Waggon Way or Waggon Ways, or other Way or Ways whatsoever, in, through, over, or along the said Common or Moor called *Mickleton Moor*, and in, through, over, or along the said Town Fields and Stinted Pastures called *Mickleton Town Fields* and *Mickleton East and West Pastures*, or any Part thereof, as he or they could have held, granted, used, exercised, or enjoyed, in case this Act had not been made; and for that Purpose to take away and remove so much of any Hedges, Fences, or other Obstructions thereon, and to do every Act either now in Use, or which shall hereafter be used or invented, which shall be necessary to be done for the Purpose of winning, working, leading, and carrying away the said Mines, Minerals, and Quarries, within and under the said Common or Moor and Stinted Pastures respectively, and within and under such of the said Town Fields as are of Leasehold Tenure as aforesaid; and also for the leading, carrying, and conveying the Produce of any other Mines and Minerals from or under any other Lands and Grounds whatsoever, he the said Earl of *Strathmore*, or his Lessees or Assigns, or the Person or Persons using and enjoying such Liberties and Privileges, making and paying Satisfaction for Damage and Spoil of Ground.

This Act not to prejudice the Right of Lord *Strathmore* to the Seignior and Royalties, and to all Minerals, etc.

XXVIII. And be it further enacted, That the said Commissioners and Umpire shall, at all and every of their Meetings for putting this Act into Execution, bear and pay their own Expences; and that when and so soon as the said intended Division shall be finished and completed, and the said Commissioners shall have executed their said General Award, they the said Commissioners and Umpire respectively shall be paid and allowed

Commissioners and Umpire to pay their own Expences. Commissioner's Fees.

[*Loc. & Per.*]

13 P

each

each of them the Sum of One Guinea and a Half for each and every Day upon which they shall respectively have travelled or attended and transacted Business in or for putting this Act in Execution.

Surveyor to pay his own Expences, and his Allowance ascertained.

Surveyor's Allowances.

XXIX. And be it further enacted, That the said Surveyor shall, upon all and every his Attendances in the Execution of this Act, or wherein he shall be employed by the said Commissioners, bear and pay his own Expences, and in Discharge thereof, and for his Time, Trouble, and Attendance in making the Surveys and Plans, and transacting the other Business directed or intended to be done by him in the Execution of this Act, or to be directed by the said Commissioners, he shall be paid the several Rewards, Gratuities, or Sums of Money following; (that is to say), for making the First Survey and fair Plan of the said Town Fields, at and after the Rate of One Shilling for every Acre; and of the said Common or Moor and Stinted Pastures respectively, at and after the Rate of Sixpence for every Acre thereof; and for re-surveying and making fair Plans of any Part or Parts thereof, at and after the Rate of Two-pence an Acre for each and every Plan; and for making Two fair Plans of the said Division, to be annexed to the said Commissioners General Awards, the Sum of Five Guineas each and no more; and for his Attendance on the said Commissioners, at and after the Rate of One Guinea per Day.

Commissioners to account.

XXX. And be it further enacted, That the said Commissioners shall and they are hereby respectively required to keep or cause to be kept a just and true Statement and Account of all Sums of Money which shall be raised or received, and laid out or expended by them, or by their Order, or for their Use, under or by virtue or in the Execution of this Act, and of what shall be due or owing to them for their own Trouble or Expences, and shall truly and regularly enter all the Particulars of such Statements and Accounts in a Book to be provided for that Purpose; and such Accounts shall at least Once in every Year from the passing of this Act, till such Accounts shall be finally allowed, together with the Vouchers relating to the same, be examined and settled by *Richard Wharton* of *Old Park* in the County of *Durham*, Esquire, who shall from Time to Time state in Writing, under his Hand, the Balance of the said Accounts in such Book as aforesaid; and that no Charge or Item in such Accounts shall be binding on the Parties concerned, or be valid in Law, unless the same shall be duly allowed by the said *Richard Wharton*; and also that such Book of Accounts shall be kept at the Office of the Clerk to the said Commissioners, and shall be open to the Inspection of any of the said Proprietors or their Agents, at all reasonable Times during the Progress of the said Division and Inclosure, and until the said Accounts shall have been finally settled and allowed; and in case the said Commissioners or their Clerk shall refuse or neglect so to do, the Commissioner or Commissioners or Clerk respectively so refusing or neglecting shall for every such Refusal or Neglect forfeit and pay to any Person who shall sue for the same, the Sum of Ten Pounds to be recovered in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case.

Expences of the Act.

XXXI. And be it further enacted, That as well the Fees and Payments to the said Commissioners and Umpire, as also the Charges and Expences attending

attending the soliciting, obtaining, and passing this Act, and of the surveying, planning, and measuring, dividing, and allotting the said Common or Moor called *Mickleton Moor*, and the said Town Fields and Stinted Pastures, and of the preparing, making, and signing the said Award of the said Commissioners, and the Duplicate thereof, such several Instruments of Appointment as aforesaid, and of setting out the Highways or Roads, and of making any new Highways or Roads which shall be set out and appointed, or directed to be made by the said Commissioners, and all other Charges and Expences attending the Execution of this present Act, and which shall not otherwise be paid, satisfied, or discharged, by or with the Monies to arise from the Sale or Sales of Land hereby directed to be made, shall be borne and defrayed by the several and respective Persons to whom any Allotment or Allotments of the said Lands and Grounds by this Act directed to be divided (except the respective Purchasers of such Part of the said Moor as may be sold by the said Commissioners, in pursuance of this Act), shall be respectively made in Proportion to the real Value of their respective Allotments, to be settled and ascertained by the said Commissioners; and the several and respective Shares and Proportions of all such Fees, Payments, Charges, and Expences as aforesaid, shall be payable and paid by the Owners and Proprietors respectively, to such Person or Persons, and at such Times, as shall by the said Commissioners, either before or after the Execution of their General Award as aforesaid, be ordered, directed, and appointed, in Writing under their Hands respectively, Twenty Days before the Time appointed for such Payment.

XXXII. And be it further enacted, That if any Person or Persons shall think him, her, or themselves aggrieved by any Matter or Thing whatsoever to be done in pursuance of this Act (other than and except the Verdict of a Jury, and such Orders and Determinations, Matters and Things, to be made or done by the said Commissioners or such Umpire as aforesaid, as are herein-before declared to be final and conclusive) then and in every such Case he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be held for the North Riding of the said County of *York*, within Six Calendar Months next after the Cause of Complaint shall have arisen; and His Majesty's Justices in their said General Quarter Sessions assembled, are hereby required to hear and determine the Matter of every such Appeal, provided that Notice of every such Appeal hath been given Ten Days at least before such General Quarter Sessions, and to make such Order and award such Costs 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 the said Justices, 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 every such Distress and Sale; which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

Appeal to the
Quarter Ses-
sions.

XXXIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and all and every other Person and Persons, Bodies

General
Saving.

Politick

Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators (other than and except the Owner or Owners of the Soil and Inheritance of the said Common or Moor, Town Fields, and Stinted Pastures, hereby directed to be divided, allotted, and inclosed, and all other Person and Persons entitled to any Right of Common, or other Rights or Interests in or upon the said Common or Moor, or to the said Town Fields and Stinted Pastures, or either of them, his, her, and their Heirs, Successors, Executors, and Administrators respectively, and the Person or Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, who shall by virtue of this Act make any Claim or Claims affecting the Boundary of the said Common or Moor, or of the said Town Fields and Stinted Pastures respectively, or any Claim or Claims of Right of Common, or of any other Estate, Right, or Interest, upon, in, to, or out of the said Common or Moor, Town Fields, and Stinted Pastures, or any of them respectively, which shall be adjudged and determined against him, her, or them as aforesaid), all such Estate, Right, Title, and Interest as he, they, every, or any of them had or enjoyed, of, in, to, or out of the said Common or Moor, Town Fields, and Stinted Pastures hereby respectively directed to be divided and inclosed as aforesaid, before the passing of this Act, or could or might have had or enjoyed if this Act had not been made.

Publick Act.

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

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