



ANNO QUINQUAGESIMO SECUNDO

GEORGI III. REGIS.

Cap. 126.

An Act for inclosing Lands in the Manor and Parish of *Marrick*, in the County of *York*. [20th May 1812.]

WHEREAS there are within the Manor and Parish of *Marrick*, in the North Riding of the County of *York*, a certain Moor or Common and Waste Lands, containing, by estimation, Four thousand Acres, or thereabouts: And whereas *William Powlett Powlett*, Esquire, is Lord of the said Manor of *Marrick*, and as such Lord is seised of, or entitled to the Soil of the said Moor or Common and Waste Lands, and to all the Mines, Minerals, Quarries and Royalties, in, over, upon, and under the same: And whereas the said *William Powlett Powlett*, *James Pig-gott Ince*, *Thomas Hutchinson*, *George Sutton*, and *Thomas Stapleton*, Esquires, *James White*, *James Metcalfe*, *William Outhwaite*, *Christopher Whitelock*, and *Matthew Whitelock*, Gentlemen, and divers other Persons are respectively Owners and Proprietors of Messuages, inclosed Lands and Tenements, within the said Manor and Parish, some of which are of Freehold Tenure, and others are held under Leases for long Terms of Years, granted by some or one of the Ancestors of the said *William Powlett Powlett*, and in respect thereof, or as appendant, appurtenant, or belonging thereto, they, or their Lessees or Tenants, are entitled to Rights of Common, in, over or upon the said

[*Loc. & Per.*]

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Moor

Moor or Common and Waste Lands: 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 said Moor, or Common and Waste Lands, in their present State, are of little Value, and incapable of Improvement; but if the same were divided, and specific Shares thereof allotted to the several Proprietors, according to their several Rights and Interests, and such Allotments were inclosed, and held in Severalty, such Division, Allotment, and Inclosure, would be a great Improvement to their Estates; but those 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 the said Moor or Common, called *Marrick Moor*, and all the Wastes and other Commonable Lands within the Manor and Parish of *Marrick* aforesaid, shall be divided, set out and allotted, as soon as may be after the passing of this Act, by *Anthony Bower*, of the Close of *Lincoln*, in the County of *Lincoln*, Gentleman, and *Alexander Calvert* of *Richmond*, in the County of *York*, Land Surveyor, who are hereby appointed Commissioners for those Purposes, and for carrying this Act into execution, in such Manner, and subject to such Directions and Regulations as are hereinafter contained, and with such of the Powers, and subject to such of the Rules, Orders, Directions and Regulations, contained in the said recited Act of the Forty-first Year of the Reign of His present Majesty, as are not controlled by, or repugnant to, or otherwise provided for, by any of the Clauses or Provisions contained in this Act; and the Notices, by the said Act, required to be given in some public Newspaper, of setting out public Carriage Roads, and of reading and executing the Award or Awards of the Commissioners, shall be given and published in the Newspaper called *The York Herald*, or if the said Newspaper shall not then be published, in some other Newspaper published in the City of *York*.

Commis-
sioners.

How future
Commis-
sioners shall
be appointed.

II. Provided always, and be it further enacted, That if the said *Anthony Bower*, or any Commissioner to be appointed in his Place, as hereinafter is mentioned, shall refuse to act, or to qualify himself, or shall, before the Powers and Trusts reposed in the said Commissioners shall have been fully executed, die, or become incapable of acting as such Commissioner, it shall be lawful for the said *William Powlett Powlett*, his Heirs or Assigns, Lord or Lords of the said Manor of *Marrick* for the Time being, by Writing under his or their Hand or respective Hands, to appoint some other fit Person (not interested in any of the Lands or Hereditaments to be divided or affected by this Act) to be a Commissioner in the Place of the said *Anthony Bower*, and so from time to time, as often as any Commissioner, who shall be appointed in his Place, shall refuse to act or to qualify, or shall die or become incapable of acting as such Commissioner; and if the said *Alexander Calvert*, or any Commissioner to be appointed in his Stead, as hereinafter is mentioned, shall refuse to act or to qualify himself, or shall, before all the Powers and Trusts, hereby reposed in the said Commissioners,

tioners, shall have been fully executed and performed, die, or become incapable of acting as such Commissioner, it shall and may be lawful for the Proprietors of Common Rights, upon the Lands hereby directed to be divided and allotted (exclusive of the said *William Powlett Powlett*, his Heirs and Assigns), or the major Part of them in value (such Value to be ascertained by the Land Tax Assessment for the then current Year), who, by themselves, or their respective Agents duly authorized by the said Proprietors, in Writing under their Hands, shall attend the Meeting or Meetings to be appointed for that Purpose, as hereinafter is mentioned, by Writing under their respective Hands, to nominate and appoint a fit Person, not interested as aforesaid, to be a Commissioner in the Place of the said *Alexander Calvert*, and so from time to time, as often as any Commissioner, who shall be appointed in his Stead, shall refuse to act or to qualify, or shall die, or become incapable of acting as aforesaid; provided that Two or more of the said Proprietors shall cause public Notice to be given of the Time and Place of Meeting for every such Election, which Place shall be in the Parish of *Marrick* aforesaid, or within the Distance of Eight Miles from the Boundary thereof, at least Twelve Days before the Time of holding such Meeting, by affixing such Notice on the Principal outer Door of the Church of *Marrick* aforesaid, on some *Sunday* during Divine Service, and inserting the same in such Newspaper as aforesaid; and in case either of the said appointing Parties shall not duly appoint such Commissioner within the Space of Six Calendar Months after the Vacancy shall happen, then it shall be lawful for the surviving or continuing Commissioner, at any Time after the Expiration of the said Six Calendar Months, and during such Vacancy in the Commission, by Writing under his Hand, to appoint some fit Person, not interested as aforesaid, to be a Commissioner in the Place of any Commissioner refusing to act, or to qualify, or dying or becoming incapable of acting as aforesaid; and every Person who shall be nominated and appointed a Commissioner, in any such Manner as aforesaid, shall have the same Powers and Authorities in the Execution of this Act, as are given to either of the Commissioners hereby appointed.

III. And, for the Purpose of settling and determining any Difference or Dispute which may arise between the said Commissioners, touching or concerning any of the Matters and Things to be by them determined, and performed or executed, in pursuance of the said recited Act, or of this Act, be it further enacted, That the said Commissioners shall, and they are hereby required, immediately after taking and subscribing the Oath by the said Act directed to be by them taken and subscribed, by Writing under their Hands, to nominate and appoint some fit Person (not interested as aforesaid) to be the Umpire between the said Commissioners; and such Umpire is hereby authorized and required to hear and determine every such Difference or Dispute as may arise between the said Commissioners, touching any Act, Matter or Thing relating to the said Division, Allotment and Inclosure, or any of the Purposes of this Act; and the Judgment and Determination of the said Umpire therein shall be deemed and considered to be the Judgment and Determination of the said Commissioners, and shall be final and conclusive upon the said Commissioners, and upon all other Persons concerned in the said Division

Umpire.

Division and Inclosure, so far as the Judgment and Acts of the said Commissioners are, by the said recited Act, and this Act, made final and conclusive.

Appoint-
ment of Um-
pire on Va-
cancies.

IV. And be it further enacted, That if the Person, who shall be appointed Umpire, as hereinbefore mentioned, shall refuse to act, or to qualify himself as an Umpire under this Act, or shall die, or become incapable of acting, before the Powers and Trusts reposed in the said Commissioners shall have been fully executed, then the said Commissioners shall, before they shall proceed further in the Execution of this Act, and they are hereby authorized, by Writing under their Hands, to nominate and appoint some other fit Person (not interested as aforesaid) to be an Umpire in the Place of the Umpire so refusing to act or to qualify, or dying or becoming incapable of acting; and if the Commissioners cannot agree in the Choice of a Person to be first appointed Umpire as aforesaid, or to supply the Place of an Umpire on any future Vacancy, then, and from time to time, as often as there shall be occasion, each of such Commissioners is hereby required to set down, in Writing, the Name of some fit Person (not interested as aforesaid) whom he shall propose to be such Umpire, and the Names so set down being written on Papers of the same Size and Kind, and folded up in the same Form, or, as nearly as may be, to the same Size and Form, shall, at some Meeting of the Commissioners for the Execution of this Act, be put together in a Box or Glass, from which some indifferent Person, present at such Meeting, shall publicly, and in the Presence of all Persons interested, who shall choose to attend, draw out one of such Papers, and the Person whose Name shall be written on the Paper first drawn out shall be the Umpire, and the said Commissioners are hereby required to certify, by Writing under their Hands, the Choice and Appointment of every such Person to be Umpire accordingly; provided that the Instrument or Certificate of the Appointment of every Commissioner and Umpire to be nominated and appointed by virtue of this Act, shall be enrolled and deposited with the Award of the Commissioners; and a Copy of such Instrument or Certificate, attested by the proper Officer, shall be sufficient Evidence thereof.

Appoint-
ments of
Commis-
sioners and
Umpire to
be enrolled

V. Provided also, and be it enacted, That no Person shall be capable of acting, in the Execution of this Act, as Umpire, until he shall have taken and subscribed an Oath in the Form following (that is to say)

Oath of
Umpire.

I A. B. do swear, That I will faithfully, impartially and honestly, according to the best of my Skill and Ability, execute and perform the Trusts, Powers and Authorities, vested and reposed in me as Umpire, by virtue of an Act, passed in the Fifty-second Year of the Reign of King George the Third, intituled [*here set forth the Title of this Act*] according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.
‘ So help me God.’

Which Oath it shall be lawful for the said Commissioners, or either of them, to administer, and they are hereby required to administer the same;

same; and such Oath, so taken and subscribed by such Umpire, shall be annexed to, and enrolled with the Award of the said Commissioners.

VI. And be it further enacted, That the said Commissioners, for the Time being, 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 *Marrick* aforesaid, and also to be inserted in such Newspaper as aforesaid, of the Time and Place of their First, Second and Third Meetings respectively, for the Execution of this Act, at least Fourteen Days before such respective Meetings, and that the said Commissioners shall, 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 said Parish Church as aforesaid, Ten Days at least before every such subsequent Meeting; but the said Commissioners, at their said First or any subsequent Meeting, 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 Meetings, 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; provided always, that all Meetings of the said Commissioners for the Execution of this Act, shall be holden within the Parish of *Marrick* aforesaid, or within the Distance of Eight Miles from the Boundary of the said Parish.

Notice of Meetings.

VII. And be it further enacted, That in case any Dispute or Difference shall happen to arise between the Parties interested or claiming to be interested in the said intended Division and Allotments, or any of them, touching or concerning the respective Interests, Shares, and Proportions, which they or any of them shall claim in the said Lands and Grounds hereby intended to be divided and allotted as aforesaid, or any of them, or any Inclosures or Encroachments in or upon the same, or touching or concerning any other Matter or Thing relating to the said intended Division and Allotments, it shall and may be lawful for the Commissioners, for the Time being, and they are hereby required to hear and determine the same; provided always, that nothing herein contained shall authorize the Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements or Hereditaments whatsoever, nor to determine any Right between any Parties, contrary to the Possession of any such Parties, (except with regard to such Encroachments as are hereinafter directed to be deemed Part of the said Moor or Common) but in case the Commissioners, for the Time being, shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by, or recovered from, such Person or Persons, by Ejectment or other due Course of Law.

Commissioners may determine disputed Claims.

Commissioners not to determine Titles nor Rights contrary to Possession; except Encroachments.

VIII. Provided also, and be it further enacted, That it shall be lawful for the Commissioners and Umpire respectively, for the Time being, if they shall so think fit, to assess such Costs and Charges as they shall think reasonable, for the Use and Benefit of the Party or Parties

Commissioners to assess Costs.

[*Loc. & Per.*]

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in whose Favour they shall make any Award or Determination, 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 their respective Hands and Seals, 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) upon demand, (after deducting the reasonable Charges attending such Warrant, Distress and Sale) to the Person or Persons whose Goods and Chattels shall have been so distrained and sold as aforesaid.

Power to
try disputed
Claims at
Law.

IX. Provided always, and be it further enacted, That if any Person or Persons, making any Claim or Claims to any Lands or other 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 or Umpire, touching or concerning the Boundaries to be set out by the said Commissioners, in pursuance of this Act, or the said recited Act, or touching or concerning any Claims, Rights or Interests, which the said Commissioners are authorized to determine, and shall be desirous of having such Claims, Rights and Interests respectively tried at Law, and the Person or Persons so desirous of having the same tried at Law shall, by themselves, or their respective Agents or Attornies, give Notice thereof, in Writing, to the Commissioners for the Time being, within Two Calendar Months after such Determination shall have been so made (on receipt of which Notice the said Commissioners are hereby required to deliver a Copy thereof to the adverse Party or Parties, his, her or their respective Agents or Attornies, or to leave the same at the usual Place of Abode of such Party or Parties, Agents or Attornies respectively, then, but not afterwards or otherwise, it shall be lawful for the Person or Persons, giving such Notice as aforesaid, their respective Heirs, Successors or Assigns, to proceed to a Trial at Law of the Claim or Claims, Rights or Interests, mentioned in such Notice, in a feigned Action or Actions for that Purpose, to be commenced within one Calendar Month after such Notice given to the said Commissioners as aforesaid, in One of His Majesty's Courts of Law at *Westminster*, by the Person or Persons, Body or Bodies Politic or Corporate, their respective Heirs, Successors or Assigns, giving such Notice as aforesaid, against any Person, interested in the said Division, who shall make any 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, Rights and Interests, may be properly tried and determined (such Issue or Issues to be settled by the proper Officer of the Court wherein such Action or Actions shall be commenced, if the Parties shall differ about the same), and if, at the Trial of any such Issue or Issues, it shall appear that the Party claiming is entitled to any qualified or less Right or Rights, Interest or Interests, than was or were claimed by such Party, then it shall be lawful for the Jury by whom such Issue or Issues shall be tried, to find and declare the same by their Verdict, which shall be indorsed on the *Postea* in addition to the Verdict given on the Issue or Issues joined,

but

but nevertheless the Costs of such Action or Actions shall abide and be determined by the Verdict given upon the Issue or Issues joined, as if no special Finding had been made, and the Verdict or Verdicts which shall be given in the said Action or Actions, upon the Issue or Issues therein joined, in case there shall be no such special Finding and Indorsement, or such special Finding and Indorsement, if any such shall be made, shall be final and conclusive to all and every Person and Persons, Body and Bodies Politic and Corporate whomsoever, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and Finding and Indorsement, and order a new Trial or Trials to be had thereupon, which it shall be lawful for the Court to do, as is usual in other Cases; and after any Verdict or Verdicts, or special Finding and Indorsement, shall have been obtained, and not set aside by the Court, the said Commissioners and Umpire respectively, are hereby authorized and required to conform thereto; but if no such Action or Actions at Law shall be brought or commenced by the Person or Persons giving such Notice within the Time aforesaid, or if such Action or Actions shall not be proceeded into a Trial at some Assizes to be holden in and for the said County of *York*, within Three Calendar Months after the Commencement thereof, by or on account of the Neglect or Default of the Plaintiff or Plaintiffs therein, then, and in such Case, the Determination of the Commissioners shall be final, binding, and conclusive, unto and upon all Parties whomsoever; provided, 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.

X. Provided also, 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; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought, if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, who might have brought such Action against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners for the Time being with Notice of such Action or Actions, in the same Manner as the Party or Parties might have been served therewith, if living; and it shall be incumbent on the Heir or Heirs, or other Person or Persons, who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of such Person or Persons so deceased; and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Actions not to abate by Death of Parties; and how to be brought after their Deaths.

XI. And

Commis-
sioners may
extinguish or
suspend
Rights of
Common.

XI. And be it further enacted, That it shall be lawful for the said Commissioners for the Time being, at any Time when they in their Judgment shall think it convenient and proper, by Notice for that Purpose under their Hands, to be affixed on the Parish Church of *Marrick* as aforesaid, on some *Sunday*, during Divine Service, to order the Right of Common in, upon, and over the Lands so to be divided or allotted, or any Part thereof to be extinguished, either in the Whole or in Part, or to be suspended; and from and after the Time to be mentioned in and fixed by any such Notice, all such Right of Common as shall thereby be directed to be extinguished or suspended, shall cease and be extinguished, or shall be suspended, according to, and as shall be expressed by such Notice.

Power to
make Drains,
&c.

XII. And be it further enacted, That the said Commissioners shall and may scour out, deepen, amend, repair and widen, all such ancient Drains, Ditches, Watercourses, Tunnels, Staunches, Sluices, Banks and Bridges, in the said Parish of *Marrick*, and also shall and may set out and appoint such new Ditches, Drains, Watercourses, Tunnels, Staunches, Sluices, Banks and Bridges, and other Requisites, as well in, through, across and over the Lands and Grounds hereby directed to be divided and allotted, as also in, over and through any ancient Inclosures or other Lands or Grounds within the said Parish, and of such Depth and Width, and in such Directions as shall by the said Commissioners be thought proper, necessary and expedient, making reasonable Satisfaction to all Persons who may sustain any Damage thereby; and the said Commissioners shall and they are hereby directed by their Award, or any Writing or Writings under their Hands, to order and determine by whom, at whose Expence, at what Time, and in what Manner the said Drains, Ditches, Watercourses, Tunnels, Staunches, Sluices, Banks, Bridges, and other Requisites shall be made, and thereafter repaired, cleansed, scoured, and maintained: Provided always, that no Streams or Watercourses shall be diverted or turned without the previous Consent in Writing of the Person or Persons from and out of whose Lands the same shall be diverted, and of the Person or Persons through or into whose Lands the same shall be turned.

Encroach-
ments within
Twenty
Years to be
deemed
Common.

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

Justices em-
powered to
declare any
of the Roads
completed.

XIV. And be it further enacted, That when and so soon as Two or more of His Majesty's Justices of the Peace for the said North Riding, at any Special Sessions to be holden by them, shall find, and shall under their Hands and Seals, certify and declare any of the Public Carriage Roads to be set out in pursuance of the said recited Act and of this Act, or any Part of any such Roads, to be fully and sufficiently formed, repaired and completed, such Road or Roads, or so much thereof as shall in any such Certificate

Certificate be described and certified, shall thenceforth be supported and kept in repair by such Persons, and in like Manner as the Public Roads within the said Parish or Township are or ought by Law to be amended and kept in repair; and every such Certificate shall, at the General Quarter Sessions of the Peace to be holden for the said North Riding next after the Date thereof, be filed of Record by the Clerk of the Peace for the said Riding.

XV. And be it further enacted, That it shall be lawful for the said Commissioners to set out and appoint so much and such Part or Parts of the Lands and Grounds hereby directed to be divided and allotted, as the said Commissioners shall, in their Judgment and Discretion, deem expedient to be sold for raising Money, for or towards paying the Costs, Charges and Expences, incident to and attending the passing of this Act, of surveying, admeasuring, planning, valuing, dividing and allotting the said Moor or Commons and Waste Lands, of forming Roads, of preparing the Commissioners' Award, and all other the Costs, Charges and Expences which shall be incurred by the said Commissioners, or by their Order, in, about or concerning the Execution of this Act; and the Lands so appointed for sale shall be sold by the said Commissioners, and the Money applied in the Manner herein-after directed in that Behalf.

Lands to
be sold.

XVI. And be it further enacted, That the said Commissioners shall set out, allot, and award, unto and for the said *William Powlett Powlett*, his Heirs or Assigns, (over, and above, and exclusive of such Shares and Allotments of and in the said Moor or Common, as shall in pursuance of this Act be allotted to him or them, in lieu of his and their Rights of Common) One full Eighteenth Part in Value of the said Moor or Common and Waste Lands, hereby directed to be divided, in full Compensation and Satisfaction of and for his and their Right to the Soil of the said Moor or Common and Waste Lands, except as herein-after is reserved to him.

Allotment
to the Lord
of the
Manor.

XVII. And be it further enacted, That after setting out all the Public and Private Roads and Ways, and other Conveniences, as by the said Act of the Forty-first Year of His present Majesty's Reign is directed, and the Allotment or Allotments herein-before directed to be made, the said Commissioners shall set out, divide and allot, all the Residue of the said Moor or Common Wastes, and other Commonable Lands, hereby directed to be divided and allotted, unto, between and amongst the several Proprietors of such ancient Messuages, Cottages, inclosed Grounds and Tenements, in *Marrick* afore-said, who in respect thereof are entitled to Rights of Common, in, over or upon the said Commonable Lands, or any Part thereof, in proportion, and according to the true and real Value of such ancient Messuages, Cottages, inclosed Grounds and Tenements; and the Allotments to be set out in pursuance of this Act, shall be had and taken by the several Persons entitled thereto in lieu and full Bar and Compensation and Satisfaction of, and for their several and respective Rights of Common, and other Rights and Interests, in, over or upon the said Common or Moor and Waste Lands hereby directed to be divided and allotted.

Allotment
of the
Residue.

Objections
to Allot-
ments.

XVIII. Provided always, and be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Shares, Rights and Interests, of the Proprietors in the said Common Moor and Waste Lands hereby directed to be divided and inclosed, they, the said Commissioners shall give Notice, in the same Manner as Notices of Meetings are herein directed to be given, of some convenient Time and Place when and where all Proprietors and Persons interested may peruse a Schedule of their intended Allotments, and a Map or Plan whereon the same shall be set out and delineated; and in regard that some Persons may, upon Perusal or Inspection of such Schedule, Map or Plan, be dissatisfied with the Situation of their intended Allotments, the said Commissioners shall give Notice, of One Meeting at the least for receiving Objections against the Situation of such intended Allotments, and for hearing and determining all such Objections; and their Determination therein (being reduced into Writing, and signed by the said Commissioners) shall be final and conclusive to and upon all Parties whomsoever.

Allotments
to be fenced.

XIX. And be it further enacted, That the several Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched or otherwise fenced, and such Fences for ever thereafter repaired by and at the Expence of the respective Persons to whom the same shall be allotted, within such Time, and in such Proportions and Manner, as the said Commissioners shall direct.

Fences across
adjoining
Ditches, &c.

XX. Provided always, and be it further enacted, That in all Cases where the Fences or Ditches of any Allotments shall abut against the Sides of the Ditches of any other Allotments, or of any Lands already inclosed, the Proprietors of such first-mentioned Allotments shall be at liberty, and are hereby empowered, from the Time of staking out the several Allotments hereby directed to be made, to set up and place, and from time to time maintain, and at all Times thereafter continue Rails across the Ditches and Posts upon the Banks of such other adjoining or contiguous Allotments or inclosed Lands as aforesaid.

Proprietors
of Allot-
ments may
work Stones
out of same,
and get
Stones out of
the Common
Quarries for
certain Pur-
poses.

XXI. And be it further enacted, That it shall be lawful 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 building, walling and draining, in or upon the Lands to be so allotted to them respectively, as for building, walling and draining, in or upon their ancient inclosed Grounds, in respect whereof any such Allotments shall be made; but not for the Purpose of Sale, or for any other Purpose whatsoever.

Allotments
to remain to
the same
Tenure.

XXII. And be it further enacted, That all Lands and Hereditaments, which shall be allotted by virtue of this Act, shall be held by the same Tenures, and under the same Rents, Customs and Services, as the Lands and Hereditaments, in respect whereof such Allotments shall be made, were respectively held before the passing of this Act, or would have been held in case this Act had not passed.

XXIII. Pro-

XXIII. Provided always, and be it further enacted, That when 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 Commissioners for the Time being 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 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 Tenures.

XXIV. And be it further enacted, That it shall be lawful for the said Commissioners for the Time being to set out, allot and award, any of the Allotments to be set out by virtue of this Act, or any Messuages, Lands, Tenements or Hereditaments within the said Parish of *Marrick*, in lieu of and in exchange for any other Lands, Tenements or Hereditaments within the said Parish, or within any adjoining Parish, Hamlet, Township or Place, provided that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioners, or in some Deed or other Instrument in Writing to be executed by them before the Execution of their said Award, and set forth in such Award, and be made with the Consent of the Proprietor or Proprietors of the Hereditaments which shall be so exchanged, whether such Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, Corporation aggregate or sole, or a Tenant or Tenants in Fee-simple, in Tail, for Life or Lives, or for Years exceeding Twenty-one Years, either absolute or determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees, for charitable or other Uses, Husbands, Committees or Attornies, of or acting for any such Proprietors as aforesaid, who, at the Time of making such Exchange or Exchanges, shall be respectively Infants, Females Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing, under the Common Seal of any Corporation aggregate, and under the Hands of the other consenting Parties respectively; and so that no Exchange shall be made of any Hereditaments, held in right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which the said Hereditaments shall be situate; and all Exchanges so to be made and declared, shall, as well in respect of the Hereditaments in the Parish of *Marrick* aforesaid, as in respect of the Hereditaments in such other Parish, Township or Place as aforesaid, be for ever good, valid, and effectual in the Law, to all Intents and Purposes whatsoever.

For allowing Exchanges to be made.

XXV. 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, and shall be held and enjoyed by them, free from all Right and Interest of their respective Lessees or Tenants; and such respective Lessors or Landlords, their Heirs, Executors, Administrators,

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

or

or Assigns, shall make such Compensation to their Lessees or Tenants, for the Determination of their respective Interests in the Lands or Common Rights to be divided or affected by this Act, either by an Abatement out of the Rents reserved by such Leases respectively, or otherwise, as the said Commissioners shall judge reasonable, and shall in and by their Award, or any Writing under their Hands, direct or appoint.

This Act
not to re-
voke any
Settlement
or prejudice
any Right
of Dower.

XXVI. Provided also, 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 or upon any of the Lands, Common Rights, or other Hereditaments which shall be divided, allotted, exchanged, or otherwise affected by the said recited Act or this Act, but that the several Allotments of and in the said Moor or Common, and the Hereditaments which shall be taken in exchange or upon Partition, shall, immediately after such Allotments, Exchanges and Partitions shall be made, be vested, remain, continue and enure, and be held and enjoyed, and the several Persons to whom the same shall be assigned and allotted respectively, shall from thenceforth stand and be seised and possessed thereof respectively, to and for such and the same Uses, Estates, Entails, Interests, Trusts, Intents and Purposes, and be held in such and the same Way and Manner, and subject and liable to such and the same Wills, Limitations, Conditions, Settlements, Provisoos, Remainders, Reversions, Leases, (except as aforesaid) Debts, Charges and Incumbrances, as the several Lands, Common Rights and Hereditaments, in respect of which such Allotments, Exchanges and Partitions shall be respectively made, would have been limited, settled, or stood subject or liable to, in case such Allotments, Exchanges, and Partitions respectively, had not been made, or this Act had not passed.

Proprietors
may sell or
mortgage
their Allot-
ments before
the Execu-
tion of the
Award, and
their Rights
of Common,
separate from
their other
Property.

XXVII. And be it further enacted, That it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act, to give, grant, bargain, sell, demise, surrender, mortgage, limit, convey and assure the same, for all or any Part of his, her or their Estate or Interest therein, or Right thereto, at any Time before the Execution of the Award of the said Commissioners, and every such Gift, Grant, Bargain, Sale, Demise, Surrender, Mortgage, Limitation, Conveyance and Assurance, shall be of the same Force and Validity as if made after the Execution of the said Award; and also, that it shall be lawful for any of the Owners or Proprietors of any Common Rights upon the Lands and Grounds hereby directed to be divided and allotted, to sell and dispose of the same, or of the Allotment or Allotments to be made and set out in respect thereof by virtue of this Act, separate and distinct from the Estate in right of which they, he or she, are or is entitled to the same, in like manner as they, he or she, might have done at any Time after the Execution of the said Award.

XXVIII. And

XXVIII. And be it further enacted, That the Money that shall be advanced by any Person or Persons for the Purpose of defraying the Expences of applying for and passing this Act, or which, after the passing of this Act, shall be advanced or lent to the Commissioners for the Time being, for carrying the same into Execution, shall be repaid, with legal Interest, to the Person or Persons lending, advancing or paying the same, out of the first Money to be raised for defraying the Expences of obtaining and executing of this Act. Money advanced for the Act to be repaid with Interest.

XXIX. And be it further enacted, That each of the Commissioners for the Time being, acting in the Execution of the Trusts and Powers hereby vested in them, shall be allowed and paid in satisfaction for his Trouble and Expences, the Sum of Three Guineas for every Day on which they respectively shall be employed in carrying this Act into Execution, and in travelling to and from the Commissioners' Meetings; and at all Sittings to be held in pursuance of this Act, such Commissioners, shall pay their own Expences. Allowance to Commissioners.

XXX. And be it further enacted, That the Allotment or Allotments hereinbefore directed to be set out for Sale as aforesaid, shall consist of such Part and Parts of the said Moor, Common or Waste, as the said Commissioners shall deem most eligible to be sold for the Purposes aforesaid; and the said Commissioners shall, and they are hereby required, to sell the Lands and Grounds so set out, in such Lot or Lots as to them shall seem proper, to any Person or Persons, for the best Price or Prices that can be gotten for the same, by public Auction or Auctions, of which Six Weeks previous Notice shall be given; and the Person or Persons purchasing the same at such Auction, shall immediately pay (by way of Deposit) into the Hands of the said Commissioners, or such Person or Persons as they shall direct and appoint, One-tenth Part of his, her or their Purchase Money, and shall pay the Remainder thereof within Three Calendar Months next after the said Sale, or at such other Time as the said Commissioners shall appoint, and in default thereof the Money so deposited shall be forfeited, and shall be applied in carrying this Act into Execution; and the Lot or Lots for which the whole of such Purchase Money shall not have been so paid, or for which there shall be no Bidding at such Auction, shall be again put up to Sale, and sold by public Auction, in Manner aforesaid, for the best Price or Prices that can be gotten for the same; and every Lot for which the full Purchase Money shall be paid, shall immediately thereupon be absolutely discharged of and from all Common Rights thereon, and shall be conveyed by the said Commissioners to the respective Purchasers thereof, or to such Person or Persons as they shall appoint; To hold to them, their respective Heirs and Assigns, and shall thereupon be absolutely vested in them in Fee-simple; and the said Purchase Money shall be applied by the said Commissioners in defraying such Costs, Charges and Expences as aforesaid. Directions as to Sale of Allotments.

XXXI. And be it further enacted, That in case the Money which shall be raised by Sale of the Lands hereby directed to be sold shall be insufficient to defray all the Costs, Charges and Expences hereinbefore directed or provided to be paid thereout, the Deficiency shall be borne and defrayed by the several Persons to whom any Allotment or Allotments

[Loc. & Per.]

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shall

Deficiency how to be raised.

shall be made by virtue of this Act, and shall be paid in such Proportions, at such Time and Place, and to such Person or Persons as the said Commissioners shall appoint, either before or after the Execution of the said Award; and in default of Payment thereof, the same shall be recoverable in such Manner as by the said Act of the Forty-first Year of His present Majesty is provided in that Behalf.

Surplus
Money how
to be ap-
plied.

XXXII. And be it further enacted, That in case such Part or Parts of the said Commonable Lands and Grounds hereby directed to be sold as hereinbefore mentioned, shall be sold for more Money than will be required to defray such Costs, Charges and Expences as aforesaid, then, and in such Case, the Surplus Money shall be divided between the several Proprietors of, and Persons interested in the Lands hereby directed to be divided and inclosed, in such Shares as shall be in proportion to such their respective Rights and Interests; and the respective Shares of such of them as shall be Tenants in Fee-simple of their respective Allotments shall be paid to them respectively, and the Shares of such other Proprietors or Persons, of and in such Surplus Money, shall be applied and disposed of in Manner directed by the said recited Act, in Cases where any Money is to be paid for the Purchase or Exchange of any Lands, Tenements and Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments, to be settled to the same Uses.

Payment of
Expences of
Sales and
Exchanges.

XXXIII. And be it further enacted, That all Costs, Charges and Expences attending any Sales, Exchanges or Partitions to be made by virtue of this Act, or the said Act of the Forty-first Year of the present Reign, shall be paid, borne and defrayed, by the several Persons whose Estates shall be sold, exchanged, and parted in such Manner and Proportions as the said Commissioners shall, by any Writing under their Hands order and direct, and shall be recovered in the same Manner as is hereinbefore directed or referred to, respecting the Recovery of the Charges and Expences of executing this Act.

Commis-
sioners to
account.

XXXIV. And be it further enacted, That the Commissioners for the Time being shall, and they are hereby required to keep, or cause to be kept, a just and true Statement and Account of all Sums of Money which shall be raised and laid out or expended by them or by their Order, or for their Use, 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 or Accounts in a Book or Books to be kept 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 *John Breare* of *Middleham* in the County of *York*, Esquire, who shall from time to time state in Writing, under his Hand, the Balance of the said Accounts in such Book or Books as aforesaid; and 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 *John Breare*, and also that such Book or Books of Accounts shall be kept at the Office of the Clerk to the said
Commis-

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 Allotments, and until the said Accounts shall have been finally settled and allowed.

XXXV. And be it further enacted, That the Award or Awards which shall be made and executed by the said Commissioners in pursuance of this Act, and also of the said Act of the Forty-first Year of His Majesty's Reign, shall, with all convenient Speed, be enrolled and entered at full Length in the Register Office at *North Allerton*, in the said North Riding, established under an Act passed in the Eighth Year of the Reign of His late Majesty King *George* the Second; and the Register appointed to execute the said Office, or his Deputy for the Time being, is hereby required, on Payment of the usual Fees, to enrol or enter at full Length the said Award or Awards; and the said Register, or his Deputy, shall permit and suffer any Person or Persons, at all Times, within the usual Office-hours of Attendance, to peruse and inspect the Enrolment of the said Award or Awards respectively at the said Public Office, paying or tendering to the said Register or his Deputy for every such Perusal or Inspection One Shilling, and no more; and that the said Award or Awards, when enrolled at the said Office, shall, together with a Plan thereunto annexed, with all convenient Speed be afterwards lodged in the Church of *Marrick* aforesaid, in a Box to be provided by the Commissioners for that Purpose, in order that any Person interested in the said Inclosure may, at all reasonable Times, have Recourse thereto, and take a Copy thereof or Extracts therefrom.

Award to be enrolled in the Register-Office of the North Riding.

XXXVI. 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 the said recited Act and this Act (other than and except such Matters and Things as are hereby directed or authorized to be tried, settled or determined by the Verdict of a Jury, and such Orders and Determinations, Matters and Things, to be made or done by the Commissioners or Umpire for the Time being, as are by the said recited Act or this Act 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 said North Riding within Six Calendar Months next after the Cause of Complaint shall have arisen; and His Majesty's Justices in the 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 Twenty 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 removable by *Certiorari*, or any other Writ or Process whatsoever,

Appeal to the Quarter-Sessions.

soever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

Saving to
Mr. Powlett
the Royal-
ties, Mines,
&c.

XXXVII. 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 *William Powlett Powlett*, his Heirs and Assigns, or any of them, of, in, and to the Seignior and Royalties incident and belonging to the said Manor respectively; but that the said *William Powlett Powlett*, his Heirs and Assigns, and all succeeding Lords of the said Manor for the Time being, shall and may, from time to time, and at all Times hereafter, have, hold, and enjoy all Courts, Perquisites and Profits of Courts, Boons and Services, and all yearly and other Rents and Acknowledgments reserved and usually paid, and which are due and demandable for all and every or any of the Houses, Buildings, Cottages, Intacks or Inclosures, now built, made, being or standing in or upon the said Moor or Common, or the Boundaries thereof, or in or upon any Ground formerly Part of the said Moor or Common, now held or enjoyed in severalty (except as to such Encroachments as shall be allotted by virtue of this Act) 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 Moor or Common, and now held and enjoyed in severalty (except as aforesaid), and all Quit-Rents, Free-Rents and other Rents, Reliefs, Dues, Customs, Amerciaments, and all Goods and Chattels of Felons and Fugitives, Felons of themselves and put in exigent, Deodands, Treasure Trove, Waifs, Estrays, Forfeitures, Escheats, Fairs, Markets, Tolls, Stallages, Rights, Royalties with free Warren, and Liberty of Hunting, Hawking, Fishing and Fowling; Immunities, Jurisdictions, Franchises, Privileges, Profits, Commodities, Advantages, Emoluments, Hereditaments, Matters and Things whatsoever to the said Manor, or to the Lord or Lords thereof for the Time being, 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 that the said *William Powlett Powlett*, his Heirs and Assigns, or his or their Tenants, Lessees or Assigns, shall and may, from time to time, and at all Times hereafter have, hold, win, work, and enjoy exclusively all Mines, Minerals and Quarries, of what Nature or Kind soever, within and under the said Moor or Common hereby directed to be divided, and within and under every Part thereof (save and except such Quarries and such Stone as aforesaid), and the several Allotments thereof, in pursuance of this Act, together with all convenient and necessary Ways and Way-leaves, and also Liberty of laying, making and repairing Waggon Ways and other Ways, in, through, over and along the same, or any Part thereof; and also for searching for, winning and working the said Mines, Minerals and Quarries, and leading and carrying away the Lead Ore, Lead, Coals, Stones, Fossils and other Things to be gotten thereout, or out of any other Mines, Minerals and Quarries, or Collieries whatsoever, and of making Pits, Shafts and Sumps, Pit-rooms and Heap-rooms, Drifts, Levels and Watercourses, and of repairing, amending

and upholding the same, and of erecting, building and using Houses, Draw Kilns, Erections, Buildings, Fire Engines and other Engines, Mills, and other Erections and Buildings, and of altering, changing, and pulling down and carrying away the same, or all or any of the Materials thereof, at his and their free Will and Pleasure, and to do, execute and perform all such other Works, Acts, Deeds, Matters and Things, either now in Use or hereafter to be invented, as shall or may be necessary or convenient for the full and complete working, Use and Enjoyment of such Mines, Minerals and Quarries hereby reserved, in as full, ample and beneficial Manner to all Intents and Purposes, as he and they might and could have done in case this Act had not been made.

XXXVIII. And be it further enacted, That in case the said *William Powlett Powlett*, his Heirs or Assigns, or the Lord or Lords of the said Manor for the Time being, or any Person or Persons claiming under him or them shall, after such Inclosures or Allotments made as aforesaid, search for, win, or work any Mine or Mines, Minerals or Quarries, lying and being within or under any of the Allotments or Inclosures to be made as aforesaid, or lead or carry away the Produce of, or from any such Mines, Minerals or Quarries, then, and in such Case, the said *William Powlett Powlett*, his Heirs or Assigns, or such Lord or Lords of the said Manor for the Time being, or such Person or Persons so claiming under him or them, shall make a reasonable Satisfaction for the Damages and Spoil of Ground occasioned thereby, or by the erecting or building any Houses, Draw Kilns, Buildings, Fire Engines and other Engines, Mills or other Erections, or by the altering, changing, repairing, amending, rebuilding, pulling down, or carrying away the same, or any of the Materials thereof as aforesaid, to the Person or Persons who shall be in Possession of such Ground at the Time or Times of such Damage or Spoil.

For making
Compen-
sation for
working the
Mines.

XXXIX. Saving always to the King's most Excellent Majesty, his Heirs and Successors, and all and every other Person and Persons, Bodies Politic 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 Moor or Common, hereby directed to be divided, allotted and inclosed, and all other Persons, Bodies Politic and Corporate, entitled to any Right of Common, or other Rights or Interests in or upon the said Moor or Common, his, her and their Heirs, Successors, Executors and Administrators respectively, and the Persons, Bodies Politic and Corporate, their Heirs, Successors, Executors and Administrators who shall, by virtue of the said recited Act or this Act, make any Claim or Claims affecting the Boundaries of the said Moor or Common respectively, or any Claim or Claims of Right of Common, or of any other Estate, Right or Interest, upon, into, or out of the said Moor or Common respectively, which shall be adjudged or determined against him or them, as aforesaid, all such Estate, Right, Title and Interest, as they, every or any of them had or enjoyed, of, in, to or out of the said Moor or Common hereby directed to be divided and allotted, before the passing of this

General
Saving.

Act, or could or might have had or enjoyed if this Act had not been made.

To be
printed by
the King's
Printer.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1812.