



ANNO QUINQUAGESIMO SECUNDO

GEORGI III. REGIS.



Cap. 134.

An Act for inclosing Lands in the Township of
Wartbill, in the County of *York*.

[20th May 1812.]

WHEREAS there are within the Township of *Wartbill*, in the County of *York*, certain Open and Uninclosed Lands, Commons, Commonable Lands and Waste Grounds, containing together by Estimation Five hundred Acres, or thereabouts: And whereas Part of such Lands and Grounds consist of certain Open and Uninclosed Lands, commonly called or known by the Name of *Sandy Lands*, containing by Estimation Fifty Acres, or thereabouts: And whereas there are within the Township of *Wartbill* aforesaid, divers Messuages, Cottages, and Tofts, called *Frontsteads*, some of which are of the Tenure or Nature of Freehold, and held of the Manor of *Holtby*, in the said County of *York*, and lie within the Parish and Rectory of *Holtby* aforesaid, and others of which said Messuages, Cottages, or Tofts called *Frontsteads*, are of the Tenure or Nature of Copyhold, and held of the Manor of *Wartbill* with *North Newbald* and *Cave*, in the said County of *York*, and lie within the Parish and Vicarage of *Wartbill* aforesaid: And whereas *Benjamin Agar* Esquire is Lord of the said Manor of *Holtby*: And whereas the Reverend *Robert Warburton* Clerk is Patron of the Rectory and Parish Church of *Holtby* aforesaid, and Rector thereof, and in Right of the said Rectory claims to be entitled to the Great and Small Tythes yearly arising and renewing from and out of the Tytheable Lands, Tenements, and Hereditaments situate within such Part, of the said Township of *Wartbill* as lies within the Parish and Rectory of *Holtby* aforesaid: And whereas the Reverend *John Josias Conybeare* Master of Arts, is Prebendary of the Prebend

[*Loc. & Per.*]

32 A

of

of *Wartbill*, in the Cathedral and Metropolitan Church of *Saint Peter of York*, and Lord of the said Manor of *Wartbill with North Newbald and Cave*; and *Thomas Rook* Gentleman, is his Lessee of the same Manor, and of the Lands, Tenements, and Hereditaments to the said Prebend belonging, situate within the said Township of *Wartbill*: And whereas the said *John Josias Conybeare*, in Right of his said Prebend, is Patron of the Vicarage of *Wartbill* aforesaid; and the Reverend *Isaac Grayson* Clerk is Vicar of the said Vicarage, and claims to be entitled to the Great and Small Tythes, and other Ecclesiastical Dues yearly arising and renewing from and out of the Tytheable Lands, Tenements, and Hereditaments situate within such Part of the said Township of *Wartbill* as lies within the Parish and Vicarage of *Wartbill* aforesaid: And whereas the said *Benjamin Agar, Thomas Rook, Isaac Grayson, Elizabeth Ware* Widow, *Jane Bell* Widow, and several other Persons, are Owners and Proprietors of the Lands and Grounds hereby intended to be divided and inclosed, or entitled to Right of Common, or other Rights upon the same Lands and Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said Open and Uninclosed Lands, Commons, Commonable Lands and Waste Grounds within the said Township of *Wartbill*, afford at present little Profit; but the same would, if divided and inclosed, be of great Advantage to the several Persons interested therein, and be of public Utility: But inasmuch as such Division and Inclosure 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 several Open and Uninclosed Lands, Commons, Commonable Lands, and Waste Grounds, situate, lying, and being within the said Township of *Wartbill*, shall be set out, allotted, divided, and inclosed as soon as conveniently may be after the passing of this Act, in Manner herein-after mentioned; and that *John Take* of the City of *York* Gentleman, shall be and he is hereby appointed Commissioner for the Purposes aforesaid, and for carrying this Act into Execution, and also such of the Powers and Authorities of the said recited Act as are not varied or altered by this Act, and under and subject to such of the Provisions and Regulations of the said recited Act, as are not controuled by this Act.

Commis-
sioner.

How new
Commis-
sioner shall
be appointed.

II. And be it further enacted, That if the said *John Take*, or any succeeding Commissioner to be appointed in Manner herein-after mentioned, shall die, refuse, decline, or neglect to act, or become incapable of acting in the Execution of this or the said recited Act, then and as often as it shall so happen, it shall be lawful for the major Part in Value of the several Proprietors of the Lands and Grounds hereby intended to be divided and inclosed, (except the Rector of *Holtby* and Vicar of *Wartbill*, and their Successors for the Time being, and such major Part being ascertained by the Land Tax Assessment), who shall attend in their proper Persons or by their respective Agents duly authorized in Writing under the respective Hands of any such Proprietors being absent, or under the Common Seal of any of them, being a Corporation Aggregate, at a Meeting to be holden

for

for that Purpose in the Parish Church of *Wartbill* aforesaid, (of which Meeting Fourteen Days Notice at least shall be given in Writing, signed with the Name or Names of any One or more of the said Proprietors, and affixed upon the principal outer Door of the said Church,) to elect, nominate, and appoint by themselves or their Agents respectively, another Person (not interested in the said Division and Inclosure) to be a Commissioner in the Place of the said *John Tuke*, or any succeeding Commissioner so dying, refusing, declining, or neglecting to act, or becoming incapable of acting; and every such Election, Nomination, and Appointment, shall be certified by Writing under the Hands of the respective Persons (whether Principals or Agents) attending and making the same, and the said Certificate shall be annexed to and deposited in like Manner and at the same Place as the Award to be made in pursuance of this and the said recited Act, and a Copy of such Certificate, when the same shall have been so deposited, shall be admitted as legal Evidence in all Courts whatsoever, and the Election, Nomination, or Appointment of any such new Commissioner shall not be questioned or impeached after the said Award shall have been deposited as herein-after directed, but the Production of such Certificate, or a Copy thereof, shall be conclusive Evidence of the Fact of such Election, Nomination, and Appointment by such major Part as aforesaid; and every such new Commissioner, so to be elected, nominated, and appointed as aforesaid, shall have the like and as ample Powers and Authorities for putting this and the said recited Act into Execution, in all Respects whatsoever, as the said *John Tuke*, or the Commissioner in whose Place he shall succeed, was vested with by virtue of this Act or the said recited Act.

III. And be it further enacted, That the said Commissioner shall and he is hereby authorized and empowered to appoint a Clerk to assist him in the Execution of the Powers of this Act. Clerk to be appointed.

IV. And be it further enacted, That the said Commissioner shall and he is hereby required to give or cause to be given Notice in One of the public Newspapers to be published in the City of *York*, of the Time and Place of his First and Second Attendance for receiving Claims, and every subsequent Attendance for hearing and determining the same, and all other Attendances for executing the Powers hereby vested in him, at least Fourteen Days before every such Attendance, (Attendances by Adjournment only excepted;) and all Attendances of the said Commissioner shall be held within the said Township of *Wartbill*, or within Eight Miles thereof, at the Discretion of the said Commissioner; and the said Commissioner and all the said Proprietors shall at all Attendances for executing this Act pay their own Expences. Commissioner to give Notice of his Attendances.

V. Provided always, and be it further enacted, That all other Notices necessary or requisite to be made or given by the said Commissioners, in pursuance of this or the said recited Act, or either of them, shall be made and given by Advertisement to be inserted in One of the public Newspapers printed or circulated in the City of *York*. Other Notices, how to be given.

VI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Division and Inclosure, touching or concerning the respective Rights Commissioner to settle Disputes;

but not Titles.

Rights and Interests which they, or any of them, shall have, or claim to have, in, over, upon, or out of the Lands and Grounds hereby intended to be divided, allotted, and inclosed, or in, over, upon, or out of any Part or Parts thereof, or touching or concerning any Matter or Thing relating to the said Division and Inclosure, it shall be lawful for the said Commissioner to examine into, hear, and determine all and every such Dispute and Difference: Provided always, that nothing in this Act contained shall authorize the said Commissioner to determine the Title to any Messuages, Cottages, Tythes, Tenements, or Hereditaments whatsoever.

Persons in Possession not to be molested without due Course of Law.

VII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioner to determine any Right between any Parties, (except in Cases of Encroachments,) but in case the said Commissioner shall be of Opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law.

Power to assess Costs.

VIII. And be it further enacted, That in case the said Commissioner, upon the Hearing and Determination of any Claim or Claims, Objection or Objections to be delivered to him in pursuance of this or the said recited Act, or of any Dispute or Difference between any of the said Parties interested or claiming to be interested in the said Division and Inclosure, shall see Cause to award any Costs, it shall be lawful for the said Commissioner, and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whole Favour any Determination of the said Commissioner shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same within Ten Days after Demand thereof shall be made, then and in such Case it shall be lawful for the said Commissioner, and he is hereby authorized and required by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so refusing to pay, rendering the Overplus to such Person or Persons upon Demand, after deducting the Costs and Charges attending such Distress and Sale.

Allowing Parties to try their Rights at Law.

IX. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioner, touching or concerning the Claim or Claims of any Rights or Interests in, over, or upon the Lands and Grounds hereby intended to be divided and inclosed, or any Part thereof, then and in every such Case it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the then next Assizes to be holden for the County of York, provided the Determination of the said Commissioner shall have been made and signified to the Party or Parties so dissatisfied at least Two Calendar Months before such Assizes; if otherwise, then at the Second Assizes to be holden for the said County of York; and for that Purpose the Person or Persons who shall be

be

be so dissatisfied with the Determination of the said Commissioner, shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Six Calendar Months next after the Determination of the said Commissioner shall have been made known; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced (in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall have been brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the said Court to do as is usual in other Cases; and after such Verdict or Verdicts shall be obtained and not set aside by the said Court, the said Commissioner shall and he is hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioner touching such Claim or Claims which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action or Actions at Law to be brought and proceeded in as aforesaid, shall be final and conclusive upon all Parties.

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

If Parties die, Proceedings not to abate.

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

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

Suits not to
impede In-
closure.

XII. Provided always, and be it further enacted, That no Differences or Suits, touching the Title to any Rights of Common or other Rights, shall impede or delay the said Commissioner in the Execution of the Powers vested in him by this or the said recited Act, but the Division hereby directed to be made shall be proceeded in notwithstanding such Differences or Suits.

Deaths of
Parties not to
suspend the
Execution of
the Act.

XIII. And be it further enacted, That if any of the Parties interested in the said intended Division or Inclosure, shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioner shall not be thereby determined or suspended, but that the said Commissioner shall proceed in the Execution of the Powers given to him by this Act or the said recited Act, in such Manner as he might have done in case such Parties had not died; and that the Share or Shares of the Person or Persons so dying, shall be allotted to such Person or Persons who by Law shall become entitled to the same, and shall be accepted and fenced by him, her, or them, according to the Directions of this or the said recited Act; and he, she, or they shall be liable to the Charges and Expences and other Conditions of this and the said recited Act.

Surveyor.

XIV. And be it further enacted, That *James Bulmer*, of the City of *York* aforesaid, Land Surveyor, shall be and he is hereby appointed the Surveyor for making such Survey, Admeasurement, and Plan, and for reducing the same into Writing, and specifying and setting forth such Particulars as are in that Behalf directed under and by virtue of the said recited Act; and in case the said *James Bulmer* shall die, refuse, or neglect to act, or be or become incapable of acting, the said Commissioner shall and he is hereby required and authorized forthwith to elect and appoint another Surveyor (not interested in the said Division and Inclosure) in his Stead, and so from Time to Time as often as the Surveyor for the Time being shall die, refuse, or neglect to act, or be or become incapable of acting.

XV. Provided always, and be it further enacted, That no Person shall be capable of acting as a Surveyor by virtue of this Act until he shall have taken and subscribed the Oath or Affirmation following; (that is to say),

Form of
Oath.

‘ I *A.B.* do swear, [*or, being One of the People called Quakers, do solemnly affirm*] that I will faithfully and impartially, according to the best of my Skill and Ability, execute and perform the Powers and Authorities reposed in me as Surveyor, by virtue of an Act passed in the Fifty-second Year of the Reign of King *George* the Third, intituled *An Act for inclosing Lands in Warthill in the County of York*, according to Equity and good Conscience, and without Partiality, Favour or Affection, Prejudice or Malice to any Person or Persons whomsoever.

‘ So help me GOD.

Which Oath or Affirmation the said Commissioner is hereby authorized and required to administer; and the said Oath or Affirmation so taken and subscribed by such Surveyor or Surveyors shall be annexed to and inrolled with the Award of the said Commissioner.

When Right
of Common
shall cease.

XVI. And be it further enacted, That when any of the Allotments of the Lands and Grounds hereby intended to be divided and inclosed, shall be set or staked out, all Right of Common of what Nature or Kind soever

upon the same Lands and Grounds, shall thenceforth absolutely cease and be extinguished.

XVII. And be it further enacted, That if any Person or Persons shall after the passing of this Act cut, dig, pare, grave, flay, or carry away any Turf, Flags, Whins, or Furze, in, upon, or from the Lands and Grounds hereby intended to be divided and inclosed, or any Part thereof, without or contrary to the Licence of the said Commissioner first had and obtained in Writing for that Purpose, (which Licence the said Commissioner is hereby empowered to grant under such Rules, Orders, Regulations, and Restrictions as he shall think proper to insert therein,) then and in every such Case the said Commissioner upon due Proof thereof made before him upon Oath or Affirmation, (which Oath or Affirmation he is hereby empowered to administer,) shall and he is hereby required by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause any Sum of Money not exceeding Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of every Person so offending in the Premises, rendering the Overplus (if any) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as aforesaid, shall be applied towards the defraying the Costs and Charges of obtaining and executing this Act.

No Turf, &c. to be cut, without Leave of the Commissioner.

XVIII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required in all Cases where in his Judgment it shall appear requisite or proper, to divert, stop up, discontinue, alter, or change any old or accustomed Road, Way, or Path, passing or leading through or over any of the ancient inclosed or other Lands or Grounds within the said Township of *Wartbill*, as to the said Commissioner shall seem meet and proper, subject nevertheless to such Provisions and under such Regulations as are contained in the said recited Act, respecting the stopping up of any old or accustomed Road.

Commissioner may divert Road.

XIX. And be it further enacted, That the said Commissioner shall and may make, set out, and appoint, alter, turn, scour out, and widen, or cause to be made, set out and appointed, altered, turned, scoured out and widened, all such Ditches, Drains, Watercourses, Tunnels, Watergates, Banks, and Bridges, as well in, through, and over the Lands and Grounds hereby intended to be divided and inclosed, as also in, through, and over the ancient inclosed or other Lands or Grounds within the said Township of *Wartbill* and Parish of *Holtby*, or either of them, the Property of any of the Owners and Proprietors of the Lands and Grounds hereby intended to be divided and inclosed, (making such Satisfaction to the Proprietors of such ancient inclosed Lands and Grounds for the Damage done thereby, as he the said Commissioner in his Discretion shall think reasonable,) and of such Depth and Breadth, and in such Directions as the said Commissioner shall think proper; and the said Commissioner shall and may, and he is hereby directed and required in and by his said Award, to order and direct by whom, and at whose Expence, and at what Time, and in what Manner the said Ditches, Drains, Watercourses, Tunnels, Watergates, Banks, and Bridges, or any of them, shall be altered, turned, made, and afterwards cleansed, scoured, repaired, and maintained.

Commissioner may make Drains, &c.

XX. And

Allotment to
Rector and
Vicar.

XX. And be it further enacted, That the said Commissioner shall set out to and for the said *Robert Warburton* and *Isaac Grayson*, and their Successors, Rectors and Vicars for the Time being, so much of the said Lands and Grounds hereby intended to be divided and inclosed, (except the said Lands commonly called or known by the Name of *Sandy Lands*), as by the said Commissioner shall be adjudged to be equal in Value to One-eighth Part of such Lands and Grounds, (except as last herein-before excepted), in lieu of and as a full Equivalent and Compensation for all and all Manner of Tithes, Oblations, Obventions, and other Ecclesiastical Dues whatsoever, (Mortuaries, *Easter Offerings*, and Surplice Fees excepted), arising or to arise within the said Parish and Township of *Wartbill*, or either of them; and the said Commissioner shall allot and award the Lands so to be set out, to and amongst the said Rector and Vicar and their Successors, according and in Proportion to their several and respective Rights and Interests of and in the said Tithes, Oblations, Obventions, and other Ecclesiastical Dues, in such Manner as by the said Commissioner shall be adjudged and directed; and such Lands as shall be set out to and for the said Rector in lieu of Tithes as aforesaid, shall for ever afterwards be deemed to be Freehold within the Township of *Wartbill*, but in the Manor and Parish of *Holtby* aforesaid; and such Lands as shall be set out to and for the said Vicar in lieu of Tithes as aforesaid, shall for ever afterwards be deemed to be Freehold also, but within the Parish and Township of *Wartbill* aforesaid.

Allotments
to the Lords
of the Manors
of Holtby and
Warthill with
North New-
bald and
Cave.

XXI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required in the next Place, to set out for the said *Benjamin Agar*, *John Josias Conybeare* (Prebendary as aforesaid), and the said *Thomas Rook* as his Lessee, Lords of the several Manors of *Holtby* and of *Wartbill* with *North Newbald* and *Cave* aforesaid, so much of the said Lands and Grounds hereby intended to be divided and inclosed, (except the aforesaid Lands commonly called or known by the Name of *Sandy Lands*), as by the said Commissioner shall be adjudged to be equal in Value to One-seventeenth Part of such Lands and Grounds, (except as before excepted), and to allot and award the Land so to be set out, to and amongst the several and respective Lords of the aforesaid Manors, and the Lessee of the said Prebend, according and in Proportion to their several and respective Rights and Interests of and in the Soil of the same Lands and Grounds, (over and above and exclusive of such Share and Allotment, Shares and Allotments of the Lands and Grounds hereby intended to be divided and inclosed, as the respective Lords of the aforesaid Manors, or either of them, or the Lessee of the said Prebend, shall or may be entitled unto in respect of any other Right or Interest whatsoever,) in such Manner as by the said Commissioner shall be adjudged and directed; and such Land as shall be so set out to or for the Lord of the said Manor of *Holtby*, shall for ever afterwards be deemed Freehold within the said Township of *Wartbill*, but in the Manor and Parish of *Holtby* aforesaid; and such Land as shall be so set out to or for the Lord of the said Manor of *Wartbill* with *North Newbald* and *Cave*, and his said Lessee, shall for ever afterwards be deemed Freehold also, but within the Parish and Township of *Wartbill* aforesaid.

Allotment of
Residue ex-
cept Sandy
Lands.

XXII. And be it further enacted, That the said Commissioner shall immediately after making such Allotment as aforesaid, divide, set out, and allot

allot the Residue of the Lands and Grounds hereby intended to be divided and inclosed, (except the said Lands commonly called or known by the Name of *Sandy Lands*), unto and amongst the several Owners and Proprietors of ancient Messuages, Cottages, and Tofts called *Frontsteads*, having Right of Common on the same Lands and Grounds, in Proportion and according to the Number of such Messuages, Cottages, and Tofts, which each such Owner and Proprietor shall have or be entitled to, in such Situations, Quantities, Shares, and Proportions, as by the said Commissioner shall be adjudged and directed.

XXIII. And be it further enacted, That the said Commissioner shall immediately after making the several Allotments as aforesaid, divide, set out, and allot the Whole of the aforesaid Lands commonly called or known by the Name of *Sandy Lands*, unto and amongst the several and respective Persons who at the Time of making such Allotments shall be entitled to any Estate, Property, Right, or Interest therein, in such Situations, Quantities, Shares, and Proportions, as by the said Commissioner shall be adjudged and directed, all which said Lands called *Sandy Lands*, shall for ever after the same shall be set out as aforesaid, be deemed of such Tenure or Nature as by the said Commissioner shall be declared and directed; and such Part thereof as shall be so declared to be of the Tenure or Nature of Freehold, shall from thenceforth be deemed within the Township of *Wartbill*, but within the Manor and Parish of *Holtby* aforesaid; and such Part thereof as shall be so declared to be of the Tenure or Nature of Copyhold, shall be deemed from thenceforth within the Parish and Township of *Wartbill* aforesaid.

Allotment of
Sandy Lands.

XXIV. And be it further enacted, That all and every the Allotment and Allotments, Lands and Grounds which shall be allotted to the said Rector and Vicar in lieu of Tythes as aforesaid, shall within Six Calendar Months next after the staking and setting out such Allotment or Allotments be well and sufficiently inclosed and fenced with an outward or Ring Fence, planted with good transplanted Quickwood, and guarded with good Oak Posts and Three good riven Rails, or Two sawn Fir Rails between such Posts, together with proper Gates and Oak Gate Posts, and proper Iron Work for the hanging such Gates, and be well and sufficiently ditched; such Posts and Rails, where such Ring Fence shall adjoin a public or private Road, to be set and fixed on the Outside of the Ditches, at any Distance not exceeding Four Feet from such Quickwood or Quicksets, by and under the Direction of the said Commissioner, at the Expence of the other Owners and Proprietors of Messuages, Cottages, and Tofts called *Frontsteads*, within the said Township of *Wartbill*, having Right of Common on the Lands and Grounds hereby intended to be divided and inclosed; and such Proportion of the said Fences as the said Commissioner shall adjudge reasonable, and direct and appoint, shall be for ever afterwards repaired, supported, and maintained by the said Rector and Vicar and their Successors, some or one of them.

The Rector's
and Vicar's
Allotments to
be fenced at
the Expence
of the other
Proprietors.

XXV. And be it further enacted, That such of the said Proprietors, the Fence and Ditch, or Fences and Ditches of whose Allotment or Allotments shall abut against the Side of the Ditch or Ditches of any other Allotment or Allotments, or of any Lands already inclosed, shall be at Liberty and are hereby empowered from the Time of staking out of the

Fences.

Several Allotments hereby directed to be made, to set and place, and from Time to Time maintain, and at all Times hereafter continue, Rails across the Ditch or Ditches of such Allotment or Allotments, or of such Lands already inclosed, and Posts upon the Bank or Banks of such other Allotment or Allotments, or of such Lands already inclosed, adjoining and contiguous thereto.

**Preservation
of Fences.**

XXVI. And for the more effectual Preservation of the Quick Fences to be planted and set for dividing and separating the Lands and Grounds hereby intended to be divided and inclosed, be it further enacted, That it shall not be lawful for any Person or Persons to depasture, either with Horses, Asses, Sheep, Lambs, Cattle, Pigs, or Geese, any of the Highways or Lanes which shall be made by virtue of this or the said recited Act, for the Term of Fifteen Years next after the respective Allotments shall be set out, and the Fences made; nor shall it be lawful for any Person or Persons whomsoever to keep or depasture any Horses, Asses, Sheep, Lambs, Cattle, Pigs, or Geese, in any of the Allotments to be made by virtue of this Act, for the Term of Fifteen Years next after such Allotments shall be made as aforesaid, unless the Person or Persons so keeping or depasturing the same, shall first make or cause to be made a Fence sufficient to guard the young Quick Fences round such Allotments from being cropped, hurt, or damaged by any such Horses, Asses, Sheep, Lambs, Cattle, Pigs, or Geese, whether such young Quick Fences be planted or set by the Person or Persons owning or occupying such Allotments as aforesaid, or by any Person or Persons owning or occupying the Allotments adjoining thereto.

**In case any
Person shall
sell his Com-
mon Right,
the Allot-
ment to be
made to the
Purchaser.**

XXVII. Provided always, and be it further enacted, That if any Person hath sold, or shall at any Time before the Execution of the Award of the said Commissioner, sell his or her Right, Interest, or Property, in, over, or upon the Lands and Grounds hereby intended to be divided and inclosed, or any Part thereof, to any other Person or Persons, then and in every such Case it shall be lawful for the said Commissioner, and he is hereby directed, authorized, and required to make an Allotment of Land unto the Vendee or Purchaser named in such Sale, and to his, her, or their Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold or to be sold as aforesaid; and every such Vendee or Purchaser, and his, her, or their Heirs and Assigns shall and may from and after the Execution of the said Award, hold and enjoy the said Land so to be allotted to him, her, or them as aforesaid, in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Interest or Property had been vested in such Vendee at the Time of making such Allotment as aforesaid.

**Allotments
to be of the
same Tenure
as the Mes-
suages, &c.
in Right of
which such
Allotments
shall be made.**

XXVIII. And be it further enacted, That such Parts of the Lands and Grounds hereby intended to be divided and inclosed, (except the said Lands commonly called or known by the Name of *Sandy Lands*), as shall be set out by virtue of this or the said recited Act, to or for any Person or Persons, for or in respect of any Messuages, Cottages, or Totts called *Frontsteads*, held of the said Manor of *Wartbill* with *North Newbald* and *Cave* by Copy of Court Roll, or for or in respect of any Messuages, Cottages, or Totts called *Frontsteads*, held by Lease under the said Prebendary of *Wartbill*, shall from and after the same shall be so set out, be deemed within

within the Parish and Township of *Wartbill* aforesaid, and held by and under the same Tenure, Customs, and Services, as the Copyhold and Leasehold Messuages, Cottages, or Tofts called *Frontsteads* respectively last mentioned, for or in respect whereof such Allotments shall be made, are now held; and that such Parts of the said Lands commonly called or known by the Name of *Sandy Lands*, as shall by the Award of the said Commissioner be declared Copyhold, and such Parts of the Lands and Grounds hereby intended to be divided and inclosed as shall be set out by virtue of this or the said recited Act to any Person or Persons for or in respect of any such last-mentioned Copyhold Messuages, Cottages, or Tofts called *Frontsteads*, shall be subject to, and the Owner or Owners thereof shall pay to the Lord of the said Manor of *Wartbill* with *North Newbald* and *Cave* the accustomed Fine of Sixpence *per Acre* for every Statute Acre, and so in Proportion for less than an Acre, on Admittance to, or upon Descent, Devise, or Surrender of the same Lands and Grounds, but no further or other Fine; and such Parts of the said Lands and Grounds hereby intended to be divided and inclosed, (except the said Lands commonly called or known by the Name of *Sandy Lands*), as shall be set out by virtue of this or the said recited Act to any Person or Persons, for or in respect of any Messuages, Cottages, or Tofts called *Frontsteads*, of the Tenure or Nature of Freehold, shall from and after the same shall be so set out, be deemed to be of the Tenure or Nature of Freehold within the said Township of *Wartbill*, but within the Manor and Parish of *Holtby* aforesaid, except the Allotment or Allotments that shall or may be set out to or for the said *Thomas Rook* as Lessee of the Prebendary of *Wartbill* aforesaid, which shall for ever afterwards be deemed within the Parish and Township of *Wartbill* aforesaid; and the said excepted Lands commonly called or known by the Name of *Sandy Lands*, shall from and after the same shall be set out as aforesaid, be deemed of such Tenure and Nature, and within such Parish and Township as is herein-before mentioned of and concerning the same.

XXIX. And be it further enacted, That it shall be lawful for the said Commissioner to set out, allot, and award any Messuages, Cottages, Lands, Tenements, or Hereditaments within the said Township of *Wartbill* and Parish of *Holtby*, or either of them, in lieu of and in exchange for any other Messuages, Cottages, Lands, Tenements, or Hereditaments within the same Township and Parish, or either of them, or within any adjoining Parish, Hamlet, Manor, Township, or Place, provided that all such Exchanges be ascertained, specified, and declared, in the Award of the said Commissioner, or in any Instrument under his Hand and Seal, to be annexed thereto, and deposited in like Manner and at the same Place as the Award of the said Commissioner is herein-before directed to be deposited, or in or by any Instrument or Instruments in Writing, to be by him signed and sealed at any Time after the Execution of such Award, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple, or in Fee Tail general or special, or for Life, or by the Courtesy of *England*, or for Years 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 or Owners as aforesaid, who at the Time of making such Exchange or

For making
Exchanges.

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 the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every Exchange and Exchanges so to be made, shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Messuages, Cottages, Lands, Tenements, or 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 such Messuages, Cottages, Lands, Tenements, Tithes, Rents, or Hereditaments so to be exchanged shall lie or be situate.

Expences of Exchanges and Partitions, by whom made.

XXX. And be it further enacted, That the Costs, Charges, and Expences attending the making and completing of any Exchanges or Partitions to be made under or by virtue of the said recited Act or this Act, shall be paid, borne, and defrayed by the several Persons consenting to the making such Exchange, in such Manner and in such Shares and Proportions as the said Commissioner shall by his Award order and direct.

Vacating Leases.

XXXI. And be it further enacted, That all subsisting Leases and other Agreements at Rack Rent of all or any Part of the Lands and Grounds hereby intended to be divided and inclosed, or taken in Exchange, shall immediately after such Lands and Grounds, or any of them, shall be set out, or as soon after as the Commissioner shall by his Award direct, cease, determine, and be void, (in case the Lessor and Lessees do not otherwise agree amongst themselves), and the respective Owners and Proprietors of the Lands or Grounds comprized in such Leases or Agreements respectively, or any Part or Parts thereof, shall make such Satisfaction to their respective Lessees or Tenants for any Loss or Prejudice they may respectively sustain thereby as the said Commissioner shall adjudge and ascertain, by Writing under his Hand, as a reasonable Recompence to be paid to such Lessees or Tenants by way of Equivalent for their respective Terms and Interests therein: Provided always, that if there shall be any Lease or Leases of Lands, Tenements, or Hereditaments, Part of which shall lie in the said Township of *Wartbill*, and Part in any adjoining Township, Parish, or Place, all and every such Lease or Leases upon Rack Rent now subsisting shall be vacated, but where any Lands, Tenements, or Hereditaments shall have been taken in Exchange, which Lands, Tenements, or Hereditaments shall be under Lease, and wholly situate in an adjoining Township or Parish, the Lease of such last-mentioned Lands, Tenements, or Hereditaments shall not be vacated.

Wills and Settlements not to be affected.

XXXII. Provided always, and be it enacted, That nothing herein contained shall extend or be contrived to extend to revoke, alter, or annul any Deed, Will, Surrender, Settlement, or Lease, or to prejudice any Person having or claiming any Right, Interest, or Charge whatsoever, in, to, or upon, or any Ways affecting any of the Lands so to be divided, inclosed, or exchanged as aforesaid, or any of the said old Inclosures, but that the Lands and Grounds which shall be allotted to the said Proprietors respectively, or their respective Heirs, Successors, Executors, Administrators,

tors or Assigns, or which shall be exchanged as aforesaid, shall be taken, held, and enjoyed, and the several Persons or Bodies Corporate or Sole, to whom the same shall be respectively allotted or awarded, shall from thenceforth stand and be seized thereof to; for, and upon such and the same Uses and Trusts, and for such and the same Estates, and under and subject to such and the same Limitations, Remainders, Leases and Incumbrances respectively, as the several Lands, Grounds, Tythes and Hereditaments, in lieu or in respect whereof such Allotments or Exchanges shall be made, should or would have been subject and liable to be charged with and affected by in case such Division and Allotment, or Exchanges had not been made, and the Lands and Grounds which before the making such Division, Allotment or Exchanges, were subject and liable to; and all the Persons to whom the same shall be respectively allotted or given in Exchange, shall from the Time of making such Division, Allotment or Exchange respectively, be discharged therefrom.

XXXIII. And be it further enacted, That from and after the staking or setting out of such Allotment or Allotments as aforesaid to or for the said Rector and Vicar, all and all Manner of Tythes as well Great as Small, Oblations, Obventions, and other Ecclesiastical Dues and Payments (Mortuaries, *Easter Offerings*, and *Surplice Fees* excepted) arising or to arise within the said Parish and Township of *Warthill* or either of them, shall cease and be no longer paid or payable.

Declaring when Tythes shall cease.

XXXIV. And be it further enacted, That the said Commissioner shall be paid the Sum of Three Pounds and Three Shillings for each and every Day that he shall be employed in, or travel, or be from Home for the Purpose of executing this Act, or the Trusts hereby in him reposed, and for his Journies, Attendance and Expences occasioned by the said Division and Inclosure, and for putting this Act into Execution, which Allowances and Payments, and also the Costs, Charges, and Expences in and about the preparing, soliciting, and obtaining this Act, and the surveying, valuing, dividing, and allotting the Lands and Grounds hereby intended to be divided and inclosed, and any other Lands, Tenements or Hereditaments in pursuance of this or the said recited Act, and all the Charges of the said Commissioner in and about the making and depositing such Award, and all other Writings or Instruments to be signed or sealed by the said Commissioner, and the Charges of every Person to be employed by him in and about the Execution of this Act, and all other the Costs, Charges, and Expences of the said Commissioner, in, about and concerning the Execution hereof, shall from Time to Time be borne and paid by the respective Owners and Proprietors of Messuages, Cottages or Tofts, Lands, Tenements or Hereditaments, to whom any Allotment or Allotments shall be made by virtue of this Act, and who shall have the immediate Possession thereof or Interest therein or thereto, (except the said Rector of *Holtby* and Vicar of *Warthill*, and their Successors for the Time being, in respect only of any Allotment or Allotments to be made to them in lieu of Tythes, but not in respect of any other Allotment or Allotments to be made to them in any other Right), in such Shares and Proportions, and shall be paid to such Person or Persons, and at such Time or Times as shall be settled, adjusted, determined, and directed by the said Commissioner by any Writing under his Hand; and in case any Person shall refuse or neglect to pay his, her, or their Share or Proportion of such Charges and

Payment to Commissioner and Expences of the Act.

Expences within the Time limited by the said Commissioner, then and in such Case the same shall and may be levied and recovered in such and the same Manner as is provided or mentioned by the said recited Act.

Money advanced to bear Interest.

XXXV. And be it further enacted, That such Person or Persons as shall advance any Money for defraying the Expences of applying for, soliciting and obtaining this Act, or carrying the same into Execution, shall be repaid such Money with lawful Interest for the same, out of the first Money which shall be raised by virtue of this Act.

Commissioner to account.

XXXVI. And be it further enacted, That once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of the passing of this Act) the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble or Expences in the Execution of this and the said recited Act, and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by him laid before any Justice of the Peace (not interested in the Premises) for the said North Riding of the County of York, to be by him examined and balanced, and such Balance shall be by such Justice as aforesaid stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner, and no Charge or Item in such Account shall be binding on the Parties concerned or valid in Law, unless the same shall have been duly allowed by such Justice as aforesaid.

Award.

XXXVII. And be it further enacted, That the Award to be made by virtue of this and the said recited Act or either of them, and any Map or Maps, Plan or Plans, which shall or may be annexed thereto, instead of being inrolled as by the said recited Act is directed, shall be deposited within Twelve Calendar Months after the Execution thereof, or as soon as conveniently may be, with the Register or his Deputy for the Time being of the Register Office kept at *Northallerton*, in and for the North Riding of the said County of York, who is hereby required to receive the said Award, and any Instrument or Instruments that shall or may be annexed thereto by virtue of this or the said recited Act, upon being paid the Sum of One Guinea as a Fee for so doing, and to keep the same at the said Register Office, to the End that Recourse may be had thereto at all Times hereafter, by all Persons whomsoever, for the Perusal whereof no more than One Shilling shall be paid; and a Copy of the said Award, and of any Instrument or Instruments that shall or may be annexed thereto as aforesaid, or any Part thereof, signed by the said Register or his Deputy for the Time being, purporting the same to be a true Copy, shall from Time to Time be made and delivered by such Register or his Deputy for the Time being as aforesaid, to any Person requesting the same, for which no more shall be paid than Two-pence for every Sheet of Seventy-two Words; and a Copy of the said Award, together with a Plan annexed thereto, shall be put into a Tin Box, and deposited by the said Commissioner in the Parish Church of *Wartbill* aforesaid.

Appeal.

XXXVIII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done or omitted to be done in pursuance of this Act or the said recited Act, then and in every such Case (except where the Orders and Determinations

of the said Commissioner by the said recited Act or this Act are declared to be final, binding or conclusive, and except in such Cases where an Issue at Law shall be tried as herein-before mentioned), he, she, or they may appeal to the Quarter Sessions of the Peace to be holden for the North Riding of the said County of *York*, within Six Calendar Months next after the Cause of Complaint shall have arisen, and the said Justices in their said Quarter Sessions, on Proof of due Notice of the said Appeal, and the Matter and Cause thereof, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and award such Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such 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, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

XXXIX. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to the Lord of the Manor of *Holtby* aforesaid, and of the said Manor of *Warthill* with *North Newbald* and *Cave*, and to all and every Person and Persons, Body or Bodies Politic, Corporate or Collegiate, his, her, and their respective Heirs, Successors, Executors and Administrators, all such Estate, Right, Title and Interest, Estates, Rights, Titles and Interests, (other than and except such as is and are hereby meant and intended to be barred, destroyed and extinguished), as they, every, or any of them could or ought to have had and enjoyed, of, in, to, or out of the Lands and Grounds hereby intended to be divided, allotted and inclosed, in case this Act had not been made. General Saving.

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 a Copy thereof so printed by any of them, shall be admitted as Evidence thereof by all Judges, Justices, and others. Act to be printed by the King's Printers.

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

