ANNO TRICESIMO TERTIO

Georgii III. Regis.

CAP. CVIII.

An Act for draining, dividing, incloſing, and improving all the Moor Lands in the Townſhips of *Redneſs* and *Swineſleet*, in the Pariſh of *Whitgift*, in the Weſt Riding of the County of *York*. [3d *June* 1793.]



WHEREAS there are within the Townſhips of Redneſs and Swineſleet, in the Pariſh of Whitgift, in the Weſt Riding of the County of York, ſeveral Parcels of Open Lands called The Moors, containing, by Eſtimation, Two thouſand Acres, or thereabouts: And whereas Robert Haldenby, of Redneſs aforeſaid, Gentleman, is Lord of the Manor of Whitgift aforeſaid, which extends over the ſaid Townſhips of Redneſs and Swineſleet: And whereas Nicholas Yarburgh Eſquire, is Patron of the Pariſh Church of Whitgift aforeſaid; and the Reverend Henry Simpſon Clerk, is the preſent Incumbent of the ſaid Pariſh Church, and in Right thereof is entitled Preamble.

entitled to certain Lands in the said Woods: And whereas John Arthur Worsop Esquire, is the Owner or Impropriator of all the Great and Rectorial Tythes within the said Township of Redness; and John Dunn, and Samuel Laverack, in the Right of his Wife, are the Owners or Impropriators of all the Great or Rectorial Tythes within the said Township of Swinefleet (except certain Lands called The Key Field, and the Inclosures taken therefrom); and Cornelius Stovin Esquire, is the Owner or Impropriator of all the Vicarial or Small Tythes within the said Townships of Redness and Swinefleet (except the Small Tythes of the said Key Field, and the Inclosures taken therefrom): And whereas as well the said Robert Haldenby, John Arthur Worsop, Cornelius Stovin, John Dunn, and Samuel Laverack; as also William Sotheron, James Stovin, and James Empson, Esquires; the Reverend Amaziah Empson Clerk, John Egremont, Robert Vickers, and Thomas Parker, Gentlemen, and others, are respectively Owners of the said Wood Lands: And whereas the said Lands are frequently overflowed, and always much annoyed by Water, and are thereby rendered of very little Value to the Owners thereof; and the said Lands also lie dispersed in small Parcels, and on that Account are very inconveniently situated; but the same are capable of Cultivation and Improvement, and it would be very advantageous to the several Persons interested therein, and would be also of publick Utility, if the same were drained, and specifick Allotments made to the Proprietors thereof, according to their respective Rights and Interests therein, and such Allotments inclosed: But, as such Drainage, Allotments, Division, and Inclosure cannot be effectually made and established without the Aid and Authority of Parliament, may it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That Thomas Mould of Knedlington in the said County of York, and John Wood of North Cave in the said County, Gentlemen, and their Successors, to be appointed in Manner herein-after mentioned, shall be, and they are hereby appointed Commissioners for draining, dividing, allotting, and inclosing the said Lands and Grounds, and for carrying this Act into Execution.

Commissioners.

II. And be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of

this Act (except it be the Power hereby given of administering Oaths, and of giving Notice of the First Meeting), or of acting as an Umpire or Surveyor as hereinafter mentioned, until he shall have taken and subscribed an Oath in the Words or to the following Effect; (that is to say),

Commissioners Oath.

I *A. B.* do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgement, execute the several Trusts, Powers, and Authorities reposed in me as a Commissioner [*or*, as Umpire or Surveyor] by virtue of an Act of Parliament, *for draining, dividing, inclosing, and improving all the Moor Lands in the Townships of* Redness *and* Swinefleet, *in the Parish of* Whitgift, *in the West Riding of the County of* York, without Favour or Affection to any Person or Persons whomsoever.

So help me GOD.

Survey to be made.

III. And be it further enacted, That, for the just and regular Division of the said Lands and Grounds hereby directed to be divided and inclosed, a Survey and Admeasurement thereof shall be made by Thomas Ella, of Ouzefleet, in the Parish of Whitgift aforesaid, Gentleman, or, in case of his Death or Refusal to act, by such other Person or Persons as the said Commissioners shall appoint; and such Survey and Admeasurement shall be reduced into Writing, and the Number of Acres, Roods, and Perches contained in the Lands and Grounds hereby directed to be divided and inclosed, shall be therein set forth and ascertained, and such Survey and Admeasurement shall be laid before the said Commissioners, to be used by them for the Purposes of this Act.

Surveyor impowered to enter.

IV. And be it further enacted, That the said Commissioners, and the said Surveyor or Surveyors, together with such other Person or Persons as shall be employed by him or them, shall have full Power and Authority, at any Time, until the said intended Inclosure shall be completed, to enter upon, view, examine, and admeasure the said Lands and Grounds hereby directed to be divided and inclosed.

Notice of Meetings.

V. And be it further enacted, That the said Commissioners shall cause publick Notice to be given in the Parish Church of Whitgift aforesaid, upon the Morning of some Sunday, either during or immediately before or after Divine Service, of the Time and Place of their First and every subsequent Meeting, for executing the Powers hereby vested in them, at least Ten Days previous to every such Meeting (Meetings by Adjournment

ment only excepted); and if at any Meeting to be holden as aforesaid, only One of the said Commissioners shall attend, such Commissioner may adjourn such Meeting to such Place, within the said Townships of Redness and Swinefleet, or either of them, and until such Time as he shall think most convenient.

Power to ascertain Boundaries between Townships.

VI. And whereas Disputes may arise between the Proprietors of, or Persons interested in, the said Townships of Redness and Swinefleet aforesaid, or One of them, and the Proprietors of, or Persons interested in, some adjoining Parish, Lordship, or Liberty, with respect to the Boundary of some Part of the Lands to be divided and inclosed as aforesaid; in order therefore to settle all such Disputes, be it further enacted, That the said Commissioners shall cause Notice in Writing to be given to the Proprietors of, or Persons interested in, such adjoining Parish, Lordship, or Liberty, in respect of which such Disputes may happen, of their Intention to set out the Boundaries of the said Lordships of Redness and Swinefleet, by affixing such Notice upon the Door of the Parish Church of Whitgift aforesaid, and the Door of the Church or Chapel of such adjoining Parish, Lordship, or Liberty respectively, upon some Sunday, Ten Days at least before the Time of setting out such Boundaries, and after the Expiration of the Time to be specified in such Notice, the said Commissioners are hereby required, as well by the Examination of Witnesses upon Oath, if they shall think proper, (in which Case either of them is hereby impowered to administer such Oath), as upon any other Enquiry or Evidence legally admissible, to set out, fix, and determine the Boundaries of the said Lands and Grounds so to be inclosed, belonging to the said Townships of Redness and Swinefleet.

Disputes respecting Boundaries may be settled by a Trial at Law.

VII. Provided nevertheless, and be it further enacted, That in case a Majority, in Value, of the Proprietors of the Moor Lands hereby directed to be divided and inclosed, or a Majority, in Value, of the Proprietors of Moor Lands within such adjoining Parish, Lordship, or Liberty, shall be dissatisfied with the Determination of the said Commissioners, or the Umpire herein-after mentioned (as the Case may be) with respect to the said Boundaries, and being desirous of having the same settled by a Trial at Law, shall, by Writing under their Hands, signify to the said Commissioners, or to the Solicitor acting under them in the Business of the said Inclosure, such Desire, within Twenty Days after the said Boundaries shall have been so fixed by the said

Commissioners or Umpire, it shall be lawful for such Proprietors respectively to have the same settled and determined by a Trial at Law, upon an Action to be brought by any Two or more of them, against any Two or more of the Proprietors of the said Woor Lands within such Township, in whose Favour the Determination of the said Commissioners or Umpire shall have been made, upon a feigned Issue, to be settled by the proper Officer of the Court in which such Action shall be brought, in case the Parties differ about the same; and the Defendants in such Action shall, and they are hereby required to appear to such Action, accept a Declaration, and plead to Issue; and the Plaintiffs in such Action shall proceed therein, so that the same may be tried and determined at the First or Second Assizes to be holden for the County of York next after the Decision of the said Commissioners or Umpire; and the Verdict to be given in such Action, if not set aside by the Court out of which the Record shall issue, shall be final and conclusive, as well upon the Parties Plaintiffs or Defendants in the said Action, as upon all Parties and Persons whomsoever, with respect to the said Boundaries; but in case such Verdict shall be set aside by the Court out of which such Record shall issue, then a new Trial shall be had at the next succeeding Assizes for the County of York, in Manner and Form aforesaid, and so on toties quoties, as often as the Case may happen; provided that in case no such Notice as aforesaid shall be given, or the said Action shall not be commenced, proceeded in, or brought to Trial, in Manner herein-before directed, every Determination of the said Commissioners, or the said Umpire, respecting the Question of Boundary, shall be allowed, and shall be final, binding, and conclusive upon all Parties and Persons, and shall never afterwards be litigated, controverted, or disputed.

If Parties die pending any Action, Suit not to abate.

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

Costs of Actions to be paid by the unsuccessful Party.

IX. And be it further enacted, That the Costs and Charges of bringing and prosecuting such Action or Actions respecting the said Boundaries as aforesaid, and all other Costs, Charges, and Expences incident thereto, or occasioned thereby, shall be borne and paid by the several Owners or Proprietors of Woor Lands within the Township,

ſhip, Lordſhip, Pariſh, or Liberty, againſt which the Verdict or Verdicts in ſuch Action or Actions ſhall be given, and ſhall be levied and aſſeſſed by the ſaid Commiſſioners, in ſuch Manner and Proportions as the ſaid Commiſſioners ſhall think proper, and under the ſame Powers as are herein-after given for raiſing and defraying the Expences of obtaining and executing this Act, and in either Caſe the Coſts and Expences of ſuch Action or Actions ſhall be ſettled by the proper Officer of the Court in which the ſame ſhall be brought.

Commiſſioners to enlarge or make Drains and Cuts, and to erect Engines and Works.

X. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized, impowered, and required (by ſuch Workmen and Agents, Ways and Means, as they ſhall think fit) to enlarge, alter, deepen, or improve any of the ancient Drains and Sewers already made for the Purpoſe of draining or carrying off the Water from the Lands and Grounds within the ſaid Townſhips, or either of them, and to enlarge, raiſe, widen, or otherwiſe alter and improve any of the Cloughs, Arches, Bridges, or other Works already made for the like Purpoſe; and alſo to cauſe to be made any new Cuts, Cloughs, Drains, Dams, Ditches, Sewers, Banks, Embankments, Barriers, Engines, and other Works, in, through, and upon any Part or Parts of the Lands and Grounds hereby directed to be divided and incloſed, and alſo in, through, and upon any other Lands and Grounds within the reſpective Townſhips of Redneſs and Swinefleet, or either of them; and alſo to cauſe any Tunnels to be made under any Ways or Roads within either of the ſaid Townſhips, as they the ſaid Commiſſioners ſhall from Time to Time think neceſſary or convenient, for the effectual draining of the ſaid Lands and Grounds herein directed to be drained and incloſed; and alſo to make ſuch Orders and give ſuch Directions for preſerving ſuch Works, and for executing the Drainage of ſuch Lands and Grounds, or any Part or Parts thereof, as they the ſaid Commiſſioners ſhall think proper; and ſuch reaſonable Satisfaction for the cutting, making, or erecting ſuch Cuts, Drains, Banks, Engines, or Tunnels, or for the doing of any ſuch other Works as ſhall be ſo made, erected, or done as aforeſaid, in, through, or upon any Lands or Grounds, (not being Part of the Lands and Grounds hereby directed to be incloſed and drained), ſhall be made to the Owner or Owners, or Occupier or Occupiers of ſuch Lands, for the Damages he, ſhe, or they ſhall thereby ſuſtain, as ſhall be agreed upon between the ſaid Commiſſioners and ſuch Owner or Owners, Occupier or Occupiers reſpectively; but if the ſaid Commiſſioners,

missioners, and such Owner or Owners, Occupier or Occupiers, cannot agree concerning the Amount of such Damages, then the same shall be assessed, adjudged, and finally determined by the Justices assembled at the next or some other General Quarter Sessions of the Peace for the West Riding of the County of York, upon Complaint thereof made at such Quarter Sessions by such Owner or Owners, Occupier or Occupiers, respectively, Notice thereof in Writing being given by him, her, or them, to any such Commissioner or Commissioners, Twenty Days before such Complaint be made.

XI. Provided always, and be it further enacted, That if by the taking or using any of such ancient Sewers, or Drains, or other Works, for the Purpose of draining the said Moor Lands as aforesaid, such Sewers, Drains, or other Works shall become insufficient for the former Purposes or Uses thereof, then, and in every such Case, the said Commissioners shall, and they are hereby required to make, or cause to be made, other good and effectual Sewers, Drains, and other Works, in lieu of those so taken or used as aforesaid.

Claims to be made at or before the Third Meeting.

XII. And be it further enacted, That all Persons having or claiming any Right or other Interest in the said Lands and Grounds hereby intended to be divided and inclosed, shall by themselves, their Agents or Servants, respectively, at or before the Third Meeting of the said Commissioners, (Meetings by Adjournment only excepted), give and deliver to the said Commissioners, in Writing under their respective Hands, their several Claims; and all and every Person and Persons neglecting so to give or deliver, or cause to be given or delivered, such Claims as aforesaid, shall be excluded and debarred from all Right and Title in or to the said Lands and Grounds hereby intended to be divided and inclosed, and from any Part, Share, and Allotment in lieu thereof, and also from all Right, Title, and Interest whatsoever, of, in, or to the several Parts to be allotted to any Person or Persons by virtue of this Act; and no Claim of any Right or Interest upon or in the said Lands and Grounds hereby directed to be divided and inclosed, shall be made or received except at or before the said Third Meeting; and that every such Claim shall be produced by the said Commissioners, at the Request of any Proprietor interested in the said intended Inclosure, who shall have Liberty to inspect and examine the same; and all and every Person and Persons having so claimed as aforesaid, and whose Claim or Claims being objected to shall neglect or refuse, for the Space of Twenty Days after

Notice thereof, in Writing, shall be given to him, her, or them, or left at his, her, or their last or most usual Place of Abode, signed by the said Commissioners, to produce Evidence in support, and prove to the Satisfaction of the said Commissioners, his, her, or their Right in respect of such objected Claim or Claims, (such Person or Persons being of lawful Age, and not under any legal Disability), it shall be lawful for the said Commissioners to exclude any such Person or Persons from any Share in the said intended Division and Inclosure, unless the said Commissioners shall have sufficient Cause to prolong the Time for producing Evidence in support of such objected Claim or Claims.

Commissioners to settle Disputes.

XIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested in the said intended Division and Inclosure, touching the respective Shares and Proportions which they, or any of them, shall claim to have upon such Division or Inclosure, the said Commissioners shall, by Examination of Witnesses upon Oath, (which Oath they are hereby impowered to administer), and upon other proper and legal Enquiry and Evidence, to hear and determine the same, and such Determination shall be final, binding, and conclusive upon all Parties; but no such Determination shall hinder or prevent any of the Parties from trying their Rights at Law in respect of any Matter of Title, nor shall any Trial to be had thereupon in anywise obstruct or hinder the Execution of this Act, but the said Commissioners shall set out the Land, which shall be allotted in Right of such disputed or litigated Property, in such Manner that it may be distinguished from any other Lands, and may be had and taken by the Person or Persons who, upon the Determination of any such Difference or Suit, may become entitled to the same.

Commissioners Determination not to affect Titles.

Power to summon Witnesses.

XIV. And be it further enacted, That, for the better enabling the said Commissioners to hear and determine all Disputes, Differences, Matters, and Things hereby referred to them, it shall be lawful for them, whenever they shall think fit, by any Writing under their Hands, to summon and require any Person or Persons to appear before them at the Day and Place in such Writing to be named, then and there to testify the Truth touching any Matter in Difference between any of the Proprietors of or Persons interested in the said intended Division and Inclosure, and to cause a true Copy of such Writing to be served upon or left at the last or usual Place of Abode of such Person required to appear and testify; and every such Person so summoned, who shall not appear before

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the said Commissioners pursuant to such Summons, or in case of his or her Appearance shall refuse to be sworn or give Evidence, (the reasonable Charges of his or her Attendance, to be settled by the said Commissioners, being paid or tendered to him or her), and being convicted thereof before any Justice of the Peace for the West Riding of the County of York (not being a Party interested), upon Information thereof made upon Oath before such Justice, shall forfeit and pay such Sum of Money, not exceeding Five Pounds nor less than Forty Shillings, as such Justice shall think reasonable, to the Use of the Person or Persons who caused such Witness to be summoned, to be levied by Warrant of any such Justice, by Distress and Sale of the Goods and Chattels of the Person so convicted, together with reasonable Costs, returning the Overplus (if any) to the Owner of such Goods and Chattels.

Roads to be set out.

XV. And be it further enacted, That the said Commissioners shall, before any Allotment shall be fenced, set out and appoint such publick Carriage Roads, in, over, and upon the Lands and Grounds hereby intended to be divided and inclosed, as they shall think necessary and proper, all which Roads shall be and remain of the Breadth of Forty Feet at the least between the Ditches, and shall be well and sufficiently fenced out, on both Sides, by such of the Owners and Proprietors of the said Lands and Grounds, and within such Time, as the said Commissioners shall direct; and it shall not be lawful for any Person to erect any Gate across any of the said Roads, or to plant any Trees in or near the Hedges on the Sides thereof, at a less Distance from each other than Fifty Yards; and after the said Roads shall have been set out as aforesaid, the said Commissioners shall, by Writing under their Hands, appoint some proper Person to be Surveyor thereof, who shall cause the same to be formed, and put in good and sufficient Repair, and shall be allowed such Salary or Reward for his Trouble as the said Commissioners shall direct, which Salary or Reward, and also the Expence (over and above the Statute Duty) of forming the said Roads, and putting the same in good and sufficient Repair, shall be borne and paid by the several Persons interested in the said intended Inclosure, (other than and except the Vicar for the Time being), and shall be raised by a Rate to be laid on such Persons, according to their respective Rights or Interests, to be ascertained by the said Commissioners, such Rate to be laid and assessed by the said Commissioners, or by any Justice of the Peace for the West Riding of the

County of York, upon Application made for that Purpose by the said Surveyor, and to be collected and received by such Person as the said Commissioners or Justice, by whom such Rate shall be laid and assessed, shall by Writing appoint; and in case any Person shall neglect or refuse to pay his or her Share of the said Rate within Five Days next after Demand made thereof, the same shall be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing, by Warrant under the Hands and Seals of the Commissioners, or Hand and Seal of any Justice of the Peace for the West Riding of the County of York, which Warrant the said Commissioners or Justice are or is hereby impowered to grant upon Information upon Oath (which Oath they or he are or is hereby authorized to administer) of such Demand, and Neglect or Refusal as aforesaid, returning the Overplus (if any) to the Owner of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; and that none of the Inhabitants of the said Townships, other than the Persons interested in the said Lands and Grounds hereby directed to be divided and inclosed, shall be charged (over and above the Statute Duty) towards the forming or repairing the said Roads, until the same shall be made fit for the Passage of Travellers and Carriages, and shall have been certified so to be by the said Surveyor, by Writing under his Hand, to be delivered to the Justices at the next Quarter Sessions of the Peace to be holden for the West Riding of the County of York, after the said Roads shall have been formed and put in good and sufficient Repair as aforesaid, and within the Space of Two Years next after the Execution of the said Award, unless sufficient Reason be given, to the Satisfaction of the said Justices, that a further Time is necessary for that Purpose, in which Case the said Justices are empowered to allow such further Time as they shall think proper, not exceeding One Year; and in case the said Surveyor shall neglect or refuse to deliver in such Certificate within the Time before limited, or such further Time as shall be allowed him for that Purpose by the said Justices as aforesaid, he shall forfeit and pay the Sum of Five Pounds, to be recovered in like Manner as the Rate is herein-after directed to be recovered, and the same shall be applied in Aid of the said Rate; and that after such Certificate shall have been delivered to the said Justices by the said Surveyor as aforesaid, and shall have been by them allowed and confirmed, the said Roads shall be supported and kept in Repair in the same Manner as the

other publick Roads within the said Townships are by Law to be amended and kept in Repair; and the said Commissioners shall also set out and appoint such publick Bridle Roads and Foot-ways, and private Roads and Ways, and make and erect such Banks, Ditches, Drains, Watercourses, Bridges, Stiles, and other Conveniences, in, over, and upon the Lands and Grounds hereby intended to be divided and inclosed, as they shall think requisite; and the same shall be made and erected, and at all Times thereafter cleansed, maintained, and kept in Repair, by such Persons, and in such Manner, as the said Commissioners shall in their Award direct; and after the said several publick and private Roads and Ways shall have been set out and made as aforesaid, it shall not be lawful for any Person to use any other Roads or Ways, either publick or private, over or upon the said Lands and Grounds; and that all former Roads and Ways, which shall not be set out and appointed as the Roads and Ways through or over the said Lands and Grounds, shall be deemed Part of the Lands and Grounds hereby intended to be divided and inclosed: And the said Commissioners are hereby also impowered to divert, or stop up, and by their said Award order and direct to be discontinued, such of the present publick and private Carriage and Foot Roads and Highways (Turnpike Roads only excepted) leading through or over the said Lands and Grounds hereby directed to be divided and inclosed, as to them shall appear useless or unnecessary.

Power to make an Allotment for getting Materials for Repair of Roads.

XVI. And be it further enacted, That the said Commissioners shall set out and allot, if they shall think necessary, One or more Parcel or Parcels of Ground, Part of the Lands and Grounds hereby directed to be divided and inclosed, in such Situation as they shall think proper, not exceeding Three Acres, for the Purpose of getting Stone, Gravel, or other Materials, for repairing the publick Roads and Highways within the said Townships, and the same shall be inclosed and fenced, and the Fences shall be maintained by such Persons, and in such Manner, and such Allotment or Allotments shall be used for the Purpose aforesaid, under such Regulations and Directions, and the Grass and Herbage thereof shall belong to, and be taken and enjoyed by, such of the Proprietors of the Lands and Grounds hereby intended to be divided and inclosed as the said Commissioners shall by their Award direct.

Allotments to the Lord of the Manor.

XVII. And be it further enacted, That the said Commissioners shall allot and set out unto and for the said Robert

bert Haldenby, as Lord of the said Manor of Whitgift, and his Heirs, such Part or Parts of the Lands and Grounds hereby intended to be divided and inclosed, as shall in the Judgement of the said Commissioners be equal to the Right and Title of the said Robert Haldenby in and to the Soil of such Lands and Grounds, and as a Compensation for all Balks and Waste Lands in, over, or adjoining the same.

Allotments in lieu of Tithes.

XVIII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, in the next Place, to set out and appoint, unto and for the said John Arthur Worsop, John Dunn, Samuel Laverack, and Cornelius Stovin, respectively, as Owners and Impropriators of the Rectorial or Great Tythes, and Vicarial or Small Tythes, yearly arising, growing, and renewing in and upon the said Lands and Grounds hereby directed to be divided and inclosed, such Proportions and Allotments as shall be One full Tenth Part in Value (Quantity, Quality, and Situation considered) of the Residue of the said Lands and Grounds hereby directed to be divided and inclosed, in lieu of all the said Rectorial or Great Tythes, and Vicarial or Small Tythes, of the said Lands and Grounds.

Allotments of the Residue among the Proprietors.

XIX. And be it further enacted, That the said Commissioners shall apportion, set out, and allot the Residue of the said Lands and Grounds hereby directed to be divided and inclosed, unto and among the several Owners and Proprietors thereof, according to their several and respective Rights and Interests therein, without any undue Preference whatsoever, but with a just Regard to the Quality, Quantity, Situation, and Convenience of the Property belonging to each Proprietor, and also of the Land and Ground to be allotted in pursuance of this Act, subject to the Rules, Orders, and Directions herein mentioned and contained.

Commissioners to set the respective Proportions of the Lands to be allotted in lieu of Tithes among the respective Proprietors thereof.

XX. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, to set out, allot, award, and assign the several Allotments herein-before directed to be set out and appointed in lieu of all and singular the Rectorial or great Tythes, and Vicarial or small Tythes, arising or renewing within or upon the said Lands and Grounds hereby directed to be divided and inclosed, unto and amongst the said John Arthur Worsop, John Dunn, Samuel Laverack, and Cornelius Stovin, Impropriators as aforesaid, in the following Proportions; (that is to say) The said Commissioners shall, and they are hereby authorized and required to set out, allot, and award, unto and for the said

John Arthur Worſop, and his Heirs, Three Fifth Parts in Value (Quantity, Quality, and Situation conſidered) of ſuch Proportions or Allotments of the ſaid Lands or Grounds as ſhall be ſet out and appointed in lieu of the ſaid Rectorial or Great Tythes, and Vicarial or Small Tythes, ariſing or renewing in or upon the ſaid Lands and Grounds hereby directed to be divided and incloſed, as ſhall be deemed to be within the Townſhip of Redneſs aforeſaid, and to ſet out, allot, and award unto and for the ſaid John Dunn and Samuel Laverack, their Heirs and Aſſigns, as Impropriators of the Rectorial or Great Tythes, ariſing or renewing within the Townſhip of Swinefleet aforeſaid, Three Fifth Parts in Value (Quantity, Quality, and Situation conſidered) of ſuch Proportions or Allotments of the ſaid Lands and Grounds, as ſhall be ſet out and appointed in lieu of the ſaid Rectorial or Great Tythes, and Vicarial or Small Tythes, ariſing or renewing in or upon the ſaid Lands and Grounds hereby directed to be divided and incloſed, as ſhall be deemed to be ſituate in the Townſhip of Swinefleet aforeſaid; and to ſet out, allot, and award unto and for the ſaid Cornelius Stovin, his Heirs and Aſſigns, as Owner of all the Vicarial or Small Tythes ariſing or renewing within the Townſhips of Redneſs and Swinefleet aforeſaid, all the Reſidue and Remainder of all and ſingular the ſaid Proportions or Allotments to be ſet out and appointed in lieu of the Rectorial or Great Tythes, and the Vicarial or Small Tythes, ariſing or renewing in and upon the ſaid Lands and Grounds hereby directed to be divided and incloſed, ſuch Reſidue and Remainder being Two Fifth Parts of ſuch Proportions or Allotments of the ſaid Lands or Grounds as ſhall be ſet out and appointed in lieu of the Rectorial or Great Tythes, and the Vicarial or Small Tythes, ariſing or renewing within the ſaid Lands and Grounds hereby directed to be divided and incloſed, within the ſaid Townſhips of Redneſs and Swinefleet aforeſaid.

For making Allotments for Freeboards.

XXI. And be it further enacted, That in all Caſes where any of the Lands to be incloſed by virtue of this Act ſhall adjoin on any Freeboard, or any Land or Parcel of Land left on the Outſide of the Fences of any adjoining Incloſures within the ſaid Townſhips, or either of them, the ſame ſhall be deemed Part of the Land hereby directed to be divided and incloſed, and it ſhall be lawful for the ſaid Commiſſioners to allot ſuch Parcel or Parcels of Land as they ſhall adjudge an ample Equivalent to the Owners of or Perſons intereſted in ſuch Freeboards or Lands, or Parcel of Land.

XXII. And

For settling Mr. *Vickers'* Claim to a Part of the Tythes.

XXII. And whereas the said Robert Vickers Gentleman, claims to be entitled to some Part or Share of the Tythes arising within the said Township of Swinefleet; be it therefore further enacted, That it shall be lawful for the said Commissioners, at the Request of the said Robert Vickers, and of any Person or Persons who may object to such Claim, and they are hereby authorized and required, by Examination of Witnesses on Oath, to be administered by the said Commissioners, and by other proper and sufficient Enquiry and Evidence, to hear and determine such Claim; provided always nevertheless, that if any Person or Persons shall be dissatisfied with the Determination of the Commissioners as aforesaid, and shall be desirous of having such Claim decided by an Action at Law, and shall by Writing under his or their Hand or Hands signify to the said Commissioners such Desire, within Thirty Days after such their Determination, that then it shall be lawful for the Person or Persons so dissatisfied to have the said disputed Claim settled and determined by an Action at Law, to be brought by him or them against any of the Parties in Favour of whom such Determination shall be made, upon a feigned Issue, to be settled by the proper Officer of the Court in which such Action shall be brought, in case the Parties differ about the same; and the Defendant or Defendants in such Action is or are hereby required to appear to such Action, accept a Declaration, and plead to Issue; and after the bringing or commencing of such Action, the Plaintiff or Plaintiffs shall without Delay proceed therein so as to have the same tried and determined at the First or at the Second Assizes at the furthest, to be holden for the County of York, next after the said Determination of the Commissioners, any Thing herein-before contained to the contrary hereof notwithstanding: Provided always, That if upon such Determination of the said Commissioners, or upon the Verdict on such Trial, as the Case may be, it shall be found that the said Robert Vickers is entitled to any Part or Share of the Tythes so by him claimed as aforesaid, then and in such Case the said Commissioners shall and they are hereby authorized and required to assign and allot to the said Robert Vickers, his Heirs and Assigns, a due Proportion of the Allotment hereinbefore directed to be made for Tythes within the Township of Swinefleet, as aforesaid, any Thing herein contained to the contrary thereof in anywise notwithstanding.

XXIII. Provided nevertheless, and be it further enacted, That the Costs and Expences of the Determination of the said Commissioners, or of the said Action, as the Case may be, and all Expences incident thereto respectively, shall be borne and paid by the Person or Persons against whom such Determination shall be made, or Verdict given, and the Costs of the said Action shall be settled by the proper Officer of the Court in which the same shall be brought. For paying the Expences of the Trial at Law, if there should be one.

XXIV. And be it further enacted, That the several and respective Allotments which shall be made by virtue of this Act, in lieu of the said Rectorial or Great Tythes, and Vicarial or Small Tythes, and to the said Henry Simpson as Vicar as aforesaid, shall be well and sufficiently inclosed for the First Time, and fenced with an Outward or Ring Fence, in such Manner as the said Commissioners shall order and direct, the Costs and Charges whereof shall be defrayed by the other Owners and Proprietors of Lands and Grounds hereby directed to be divided and inclosed as herein-after is directed. Allotments for Tithes, and for Vicar's Glebe to be Ring-fenced.

XXV. And be it further enacted, That the Allotment or Allotments to be made by virtue of this Act, for or in respect of any Lands, Tenements, or Hereditaments which at the Time of making such Allotment or Allotments shall be held by Tenants in Common, shall be divided and allotted to the Owners and Proprietors thereof, who shall in Writing under their Hands desire the same, in Severalty, according to their several and respective Interests therein. Allotments to Tenants in Common to be set out in Severalty.

XXVI. And be it further enacted, That the several Allotments to be made in pursuance of this Act, shall be in lieu of and as a full Satisfaction and Compensation for all the Right or Interest of the several Proprietors to whom such Allotments shall be respectively made, in, over, and upon the said Lands and Grounds hereby directed to be divided and inclosed. Allotments to be in lieu of former Property.

XXVII. Provided always, and be it further enacted, That nothing in this Act contained shall extend to revoke, make void, alter, or annul any Will, Settlement, or Deed, or to prejudice any Person having or claiming any Jointure, Dower, Portion, Debt, Estate, or Incumbrance, out of, upon, or affecting any of the Lands or Grounds which shall be divided and allotted in pursuance of this Act; but that the said Lands and Grounds so to be divided and allotted as aforesaid shall, immediately after such Division or Allotment, be, remain, and enure, and the several Persons to whom Not to revoke any Will or Settlement.

the same shall be so allotted shall from thenceforth stand seised thereof to such and the same Uses, and for such and the same Estates, and under and subject to such and the same Settlements, Limitations, Remainders, Charges, Tenures, and Incumbrances, and under such and the same Restrictions, Covenants, and Agreements, as the several Lands or Grounds, in lieu or in respect whereof such Allotment shall be made as aforesaid, would have been subject to or charged with, in case the same had remained unenclosed or undivided, or this Act had not passed.

Award. XXVIII. And be it further enacted, That as soon as conveniently may be after the said Commissioners shall have completed the Drainage, as also the Division and Allotments of the said Lands and Grounds, they shall cause to be formed and drawn up an Award in Writing, which shall express the Quantity in Statute Measure of Acres, Roods, and Perches contained in the said Lands and Grounds hereby directed to be divided and inclosed, and of the Quantity of each and every Part and Parcel thereof which shall be assigned and allotted to each and every of the Proprietors entitled to and interested in the same; and the said Award shall also contain a Description of the Situation, Buttals, and Boundaries of the same Parcels and Allotments respectively, and shall express proper Orders and Directions for fencing and ditching thereof, and keeping the said Fences and Ditches in Repair, and also for laying out, making, and maintaining proper Roads, Ways, Passages, Drains, and Sewers, in, over, and through the said Lands and Grounds, and such other Orders, Regulations, and Determinations, as shall be proper and necessary to be inserted therein, for the due Execution of this Act, and conformable to the Purport and true Meaning thereof, and also a Rule or Rate of Proportion, by which all future Assessments to be laid by the Trustees, to be appointed in pursuance of this Act, shall be made and laid; which said Award shall be fairly written on Parchment, and signed and sealed by the said Commissioners, and shall, within Six Calendar Months next after the Execution thereof, be inrolled in the Publick Register Office at Wakefield, in the West Riding of the County of York; and after such Inrollment, the said Award shall be deposited and kept in a Box or Chest in the Parish Church of Whitgift aforesaid, to the End and Intent that Recourse may be had thereto, by any Person or Persons interested in the said intended Inclosure, who shall have Liberty from Time to Time to inspect and

peruſe the ſame, paying for each Inſpection or Peruſal the Sum of One Shilling, and a Copy of ſuch Inrollment, or any Part thereof, ſigned by the Regiſter or his Deputy, purporting the ſame to be true, (for which no more ſhall be paid than Four-pence per Sheet, each Sheet to contain Seventy-two Words), ſhall, as well as the ſaid original Award, be admitted and allowed as legal Evidence in all Caſes and Courts whatſoever; and the ſeveral Allotments, Diviſions, and Partitions, and all Orders, Directions, Regulations, and Determinations, which ſhall be made, ſpecified, and ſet forth in and by the ſaid Award, in purſuance of this Act, ſhall be final, binding, and concluſive upon all Parties and Perſons intereſted therein.

Allotments to be deemed within the Townſhip wherein the ſame is allotted, and ſubject to Taxes, &c. accordingly.

XXIX. And be it further enacted, That all ſuch Allotments, and every Part thereof, ſhall, from and after the Execution of the ſaid Award, thenceforth be deemed and taken, to all Intents and Purpoſes whatſoever, to be ſituate within the reſpective Townſhips, within which the ſame ſhall be ſo awarded by the ſaid Commiſſioners to be ſituate, and all Taxes and Aſſeſſments, and all Parochial and Publick Dues, Offices, and Charges whatſoever, ſhall be paid and borne for and in reſpect of ſuch Allotments accordingly, and not otherwiſe, any Law, Cuſtom, or Uſage to the contrary notwithſtanding.

For making Exchanges.

XXX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized, required, and impowered, to aſſign, allot, ſet out, and appoint any Houſe, Meſſuage, Barn, or Building, or any Part or Parts of ancient incloſed Lands or Grounds, or other Lands or Grounds, lying within the ſaid Townſhips, or either of them, in lieu of and exchange for any other Houſe, Meſſuage, Barn, or Building, or for other Lands or Grounds lying in the ſaid Lands or Grounds ſo intended to be incloſed as aforeſaid, or in lieu of any other Grounds within the ſaid Townſhips, or either of them, or within any Pariſh or Townſhip adjoining to the ſaid Townſhips, or either of them, ſo as all and every ſuch Exchange and Exchanges, to be made as aforeſaid, be aſcertained, ſpecified, and declared in the Award or Inſtrument herein directed to be made and executed, and ſo as every ſuch Exchange be made by and with the Conſent and Approbation of the reſpective Owners or Proprietors intereſted therein, who ſhall have in him, her, or them, any Eſtate in Fee Simple, Fee Tail, or for Life or Lives, or for any Term or Terms, or for Years determinable upon any Life or Lives, or in which there ſhall then be Ninety-nine

nine Years to come at the least, such Consent to be testified by Writing under their respective Hands and Seals; and all and every Exchange and Exchanges so to be made as aforesaid, shall be good, valid, and effectual to all Intents and Purposes whatsoever; and the several and respective Hereditaments so taken in Exchange by any of the said Proprietors, shall also, from the Time of making and perfecting any such Exchange as aforesaid, be of the same Nature and Tenure, and be and enure to, for, and upon the same and the like Uses and Trusts, and subject to the same Rents, Conditions, Charges, and Incumbrances, as the Messuages, Tenements, Frontsteads, Lands, and Grounds, so to be given or awarded in lieu thereof, shall respectively be subject, at or immediately before the Time of making such Exchanges respectively: Provided always, that no such Exchange as aforesaid shall be made by the Vicar for the Time being, without the Consent of his Grace the Archbishop of York for the Time being, first had and obtained, by Writing under his Hand.

Allotments to be fenced.

XXXI. And be it further enacted, That the several Allotments to be made as aforesaid shall, within such Time, either before or after the Execution of the said Award, as the said Commissioners shall direct, be inclosed and fenced, and such Fences for ever afterwards repaired and supported, by and at the Expence of the respective Proprietors of the said Lands and Grounds, in such Manner, Shares, and Proportions as the said Commissioners shall by their said Award, or any other Writing, direct; and in case any Person shall neglect or refuse to make such Fences, within the Time and in Manner aforesaid, then, and in every such Case, it shall be lawful for the Person or Persons interested in the Lands or Grounds next adjoining to such unfenced Land to exhibit a Complaint in Writing against the Person who ought to have fenced the same, before any One of the Justices of the Peace for the West Riding of the County of York, not interested in the said intended Division and Inclosure, who shall thereupon summon the Parties concerned, and enquire into the Nature of the Complaint, and examine Witnesses upon Oath, (which Oath he is hereby impowered to administer), and after such Summons and Examination had and taken, shall and may, if he shall think proper, direct the Person or Persons exhibiting such Complaint as aforesaid, to make and raise such Fences, and when the same shall be so made and raised, such Justice shall and may ascertain the Costs and Charges of the doing thereof, and by Warrant under his Hand and Seal, directed

rested to the Person or Persons exhibiting such Complaint as aforesaid, or to any other Person or Persons, cause the Costs and Charges so ascertained to be levied by Distress and Sale of the Goods and Chattels of the Person so refusing or neglecting as aforesaid, rendering the Overplus (if any) to the Owner of such Goods and Chattels, after deducting the Costs and Charges of such Distress and Sale; and in case no sufficient Distress can be found, then such Justice shall and may, by Writing under his Hand and Seal, authorize any Person or Persons to enter into and upon the Allotment or Allotments of the Persons refusing or neglecting to pay as aforesaid, and to receive and take the Rents, Issues, and Profits thereof, until thereby and therewith the Charges and Expences of making such Fences, together with all Costs attending such Entry upon and Perception of the Rents and Profits of such Premises, shall be fully paid and satisfied; and the several Persons to whom such Allotments shall be made, shall and may, at any Time within the Space of Ten Years after the said intended Inclosure shall have been completed, at proper and convenient Times in the Year, set down Posts and Rails, or any other Fence or Guard, on the Outside of the Ditches bounding their respective Allotments, not exceeding Three Feet from the Outside of such Ditches, for the better Preservation of their young Hedges, and take and carry away all such Posts and Rails, or other Fences, at such Time or Times as they shall think fit; and that convenient Gaps and Openings shall be left in the said Fences, for the passing of Cattle and Carriages through the same, for such Time as the said Commissioners shall think necessary, and by Writing under their Hands direct.

Proprietors to accept their Allotments within a limited Time.

XXXII. And be it further enacted, That the several Persons to whom any Allotments shall be made of the Lands and Grounds hereby intended to be divided and inclosed, his, her, or their Heirs or Assigns, shall accept the same respectively within the Space of Three Calendar Months next after the Execution of the said Award, publick Notice being first given by the said Commissioners, within Two Months next after the Execution of their said Award, for that Purpose, in the Church of Whitgift aforesaid, and on the Door of the said Church, on some Sunday, either immediately before, during, or after Divine Service; and in case any Person or Persons shall refuse or neglect to accept of his, her, or their Share or Allotment, within the Time before mentioned, he, she, or they shall nevertheless be excluded from any Estate, Right, or Interest, in or to any of the Lands

or Grounds which shall be assigned and allotted to any other Person or Persons, in pursuance of this Act.

Guardians of incapacitated Persons to accept.

XXXIII. Provided always, and be it further enacted, That the Guardians, Husbands, Committees, Trustees, or Attornies of any Person or Persons being Minors, under Coverture, Lunaticks, beyond the Seas, or incapable by Law, or otherwise, to accept such Shares and Allotments so to be set out and made as aforesaid, shall be, and they are hereby enabled and required to accept thereof, for the Use of such Person or Persons so incapacitated as aforesaid, and such Acceptance shall be and is hereby declared to be as valid and effectual in Law as if the Person or Persons to or for whom such Allotments shall be made, were capable of acting for themselves, and had accepted such Shares and Allotments as aforesaid, any Law or Usage to the contrary notwithstanding: Provided always nevertheless, That the Non-claim, or Non-acceptance of such Shares or Allotments by any Guardian, Husband, Executor, Committee, or Trustee, shall not exclude or prejudice the Claim or Acceptance of any Infant, Feme Covert, or other Person, under any Disability as aforesaid, who shall claim or accept his, her, or their Share or Allotment within the Space of Twelve Calendar Months next after such Disability or Incapacity shall be removed, or the Claim or Acceptance of any Person entitled as Heir, or in Remainder after the Death of any Person dying under such Disability or Incapacity, who shall claim or accept his, her, or their Share or Allotment, within the Space of Twelve Calendar Months next after his, her, or their Right, Title, or Interest shall have descended, vested, or accrued.

Power to borrow Money.

XXXIV. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees, or Committees of any of the Persons interested in the said intended Division and Inclosure, being under Coverture, Minors, Lunaticks, Idiots, or beyond the Seas, or being under any other Disability, and for any of the Proprietors, whether Tenants in Fee Simple, Fee Tail, or for Life, to charge the Lands and Grounds which shall be so allotted to him, her, or them, in pursuance of this Act, with any Sum or Sums of Money which the said Commissioners shall think necessary, and by Writing under their Hands shall direct, for the Purpose of defraying the Expences of obtaining this Act, and all Expences attending the Execution thereof, not exceeding Forty Shillings for each Acre; and for securing the Repayment of such Sum and Sums of Money,

with Interest, to grant, mortgage, lease, or demise, or otherwise subject the Lands and Grounds so to be allotted and given in exchange respectively as aforesaid, unto such Person or Persons as shall advance and lend such Money, his, her, or their respective Executors, Administrators, and Assigns, for any Term or Number of Years, so as every such Grant, Mortgage, Lease, or Demise, be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be lawfully paid and satisfied; and so as in every such Grant, Mortgage, Lease, or Demise, which shall be made by any Person or Persons interested in or entitled to any such mortgaged Premises for the Term of their natural Lives only, or by his, her, or their Guardian or Guardians, Trustee or Trustees, Committee or Committees, there be contained a Covenant to pay and keep down the Interest of the said Money during the Life or Lives of such Person or Persons, by or for whom such Money shall be borrowed, so that no Person afterwards becoming possessed of such Lands and Grounds shall be liable to the Payment of any longer Arrear of Interest than for One Year preceding the Time when the Title to such Possession shall accrue and commence; and every such Grant, Mortgage, Lease, or Demise, shall be good, valid, and effectual in Law, for the Purpose thereby intended, notwithstanding the Want of Title in the said Husbands, Guardians, Trustees, or Committees, or in the said Tenants in Tail or for Life, or any Settlement, Will, Use, Trust, Remainder, Limitation, or other Impediment, or Incumbrance whatsoever, of or concerning the said Land and Premises.

Directions for the Payment of the Expences of the Act.

XXXV. And be it further enacted, That the Charges and Expences of obtaining and passing this Act, of surveying, planning, measuring, valuing, draining, embanking, dividing, and allotting the said Lands and Grounds hereby directed to be drained, divided, and inclosed, of preparing and inrolling the said Award, and all other necessary Charges and Expences attending the Execution of this Act, shall be paid, borne, and defrayed by the Owners of and Persons interested in the said Lands and Grounds hereby directed to be drained, divided, inclosed, and allotted as aforesaid, (other than and except as herein-after mentioned or provided), by an equal Pound Rate, according to the Value of the Lands and Grounds each Person shall have allotted to him, her, or them by virtue of this Act, at such Times, either before or after the

the Execution of the said Award, and in such Proportions, as the said Commissioners, by Notice in Writing under their Hands, to be affixed on the Door of the Parish Church of Whitgift aforesaid, Ten Days at least before the Time any such Payment shall be required, shall order and direct; and in case any Person shall neglect or refuse to pay his, her, or their Share or Proportion of such Charges and Expences, within the Time to be limited by the said Commissioners, to such Person or Persons as they shall appoint to receive the same, then, and in such Case, the said Commissioners shall and may, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, cause the same, together with the Interest thereof, after the Rate of Five Pounds per Centum per Annum, from the Time such Payment ought to have been made to the Time of making thereof, to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to pay as aforesaid, rendering the Overplus (if any) to the Owner of such Goods and Chattels, after deducting the Costs and Charges of making such Distress and Sale; or otherwise it shall be lawful for the said Commissioners, or any other Person or Persons authorized by them, to enter into and upon the Allotment or Allotments to be made to the Person neglecting or refusing to pay as aforesaid, and to receive and take the Rents and Profits thereof, until thereby or therewith such Share or Proportion of the said Charges and Expences, and the Interest thereof, and all Costs, Charges, and Expences occasioned by or attending such Entry upon and Perception of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

XXXVI. Provided always, and be it further enacted, That the several Persons to whom Allotments shall be made in lieu of Rectorial or Great Tithes, and Vicarial or Small Tithes, and the said Henry Simpson, and his Successors, Vicars respectively as aforesaid, shall not be charged or chargeable with or contribute to any of the Charges and Expences above mentioned, except only such Parts of the said Charges and Expences as shall be incurred for or on Account of the making, altering, and maintaining all and every the Cuts, Cloughs, Drains, Dams, Ditches, Sewers, Banks, Embankments, Barriers, Engines, and other Works as shall be made or done by virtue or in pursuance of this Act, for the Purposes of draining the said Lands and Grounds hereby directed to be inclosed.

Power for the Vicar to grant Leases, with the Consent of the Diocesan.

XXXVII. And be it further enacted, That it shall be lawful for the said Henry Simpson and his Successors, Vicars as aforesaid for the Time being (with the Consent and Approbation of the Archbishop of York for the Time being) to grant any Lease or Leases of the Lands and Grounds so to be allotted to him by virtue of this Act, or of any Part or Parts thereof, to any Person or Persons whomsoever, for any Term or Number of Years, not exceeding Fourteen Years in Possession, to be computed from the End or Expiration of Six Calendar Months after executing the said Award or Instrument herein-before mentioned, and so as upon every such Lease or Leases there be reserved and made payable, during the Continuation thereof, the most and best improved yearly Rent or Rents that can or may be reasonably had and obtained for the same, without taking any Sum or Sums of Money, or any other Thing, by way of Fine, Income, or Foregift, for or in respect of such Lease or Leases, and so as none of the said Leases be made dispunishable of Waste by any express Words therein, and so as in every such Lease or Leases there be contained a Clause of Re-entry for Nonpayment of the Rent or Rents, and that the Rent or Rents thereby reserved shall be made payable to the said Vicar and his Successors, by Four equal quarterly Payments in each and every Year of the said Term or Terms.

Power for Vicar to borrow Money for the Purposes of Drainage.

XXXVIII. And be it further enacted, That it shall be lawful for the Vicar of the Parish of Whitgift aforesaid, for the Time being, and he is hereby authorized and impowered, by and with the Consent of the said Commissioners, and, after the Execution of the Award herein directed to be made, by and with the Consent of Three or more of the said Trustees, to charge the Lands and Grounds belonging to the said Vicarage, and which shall be assessed, taxed, and charged with any Rates and Taxes for the Purposes of Drainage, by virtue of this Act, with any Sum or Sums of Money for defraying the said Rates and Taxes, not exceeding the Sum or Sums charged on such Lands and Grounds as aforesaid; and for securing the Repayment of such Sum or Sums of Money, with Interest, to grant, mortgage, lease, demise, or otherwise subject the said Lands and Grounds unto such Person or Persons as shall advance and lend such Sum and Sums of Money respectively, for any Term or Number of Years, so as every such Grant, Mortgage, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby

to be secured, with the Interest thereof, shall be fully paid and satisfied; and so as every such Grant, Mortgage, or Demise, contain a Proviso that the Vicar of the said Parish for the Time being shall not be liable, upon becoming Vicar of the said Parish, to the Payment of a further or larger Arrear of Interest than for One Year preceding the Time of the Death, Resignation, or Cession of the last Incumbent.

Vicar to discharge annually a Part of the Money to be borrowed.

XXXIX. Provided always, That the Vicar of the said Parish for the Time being shall not only keep down the Interest of such Sum or Sums of Money so borrowed upon the Credit of the said Lands and Grounds, but shall also annually pay off and discharge One Twentieth Part of such Sum or Sums of Money, until the Payment of the whole Sum or Sums so borrowed shall be completed, any Thing to the contrary notwithstanding.

Commissioners to account.

XL. And be it further enacted, That the said Commissioners shall and are hereby required to enter in a proper Book, an Account of all Money which shall be assessed upon, or received from the said Owners or Proprietors, and of all Charges, Expences, Payments, and Disbursements which shall accrue, be made and paid, or charged by the said Commissioners, by virtue or in Execution of this Act, which said Book shall be signed by the said Commissioners, and shall be produced, with the proper Vouchers, to the said Proprietors, or any Three or more of them, whenever required, and after the Execution of the said Award shall be deposited and kept therewith.

Differences between the Commissioners to be referred to an Umpire.

XLI. And be it further enacted, That if any Differences in Opinion or Dispute shall arise between the said Commissioners, concerning any Act, Matter, or Thing whatsoever, which by virtue of this Act they are authorized and impowered to settle and determine, then, and in every such Case, the said Commissioners shall, within Ten Days after such Difference in Opinion shall arise, give Notice in Writing to John Gee, of Haldenby Park, in the said County of York, Gentleman, who is hereby appointed Umpire for that Purpose, or to such other Person as shall be appointed Umpire in Manner herein-after mentioned; and it shall be lawful for the said John Gee, or such other Umpire as aforesaid, and he is hereby required, within the Space of One Month next after any such Notice shall be given to him by the said Commissioners as aforesaid, to examine into, settle, and absolutely determine, all such Differences in Opinion, or other Disputes, which shall arise between the said Commissioners,

missioners, and his Determination shall be, and is hereby expressly declared to be binding and conclusive on all Parties and Persons whomsoever, but subject to a Trial at Law as aforesaid; and the said Commissioners shall form and draw up their Award accordingly.

An Umpire to be appointed upon a Vacancy.

XLII. And be it further enacted, That in case the said John Gee, or any Person to be appointed Umpire as herein-after mentioned, shall die or neglect or refuse to act in the Execution of the several Powers and Authorities hereby reposed in him, for the Space of One Calendar Month next after such Notice shall be given to him for that Purpose by the said Commissioners, it shall be lawful for the Persons who for the Time being shall be interested in the Lands and Grounds hereby intended to be divided and inclosed as aforesaid, or the major Part of them, in Value, who shall attend a Meeting (either personally, or by their Agents appointed under their Hands and Seals) for that Purpose to be held in the Parish of Whitgift, in consequence of an Advertisement to be inserted in the York Newspapers, and Notice given by Writing, affixed on the most publick outer Door of the said Church (which Advertisement and Notice the said Commissioners, or either of them, are or is hereby required to insert and affix within One Calendar Month next after the Death or Refusal to act of the said John Gee, or such other Umpire as aforesaid, and Ten Days at least previous to such Meeting, shall, by Writing under their Hands and Seals, appoint some other fit and proper Person, not interested in the said intended Inclosure, to be Umpire, in the Room and Stead of the said John Gee, or such other Person as aforesaid; and every Person so appointed shall have the like Powers and Authorities to act as an Umpire, in every Respect, as are by this Act vested in the said John Gee.

On the Death, &c. of either of the Commissioners another to be appointed.

XLIII. And be it further enacted, That if either of the said Commissioners, or any other Commissioner to be appointed by virtue of this Act, shall, before the Execution of all the Powers and Authorities hereby in them respectively vested, die or refuse to act, or, without some lawful Cause, neglect to attend a Meeting for putting this Act into Execution, for the Space of Two Calendar Months after he shall have received Notice from any Person interested in the said Inclosure of the passing thereof, a new Commissioner shall be elected in Manner following; (that is to say), If the said John Wood shall die or refuse to act, or neglect to attend as aforesaid, it shall be lawful for the said John Arthur Worsop, John Dunn, Samuel Laverack, and Cornelius Stovin, their

Heirs or Assigns, or the major Part of them, by Writing under their Hands and Seals, to appoint a Commissioner, not interested in the said Inclosure, in the Room of the said John Wood, and so from Time to Time, as often as any Commissioner so to be appointed shall die or refuse to act, or neglect to attend as aforesaid; and in case the said Thomas Mould shall die or refuse to act, or neglect to attend as aforesaid, it shall be lawful for the Majority in Value of the Proprietors or Persons interested in the Lands and Grounds directed by this Act to be drained, divided, and inclosed, or their Agents appointed under their Hands and Seals for that Purpose, (except the said John Arthur Worsop, John Dunn, Samuel Laverack, and Cornelius Stovin, and their Heirs or Assigns), who shall be present at a publick Meeting to be held for that Purpose, in the Parish of Whitgift aforesaid, in pursuance of an Advertisement and Notice to be inserted and affixed as last above mentioned, at least Fourteen Days before such Meeting, by Writing under their Hands and Seals, to appoint a Commissioner, not interested in the said Inclosure, in the Room of the said Thomas Mould, and so from Time to Time, as often as any Commissioner to be appointed by the said Proprietors as aforesaid shall die or refuse to act, or neglect to attend as aforesaid; and in case the said respective Parties, or any of them, shall make Default in appointing any such new Commissioner, within Two Calendar Months after the Death of any Commissioner, or his Refusal to act, or Neglect of Attendance, shall be known, then the surviving or remaining Commissioner shall, from Time to Time, by Writing under his Hand and Seal, within One Calendar Month after the Expiration of the said Two Calendar Months allowed to the respective Parties for appointing such new Commissioner as aforesaid, appoint a Commissioner, not interested in the said Inclosure, in the Room of every such Commissioner so dying or refusing to act, or neglecting to attend; and every such Commissioner so to be appointed, shall have the like Power and Authority as the Commissioner in whose Place he shall be appointed was vested with by virtue of this Act.

Commissioners to appoint Trustees.

XLIV. And be it further enacted, That, immediately after the Execution of the said Award for dividing and inclosing the said Lands and Grounds by the said Commissioners as aforesaid, they the said Commissioners shall, by Writing under their Hands and Seals, nominate and appoint Five Persons, resident in the Neighbourhood of Whitgift aforesaid, and respectively seised or possessed of Real or Personal Estates of the

Value of One thousand Pounds each, to be from thenceforth Trustees for putting this Act in Execution, for the Purposes of supporting and preserving all such Drains, Sluices, Banks, Cloughs, or other Works, which shall be made or erected in pursuance of this Act, and for the making or completing any such Works as shall be directed to be made by the said Award or Instrument of Allotments, and which shall not be made, or shall not be completed by the said Commissioners; and immediately after such Nomination and Appointment shall be made of such Trustees, by the said Commissioners as aforesaid, all the Powers and Authorities by this Act granted to and vested in the said Commissioners, or any of them, and which shall not have then been by them fully executed and performed, shall absolutely cease and determine, and from thencefoorth such Trustees so to be nominated and appointed, and their Successors to be nominated and appointed as herein-after mentioned, or any Three or more of them, shall have and are hereby invested with such and the same Powers and Authorities so unexecuted, or not fully and effectually performed, in all Respects, and to all Intents, Constructions, and Purposes, as are herein-before given to and vested in the said Commissioners, in the same Manner as if such respective Powers and Authorities had been herein-before particularly and severally given to the said Trustees, or any Three or more of them; and the said Trustees, or any Three or more of them, are hereby authorized, impowered, and required, from Time to Time to cause all the Money which shall be by them, or their Order, laid out and expended in or about the making, finishing, cleansing, repairing, and supporting all or any such Drains, Sluices, Banks, Cloughs, or other Works, and all other incidental Charges of the said Trustees relating to their said Trusts, to be raised and levied from Time to Time by Assessments upon all the Owners and Proprietors of Allotments so to be made as aforesaid, according to the same Proportions, and in the same Manner, and the Payment thereof to be inforced by the same Means and Remedies, as the Money to be rated and assessed by the said Commissioners is to be raised and levied as aforesaid; provided that publick Notice shall be given in the Parish Church of Whitgift, on some Sunday immediately after Divine Service, Six Days at the least before any such Assessment shall be made by the said Trustees, or any of them; and all and every Sum and Sums of Money which shall be so raised and levied by the said Commissioners as aforesaid, and shall not have been laid out or

Commissioners to raise Money for completing and maintaining the Drainage.

expended for the Purposes of this Act before the Determination of the Authority of the said Commissioners, shall, at the First Meeting of the said Trustees next after their Appointment as aforesaid, be paid over to the said Trustees, to go and be applied by them for the Purposes of this Act.

Trustees to meet.

XLV. And be it further enacted, That such Trustees so to be nominated and appointed as aforesaid, or some Three or more of them, shall meet together at such Place, in the Parish of Whitgift aforesaid, and on such Day, within Three Calendar Months next after the Time of their being so nominated and appointed as aforesaid, as they shall think fit, and they, or any Three or more of them, shall then proceed to execute the Powers so given to them by this Act as aforesaid, and shall and may, from Time to Time afterwards, meet at such Place in the said Parish of Whitgift as they shall think fit, for putting this Act in further Execution.

Power to Commissioners and Trustees to adjourn.

XLVI. And be it further enacted, That it shall be lawful for the said Commissioners and the said Trustees, or any Three or more of them, and they are hereby respectively authorized to adjourn from Time to Time the several Meetings to be by them respectively held in pursuance of this Act, to such Times and Places and in such Manner as to them shall seem meet.

Trustees dying, *etc.* others to be appointed.

XLVII. And it is hereby further enacted, That if any of the Persons to be nominated and appointed as Trustees in the Manner herein-before directed, shall happen to die, or refuse to act, or become incapable of acting, then such of the Proprietors as shall have or be possessed of Twenty Acres, or more, of the Lands hereby directed to be inclosed, shall by themselves or their sufficient Agent or Agents, Deputy or Deputies, thereunto authorized by Writing under the Hand or Hands of such Proprietor or Proprietors, assemble and meet in the Parish Church of Whitgift aforesaid, (of which Meeting One Month's previous Notice shall be given in the York Courant, or some other weekly Paper published in the said County), when every Proprietor so qualified as aforesaid, by himself or his Deputy, or Agent so authorized as aforesaid, shall deliver in Writing to the Clerk of the said Trustees (who is hereby required to attend to receive the same) the Name or Names of such Person or Persons to be chosen a Trustee or Trustees, in the Stead or Place of such Trustee or Trustees so to be appointed as aforesaid, who shall die, refuse to act, or become incapable of acting as aforesaid, and the Person or Persons who shall, upon the casting up of the Names in the said

Lists

Lists contained, appear to have the greatest Number of Votes, or Nominations, shall thereupon be declared duly elected a Trustee or Trustees for the further Execution of the Powers of this Act, and so on from Time to Time, as often as any such Death, Refusal, or Incapacity shall happen, or Occasion require, so as the Trustees so to be appointed shall not exceed Five in Number; and every such new Trustee or Trustees so to be elected as aforesaid shall from Time to Time, after such Election or Nomination respectively, have the same Authority for executing this Act, as the Trustee or Trustees, in whose Stead he or they shall be so named and elected as aforesaid, was before vested with, so that the Name or Names of every such new Trustee or Trustees so to be named and elected be, within Two Calendar Months after every such Nomination and Election, recorded by the Clerk of the said Trustees, and inrolled in the Register Office of Wakefield; and if any Person, not being a Proprietor qualified as aforesaid, shall presume, by himself, Deputy, or Agent, to vote in the Election of any such Trustee or Trustees, every such Person shall, for every such Offence, forfeit the Sum of Fifty Pounds, to be recovered by Action of Debt, or on the Case, or by Information in any of his Majesty's Courts of Record at Westminster, and the Person so sued or prosecuted shall prove that he is qualified as aforesaid, or otherwise shall pay the said Sum of Fifty Pounds, without any other Evidence, on the Part of the Plaintiff or Prosecutor, than that such Person acted in the Election of a Trustee for the Purposes of this Act, One Moiety of which shall be paid to the Prosecutor, and the other Moiety shall be applied for the General Purposes of this Act.

Commissioners and Trustees to be paid.

XLVIII. Provided always, and be it further enacted, That each of the said Commissioners, and the Umpire herein-before appointed, and their Successors respectively, to be appointed by virtue of this Act, shall be allowed and paid, out of the Money to be raised as herein-before directed for defraying the Expences attending the passing and Execution of this Act, for each Day every such Commissioner and Umpire respectively shall necessarily attend to execute the Powers in them vested by this Act, the Sum of One Pound Eleven Shillings and Sixpence, as a Recompence for his Pains, Trouble, Judgement, and Expences, and no more; and that the Five Persons, or any of them, so to be chosen and acting as Trustees as aforesaid, shall not have or be entitled to any Gratuity or Recompence for his Trouble or Time, but every of the said Five Persons acting as Trustees as aforesaid, shall be

be allowed and paid, out of the Rates and Cares to be raised by virtue of this Act, for every Day's Attendance in the Execution of this Act, the Sum of Four Shillings, and no more, for his Expences; and that no Person having any Place of Profit under this Act, during such Time as he shall hold the same, shall be capable of acting as such Trustee as aforesaid.

Trustees to account.

XLIX. And it is hereby further enacted, That the said Trustees shall, and they are required to enter in a proper Book, an Account of all Money which shall be assessed upon or received from or on Account of the said Proprietors, and of all Charges, Expences, Payments, and Disbursements which shall accrue, be made, and paid or charged by the said Trustees, which said Book shall be signed by the said Trustees, and shall be produced, with the proper Vouchers, to the said Proprietors, or any Three or more of them, when required.

The Property of Works and Materials vested in the Commissioners and Trustees.

L. And be it further enacted, That all the Banks, Cloughs, Engines, and other Works, already made or erected, or which shall at any Time hereafter be making or erecting, or made or erected, supported or maintained, for answering any of the Purposes of this Act, and the Right and Property of and in the same, and the Materials of which the same shall consist, shall be and they are hereby vested in the said Commissioners and their Successors, until the Execution of the said Award or Instrument for allotting and inclosing the said Lands and Grounds hereby directed to be drained and inclosed, and from and after such Execution, and the Appointment of the said Trustees, then in the said Trustees; and they, or any Three or more of them, are hereby authorized and impowered to employ such Clerk or Clerks and other Officers under them, and to allow them such Wages and Salaries as they shall think reasonable, and from Time to Time to remove, displace, and appoint all or any of them as they shall see Cause; and also to bring, or cause to be brought, any Action or Actions, in their own Names, or in the Name or Names of any One or more of them, or of their Clerk or Clerks for the Time being, or to prefer or order and direct the preferring of Indictments or other Prosecutions against any Person or Persons who shall dig up, break, pull down, steal, take, carry away, destroy, spoil, or injure any of them, or any Part thereof, or any of the Materials of which the same shall be made, built, or consist.

Penalty on Persons doing wilful Damage to the Works.

LI. And be it further enacted, That if any Person shall, at any Time or Times hereafter, wilfully damage, obstruct, or injure any of the Cuts, Drains, or other

Works made or to be made for draining the said Lands and Grounds hereby directed to be inclosed, and shall be convicted of such Offence upon Oath before Two or more Justices of the Peace for the said West Riding of the County of York, every Person so convicted shall forfeit for every such Offence the Sum of Ten Pounds, to be levied by Distress and Sale of the Goods and Chattels of such Offender, by Warrant under the Hands and Seals of any Two of the said Justices before whom such Conviction shall be had, to be employed in carrying on the Works and Improvements in and upon the said Lands and Grounds so to be inclosed, and for Want of sufficient Distress, such Offender shall by the said Justices be committed to the Common Gaol of the said County, there to remain, without Bail or Mainprize, for any Term not exceeding Six Calendar Months, at the Discretion of the said Justices, unless he shall sooner pay the Penalty; and if any Person shall wilfully or maliciously set fire to, burn, or otherwise destroy any Engine to be erected for draining the said Lands and Grounds hereby directed to be drained, divided, and inclosed, or shall maliciously cut, lay open, throw down, or destroy any Bank, Clough, Engine, or other Work to be erected or made in pursuance of this Act, and be thereof lawfully convicted, such Person shall be adjudged guilty of Felony, and shall be subject to the like Pains and Penalties as in Cases of Felony; and the Court by or before whom such Person shall be tried, shall and have hereby Power and Authority to transport such Felon for the Term of Seven Years, in like Manner as other Felons are directed to be transported by the Laws and Statutes of this Realm.

No Order to be varied without particular Notice.

LII. Provided always, and be it further enacted, That no Order which shall be made by the said Commissioners or Trustees, or any of them, by virtue of this Act, at any of their Meetings, shall be altered, annulled, or made void, at any subsequent Meeting, unless Thirty Days Notice at the least be given of every such Meeting, on some Lord's Day in the Forenoon, immediately after Divine Service, in the Parish Church of Whitgift aforesaid, in which said Notice the Intent and Design of such Meeting shall be declared.

Orders of Commissioners and Trustees to be made at a Meeting.

LIII. Provided also, That no Orders or other Proceedings of the said Commissioners or Trustees, or any of them, shall be valid, unless the same be made or done at a Meeting to be held in pursuance of this Act.

Proceedings to be entered in a Book.

LIV. And be it further enacted, That all Orders and Proceedings of the said Commissioners and Trustees shall be entered in a Book or Books to be kept for that Pur-

pose, and such Orders shall be signed by the Commissioners or Trustees, or any Three or more of such Trustees, assembled at such Meetings, and such Orders so signed shall be deemed and taken to be Originals; and the said respective Books shall and may be produced and read in Evidence in all Cases of Suits or Actions, touching any Thing done in pursuance and by the Authority of this Act.

Jurisdiction of Commission of Sewers taken away.

LV. Provided also, and be it further enacted, That the Drains, Ditches, Watercourses, Tunnels, Banks, Cloughs, Engines, and other Works, which shall be made, erected, enlarged, or otherwise altered by virtue of this Act, for the Purposes of embanking, draining, and preserving the said Lands and Grounds, so to be divided and inclosed as aforesaid, and all or any of the Allotments to be made thereof, in pursuance of this Act, shall not be subject to the Direction, Survey, or Order of any Commission of Sewers, or any Law or Statute relating to Sewers, any Thing in any former Law or Statute to the contrary thereof in anywise notwithstanding.

Appeal.

LVI. And be it further enacted, That if any Person or Persons shall think him, her, or themselves aggrieved by any Thing done in pursuance of this Act, then, and in every such Case (except where the Orders or Determinations of the said Commissioners, Umpire, or Trustees, are directed to be final, binding, or conclusive) such Person or Persons may appeal to any General Quarter Sessions of the Peace, which shall be held for the West Riding of the County of York, within Six Calendar Months next after the Cause of Complaint shall have arisen; and the Justices at such Session are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to 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 awarded, by Distress and Sale of the Goods and Chattels of the Party 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 on all Parties, 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.

Material Rights saved.

LVII. Provided always, and be it further enacted, That nothing in this Act contained shall defeat, lessen, or prejudice

prejudice the Right, Title, or Interest of the Lord of the said Manor of Whitgift, his Heirs or Assigns, in or to the Seignories, Royalties, and Privileges incident or belonging to the said Manor, but that the Lord of the said Manor, his Heirs and Assigns, shall and may, at all Times hereafter, hold and enjoy all Rents, Services, Courts, Fines, Perquisites and Profits of Courts, and all other Royalties and Privileges to the said Manor incident, belonging, or appertaining (except the Right to the Soil of the said Lands and Grounds hereby directed to be inclosed), in as full, ample, and beneficial a Manner, to all Intents and Purposes, as the same might have been held and enjoyed in case this Act had not been made.

General Saving.

LVIII. Saving always to the King's most Excellent Majesty, his Heirs and Successors, and to all and every other Person and Persons, Bodies Politick and Corporate, his, her, and their respective Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, Claim, and Demand (other than and except such as are meant and intended to be barred or destroyed by this Act), as they, every, or any of them could or ought to have had or enjoyed, of, in, to, or out of the Lands and Grounds hereby directed to be divided and inclosed, in case this Act had not been made.

Publick Act.

LIX. And be it further enacted, That this Act shall be deemed, taken, and allowed to be a Publick Act; and all Judges, Justices, and other Persons, are hereby required to take Notice thereof as such, without specially pleading the same.

FINIS.