



AN

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For inclosing, and exonerating from Tythes, Lands
in the Manor and Parish of *Thornton in Craven*,
in the County of *York*.

[ROYAL ASSENT, 14 June 1819.]

WH E R E A S there are within the Manor and Parish of *Thornton in Craven*, in the West Riding of the County of *York*, certain Commons and Moors, commonly called or known by the several names of *Thornton Moor*, *Kelbrook Moor*, *Bleary Haugh*, and *Howshaw* otherwise *Howshaugh*, and several small Parcels of Waste or uninclosed Land, containing in the whole One thousand Acres, or thereabouts :

Preamble.

And whereas Sir *John Lister Kaye*, Baronet, is Lord of the said Manor of *Thornton*, and as such is Owner of the Soil of all the said Commons Moors and Waste Lands, and of the Coal Mines, Veins and Seams of Coal, and all other Mines and Minerals within and under the same :

Lord of the Manor.

And whereas the said Sir *John Lister Kaye* is seised of the perpetual Advowson, Right of Patronage and Presentation, of in and to the Rectory of the Parish Church of *Thornton* aforesaid ; and the Reverend *Robert Gee*, Clerk, is Rector of the said Parish, and in right of the said Rectory is seised of certain Glebe Lands, and the Right of Common thereto belonging ; and is, or claims to be, entitled to all the Great and Small Tythes arising growing and renewing within the said Parish, or to certain Moduses or Compositions in lieu thereof :

Patron.

Rector.

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And.

Proprietors.

And whereas the said Sir *John Lister Kaye*, Baronet, *Richard Bradley Wainman* and *George Worrell*, Esquires, the Reverend *William Atkinson Wafney*, Clerk, and *Joshua Windle*, *George Smith*, and several other Persons, are Proprietors of divers Mesfuages Lands and Hereditaments within the said Manor and Parish of *Thornton*, and in respect thereof are or claim to be entitled to Right of Common in over and upon the said Commons Moors and Waste Lands :

And whereas an Act was passed in the Forty-first year of the Reign of His present MAJESTY, intituled, " An Act for consolidating in one Act, certain Provisions usually inserted in " Acts of Inclosure, and for facilitating the mode of proving the " several Facts usually required on the passing of such Acts :"

And whereas the said Commons Moors and Waste Lands are, in their present state, of very little Profit or Benefit to the several Persons interested therein ; and it would be of great advantage to such several Persons, if the said Commons Moors and Waste Lands were divided and inclosed, and such Allotments awarded unto and amongst the several and respective Proprietors and Persons interested therein, in proportion and according to their respective Rights Property and Interest of and in the same ; and if the said Commons Moors and Waste Lands, and also the ancient inclosed Lands and Grounds, and other Tenements and Hereditaments within the said Parish of *Thornton*, were discharged from Tythes, and from all Moduses Compositions and other Payments in lieu thereof : BUT the several purposes aforesaid 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** *William Pilkington*, of Hensal, in the said County of York, Gentleman, shall be and he is hereby appointed a Commissioner for setting out, allotting and inclosing the said several Commons Moors and Waste Lands, and for carrying this Act and the said recited Act into execution, subject to the restrictions

Commis-
sioner.

tions in this Act contained, and also subject to the Rules Orders and Directions mentioned and contained in the said recited Act, except in such cases where the same are hereby varied or altered.

And be it further Enacted, That if the said *William Pilkington*, or any Commissioner to be appointed in manner hereinafter mentioned, shall previous to the making and completing of the Award to be made by virtue of this Act or the said recited Act, die, refuse or neglect for the space of Two calendar months, or become incapable of acting as a Commissioner in the execution of this Act or the said recited Act, then it shall be lawful for the major part in Value (to be ascertained by the Land Tax Rate or Assessment) of the several Proprietors or Persons interested in the said Commons Moors and Waste Lands, who shall attend by themselves, or their Agents or Attornies, at a Meeting to be called by Two or more of the said Proprietors for that purpose, at some convenient Place in the Parish of *Thornton* aforesaid, or some other Place not exceeding the distance of Eight miles from the Boundary of the said Parish, in pursuance of public Notice to be by them given by Advertisement, to be inserted Twice in some Newspaper printed or circulated within the West Riding of the County of *York*, within Two calendar months next after such Commissioner shall happen to die, refuse, neglect or become incapable of acting; or after such Death, Refusal, Neglect or Incapacity shall happen to be known, by any Instrument in writing under their hands, or the hands of their Agents or Attornies, to nominate elect and appoint from time to time some other fit and proper Person, not interested in the said Commons, Moors and Waste Lands, to be a Commissioner in the place of such Commissioner so dying, refusing, neglecting or becoming incapable to act as aforesaid; and every such Person, when elected in manner as aforesaid, shall (after taking the Oath prescribed in that behalf) be a Commissioner for the purposes of this Act and the said recited Act, and shall have and be invested with the same Powers and Authorities in all respects for carrying this Act and the said recited Act into execution, as if he had been originally named and appointed Commissioner in and by this Act; and every Writing or Instrument of the Appointment of a new Commissioner shall be annexed to and deposited with the Award of the Commissioner for carrying this Act and the said recited Act into execution.

For appoint-
ing a new
Commis-
sioner.

And be it further Enacted, That the said Commissioner shall and he is hereby empowered and required to give or cause to be given public

Notice to be
given of
Commis-
sioner's First
Meeting.

public Notice in the Parish Church of *Thornton* aforesaid, upon some *Sunday* immediately before Divine Service, by Writing under his hand, to be affixed on the principal outer Door of the said Church, of the Time and Place of his First Meeting for executing the powers by this Act and the said recited Act vested in him, Ten days at least before such Meeting; and Notice of every subsequent Meeting of the said Commissioner, to be by him held in pursuance of the directions of this Act or the said recited Act, shall be given by Advertisement in some Newspaper usually circulated in the said West Riding, Ten days at least before such Meeting (Meetings by adjournment, which it shall and may be lawful for the said Commissioner, or in case of his absence, for his Clerk or Clerks, from time to time to make, only excepted:) Provided always, that all the Meetings of the said Commissioner shall be held at some convenient Place in the said Parish of *Thornton*, or within Eight miles of the Boundary thereof; and in case the said Commissioner shall not be present at such Time and Place, then it shall be lawful for the Person or Persons who shall act as Clerk or Clerks to the said Commissioner, to adjourn the same to any future day, not exceeding Thirty days after the day of such Adjournment; provided also, that the said Proprietors, their Attornies or Agents, shall bear and pay their own Expences, when they or any of them shall attend the said Commissioner at any of his Meetings to be holden in pursuance of this Act or the said recited Act.

Commis-
sioner to settle
Differences;

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 Commons Moors and Waste Lands, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the same, or touching or concerning any other matter or thing relating to the said Commons Moors and Waste Lands, it shall be lawful for the said Commissioner and he is hereby authorized and empowered to examine into, hear and determine the same.

But not to
determine
Titles, nor
molest Pos-
session.

Provided always, and be it further Enacted, That nothing herein contained shall authorize the said Commissioner to determine the Title to any Messuages, Lands, Tenements, Tythes or Hereditaments whatsoever; nor to determine any Right between any Parties contrary to the Possession of any of such Parties (except in cases of Inclosures or Encroachments made within Twenty years as hereinafter mentioned); 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

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 or Equity.

And be it further Enacted, That in case the said Commissioner shall, upon the hearing and determining of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this Act or the said recited Act, 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 in whose favour any Determination of the said Commissioner shall be made, by the Person or Persons, Body or Bodies Politic Corporate or Collegiate, whose Claim or Claims, Objection or Objections shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politic Corporate or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on demand, then and in such case it shall and may be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant under his hand and seal, directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic Corporate or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any) on demand to the Person or Persons, Body or Bodies Politic Corporate or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Power to
award Costs.

Provided always, and be it further Enacted, That in case any Person or Persons, Body or Bodies Politic Corporate or Collegiate, interested or claiming to be interested in the said Commons Moors and Waste Lands, shall be dissatisfied with any Determination of the said Commissioner touching or concerning any Claim or Claims to the Right of Soil, or other Rights or Interests in over or upon the said Commons Moors and Waste Lands, or any part thereof, or any Objection or Objections to such Claim or Claims, or touching or concerning any Claim to, or Question or Dispute that may happen or arise touching or respecting any of the Tythes or Moduses, or Compositions in lieu thereof, hereinafter directed to be inquired into by the said Commissioner, or the Value thereof respectively, or of any of the Tythes, Moduses, or Compositions in lieu of Tythes of any Homesteads, Orchards, Gardens, or inclosed Lands in the said Parish, for which Compensation is by this Act directed

Persons dissatisfied may
try their
Rights at
Law.

to be made, it shall be lawful for the Person or Persons, Body or Bodies Politic Corporate or Collegiate so dissatisfied, to cause an Action to be brought, upon a feigned Issue, against the Person or Persons, Body or Bodies Politic Corporate or Collegiate, in whose favour any such Determination shall have been made, within Three calendar months next after the Determination of the said Commissioner shall have been notified in Writing to the Party or Parties against whom such Determination shall have been so made, or to his her or their known Agent or Attorney; and thereupon the Person or Persons, Body or Bodies Politic Corporate or Collegiate, so dissatisfied, shall proceed to a Trial at Law, at the then next or at the following Assizes to be holden for the said County of York after such Action or Actions shall have been commenced; and the Defendant or Defendants in such Action or Actions shall, and he she or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, and file Common Bail, and accept of 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 such 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, Body and Bodies Politic Corporate or Collegiate, whomsoever and whatsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do; and after such Verdict or Verdicts shall be obtained, and not set aside by the 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 if no such Action at Law shall be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the time hereinbefore limited for that purpose, then the Determination of the said Commissioner shall be binding final and conclusive to all intents and purposes whatsoever.

Determination of the Commissioner to be final, if not objected to, or no Action brought.

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

And be it further Enacted, That if any of the Parties, Plaintiffs or Defendants, in any such Action to be brought as aforesaid, shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened.

Provided always, and be it further Enacted, That if any Person or Persons in whose favour any such Determination of the said Commissioner 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 hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic Corporate or Collegiate, 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 or Clerks to the said Commissioner with Process for commencing such Action or Actions, in the same manner as the Party or Parties so dying might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the name or names of 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 such Parties shall be equally bound and concluded by the event of such Action or Actions.

In cases of Deaths of any of the Parties before Action brought, the same to be carried on and defended in their Names.

And be it further Enacted, That if any Suit shall be commenced or prosecuted touching or concerning the Title to any Messuages, Lands, Tenements or Hereditaments, for or in respect of any Right or Interest in over or upon the said Commons Moors and Waste Lands, or any part thereof, or any such Tythes or Moduses, or Compositions in lieu thereof as aforesaid respectively, such Suit or Suits shall not delay impede or hinder the said Commissioner from proceeding in the Powers vested in him by this Act or the said recited Act.

Trials not to suspend the execution of the Act.

And be it further Enacted, That if any of the Parties interested in the said intended Division and Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the Commissioner shall not be thereby determined or suspended, but 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 the Share or Shares, Allotment or Allotments of the Person or Persons so dying, of and in the said Commons Moors and Waste Lands, shall be allotted to, and the Rate

The death of Persons not to hinder the Commissioner from proceeding in the Inclosure.

Rate or Assessment hereinafter mentioned, made, laid and levied upon, such Person or Persons who by Law shall become entitled to such Share or Shares, Allotment or Allotments, or liable to pay such Rate or Assessment; and such Share or Shares, Allotment or Allotments, shall be accepted and fenced by such Person or Persons according to the Directions of this Act or the said recited Act, and he she or they shall be liable to the Charges and Expences and other Conditions of this Act and the said recited Act.

Appointing
Clerks and
a Surveyor.

And be it further Enacted, That the said Commissioner shall and he is hereby empowered to appoint a Clerk or Clerks to assist him in the execution of this Act and the said recited Act; and that *Henry Teal*, of *Leeds*, in the said County, Land Surveyor, shall be employed by the said Commissioner as his Surveyor in the execution of this Act; and from time to time to remove any Clerk or Surveyor who may be appointed by virtue of this Act; and in case of the removal, death, incapacity, neglect or declining to act of any such Clerk so to be appointed, or of the death, incapacity, neglect or declining to act of the said Surveyor, then and in either of such cases the said Commissioner shall and may appoint such Person or Persons as he may think proper to be the Clerk, or Surveyor, as the case may be.

Surveyor to
take an
Oath.

Provided always, and be it further Enacted, That no Person or Persons shall be capable of acting in the execution of this Act or the said recited Act as a Surveyor, until he shall have taken and subscribed an Oath or Affirmation, in the form or to the effect following; (that is to say)

Form of the
Oath.

“ I do Swear, [*or, being one of the People called Quakers, do*
“ solemnly Declare and Affirm,] That I will faithfully, im-
“ partially and honestly, according to the best of my skill
“ and ability, execute and perform the several Duties
“ incumbent on me as a Surveyor, by virtue of an Act
“ passed in the Fifty-ninth year of the Reign of His
“ Majesty King GEORGE the Third, intituled, “ An Act
“ [*here set forth the Title of this Act*] 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.”
“ [*or, being a Quaker, omit the words ‘ So help me God.’*”]

Which

Which Oath or Affirmation it shall be lawful for the said Commissioner, or for any Justice of the Peace for the said West Riding, to administer; and such Oath or Affirmation so taken and subscribed, shall be enrolled with, annexed to, and deposited with the Award of the said Commissioner; and an Office Copy of the Enrolment thereof shall be admitted as legal Evidence.

To be administered by the Commissioner or a Justice, and annexed to the Award.

And be it further Enacted, That if any Plan or Plans, Survey or Surveys, already made of the said Commons Moors and Waste Lands, or of the ancient Inclosures within the said Parish of *Thornton*, or any part thereof respectively, shall be produced and laid before the said Commissioner, and of the authenticity of which he shall be satisfied, it shall and may be lawful to and for the said Commissioner to make use of the same, without causing a new Survey or Plan to be made thereof.

Old Surveys may be used, if the Commissioner thinks proper.

And be it further Enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and required, at any time or times before the execution of the Award of the said Commissioner, by Notice in writing under his hand to be affixed upon the principal outer Door of the Parish Church of *Thornton* aforesaid, to order and direct all or any part of the Rights of Common, in over or upon the said Commons Moors and Waste Lands, or any part thereof, to be extinguished, or the exercise thereof to be suspended for and during such time as the said Commissioner shall by such Writing order and direct to be extinguished, or the exercise thereof to be suspended accordingly, any Usage or Custom to the contrary thereof notwithstanding.

For extinguishing or suspending Rights of Common before the Award.

And be it further Enacted, That it shall be lawful for the said Commissioner, with the concurrence and order of Two Justices of the Peace acting in and for the said West Riding, in manner and subject to Appeal as in the said recited Act is mentioned, to divert, stop up, discontinue, alter or change any old public Carriage Roads or Footways (except Turnpike Roads) leading into, through over or upon the said Commons Moors and Waste Lands, or in to through or upon the old Inclosures lying within the said Parish of *Thornton*, as to him shall appear usefess and unnecessary, or proper to be stopped up or discontinued, diverted or altered; and such public Carriage Roads or Footways as shall be so stopped up and discontinued shall be deemed part of the Lands and Grounds to be sold or divided, allotted and inclosed, pursuant to this Act; provided nevertheless, that the said Commissioner shall and he is hereby authorized and

Power to divert or stop up old Roads.

required to make such Compensation to the Owner or Proprietor, Owners or Proprietors of any such ancient Inclosures, for the Land so taken or used for any such Ways or Roads, as in the judgment of the said Commissioner shall be a fair and adequate Compensation for the same, subject to such Appeal as aforesaid; provided that no such Road or Footway shall be so stopped up or discontinued, diverted or altered, except under the Rules Regulations and Restrictions prescribed by an Act, passed in the Fifty-fifth year of the Reign of His present Majesty, intituled, "An Act to amend an Act of the Thirteenth year of His present Majesty, for the amendment and preservation of the public Highways, in so far as the same relates to Notice of Appeal against turning or diverting a public Highway, and to extend the Provisions of the same Act to the stopping up of unnecessary Roads;" and the Expence of altering and widening all and every such Roads and Footways shall be paid and discharged out of the Monies to be raised for carrying this Act into execution.

Drains and
Water-
courses.

And be it further Enacted, That the said Commissioner shall and he is hereby empowered to make or cause to be made any new Drains, Ditches or Watercourses, and to enlarge, scour out and widen, deepen, change the Course of and divert, all or any of the ancient Reservoirs of Water, Brooks, Drains, Ditches, Streams, Springs, Watercourses, Tunnels, Banks and Bridges, as well through and over the Lands and Grounds hereby directed to be divided and inclosed, as also in over and through any ancient Inclosures in the said Parish, as to the said Commissioner shall seem proper and necessary (the said Commissioner directing reasonable compensation and satisfaction to be made to all and every Person and Persons, Body and Bodies Politic Corporate or Collegiate, who shall sustain any Damage or Injury thereby); and shall and may deepen and widen any such Brooks, Streams, Springs and Watercourses as he shall think fit, or direct and order the same to be done; and shall and may direct and order the said Brooks, Streams, Springs and Watercourses to be conveyed in such Courses and through such Land as the said Commissioner shall think proper, for the purpose of draining any Land, or supplying any other Land with Water, or straightening any such Brooks or Watercourses, and any other necessary purposes: Provided always, that no Brook, Stream, Spring or ancient Watercourse, shall be diverted or turned without the Consent in writing of the Owner or Proprietor, or Owners or Proprietors of the Lands or Grounds from whose Lands or Grounds the same respectively shall be intended to be diverted or turned,

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and

and into whose Lands or Grounds the same respectively shall be intended to be conveyed or turned ; and the said Commissioner shall and he is hereby required, in and by his Award, to order and direct by whom, at whose Expence, at what time and in what manner the said Reservoirs, Brooks, Ditches, Drains, Streams, Springs, Watercourses, Tunnels, Watergates, Banks and Bridges shall be made, and thereafter repaired, cleansed, scoured and maintained.

And be it further Enacted, That in order to straighten and shorten the Boundary Fences between the Lands and Grounds by this Act directed to be divided allotted and inclosed, and the Lands and Grounds in any adjoining Parish or Parishes, it shall and may be lawful for the said Commissioner, with the Consent in writing under the hand or hands of the Lord or Lords, Lady or Ladies of the Manor or Manors, or Owner or Owners of the Soil, and under the hands of the major part in Value (such major part to be ascertained by the Land Tax Assessment) of the Land Owners in any Parish or Parishes interested in any Common or Waste Land adjoining to the Parish of *Thornton* aforesaid, and also under the hand or hands of the Owner or Owners of any adjoining Land upon which such Fence or Fences is or are intended to be made, to set out and ascertain the Boundary Fences to be made between the said Commons and Waste Lands hereby intended to be divided and inclosed, and the Lands in such adjoining Parish, in such manner as he the said Commissioner shall judge proper ; and after such Division and Boundary shall be so set out and ascertained, the same shall be fenced by such Person or Persons, Body or Bodies Politic Corporate or Collegiate, in such manner and at such time or times as the said Commissioner shall in and by his Award order and direct ; and shall be for ever thereafter deemed and taken to be the Division or Boundary Fence or Line between the said Parish of *Thornton* and such adjoining Parish or Parishes ; any Usage or Custom to the contrary notwithstanding.

Power to
straighten
and shorten
Boundary
Fences.

And be it further Enacted, That it shall and may be lawful for the said Commissioner, and he is hereby required to inquire into, hear and determine, by examination of Witnesses upon Oath, or by such other means as to him shall seem meet, what Inclosures and Encroachments have been taken from and made upon the said Commons Moors and Waste Lands, within the said Parish, for Twenty years ; and all such Inclosures and Encroachments, or parts

Encroach-
ments within
Twenty years
to be deemed
part of the
Commons.

parts of Inclosures or Encroachments, which shall be proved to the satisfaction of the said Commissioner to have been taken in and inclosed before the time hereinbefore mentioned, shall not be considered as part of the Land hereby directed to be divided and inclosed; but the Owner or Owners thereof shall not have or be entitled to any part of the Commons Moors and Waste Lands hereby intended to be inclosed, or other Compensation in right or respect of such Inclosures or Encroachments; also to inquire into and determine, in the manner hereinbefore mentioned, what Inclosures have been taken from, and what Encroachments have been made upon the said Commons Moors and Waste Lands, by any Person or Persons whomsoever, (except such Inclosures of Waste as have been made by any Freeholder or Freeholders within the said Manor, for or in lieu of any ancient inclosed Land or other Premises given by such Freeholder or Freeholders, for the purpose of widening or making more commodious any of the public Highways or Roads within the said Parish,) within the space of Twenty years; and all such Encroachments and Inclosures respectively as shall be proved to the satisfaction of the said Commissioner to have been so taken in and made within the time last aforesaid, shall be deemed as part of the said Commons Moors and Waste Lands so intended to be divided and inclosed, and shall be measured allotted and sold as part thereof, in manner hereinafter mentioned.

Allotments
for Stone,
Materials,
&c.

And be it further Enacted, That the said Commissioner shall and he is hereby empowered and required to set out and allot unto the Surveyors of the Highways for the time being of the several Townships within the said Parish, in such Place or Places as he shall think proper and most convenient for the Proprietors of the Commons Moors and Waste Lands hereby directed to be divided allotted and inclosed, such quantity or quantities of the said Commons Moors and Waste Lands as he shall think proper, not exceeding in the whole Three Statute Acres, for the use and benefit of all and every the Person and Persons, Body or Bodies Politic Corporate or Collegiate, entitled to any Allotments upon the said Commons Moors and Waste Lands, for the purpose of getting Stone, Sand, Gravel or other Materials for making and repairing of the public and private Roads and Drains of or belonging to the said Commons Moors and Waste Lands, and all other the public Highways, Bridges, Tunnels and Watercourses within the said Parish; and also for the fencing and inclosing the Allotments to be made therein in pursuance of this Act and the said

faid first recited Act, and for repairing the ancient and new Roads within the faid Parish.

And be it further Enacted, That the faid Commissioner shall and he is hereby authorized and required, in the next place, to set out allot and award unto the Lord or Lords of the faid Manor of *Thornton*, for the time being, as a Compensation for his and their Rights and Interests in and to the Soil of the faid Commons Moors and Waste Lands (except Lead Mines, Coal Mines, Ironstone or other Minerals in and under the same,) such part or parcel of the faid Commons Moors and Waste Lands, (quantity quality and situation considered,) as shall in the judgment of the faid Commissioner be equal in value to one Sixteenth part thereof.

Allotment to the Lord of the Manor in lieu of his Right in the Soil.

AND whereas the old Road leading from the Village of *Thornton* to the faid Parish Church hath been diverted, and *Rachael Smith*, late of *London*, Widow, deceased, in her life-time erected Five Alms Houses for the Accommodation and Residence of Five poor indigent Persons resident in the faid Parish, and a House for the use of the Trustees to the Charity, on part of the faid old Road, and upon the Waste Land adjoining thereto; and the faid Sir *John Lister Kaye* also allowed the faid *Rachael Smith* to take a Plot of Land from his ancient Inclosures, adjoining or near to the faid Alms Houses, containing twenty yards, or thereabouts, for the enlargement of the Grass Plot or Area in front thereof; BE it therefore Enacted, That the faid Commissioner shall and he is hereby authorized and required to set out allot and award so much and such part of the faid old Road and Waste Land as hath been taken in and made use of in building the faid Alms Houses, and also so much more of the Waste Land adjoining thereto as will be sufficient for the Yard and Garden to the faid Alms Houses, and a convenient Road leading to them, to the Heirs of the faid *Rachael Smith*, for the use of the faid Alms Houses, or the Inhabitants thereof, or Residents therein for the time being, for ever; and that the remaining part of the faid old Road, and also the faid Waste Land, extending from the West side of a Gate called the *Mastill's Gate*, to the Road leading to a Place called the *Church Hill*, containing Nine hundred yards, or thereabouts, and also the Waste Land lying on the West side of the Road leading to the Yard of the faid Alms Houses, and on the North side of the Causeway leading to the faid Church, containing Four hundred yards, or thereabouts, shall be set out allotted and awarded by the faid Commissioner to the faid Sir *John Lister Kaye*.

Allotment to certain Alms Houses of the Ground whereon same now stand, &c.

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And

Allotment to
the Rector
for his Glebe
and Common
Right.

And be it further Enacted, That the said Commissioner shall and he is hereby authorized and required to assign, set out, allot and award, unto and for the said *Robert Gee*, as Rector of the said Parish and Parish Church of *Thornton*, and his Successors Rectors of the said Parish and Parish Church for the time being, so much of the said Commons, Moors and Waste Lands, as, in the judgment of the said Commissioner, the said Rector shall be entitled to in respect of his Glebe Land in the said Parish, and his Right of Common on the said Commons, Moors and Waste Lands, and which Allotment shall be set out on a certain part of the said Commons, Moors and Waste Lands, called *Thornton Moor*, hereinafter particularly mentioned and described; that is to say, a certain Plot, piece or parcel of Land or Ground, being part and parcel of the said Commons or Moors called *Thornton Moor*, adjoining, on the North-east side thereof, to other part of the said Commons Moors and Waste Grounds, called *Elflack Moor*; on the North-west side thereof, to Lands belonging to the said Sir *John Lister Kaye*, in the occupation of *John Whitaker*; and to Lands belonging to *Henry Alcock*, Esquire, in the occupation of *John Slater*, and *John Wilkinson*, terminating at the East corner of a certain old Inclosure, called *Barefield Pasture*, in the occupation of the said *John Slater*; to the Estate of the said Sir *John Lister Kaye*, on the North; and to *Thornton Moor* on the South, containing together One hundred and forty Acres.

No further
Allotment to
be made to
the Rector
until Land,
&c. pur-
chased.

Provided always, and it is hereby Enacted, and expressly Declared, That it shall not be lawful for the said Commissioner to allot or set out to and for the said Rector and his Successors, any greater part or portion of the said Plot, piece or parcel of Land hereinbefore stated to contain One hundred and forty Acres, than shall be an equivalent for his Glebe Land in the said Parish, and his Right of Common on the said Commons, Moors and Waste Lands hereby directed to be allotted and inclosed, until Lands Tenements or Hereditaments in the said Parish of *Thornton*, which in the judgment and opinion of the said Commissioner shall, together with the residue of the said One hundred and forty Acres, be equal to the value of and a full equivalent for all Tythes both great and small, Moduses, Compositions, and other payments in lieu of Tythes arising, issuing or payable to the said Rector out of for and in respect of, as well the Commons Moors and Waste Lands hereby directed to be allotted and inclosed, as also out of, for, and in respect of all Homesteads, Gardens, Orchards and inclosed Lands in the said Parish, shall have been purchased, and a proper Conveyance or Conveyances of such Lands Tenements or Hereditaments shall

have been made and executed to the said Commissioner, for the purpose of being allotted or conveyed to and settled upon the said Rector and his Successors, in manner by this Act directed, any thing in this Act contained to the contrary thereof in anywise notwithstanding.

And be it further Enacted, That the said Commissioner shall and he is hereby required to value all and every the Tythes, both great and small, Moduses, and Compositions or other payments due and payable to the said *Robert Gee*, or the Rector of the said Parish and Parish Church of *Thornton*, out of or from all and every the Lands and Hereditaments within the said Parish, and shall award and fix the Value thereof; and the said Commissioner shall and he is hereby directed and required to set out, allot and award, unto and for the said *Robert Gee*, as Rector of the said Parish and Parish Church of *Thornton*, and his Successors Rectors of the said Parish and Parish Church for the time being, the Residue of the said Plot, piece or parcel of Land, containing in the whole One hundred and forty Acres, hereinbefore particularly mentioned and described after the Allotment for Glebe and Common Right shall be deducted therefrom as aforesaid, in or towards making satisfaction for the said Tythes, Moduses, Compositions and Payments.

Tythes of the whole Parish to be valued by the Commissioner.

And be it further Enacted, That in case the said Residue of the said Plot, piece or parcel of Land shall be insufficient for the purpose of making such Compensation for such Tythes, Moduses, Compositions and Payments, then it shall and may be lawful to and for the said Commissioner, within the period limited by this Act, but not afterwards, to treat, contract and agree for, and to purchase such Lands Tenements or Hereditaments, either in one Lot, or in several Parcels, in the said Parish of *Thornton*, (belonging to any Person or Persons willing to sell) as in his judgment shall be of sufficient value to make up, together with the aforesaid Allotment, a full and adequate compensation to the said Rector and his Successors for all such Tythes, Moduses, Compositions and Payments aforesaid; and on a proper Conveyance or Conveyances of such Lands Tenements or Hereditaments being made to the said Commissioner, the said Commissioner shall and he is hereby authorized and empowered to pay the Purchase Money for the same out of the Monies to be raised as hereinafter mentioned; and the Lands Tenements and Hereditaments so purchased shall, by the Award of the said Commissioner, or any separate Deed or Instrument under his hand and seal, be allotted and conveyed to and settled upon the said *Robert Gee*, and his Successors Rectors of the said Parish

Land, &c. to be purchased and allotted to the Rector as a Compensation for Tythes.

Parish and Parish Church of *Thornton* aforesaid for the time being, for ever, and subject to the same or the like uses as the said Tythes, Moduses, Compositions and Payments; and such Lands Tenements and Hereditaments, when so allotted or conveyed as last aforesaid, together with the said Allotment hereinbefore directed to be set out allotted and awarded to the said Rector and his Successors as aforesaid, shall be and are hereby declared to be in lieu of and in full satisfaction for all Tythes, both great and small, Moduses, Compositions, and all other Ecclesiastical Dues and other Payments whatsoever, (Surplice Fees, Mortuaries, and the other usual Easter Offerings paid for Communicants due to the said Rector and his Successors, only excepted,) arising, growing, renewing, increasing, becoming payable or happening, or to arise, grow, renew, increase, become payable or happen within, from or in respect of the said Commons Moors and Waste Lands, or any of the ancient inclosed Lands Tenements or Hereditaments within the said Parish of *Thornton*, or any of them, or any part thereof; and the same Lands Tenements and Hereditaments, and the Allotments made, and the Land to be sold by virtue of this Act, shall be for ever discharged from such Tythes, Moduses, Compositions and Payments accordingly.

**Ejection
Clause.**

Provided always, and be it further Enacted, That if all or any of the Lands Tenements or Hereditaments by this Act authorized to be purchased, and to be allotted or conveyed to the said Rector as a compensation for Tythes, Moduses, Compositions and Payments, shall at any time or times hereafter be lawfully evicted or taken out of the possession of the said Rector, or any of his Successors Rectors of the said Parish of *Thornton*, by any Right or Title precedent to the execution of the Conveyance or Conveyances of the same, so that the aforesaid Purchase or Purchases, or any of them, shall be void, that then and from thenceforth the exoneration from Tythes, Moduses, Compositions and Payments hereby authorized to be made, shall be void and of no effect; and then and in such case, and from thenceforth, it shall and may be lawful to and for the said Rector, or any of his Successors Rectors of the said Parish, from and immediately after such ejection, eviction, or taking away of the possession of the said Premises as aforesaid, again to claim and compel payment of an adequate proportion of the said Tythes, Moduses, Compositions and other Payments whatsoever in lieu of Tythes, and to have, hold, receive and enjoy the same, in as full ample and beneficial a manner, to all intents and purposes whatsoever, as he or they might have done in case this Act had not been passed, any thing herein contained to the contrary thereof in anywise notwithstanding,

And

And be it further Enacted, That after the said Commissioner shall have set out the several Allotments hereinbefore mentioned, he shall sell (in manner provided by the said recited Act of the Forty-first year of the Reign of His present Majesty, respecting the sale of Land for paying Expences of Acts of Inclosure) so much of the residue and remainder of the said Commons Moors and Waste Lands, as shall be requisite for paying and discharging the Costs Charges and Expences of obtaining and executing this Act, and for or towards payment of the Purchase Money for the Lands Tenements and Hereditaments to be purchased (in case any such shall be purchased) for the use of the Rector as aforesaid; (or the whole, if necessary, under the Provisions of this Act) and in case any Surplus shall remain of the Money to arise by such Sale, after making such Payments as aforesaid, such Surplus Money shall be divided and apportioned between the several Proprietors and Persons interested in the Lands hereby directed to be divided and inclosed, in such Shares as shall be in proportion to such their respective Property and Interests; and the Shares of such of them as shall be Tenants thereof in Fee Simple shall be paid to them respectively; and the Shares of such other Proprietors or Persons of and in such Surplus Money shall be applied and disposed of in manner directed by the said recited Act, in cases wherein any Money to be paid for the purchase or exchange of any Lands Tenements or Hereditaments, or of any Timber or Wood growing thereon, is thereby directed to be paid into the Bank of England, and to be laid out in the purchase of other Lands Tenements and Hereditaments, to be settled to the same uses; and the Residue (if any) of the said Commons Moors and Waste Lands shall be divided and allotted unto and amongst the several Persons and Parties entitled thereto, according to their respective Rights and Interests; or in case such Residue shall be of so small quantity as that the same would in the judgment of the said Commissioner, if so divided, not be serviceable to the said Proprietors, then it shall be lawful for the said Commissioner to allot such Residue in One or more plot or plots, for the common use of such Proprietors, in such proportions, and subject to such regulations, as he shall think fit and specify in his Award, and it shall be lawful for the said Commissioner to make such Orders respecting the Fencing of such Residue as he shall think fit.

All or part
of the
Residue of
Commons
to be sold for
Expences
and for
Purchases of
Land Tythes.

Application
of Surplus
Money.

And be it further Enacted, That in case any Person or Persons shall at the time of such Allotment or Inclosure to be made as aforesaid, be entitled to or possessed of any of the Homesteads,

Persons not
having suf-
ficient inter-
est in the
Commons to

commute for Tythes, to pay the value in Money to the Persons whose Lands shall be allotted for that purpose.

Gardens, Orchards, or inclosed Lands, within the said Parish of *Thornton*, and shall not be entitled to or possessed of Property, or interested in the said Commons Moors and Waste Lands hereby directed to be allotted and inclosed, equal in value to the Tythes, Moduses, Compositions, or other Payments in lieu of Tythes, of such his her or their Estates within the said Parish, such Person or Persons shall respectively pay or cause to be paid to such Person or Persons, and at such time or times as the said Commissioner shall direct and appoint, such sum or sums of Money for such deficiency as he the said Commissioner shall think reasonable, for the Tythes, Moduses, Compositions, or other Payments in lieu of Tythes, of such several Homesteads, Gardens, Orchards, or inclosed Lands, which sum or sums of Money shall be applied towards payment of the Charges and Expences of the Person or Persons from whose Allotment or Allotments Land shall have been taken or deducted, as a compensation or satisfaction for such Tythes, Moduses, Compositions, or other Payments in lieu of Tythes, in case Land shall not have been sold for that purpose under the authority of this Act; and the said Commissioner shall and may, in case of refusal by any such Owner or Owners of Homesteads, Gardens, Orchards, or inclosed Lands as aforesaid, to pay such sum or sums of Money, levy and recover the same by such ways and means as any Rate or Assessment by this Act authorized to be made may be levied, and is directed to be recovered; and in case Land shall have been sold to defray the Proportion of the Costs and Expences of obtaining and executing this Act of any such Owner from whom any Land shall have been taken as aforesaid, or in case of any Surplus remaining after payment of such Costs and Expences, such sum and sums of Money, or any such Surplus as aforesaid, shall be divided and apportioned between and amongst the several Persons from whose Allotment or Allotments Lands shall have been taken or deducted, as a compensation or satisfaction for Tythes as aforesaid, in such Shares as shall be in proportion to their respective Property and Interest therein; and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of the other Proprietors and Persons of and in such Surplus Money shall be applied and disposed of in manner directed by the said recited Act, in those cases where any Money is to be paid for the Purchase or Exchange of any Lands Tenements or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands Tenements or Hereditaments, to be settled to the same uses.

Provided always, and be it further Enacted, That in case (after payment of the Costs and Expences of obtaining and executing this Act) the Money to arise by Sale of the Relidue of the said Commons as aforesaid shall not be sufficient for making compensation for Tythes, Moduses, Compositions and Payments as aforesaid (unless the sum fixed by the said Commissioner as the value of the said Tythes, Moduses, Compositions and Payments shall exceed the sum of Five thousand Pounds), then the Sum necessary to make up the deficiency to the extent of Five thousand Pounds shall be paid by the several Persons whose Lands Tenements and Hereditaments shall be discharged from Tythes by virtue of this Act; and the said Commissioner shall and he is hereby authorized and required to make a Rate or Assessment upon such several Persons for raising the Sum so deficient as aforesaid: Provided that the said Commissioner shall and he is hereby required, in making such Rate or Assessment, to have due regard to the Validity, relative Value, or Amount of the Tythes, Moduses, Compositions and other Payments arising, happening, renewing, growing or increasing, or which might arise from and out of the respective Estates, Lands, Tenements and Hereditaments which by the payment of such Rate will be discharged from the payment of such Tythes, Moduses, Compositions or other Payments as aforesaid, as well as the Rights of Common and other Rights to which such several Persons may be entitled, in over or upon the said Commons Moors and Waste Lands, and shall lay and assess the said Rate in fair and just proportions accordingly; which said Rate or Assessment shall be paid at such Time and Place, and to such Person or Persons, as the said Commissioner shall appoint; and in case any Person or Persons shall refuse or neglect to pay the Sum at which he she or they shall be rated and assessed in or by such Rate or Assessment, within such Time, and to such Person or Persons as the said Commissioner shall appoint, it shall and may be lawful for the said Commissioner, by any Warrant or Warrants under his hand and seal, directed to any Person or Persons whomsoever, to cause such sum or sums of Money to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so making default in payment as aforesaid, his her or their Husbands, Guardians, Trustees, Committees or Attornies, wheresoever the same shall be found, rendering the Overplus (if any) on demand to the Owner or Owners of such Goods and Chattels, the reasonable Charges of such Warrant Distress and Sale being first deducted, together with Interest after the rate of Five Pounds per centum per annum, to be computed on such

In case Money to arise by sale of Land shall not be sufficient for paying Costs of Act and of Purchases, deficiency to be raised by a Rate.

such sum or sums of Money from the time the same shall be directed to be paid by such Commissioner as aforesaid; or otherwise it shall be lawful for the said Commissioner, or any Person or Persons authorized by him, to enter upon and take possession of the Lands or Tenements belonging to the Person or Persons so refusing or neglecting to pay as aforesaid, and which shall have been discharged from Tythes by virtue of this Act, and to receive and take the Rents and Profits thereof, until thereby or therewith or otherwise such sum and sums of Money, and the Costs and Charges so ordered and directed by the said Commissioner to be paid by such Person or Persons as aforesaid, and all Interest on such sum and sums of Money, to be computed from the time the same shall by the said Commissioner be directed to be paid as aforesaid, and also all such Costs Charges and Expences occasioned by or attending such Entry upon and receipt of the Rents and Profits of the same Premises, shall be fully paid and satisfied.

Deficiency, if any, to make up the Compensation for Tythes, to be paid by Sir John Lister Kaye.

Provided also, and be it further Enacted, That in case (after payment of the Costs Charges and Expences of obtaining and executing this Act, and the said recited Act) the Money to arise by Sale of the Residue of the said Commons Moors and Waste Lands as aforesaid, shall not be sufficient for making compensation for Tythes, Moduses, Compositions, and other Payments as aforesaid, in case the said Commissioner shall award and fix the Value of such Tythes, Moduses, Compositions and Payments to be more than the sum of Five thousand Pounds, then the said Commissioner shall direct such sum of Money, over and above said sum of Five thousand Pounds, as shall be necessary to make full Compensation for such Tythes, Moduses, Compositions and Payments, to be paid by the said Sir *John Lister Kaye*, his Heirs, Executors, Administrators or Assigns, to the said Commissioner, to be laid out in the purchase of Lands Tenements or Hereditaments, in the manner by this Act directed for making compensation for such Tythes, Moduses, Compositions and Payments as aforesaid; and in case of neglect or refusal to pay the same according to the direction of the said Commissioner, then the same, or any part thereof, shall and may be levied and recovered in the same manner and by the same ways and means as hereinbefore provided for the recovery of the Rates hereinbefore mentioned.

Tythes to be payable till the Allotments made and Rates raised.

And be it further Enacted, That the said *Robert Gee*, or the Rector for the time being of the said Rectory, shall be entitled unto and shall receive and enjoy such and the same Tythes, Moduses, Compositions

Compositions or other Payments in lieu thereof, until the Allotment hereinbefore directed to be made in lieu of Tythes, Moduses, Compositions or Payments in lieu of Tythes, shall have been set out and allotted, and until such Lands Tenements and Hereditaments shall have been purchased conveyed and settled as aforesaid, as he might or could have done in case this Act had not been passed; and in case such Tythes shall determine before the end of any current year, it shall be lawful for the said Commissioner to apportion the same between the said *Robert Gee*, or the Rector for the time being of the said Rectory, and the Tenants or Occupiers of Lands Tenements and Hereditaments in the said Parish of *Thornton*, and to declare what sum and sums of Money shall be respectively paid to the said *Robert Gee*, or to the Rector for the time being of the said Rectory, for the fraction of the year which shall elapse prior to such Determination.

And be it further Enacted, That the said Commissioner shall and he is hereby required, within Twelve calendar months next after the making out of the Allotment by this Act directed to be made to the said Rector, to cause the same to be well and sufficiently ring-fenced with Quicksets, guarded and fenced with good and sufficient Posts and Rails, or with good and substantial Stone Walls, as the said Commissioner shall direct; which Fences, after they shall be so made, shall for ever thereafter be kept in Repair by the said Rector, and his Successors Rectors as aforesaid, on such sides or parts thereof as the said Commissioner shall in and by his Award order direct or appoint.

The Rector's Allotment to be ring-fenced.

Provided always, and it is hereby Enacted and Declared, That all Powers and Authorities hereby given to the said Commissioner for allotting and setting out any of the Commons, Moors or Waste Lands, in lieu of or as a compensation for any Tythes, Moduses, Compositions, or other Payments in lieu of Tythes in the said Parish, or for treating contracting or agreeing with any Person or Persons willing to sell any Lands Tenements or Hereditaments, by this Act authorized to be purchased, for the purpose of making compensation for such Tythes in the manner by this Act directed, or for making any Rate or Assessment upon any Person or Persons for raising any sum of Money for the purpose of discharging any Homesteads, Gardens, Orchards, or inclosed Lands, from Tythes, Moduses, Compositions, or other Payments in lieu of Tythes, shall be in force and have effect for the space of Five years, and no longer, from the time of the passing of this Act, and shall from the expiration of the said term of Five years cease and determine to all

Power for Commissioner to make Compensation for Tythes to cease, if not executed in Five years.

intents and purposes, any thing in this Act contained to the contrary thereof in anywise notwithstanding.

Empowering
Rector to
borrow
Money for
defraying the
Expences of
erecting
Buildings,
and making
subdivision
Fences.

AND whereas it may be requisite for the better Occupation and Cultivation of the Allotment or Allotments so to be made to the said *Robert Gee* and his Successors Rectors as aforesaid, and in order to render the same of greater Value to the said Rector and his Successors, it may be necessary that Buildings should be erected thereon, or that alterations or improvements should be made in or additions made to the Buildings erected upon such Estate or Estates so to be purchased as aforesaid, and that interior or subdivision Fences should be made planted and raised in and upon the said Allotment or Allotments: AND whereas the erecting of such Buildings, and the making planting and raising of such interior or subdivision Fences will be a considerable Expence, and the same will probably be more beneficial to the Successors of the said Rector than to himself; BE it therefore further Enacted, That it shall and may be lawful to and for the said *Robert Gee*, and his Successors Rectors as aforesaid, by and with the Consent in writing of the Patron of the said Rectory and of the Archbishop of *York* for the time being, to erect or cause to be erected such Buildings and Conveniences upon the Allotment or Allotments (which Buildings and Conveniences the said Rector and his Successors are hereby required to cause to be insured, equal to the Value thereof, annually, in some of the Offices in *London* established for Insurance against Fire,) so as aforesaid to be set out unto the said *Robert Gee* and his Successors Rectors as aforesaid; and also to make plant and raise all such interior or subdivision Fences in and upon the said Allotment or Allotments as shall be necessary and proper for the Occupation of the Lands so to be allotted to the said Rector and his Successors, and by any Deed or Deeds, Writing or Writings under the hand and seal of such Rector for the time being, attested by Two or more credible Witnesses, by and with the Consent in writing of the Patron of the said Rectory, and of the Archbishop of *York* for the time being, to charge such Allotment or Allotments so as aforesaid to be set out for the said *Robert Gee* and his Successors Rectors as aforesaid, and the Buildings and Conveniences so to be erected thereon, with such sum or sums of Money, not exceeding a sum equal to the amount of Two years net Income, upon such Allotment or Allotments, and the Estate to be purchased in lieu of Tythes, as the said Commissioner shall think necessary for the purposes of, and in order to be applied for, paying and defraying the Charges and Expences of erecting such Buildings and Conveniences, and of making planting and raising such interior or subdivision

Fences

Fences, and applying for and obtaining the Consent of the said Patron and Archbishop, and in the exercise of the Powers given to and vested in the said *Robert Gee* by virtue of this Act; which sum or sums of Money shall be paid to such Person or Persons as the said Commissioner shall nominate and appoint, in order to be applied and disposed of accordingly; and for securing the repayment of such sum or sums of Money, with Interest for the same, to grant, mortgage, lease or demise the Allotment or Allotments so as aforesaid to be set out unto and for the said *Robert Gee* and his Successors Rectors as aforesaid, or any part thereof, and the Buildings and Conveniences so to be erected thereon, unto the Person or Persons who shall advance and lend the same, his her or their 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 to cease and be void, or with an express Trust or Condition to be surrendered when the sum or sums of Money thereby to be secured, with the Interest thereof, shall be respectively fully paid and satisfied; and such Mortgagee or Mortgagees advancing and lending the Money so to be borrowed, shall not be obliged to see to the Application or be anywise answerable for the misapplication of such Monies or any part thereof; and the said Rector and his Successors for the time being shall be and is and are hereby required and made liable, at the end of every year after the commencement of the said term of years, to pay to the Person or Persons to whom such Grant, Mortgage, Lease or Demise shall be made, his her or their Executors Administrators or Assigns, One Twentieth part of the Principal Money so to be borrowed, until the whole thereof shall by Annual Payments be paid off and discharged; and also to pay and keep down the Interest of the said Monies so to be borrowed, so that the future Rectors of the said Parish of *Thornton* becoming possessed of such respective Allotment or Allotments shall not be subject or liable, and they are hereby respectively discharged from being subject or liable to pay any further or larger Share of such Monies than his or their proportion thereof according to such last-mentioned Condition, or any Interest for the same, save only for One year from the day of the death, resignation, or cession of the Predecessor, his Executors or Administrators; and it shall and may be lawful for the Person or Persons who shall advance and lend such Monies, his her or their Executors Administrators and Assigns, for the more easily recovering the said One Twentieth part of the said Principal, and the whole of the Interest which is enacted annually to be paid, to have, use, exercise and take such and the same Powers and Remedies, by Entry and Distress

Distress upon the Premises so to be charged mortgaged and demised, and Sale of such Distress, as by the Laws now in force are provided for and given to Landlords, or as they can use and take for the recovery of Rack Rents in arrear.

Exchanges.

And be it further Enacted, That it shall and may be lawful to and for the said Commissioner to set out allot and award any Lands Tenements or Hereditaments within the said Parish of *Thornton*, in lieu of and in exchange for any other Lands Tenements or Hereditaments within the said Parish, or within any adjoining Parish, Township or Place ; provided that all such Exchanges be ascertained specified and declared in the Award of the said Commissioner, 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, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail general or special, or by the Courtesy of England, or for years determinable on any Life or Lives, by and with the Consent of the Lessor or Lessors, and not otherwise, 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 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 such Exchange or 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 Lands Tenements or Hereditaments held in right of any Church Chapel or any other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands Tenements or Hereditaments so to be exchanged shall lie or be situate.

For paying
the Expenses
of Ex-
changes, &c.

And be it further Enacted, That all Costs Charges and Expences attending the making of any Exchanges or Partitions to be made by virtue of the said first recited Act or this Act, shall be paid borne and defrayed by the several Persons making such Exchanges and Partitions,

titions, in such manner and in such proportions as the said Commissioner shall by his said Award, or other separate Deed or Instrument, order and direct.

And be it further Enacted, That it shall be lawful for the Rector of the said Rectory of *Thornton* for the time being, by Indenture or Indentures under his hand and seal, with the Consent and Approbation of the Archbishop of *York*, and of the Patron of the said Rectory, to lease or demise all or any part or parts of the Allotment or Allotments to be set out and allotted to such Rector by virtue of this Act, or the Lands Tenements or Hereditaments so to be purchased and settled as aforesaid, to any Person or Persons whomsoever, for any term not exceeding Twenty-one years, to commence within Twelve calendar months next after the passing of this Act; so that the Rent or Rents for the same shall be thereby reserved to the Rector for the time being, by equal quarterly payments in every year; and so that there be thereby also reserved and made payable to such Rector the best and most improved Rent or Rents that can be reasonably had or gotten for the same, without taking any Fine, Foregift, Premium, sum of Money, or other Consideration for the making or granting any such Lease or Demise; and so that no such Lessee, by any such Lease or Demise, be made punishable for Waste by any express words to be therein contained; and so that there be inserted in every such Lease, Power of Re-entry on nonpayment of the Rent or Rents to be thereby reserved within a reasonable time, to be therein limited, after the same shall become due; and so that a counterpart of such Lease be duly executed by the Lessee or Lessees to whom such Lease shall be made as aforesaid; and every such Lease shall be valid and effectual, any Law or Usage to the contrary notwithstanding.

Power to the
Rector to
grant Leases.

And be it further Enacted, That it shall and may be lawful to and for the said Commissioner, upon the Application in writing of any Proprietor or Proprietors of Messuages, Lands Tenements or Hereditaments within the said Parish, now held and occupied by virtue of any Lease, or Agreement for a Lease, at Rack or extended Rent, for any term or number of years unexpired, to annul and make void such Lease or Agreement, so far as the same may affect any Allotment to be made of the said Commons Moors and Waste Lands hereby intended to be inclosed; and by his Award to order and direct from what time the Term or Terms therein shall cease and determine; the respective Proprietors of such Messuages, Lands Tenements and Hereditaments, making

Leases to be
void.

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such

such satisfaction to their respective Lessee or Lessees, as the said Commissioner shall think reasonable, and by his Award direct to be paid to them, as a Compensation for such Lease or Agreement.

Wills and Settlements not to be affected.

Provided always, and be it further Enacted, That nothing in this Act contained shall extend or be construed to extend to revoke, make void, alter or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents or Incumbrances, out of, upon, or affecting any of the Commons Moors and Waste Lands to be divided, allotted, inclosed or exchanged as aforesaid, or any part or parts thereof respectively; but that the respective Persons to whom any Lands or Hereditaments shall be allotted or given in exchange by virtue of this Act, shall be seised thereof, to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, Charges and Incumbrances, and no other, as the Messuages, Buildings, Lands, Grounds and Hereditaments, whereof such Person was seised or possessed at or immediately before the execution of the Award to be made by the said Commissioner, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to, charged with or affected by, in case this Act had not been passed.

For preventing depasturing Cattle Sheep and Swine on the Roads.

And be it further Enacted, That no Person or Persons shall at any time within the space of Seven years next after the passing of this Act, turn or put, or cause to be turned or put any Cattle, Sheep, Swine or Geese in or upon any of the Roads Ways or Lanes within the said Parish, unless the Fences shall be guarded on each side thereof, according to the directions of the said Commissioner.

Expences of the Act how to be paid.

And be it further Enacted, That the Costs Charges and Expences incident to and attending the obtaining and passing of this Act, and of surveying, measuring, planning, valuing, dividing and allotting the Commons Moors and Waste Lands to be divided and allotted by virtue of this Act or the said first recited Act, of making, laying, levying and collecting the Rate or Assessment hereinbefore mentioned, and of purchasing, conveying and settling the Lands and Tenements hereinbefore directed to be purchased for the Rector as aforesaid, and of preparing and enrolling the Award of the said Commissioner, and of the Copy or Copies thereof, and the Charges and Expences of the said Commissioner, his Clerks Assistants and

91.

Servants,

Servants, and the Charges of fencing the Allotment or Allotments to the said Rector and his Successors, and all other necessary Expences of the several Persons to be employed by the said Commissioner in and about the Premises, either before or after the execution of the said Award, and all the Expences of forming completing and repairing the public Carriage Roads and Highways to be set out and appointed by the said Commissioner, and all other incidental Charges and Expences whatsoever, for or by reason of or preparatory to the said intended Division and Inclosure, and carrying this Act into execution, shall be paid and defrayed by the said Commissioner out of the Money to arise by sale of Land as hereinbefore mentioned; and in case the Money arising by such Sale shall not be sufficient to defray all the Charges and Expences as aforesaid, then the Deficiency shall be made up, paid, borne and defrayed by the several and respective Owners and Proprietors of Estates within the said Parish (except the said Rector of *Thornton*, and the Surveyor or Surveyors of the Highways, and the Heirs of the said *Rachael Smith*, in respect of the Allotment for the said Alms Houses;) and the proportion thereof to be paid by the said several Persons shall be settled ascertained and adjudged by the said Commissioner, and shall be paid at such Time and Place, and to such Person or Persons, as the said Commissioner shall appoint; and in case any Person or Persons shall refuse or neglect to pay his her or their share or proportion of such Costs Charges and Expences as aforesaid, within such time, and to such Person or Persons as the said Commissioner shall appoint, then and in such case the said Commissioner shall cause the same to be levied and recovered in manner directed by the said recited Act.

And be it further Enacted, That it shall and may be lawful for the Husbands, Guardians, Trustees, Committees or Attornies of any of the Owners or Proprietors of Houses, Toststeads, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds in the said Parish of *Thornton*, being under Coverture, Minors, Lunatics, beyond the Seas, or under any other disability, or for any of the Owners or Proprietors, being Tenants in Tail, or for Life or Lives, or for years determinable on a Life or Lives, or on any other contingency or otherwise, to charge such Houses, Toststeads, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, with such sum and sums of Money as they shall respectively actually pay to the said Commissioner by virtue of the Rate hereinbefore authorized and directed to be made and levied by him for the discharge of the Tythes thereof as aforesaid, and also with any additional or further sum or sums of Money, not exceeding in any case

Tenants for Life, &c. of old Inclosures empowered to charge their Estates with Money paid for discharging the same from Tythes, &c.

case Five Pounds an Acre for every Acre of Land discharged, from Tythes as aforesaid, which the said Commissioner shall direct to be paid by them for their respective shares of the Charges and Expences incident to and attending the obtaining of this Act and carrying the same into execution; and to grant, mortgage, surrender, lease or demise, or otherwise subject such Houses, Tottsteads, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds, unto such Person or Persons as shall advance and lend such sum and sums of Money respectively, his her or their Executors Administrators and Assigns, for any term or number of years; or in case any Person in possession, who shall be charged with a sum or sums of Money as aforesaid, shall choose to advance pay or discharge the same, it shall be lawful for the said Commissioner, by any Deed or Writing under his hand and seal, to be attested by Two or more credible Witnesses, in like manner to grant, mortgage, surrender, lease, demise or otherwise subject the said Houses, Tottsteads, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds to such Person or Persons respectively paying and discharging the same, and to his her or their Executors Administrators and Assigns, for any term or number of years, to and for the payment of such sums of Money as aforesaid, with Interest for the same, to commence on the termination of his her or their Right in the Premises; so that every such Grant, Mortgage, Surrender, Lease or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned when such sum or sums of Money thereby to be secured shall have been fully paid and satisfied, and also with a Covenant to pay and keep down the Interest, so that no Person or Persons afterwards becoming entitled to any such Houses, Tottsteads, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds, shall be liable to pay any further or larger Arrear of Interest than for Twelve calendar months preceding the time when the Title to such Possession shall have commenced; and every such Grant, Mortgage, Surrender, Lease or Demise shall be good valid and effectual in the Law for the purposes thereby intended.

Money advanced by Proprietors to be repaid with Interest.

And be it further Enacted, That if any of the Person or Persons, Body or Bodies Politic Corporate or Collegiate, interested in the Commons, Moors and Waste Lands hereby directed to be divided, allotted and inclosed, or any other Person or Persons on his her or their behalf, shall advance and pay any Money in discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the direction of the said Commissioner, together with lawful Interest for the same, out of the Money to be raised by virtue of this Act.

And

And be it further Enacted, That out of the Money that shall be raised for defraying the Expences of obtaining and executing this Act, there shall be paid to the said Commissioner, as a Remuneration for his pains and trouble, the sum of Three Pounds and Three Shillings, and no more, for each day he shall be employed in travelling to, returning from, and attending at Meetings for the execution of this Act or the said first recited Act; and that the said Commissioner shall, out of such Allowance, pay and defray all his travelling Charges, and also his own Expences at all Meetings to be held in pursuance of this Act.

Commis-
sioner's Al-
lowance.

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 passing thereof,) the said Commissioner shall and he is hereby required to make out 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 and Expences in the execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by him laid before *Richard Henry Roundell*, Esquire, or any One or more of His Majesty's Justices of the Peace for the West Riding of the County of *York*, to be by him or them examined and balanced; and such Balance shall be by the said *Richard Henry Roundell*, or such Justice or Justices, stated in the Book of Accounts to be kept in the Office of the Clerk or Clerks to the said Commissioner; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by the said *Richard Henry Roundell* or such Justice or Justices.

Accounts to
be audited
once in every
year.

And be it further Enacted, That the Award to be made and executed by the said Commissioner, according to the directions of the said first recited Act, shall within Six calendar months next after the execution thereof, or as soon after as conveniently may be, be enrolled, and a Copy of the Plan, annexed to the said Award, signed by the said Commissioner, be lodged in the public Register Office established at *Wakefield*, in the said West Riding of the County of *York*, for the registering of all Deeds, Conveyances, Wills and other Incumbrances, affecting any Manors, Lands, Tenements or Hereditaments within the said West Riding of the County of *York*; and the Registrar of the said Office, or his Deputy for the time being, is hereby required to enrol the same in the proper Book for enrolling of Bargains and Sales of Land; and a true Copy of such Enrolment, or any part thereof, under the hand of the said Registrar or his Deputy, shall be allowed as Evidence in all Courts of Law

Award to be
enrolled in
the Register
Office at
Wakefield,
and deposited
in the Church
of *Thornton*.

and Equity; and the said Registrar or his Deputy shall be entitled to the same Fees for such Enrolment and the Copies thereof; as he is entitled to for the enrolling any Bargain and Sale, and for the Copies thereof; and shall permit any Person or Persons from time to time, within the Office-hours of Attendance, to peruse the said Enrolment, paying for the same to the said Registrar or his Deputy One Shilling, and no more; and to the said Award shall be annexed a Plan of the said Manor, and of every Person's distinct Property therein, after the said Division and Inclosure hereby intended shall be made as aforesaid, signed by the said Commissioner; and the said Award and Plan shall, within Six calendar months after such Enrolment, be deposited in the Parish Church of *Thornton* aforesaid, there to be inspected by all Persons interested therein.

Appeal.

And be it further Enacted, That if any Person or Persons shall think himself herself or themselves aggrieved by any thing done in pursuance of this Act or the said first-recited Act, then and in every such case (except where the Orders and Determinations of the said Commissioner are by the said first-recited Act or this Act directed to be final or conclusive, and also except as to such Claims, Objections, Matters and Things as are hereinbefore directed or authorized to be settled tried or determined by the Verdict of a Jury,) he she or they may appeal to the General Quarter Sessions of the Peace which shall be held in and 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 their said General Quarter Sessions are hereby authorized and required to hear and determine the matter of every such Appeal, and to make such Order therein, and award such Costs and Damages, as they in their discretion shall think meet and reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) upon demand 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; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their discretion shall seem reasonable, and be levied in manner aforesaid.

And be it further Enacted, That nothing in this Act or the said first recited Act contained shall defeat, lessen or prejudice the Right Title or Interest of the Lord or Lords of the said Manor for the time being, of or to the Mines of Lead, or Mines Beds and Seams of Coal, Ironstone, or other Minerals in or under the said Open Commons Moors and Waste Lands hereby intended to be divided allotted and inclosed, or to any Seigniories or Royalties incident and belonging to the said Manor, the same being hereby reserved to the Lord or Lords of the said Manor for the time being, with full power at all times to hold and enjoy all Quit Rents, Free Rents, and other Rents, Reliefs, Duties, Customs and Services, and all Courts, Perquisites and Profits of Courts, and all other Rights, Royalties, Jurisdictions, Franchises and Privileges whatsoever to the said Manor incident or appertaining, in as full ample and beneficial a manner, to all intents and purposes, as if this Act had not been passed; and that the Lord or Lords of the said Manor for the time being shall and may at all times hereafter have, hold, work, win and enjoy all Mines of Lead Ore, Coal, Ironstone and other Minerals of what kind or nature soever (except Quarries of Stone) under the said Open Commons Moors and Waste Lands, and the Allotments to be made therefrom, together with all convenient and necessary Ways Roads and Passages, and liberty of laying making and repairing Waggonways and other Ways, in under and along the same, or any of them or any part thereof, and searching for, winning and working the said Mines and Minerals, and getting and leading and carrying away the Lead, Coal, Ironstone, Minerals and other Produce thereof, and of making Pits, Shafts, Pit Rooms, Air Pits, Heap Rooms, Stand Yards, Drifts, Levels, Ways and Watercourses, and of erecting and using Fire Engines and other Engines and necessary Buildings, and of altering, changing, pulling down and carrying away the same or any part of the Materials thereof, at their own free will and pleasure, and doing all such other acts matters and things as may be necessary and convenient for the full and complete enjoyment thereof, in as full ample and beneficial a manner, to all intents and purposes, as he or they could or might have done in case this Act had not been passed; and also that it shall be lawful for the Lord or Lords of the said Manor for the time being, at all times for ever hereafter, to make or cause to be made any Soughs, Drains, or other covered or open Watercourses, to run and pass in through and over any part or parts of the said Open Commons Moors and Waste Lands hereby intended to be divided allotted and inclosed, for the purpose of draining and carrying away the Water from, and the more convenient working and winning any Coal, Coal Pits, or other Pits

now open and working, or hereafter to be opened and worked, in the ancient Fields Clofes and Inclofures of the Lord or Lords of the faid Manor for the time being, fituat within and parcel of the faid Manor; yet neverthelefs that the Lord or Lords of the faid Manor for the time being fhall be obliged to pay to the refpective Owners or Occupiers of fuch Allotments refpectively, a reasonable and adequate Recompence and Satisfaction for all fuch Damages as fhall from time to time be thereby done, in proportion to the Los fufained by fuch Owners or Occupiers of fuch Allotments refpectively, according to their refpective Rights and Interests therein : Provided always, That nothing herein contained fhall authorize or empower the Lord or Lords of the faid Manor for the time being to fink any Pit or Shaft, or Quarry or other Work, or to break fpoil or damage the furface of or in any Garden Orchard or Plantation which may be made or taken in upon or from the faid Commons Moors and Wafte Lands, or any Allotment or Allotments thereof, or in anywife to damage any Houfe, Building, Court Yard or Avenue, by finking for, getting or carrying away any of the Mines Minerals or Ironftone aforefaid.

General
Saving.

Saving always to the KING's Moft Excellent MAJESTY, His Heirs and Succelfors, and to all and every other Perfon and Perfons, Bodies Politic and Corporate, his her and their Heirs, Succelfors, Executors and Adminiftrators, All fuch Eftate, Right, Title and Interest (other than fuch as are meant and intended to be barred and deftroyed by this Act), as they, every or any of them, had or enjoyed, of, in, to, or in refpect of the faid feveral Parcels of Commons Moors and Wafte Lands, before the paffing of this Act, or could or might have held and enjoyed the fame, in cafe this Act had not been paffed.

And be it further Enacted, That this Act fhall be printed by the feveral Printers to the KING's Moft Excellent MAJESTY, duly authorized to Print the Statutes of the United Kingdom ; and a Copy thereof, fo printed by any of them, fhall be admitted as Evidence thereof, by all Judges Juftices and others.