



ANNO QUADRAGESIMO QUARTO

# GEORGII III. REGIS.

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## *Cap. 33.*

An Act for inclosing Lands in the Township of *Leavening* in the Parish of *Acklam* in the East Riding of the County of *York*. [3d May 1804.]

**W**HEREAS there is within the Township of *Leavening* in the Parish of *Acklam* in the East Riding of the County of *York*, a certain Open and Stinted Pasture called the *Wold*, which contains about Three hundred Acres, and there are also certain Common and Waste Lands in the said Township which contain about Ten Acres: And whereas *Digby Legard* Esquire and *John Lockwood*, Gentleman, as Trustees under an Act of Parliament passed the last Session, for vesting certain Parts of the settled Estates of *Richard Langley* Esquire, in Trustees for the Purposes in the said Act mentioned, are Lords of the Manor of *Leavening* aforesaid: And whereas *Henry Forster Mills*, Clerk, is Chancellor of the Cathedral and Metropolitcal Church of *Saint Peter* of *York*, and is also Patron of the Vicarage of *Acklam* aforesaid: And whereas *John Simpson*, Clerk, is Vicar of the Vicarage of *Acklam* aforesaid: And whereas the said *Henry Forster Mills* as Chancellor as aforesaid, and the said *John Simpson* as Vicar as aforesaid, are respectively entitled to all Manner of Tithes, both Great and Small, growing, renewing, or arising within the Township of *Leavening* aforesaid: And whereas the said *Digby Legard* and *John Lockwood*, as Trustees as aforesaid, are Lessees for Lives of the Tithes due to the said *Henry Forster Mills* as aforesaid: And whereas the said *Digby Legard* and *John Lockwood*, as Trustees as aforesaid,

[Loc. & Per.]

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*Elizabeth*

Commission-  
er.

*Elizabeth Dealtry*, Widow, the Heirs of *John Bell* Esquire, and *Richard Kirby*, Gentleman, and several other Persons are entitled to Rights of Common in the said Open and Stinted Pasture and Common and Waste Lands : And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in one Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts* : And whereas the said Open and Stinted Pasture and Common and Waste Lands are so circumstanced, as to render the Cultivation and Management thereof, in their present State, inconvenient, and it would tend greatly to the Advantage of the several Proprietors thereof, and all Persons interested therein, if the said Open and Stinted Pasture and Common and Waste Lands were divided and inclosed, and specific Parts thereof allotted to the several Persons interested therein, in proportion to their respective Rights and Interests, and a Satisfaction made for the Tithes arising within the Township of *Leavening* aforesaid; but such beneficial Purposes cannot be effected without the Aid and Authority of Parliament: May it therefore please your Majesty, That it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That *William Whitelock* of *Brotherton* in the said County of *York*, Gentleman, and his Successors to be appointed in Manner hereinafter mentioned, shall be, and he is hereby appointed, the Commissioner for dividing and allotting the said Open and Stinted Pasture and Common and Waste Lands within the Township of *Leavening* aforesaid, and for carrying the several other Purposes of this Act into Execution, subject to the Regulations of the said recited Act, except in such Cases where the same are hereby varied or altered.

Appoint-  
ment of a  
new Com-  
missioner.

II. And be it further enacted, That if the said *William Whitelock* shall, before the Execution of all the Powers and Authorities hereby vested in him, die, refuse, or become incapacitated to act, then and in every such Case it shall be lawful for the said *Henry Forster Mills* or his Successors, Chancellors of the said Church, within Sixty Days next after such Death, Refusal, or Incapacity, shall be made known to him by Notice in Writing from any One of the Persons interested in the said Open and Stinted Pasture and Common and Waste Lands, which he is hereby authorized to give, to appoint a new Commissioner not interested in the said Inclosure, in the Stead of the said *William Whitelock*, and so as often as any Commissioner to be appointed in the Room or Stead of the said *William Whitelock* shall die, refuse, or become incapacitated to act; and every such Appointment of a new Commissioner shall be reduced into Writing and signed by the Person or Persons making the same, and every Commissioner so to be appointed and chosen shall have the like Powers and Authorities for putting this Act in Execution in all Respects whatsoever, as the Commissioner, in whose Place he shall have been so appointed and chosen, was invested with by virtue of this Act; and in case no Appointment of a Commissioner shall be made by the said *Henry Forster Mills* or his Successors, within the Time aforesaid, then a new Commissioner, not interested in the said Division and Inclosure, shall be chosen in the Stead of the said *William Whitelock* by a Majority in Value of the Proprietors of or Persons interested in the Lands and Grounds hereby

hereby intended to be divided and inclosed, who shall be present at a Meeting to be called for that Purpose within Fourteen Days next after the Expiration of the Sixty Days hereinbefore allowed to the said *Henry Forster Mills* for the Appointment of such Commissioner as aforesaid.

III. And be it further enacted, That the said Commissioner shall, and he is hereby required to give Notice in the Newspaper called the *York Courant*, or in some other Newspaper circulated in the Neighbourhood of *Leavening* aforesaid, and also in the Parish Church of *Acklam* aforesaid, upon some *Sunday*, immediately after Divine Service, or by Writing to be affixed upon the principal outer Door of the same Church, of the Time and Place of the First and every subsequent Meeting for executing the Powers hereby, and by the said recited Act, vested in him, at least Ten Days before any such Meeting shall be held (Meetings by Adjournment only excepted), so as such Place of Meeting, whether by Adjournment or otherwise, do not exceed the Distance of Eight Miles from the Parish Church of *Acklam* aforesaid; and the said Commissioner shall and may adjourn the Meeting from Time to Time as he shall see Occasion, for the due Execution of this or the said recited Act.

Notice of Meetings.

IV. And be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioner, shall be so made and given by Advertisement in the said Newspaper called the *York Courant*, or in case the same shall not be then published, then in some other Newspaper printed or circulated in the said County of *York*.

Other Notices, how to be given.

V. And be it further enacted, That in case any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, touching or concerning the respective Shares, Rights, or Interests, which they or any of them shall have or claim to have in or to the Lands and Grounds hereby directed to be divided and inclosed, or touching or concerning the respective Shares or Allotments which they or any of them ought to have of or in the same, it shall be lawful for the said Commissioner, and he is hereby authorized and required to examine into, hear, and determine the same: Provided always, That nothing herein contained shall authorize the said Commissioner to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever.

Commissioner to settle Disputes.

VI. And be it further enacted, That in case the said Commissioner shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioner, and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant under his Hand directed to any Person whomsoever, to cause such Costs and

Power to assess Costs.

and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Allowing  
Parties to  
try their  
Rights by an  
Issue at Law.

VII. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioner touching or concerning any Claim or Claims of any Rights of Common or Interest in, over, or upon the Lands and Grounds hereby directed to be divided and inclosed, or any Part thereof, it shall be lawful for the Person or Persons so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the then next or at the following Assizes to be holden for the said County of *York*, and for that Purpose, the Person or Persons who shall be dissatisfied with the Determination of the said Commissioner, shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioner shall be made; 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 accept one or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same; and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall 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, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, then the said Commissioner shall, and is hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, That the Determination of the said Commissioner, touching such Claim or Claims of any Rights of Common in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive upon all Parties.

Determina-  
tion of Com-  
missioner to  
be final, if  
not objected  
to or Action  
not brought.

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

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

Allotments  
for Stone  
and Gravel  
Pits.

IX. And be it further enacted, That the said Commissioner shall, and he is hereby required to set out, allot, and award unto the Surveyors of the Highways within the Township of *Leavening* aforesaid, such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, as he shall think necessary, as and for Public Stone Quarries and Gravel

Gravel Pits; and the same Part and Parts, when set out, shall for ever thereafter be used by the Surveyors of the Highways within the same Township for the Time being, in such Manner and under such Rules and Regulations as the said Commissioner shall by his said Award direct or appoint.

X. And, in order to the making an adequate Compensation to the said *Henry Forster Mills* and his Successors, Chancellors as aforesaid, and the said *Digby Legard* and *John Lockwood*, their Heirs and Assigns, as such Lessees as aforesaid, and to the said *John Simpson* and his Successors, Vicars as aforesaid, for the Great and Small Tithes and other Ecclesiastical Dues and Payments arising, growing, renewing, increasing, happening, or payable within the Township of *Leavening* aforesaid (except as hereinafter excepted); be it further enacted, That the said Commissioner shall, and he is hereby required, previous to any Land being set out to be sold, as hereinafter directed to set out, allot, and award unto and for the said Chancellor and the said *Digby Legard* and *John Lockwood*, as his Lessees as aforesaid, their Successors, Heirs, and Assigns, and unto and for the said *John Simpson* and his Successors, Vicars as aforesaid, for and in Lieu of all Tithes, both Great and Small, and all Compositions or other Payments in Lieu of Tithes, and all other Ecclesiastical Dues and Payments whatsoever; (except *Easter Offerings*, *Mortuaries*, and *Surplice Fees*;) arising, growing, renewing, increasing, happening, or payable within the Township of *Leavening* aforesaid, according to their several and respective Interests in such Tithes, such Part or Parts of the said Open and Stinted Pasture and Common and Waste Lands hereby directed to be divided, allotted, and inclosed as shall, in the Judgment of the said Commissioner, be equal in Value to One Seventh Part of the said Open and Stinted Pasture and Common and Waste Lands, and of the Ancient Inclosed Lands in the said Township of *Leavening*; and in case the Owners of any Messuages, Cottages, Garths, Gardens, Orchards, or Ancient Inclosed Lands shall not have or be entitled to any Right or Interest in the Lands and Grounds hereby directed to be divided and inclosed, sufficient to make such Satisfaction and Compensation for the Tithes of such their Messuages, Cottages, Garths, Gardens, Orchards, or Ancient Inclosed Lands, then the said Commissioner shall, and he is hereby authorized and empowered to charge such Messuages, Cottages, Garths, Gardens, Orchard, and Ancient Inclosed Lands belonging to such Owners respectively, with the Payment by such Owners respectively of such Sum or Sums of Money as shall, in the Judgment of the said Commissioner, be equal in Value to the Tithes thereof; and such Sum or Sums of Money shall be applied in or towards the Expences incurred in carrying this Act into Execution, and shall be recovered in like Manner as the Expences of obtaining this Act and carrying the same into Execution, are herein directed to be recovered: Provided nevertheless, That in case the said Commissioner shall be of Opinion that Part of the Ancient Inclosed Lands of any such Owners should or ought to be set out for the Tithes of their said Messuages, Cottages, Garths, Gardens, and Ancient Inclosed Lands, in Lieu of any such Tithes, instead of having the same charged with the Payment of any such Sum of Money as aforesaid, then the said Commissioner shall, and he is hereby empowered to set out such Part of the said Ancient Inclosed Lands as shall, in his Judgment, be equal in Value to the Land or Ground to be set out and allotted to the said Chancellor and *Digby Legard* and *John Lockwood* as Lessees as aforesaid, and the said Vicar

Allotment  
in lieu of  
Great and  
Small Tithes.

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respectively,

respectively, as hereinbefore directed, in Lieu of the Tithes of the Messuages, Cottages, Garths, Gardens, Orchards, and Ancient Inclosed Lands of such Owner; and the Land so to be set out from any such Ancient Inclosed Lands shall be deemed Part of the Lands and Grounds to be divided and inclosed within the said Township by virtue of this Act.

Application  
of Surplus  
Money.

XI. Provided always, and be it further enacted, That in case there shall be any Surplus of such Money as aforesaid, then, and in such Case, such Surplus Money shall be paid into the *Bank of England*, and applied in the Manner directed by the said recited Act.

Tithes to be  
payable until  
Allotments  
be made.

XII. And be it further enacted, That until the said Division and Allotment shall be made, and the several Allotments shall be staked out, in pursuance of this or the said recited Act, the said Chancellor and his Lessees, their Successors, Heirs and Assigns, and the said *John Simpson*, and his Successors, shall respectively be entitled to, and shall receive and enjoy such and the same Tithes, as they severally could, might, or ought to have received, in case this Act had not been passed.

General  
Allotment.

XIII. And be it further enacted, That the said Commissioner shall, and he is hereby required in the next Place, to set out, allot, and award, all the Residue of the said Open and Stinted Pasture and Common, and Waste Lands, hereby directed to be divided and inclosed, unto and amongst the said *Digby Legard* and *John Lockwood*, *Elizabeth Dealtry*, the Heirs of the said *John Bell*, and *Richard Kirby*, and all and every other Person and Persons, Bodies Politic or Corporate, who at the Time of making such Allotment shall be entitled to any Right of Common or other Interest, in or upon the said Open and Stinted Pasture and Common and Waste Lands, according to their several and respective Estates and Interests therein, and in such Quantities, Shares, and Proportions, as by the said Commissioner shall be adjudged and deemed to be a Compensation and Satisfaction for the several and respective Rights and Interests of each and every of the said Proprietors.

Leases at  
Rack-Rent  
to be void.

XIV. Provided always, and be it further enacted, That every Lease now subsisting at Rack-Rent of any Messuages, Cottages, or Scites thereof, entitled to Right of Common, or of Lands, to be divided and allotted by virtue of this Act, either alone, or together with any Lands, Tithes, and other Hereditaments, and every other Agreement, for any Time or Term therein, shall, from and after the Time the said Allotments shall be set out and made, or such subsequent Time as the said Commissioner, by Writing under his Hand, shall direct and appoint, cease, determine, and be utterly void; and the Lessee or Lessees, Tenant or Tenants, in every such Lease or Agreement, shall have and receive, of and from his or their Landlord or Landlords, such Satisfaction as the said Commissioner shall ascertain as reasonable to be paid to him, or them on account thereof, or as an Equivalent for the same, any Thing in this Act contained to the contrary hereof notwithstanding: Provided always, That nothing herein contained shall authorize the said Commissioner to ascertain or determine the Satisfaction to be made to any Lessee or Tenant upon the vacating any Lease or Agreement at Rack-Rent, wherein any Agreement whatsoever has been made between the Landlord or Landlords, and Tenant or Tenants, respecting the Terms and Conditions

Conditions to be observed and performed in case of any Division or Inclosure of all or any of the Lands and Grounds within the said Township, either by Authority of Parliament or otherwise: Provided also, that if there shall be any Lease of Lands, Part of which shall lie in the said Parish, and Part in any adjoining Parish, all and every such Lease or Leases upon Rack-Rent now subsisting, may be vacated; but where any Land shall have been taken in Exchange, which Land shall be under Lease, and wholly situate in an adjoining Parish, the Lease of such last-mentioned Land shall not be vacated.

XV. And be it further enacted, That no Sheep or Lambs, Horses, Asses, Horned Cattle, Pigs, or Geese, shall be depastured or kept in any of the said new-intended Inclosures during the Space of Fourteen Years from the Execution of the said Award of the said Commissioner, unless the Persons respectively so depasturing or keeping such Sheep or Lambs, or Horses, Asses, Horned Cattle, Pigs, or Geese therein, do at their own Expence, staffhold the same, or effectually guard and fence the Quickset Hedges, on any other Person's Allotment adjoining to such Inclosures respectively, in which Sheep or Lambs, Horses, Asses, Horned Cattle, Pigs, or Geese, shall be depastured and kept as aforesaid, so as to prevent any Damage or Injury being done to such Fences or Quicksets, by any such Sheep or Lambs, Horses, Asses, Horned Cattle, Pigs, or Geese; and the Person or Persons respectively depasturing or keeping the same, as aforesaid, and neglecting or refusing to staffhold the same, or guard the said Quickset Hedges, shall forfeit and pay any Sum not exceeding Ten Pounds, nor less than Twenty Shillings, for every such Offence, which, when levied, shall be paid to the Surveyor or Surveyors of the Highways of the said Township of *Leavening* for the Time being, and be applied by him, or them in the Amendment of such Highways.

No Sheep or Lambs to be kept in the New Inclosures during the Space of Fourteen Years, unless Guard Fences are put up.

XVI. And be it further enacted, That if any Person shall, from and after the Execution of the Award of the said Commissioner, turn or put, or cause to be turned or put, or knowingly suffer to be turned or put, any of his, her, or their Sheep or Lambs, Horses, Asses, Horned Cattle, Pigs, or Geese into any of the Roads, to be set out by virtue of this or the said recited Act, which shall be fenced on both Sides thereof, it shall be lawful for the Person or Persons whose Hedges, Fences, Crop, or Grounds shall be damaged thereby, or any other Person or Persons, to impound the same; and every such Person or Persons so offending, shall for every such Offence of which he, she, or they shall be convicted before any One of His Majesty's Justices of the Peace for the East Riding of the County of *York*, (not interested in the Matter in question,) upon the Oath of One or more credible Witness or Witnesses, (which Oath the said Justice is hereby empowered to administer,) forfeit and pay such Sum or Sums of Money from Time to Time, not exceeding at any One Time, the Sum of Forty Shillings, nor less than Five Shillings over and above the Sum estimated to be the Amount of the Damage to be sustained thereby, as the said Justice shall think just and reasonable; to be levied by Distress and Sale of the Goods and Chattels of such Person or Persons so offending, by virtue of a Warrant under the Hand and Seal of such Justice, at any Time within Six Calendar Months next after such Offence committed, returning the Overplus (if any) on Demand, after deducting the reasonable Charges of such Conviction, Warrant, Distress, and Sale, to the Owner

No Cattle to be turned into the Roads.

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or Owners of such Goods and Chattels so distrained and sold; which Penalty or Penalties, when so recovered, shall be paid to the Surveyor or Surveyors of the Highways for the Time being, of the said Township of *Leavening*, and shall be by him or them applied in the Amendment of the Highways of the same Township; and in case such Distress cannot be found, and such Penalty, with the Charges, shall not be forthwith paid, it shall and may be lawful for such Justice, and he is hereby authorized and required, by Warrant under his Hand and Seal, to commit such Offender or Offenders, Person or Persons liable to pay the same respectively, to the Common Gaol of the Limit where the Offence shall be committed, or such Order as aforesaid shall be made, for any Time not exceeding Six Weeks, nor less than Fourteen Days, unless the said Penalty, with the Charges, shall be sooner paid; and that after the Execution of the Award of the said Commissioner, the Herbage and Produce of all the Public Roads within the said Township of *Leavening*, which shall be fenced on both Sides thereof, and also the Herbage and Produce of the Ground so to be set out as aforesaid, for getting Stone, Gravel, and other Materials for the Repairs of the Highways, shall be vested in the said Surveyor or Surveyors respectively, and shall by him or them be publickly let to the best Bidder or Bidders, for the Purpose of Mowing only; and the Rents and Profits thereof shall be applied towards the Reparation of the several Highways within the said Township of *Leavening*, and shall be accounted for by the said Surveyor or Surveyors of the Highways of the said Township, annually, on or about the Tenth Day of *October*, at a Public Meeting to be called for that Purpose in the said Township of *Leavening*.

For inclosing the Allotment of the other Proprietors.

XVII. And be it further enacted, That the several Allotments which shall be set out and allotted by virtue of this Act, shall be inclosed and fenced in such Manner, and the Fences shall be made and for ever thereafter maintained, supported, scoured out, and kept in Repair by and at the Expence of such Person and Persons as the said Commissioner shall direct or appoint in and by his said Award.

Openings to be left in Fences for a certain Time.

XVIII. And be it further enacted, That such Convenient Openings shall be left in the Fences of the said inclosures as the said Commissioner shall direct, for the Space of Six Calendar Months next after the Execution of the said Award, for the Passage of Cattle, Carts, and Carriages through the same, unless the said Commissioner shall sooner permit the same to be made up by the Person or Persons interested therein.

Expences of the Act, &c. to be paid by Sale of so much of the Open and Stinted Pasture as will raise a sufficient Sum.

XIX. And be it further enacted, That the Charges and Expences incident to and attending the obtaining and passing this Act, and of the surveying, measuring, planning, dividing, and allotting the Lands and Grounds hereby directed to be divided and allotted, and of exonerating the Ancient Inclosed Lands from Tithes as aforesaid, and of forming, making, and putting in good and sufficient Repair, the Roads and Highways to be set out and appointed under and by virtue of this or the said recited Act; and of the preparing and enrolling of the said Award of the said Commissioner, and all other Writings or Instruments to be executed by the said Commissioner in pursuance of this or the said recited Act, and all other necessary Expences in, about, and concerning the Execution of this Act, which are not herein otherwise directed to be borne, paid, and defrayed, shall be borne,

paid

paid, and defrayed by Sale of such Part or Parts of the said Open and Srinted Pasture and Common and Waste Lands hereby directed to be divided and inclosed (the Allotment or Allotments for Tithes being first made thereout as aforesaid), as in the Opinion and Judgment of the said Commissioner will raise a Sum of Money sufficient to pay and discharge all such Charges and Expences; and the said Commissioner is hereby authorized and empowered to set out, and to sell and dispose of such Part or Parts of the said Open Lands accordingly, upon the Terms and Conditions, and afterwards to allot the same in Manner directed in and by the said recited Act, and to apply the Purchase Money in defraying the Charges and Expences hereby directed to be paid and discharged by Sale of such Land, in such Manner and at such Time or Times as he shall think proper.

XX. Provided always, and be it further enacted, That in case the Money to arise by the Ways and Means hereinbefore directed shall not be sufficient to defray all the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up by the several Persons interested in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and by the Persons interested in the said Ancient Inclosed Lands in the said Township (other than and except the said *Henry Forster Mills* as Chancellor as aforesaid, and the said *John Simpson* as Vicar as aforesaid), and shall be paid in such Shares and Proportions, and within such Time, and to such Person or Persons, as the said Commissioner shall direct, nominate, and appoint.

Deficiency  
(if any) to  
be made  
good by the  
Proprietors.

XXI. Provided nevertheless, That all Costs, Charges, and Expences (exclusive of the said Award of the said Commissioner) attending the making of any such Exchanges or Partitions as may be made under the Authority of the said recited Act or this Act, shall be paid, borne, and defrayed by the several Persons making the same, in such Manner and in such Proportions as the said Commissioner shall, by his said Award, order and direct; and that the said Proprietors, and their Attornies or Agents, shall pay their own Expences when they shall attend the said Commissioner at any Meeting or Meetings in pursuance of this Act.

For paying  
Expences of  
making Ex-  
changes and  
Partitions,  
&c.  
Proprietors  
to pay their  
own Ex-  
pences at  
Meetings.

XXII. And be it further enacted, That the Allotments to be made to the said Vicar and his Successors in Lieu of Tithes as aforesaid, shall be for the first Time inclosed with an Outward Fence and Ditch, to be planted with good transplanted Quicksets, and be fenced with good and sufficient Posts, and three Rails, and with proper Gates where necessary, and where such Ring-Fence shall adjoin a Public or Private Road, such Posts and Rails shall be set up and affixed on the Outside of the Ditches by and under the Directions of the said Commissioner, at the joint Charges of all the said other Proprietors, to be ascertained and raised, or assessed or raised, by the said Commissioner, in the same Manner as the Costs and Charges of this Act are to be ascertained, raised, or assessed, as herein mentioned; and that such Part or Parts of the said Outward Fences shall for ever after be maintained and kept in Repair by the said Vicar and his Successors, on such Sides and Parts thereof as the said Commissioner shall direct and appoint; and that the Allotments to be made to the said *Henry Forster Mills*, and the said *Digby Legard*, and *John Lockwood*, his Lessees, their Successors, Heirs, and Assigns, in Lieu of Tithes, shall be inclosed in like Manner, by and under the Direction of the said Commissioner,

Tithe Allot-  
ments, how,  
and by whom  
to be fenced.

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sioner, at the Costs and Charges of the said *Digby Legard*, and *John Lockwood*, their Heirs, and Assigns, and that the said *Henry Forster Mills* shall not be subject or liable to any Charges or Expences under this Act.

Money advanced to be repaid with Interest.

XXIII. And be it further enacted, That if any of the Proprietors or Persons interested in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any other Person or Persons, 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 by the Direction of the said Commissioner, from and out of the Money to be raised in Manner aforesaid for the Purposes of this Act, together with lawful Interest for the same.

Commissioner's and Surveyor's Allowance.

XXIV. And be it further enacted, That the said Commissioner shall be paid the Sum of Three Pounds and Three Shillings, for every Day he shall travel or be necessarily employed and engaged from Home for the Purpose of executing this Act, or the Powers and Authorities hereby in him reposed, for his Journey, Attendance, Labour, and Expences occasioned by the said Division and Inclosure, and the putting this Act into Execution; and that in case it shall be necessary to have an actual Survey and Admeasurement of the said Open and Stinted Pasture and Common and Waste Lands, and also of the Ancient Inclosed Lands, in the said Township of *Leavening*, then and in that Case the Surveyor appointed by the said Commissioner shall be paid after the Rate of One Shilling for every Acre of the said Open and Stinted Pasture and Common and Waste Lands hereby directed to be inclosed, and after the Rate of Eight Pence for every Acre of the Ancient Inclosed Lands and Grounds surveyed and admeasured in pursuance of this Act, as a full Recompence and Satisfaction for his Time and Trouble, and for all incidental Expences and Charges of him the said Surveyor in attending the said Commissioner, and in surveying, planning, and subdividing the said Grounds hereby intended to be inclosed, and of surveying and planning the said Ancient Inclosed Lands.

Damages to be recovered for not keeping Fences, &c. in Repair.

XXV. And be it further enacted, That in case any Person or Persons by whom any Roads, Hedges, Fences, Banks, Ditches, Drains, Watercourses, Sewers, Bridges, Gates, Stiles, or other Works and Improvements, shall be ordered or directed by the said Commissioner to be maintained, cleansed, and kept in Repair, or his, her, or their Tenant or Tenants, shall neglect or refuse to maintain, cleanse, and keep in Repair the same, or any Part thereof, for the Space of Twenty-one Days after Notice given by the Person or Persons aggrieved by any Default therein, then and in every such Case it shall be lawful for the Person or Persons who shall be damaged or aggrieved thereby, to make Complaint thereof upon Oath before any One Justice of the Peace for the East Riding of the County of *York* aforesaid (not interested in the Matter in question), who is hereby authorized and required to administer such Oath, and to hear and determine the Matter of every such Complaint in a summary Way, and for that Purpose to summon the Party or Parties so accused, or upon his, her, or their Neglect or Refusal to appear, except for some reasonable Excuse, to examine Witnesses upon Oath (which Oath every such Justice is hereby empowered to administer), and thereupon to give Judgment accordingly, and condemn the Party or Parties accused in such Penalty or Penalties, Sum or Sums of

of Money, from Time to Time (not exceeding at any One Time the Sum of Five Pounds), as he the said Justice shall think just and reasonable; and thereupon to issue a Warrant under his Hand and Seal, to cause such Penalty or Penalties to be levied by Distress and Sale of the Goods and Chattels of the Offender or Offenders, together with reasonable Costs, returning the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels; which Penalty or Penalties, Sum or Sums of Money, when so recovered, shall be paid to the Person or Persons so damaged or aggrieved as aforesaid.

XXVI. And be it further enacted, That the Award to be made by the said Commissioner in Manner directed by the said recited Act shall, within the Space of Twelve Calendar Months from the Execution thereof, be enrolled in the Public Register Office at *Beverley* in the said East Riding of the said County of *York*; and the Register of the said Office, or his Deputy for the Time being, is and are hereby directed to cause the said Award to be enrolled in one of the Books used for enrolling Bargains and Sales of Lands in the said Office accordingly, and a true Copy (to be signed by the said Commissioner) of the Map or Plan annexed to such Award shall be also lodged at the said Register Office at the Time of the Inrolment of the said Award, and there kept for ever; and the said Award, together with the Map or Plan thereunto annexed, shall, immediately after the Inrolment of such Award, be put into and kept in a Tin Box, and be lodged for safe Custody in the Chest of the Church of *Acklam* aforesaid for ever, for the Inspection and Perusal of the several Persons interested therein, or their respective Agents, who shall be at Liberty to inspect and peruse the same, on Application for such Purpose, at all reasonable Times, and to make Copies or Extracts therefrom; and the said Register shall be entitled to such Fees for the Inrolment of the said Award, as he is entitled to for enrolling any Bargain and Sale; and the said Register or his Deputy, for the Time being, shall permit any Person or Persons whomsoever, from Time to Time, within the Office Hours of Attendance, to peruse the Inrolment of the said Award at the Register Office, and to inspect and examine such Copy of the said Map or Plan, paying for the same to such Register or his Deputy One Shilling and no more, and shall also, from Time to Time, upon Request to him made by any Person or Persons whomsoever, cause a true Copy of the Whole or any Part or Parts of the Inrolment of the said Award to be made and written out from such Inrolment, and shall, from Time to Time, when requested, certify the same, under his Hand, to be a true Copy from such Inrolment; for which the said Register or his Deputy making the same shall be paid after the Rate of Sixpence *per* Sheet, reckoning One hundred Words to each Sheet and no more; and the said Original Award, or a true Copy of the Inrolment thereof, or any Part thereof so certified, under the Hand of the said Register or his Deputy, for the Time being, as aforesaid, shall, from Time to Time, be allowed and admitted as legal Evidence in all Courts whatsoever.

XXVII. And be it further enacted, That where the Proprietor or Proprietors of any Lands or other Hereditaments which shall be allotted, partitioned, or exchanged by virtue of this or the said recited Act, shall hold their respective Lands or Hereditaments by different Tenures or for different Estates, or under different Titles, the said Commissioner shall, upon

Allotments to the Proprietors having Lands, &c. held under different Titles.

Supplemental Instrument may be executed by the Commissioners subsequent to the Award for supplying Omissions in certain Cases.

upon the Request of such respective Proprietors, by Writing under their Hands, ascertain and distinguish the Lands or other Hereditaments held by each of such Tenures for each of such Estates, and under each of such Titles respectively, and shall accordingly, in their said Award, set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments; and where from the Want of the necessary Information before the said Commissioner, or from any other Cause, their Award shall omit discriminating, as hereinbefore is mentioned, such different Titles and different Estates and different Tenures, and after the making of the said Award, Request shall be made to the said Commissioner, by any Person or Persons interested, by Writing under his, her, or their Hand or Hands, to have such Omission supplied by a separate Instrument or Instruments, then and in every such Case the said Commissioner is hereby authorized to do every Thing necessary for supplying such Omission, and so far as that Purpose shall require, to examine Witnesses, and in every other Respect to proceed and act as if the Award had not been made; and when he shall have obtained what he shall think sufficient Information, he is hereby also authorized, by any Deed under his Hand and Seal, to ascertain and distinguish the Difference of Tenures, Estates, and Titles respectively, and accordingly to make distinct and several Allotments in the same Manner as is hereby required, such Determination should be contained in the said Award; and every such separate Instrument, after having been duly executed by the said Commissioner, shall have the same Effect as if it was contained in the said Award, and shall be delivered unto the Person or Persons upon whose Request the said Omission shall have been supplied, or the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title to the Premises in question shall, in the Opinion of the said Commissioner, most properly belong, for the Time being; and all Expences which shall be reasonably incurred in and about any such supplementary Instrument as aforesaid, shall be payable by the Persons who shall have so requested the said Commissioner as aforesaid, or by his, her, or their Heirs, Executors, or Administrators.

Commissioner to lay his Accounts before a Barrister.

XXVIII. And be it further enacted, That once, at least, in each and every Year, during the Execution of this Act (such Year to be computed from the Day of the passing thereof), the said Commissioner shall, and he is hereby required, to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be referred to and laid before *Robert Sinclair* Esquire, Barrister at Law, to be by him examined and balanced; and such Balance shall be by such Referee stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner.

In case of his Death, &c. another Referee to be appointed.

XXIX. Provided always and be it further enacted, That in case the said *Robert Sinclair*, or any future Referee to be appointed as hereinafter is mentioned, shall die or refuse to act, or become incapable of acting as a Referee as aforesaid, before the Matters and Things to be done by virtue of this Act shall be fully performed, it shall be lawful for the Majority in Value of the Proprietors of the Lands and Grounds hereby authorized to be divided and inclosed, assembled at a Meeting specially convened for that

that Purpose, by Notice in Writing under the Hand of the said Commissioner, to be affixed on the outer Door of the said Parish Church of *Acklam*, and also by Advertisement in the said Newspaper called the *York Courant*, or in some other Newspaper circulated in the Neighbourhood of *Leavening* aforesaid, Ten Days at the least before the Time appointed for holding such Meeting, to appoint, by Writing under the Hands of such Majority, some other fit and proper Person (not interested in the said Division and Inclosure) to be a Referee for the Purpose aforesaid, in the place and stead of the said *Robert Sinclair*, or of such other Referee as aforesaid.

XXX. And be it further enacted, That no Charge or Item in such Accounts shall be binding on any of the Parties interested, until the same shall have been duly allowed by the said *Robert Sinclair*, or such other Referee as aforesaid.

Accounts not to be binding till allowed by Referee.

XXXI. 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 (except where the Orders and Determinations of the said Commissioner are by this, or the said recited Act, directed to be final and conclusive, and also where Provision is made for Trial at Law as aforesaid), he, she, or they may appeal to the General Quarter Sessions of the Peace to be holden for the said East Riding of the County of *York*, within Six Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner, and to the Party or Parties concerned, Twenty Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices, not interested in the Premises, in their said General Quarter Sessions, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their Discretion shall seem reasonable; and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed 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 to be levied in Manner aforesaid.

Appeal to the Quarter Sessions.

XXXII. And be it further enacted, That nothing in this Act contained shall prejudice, lessen, or defeat the Right, Title, or Interest of the said *Digby Legard* and *John Lockwood*, as Trustees as aforesaid, of, in, or to the Royalties, Rents, Rights, and Services incident and belonging to the said Manor of *Leavening*, but that the said Lords for the Time being, and all Persons claiming or to claim under or in trust for them, shall at all Times hereafter hold and enjoy all Rents, Services, Rights, Royalties, Courts, Perquisites and Profits of Courts, and all other Jurisdictions to the said Manor or to the Lords thereof belonging, in as full, ample, and

Saving of Manorial Rights.

[Loc. & Per.]

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beneficial

beneficial a Manner, to all Intents and Purposes, as they might have held and enjoyed the same in case this Act had not been made.

General  
Saving.

XXXIII. Saving always, To the King's Most Excellent Majesty, his Heirs, and Successors; and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, or their Heirs, Successors, Executors and Administrators, (other than and except the respective Persons to whom any Allotment or Allotments of Land or Compensation shall be made by virtue of this Act, in respect of the Interest and Property for which such Allotments or Compensations shall be made, and other than and except the Rights and Interests which are intended to be barred and destroyed by this Act,) all such Estates, Rights, and Interests as they, every or any of them had or enjoyed, of, in, and to, or in respect of the said Open and Stinted Pasture and Common and Waste Lands, hereby directed to be inclosed before the Commencement of this Act, or could or might have had or enjoyed, in case the same had not been made; but no Person or Persons, Bodies Politic or Corporate, his, her, or their Heirs, Successors, Executors, or Administrators shall have Power to disturb any of the Allotments to be made in pursuance of this Act, or to vacate or make void any of the Orders or Determinations which shall be made by the said Commissioner, and which are declared, and expressed to be final and conclusive.

Declaring  
the Act  
Public.

XXXIV. And be it further enacted, That this Act shall be printed by the Printer to the King's Most Excellent Majesty, and when so printed, may be given in evidence in all Courts of Justice, and before all Judges and Justices whomsoever, who shall take judicial Notice thereof, in like Manner as if the same had been declared to be a Public Act.

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Printers to the King's most Excellent Majesty, 1804.