



ANNO QUADRAGESIMO NONO

GEORGI III. REGIS.

Cap. 106.

An Act for inclosing Lands within the Manor and Township of *Idle*, in the Parish of *Calverley*, in the West Riding of the County of *York*.

[20th May 1809.]

WHEREAS there are within the Manor and Township of *Idle*, in the Parish of *Calverley*, in the West Riding of the County of *York*, several Commons or Parcels of Waste Ground called *Idle Moor*, *Simpson Green*, *Gawcliffe Cragg*, *Thackley*, and *Rose Brow*, and several other Parcels of Waste Ground, containing in the whole by Estimation Three hundred Acres, or thereabouts: And whereas *Joshua Crompton* Esquire, is Lord of the Manor of *Idle*, and as such is Owner of the Soil of the said Commons and Waste Grounds, and entitled to all Mines, Minerals, Quarries, and Royalties, of, within, and under the said Commons and Waste Grounds; and the said *Joshua Crompton* is also entitled to a Modus or ancient Composition Real of Three Pounds Six Shillings and Eight-pence a Year, in lieu of the Tythes of Corn, Grain, and Hay, and other Tytheable Matters arising within the said Township of *Idle*: And whereas the said *Joshua Crompton* and several other Persons are Owners and Proprietors of Estates within the Manor and Township of *Idle* aforesaid, and in respect thereof are entitled to Right of Common and other Rights and Interests in and upon the said Commons and Waste Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such*

[*Loc. & Per.*]

23 L

Acts:

Commissioners appointed.

Acts: And whereas the said Commons and Waste Grounds, in their present State, afford very little Profit or Advantage, but are capable of considerable Improvement; and the same would, if divided, allotted, and inclosed, be of great Advantage to the several Persons interested therein: But such Division, Allotment, and Inclosure cannot be made and effectually established without the Aid and Authority of Parliament; May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Jonathan Teale*, of *Leeds* in the County of *York*, Land Surveyor, and *Jonathan Taylor*, of *Leeds* aforesaid, Land Surveyor, and their Successors, to be nominated and appointed in manner herein-after mentioned, shall be and they are hereby appointed the Commissioners for setting out, valuing, dividing and allotting all the said Commons and Waste Grounds, and for carrying this Act into Execution, in such Manner and with such Powers and subject to such Regulations as are herein-after contained, and also with such other Powers and subject to such other Rules, Orders, Directions, and Regulations as are contained in the said recited Act, and are not controuled by and repugnant to any of the Clauses, Provisoos, and Regulations contained in this Act.

Appointment of new Commissioners.

II. And be it further enacted, That in case the said *Jonathan Teale* shall refuse or become incapable to act as a Commissioner in the Execution of the said recited Act and this Act, or shall die before all the Powers, Authorities and Trusts reposed and vested in the said Commissioners shall be fully executed and performed, the said *Joshua Crompton*, or the Lord or Lady of the said Manor of *Idle* for the Time being, shall and may, at any Time within Thirty Days next after his or her Knowledge of such Death, Refusal or Incapacity to act, by Writing under his or her Hand appoint any other Person (not being interested in the Premises, and not being the Attorney or Agent of the said *Joshua Crompton* or of the Lord or Lady of the said Manor) to be a Commissioner for the Purposes of the said recited Act and this Act, in the place of the said *Jonathan Teale*, and also to make the like Appointment when and so often as any Person to be appointed a Commissioner in the Place of the said *Jonathan Teale* shall die, or refuse or become incapable to act as aforesaid; and in case the said *Jonathan Taylor* shall refuse or become incapable to act as a Commissioner in the Execution of the said recited Act and this Act, or shall die before all the Powers, Authorities and Trusts reposed and vested in the said Commissioners shall be fully executed, the several Owners and Proprietors of Messuages, Lands, Tenements and Hereditaments within the said Manor and Township of *Idle* aforesaid (except the said *Joshua Crompton* and the Lord or Lady for the Time being of the said Manor) or the major Part of them in Value, according to the Land Tax Assessment, who shall be present in Person, or by their respective Attornies, or Agents, at a Meeting to be held for that Purpose within Sixty Days after such last-mentioned Death, Refusal or Incapacity to act (of which Meeting Notice shall be given by any Two or more of such Owners and Proprietors, or their respective Attornies or Agents, or by the other Commissioner for putting this Act into Execution, by affixing such Notice on the principal Door of the Parish Church of *Calverley* aforesaid, and on the principal Door of the Chapel of *Idle* aforesaid, and causing the same to be inserted in the *Leeds Mercury*, or some other Newspaper then printed or circulated in the said West Riding of the County of *York*, Fourteen Days at least before such Meeting), shall and may,

may, by Writing under their Hands, nominate and appoint a proper Person (not being interested in the Premises, and not being the Attorney or Agent of any Person interested therein) to be a Commissioner in the Place and Stead of the said *Jonathan Taylor*, and to make the like Appointment when and so often as any Person so to be appointed a Commissioner in the Place of the said *Jonathan Taylor* shall die, or refuse or become incapable to act as aforesaid; but if the said respective Parties shall neglect to make such Appointment or Appointments as aforesaid, then and in every such Case the surviving or remaining Commissioner shall and he is hereby required forthwith, by Writing under his Hand to appoint another Person, (not interested in the Premises, and not being the Attorney or Agent of any Person interested therein) to be a Commissioner in the Place and Stead of the Commissioner so dying or refusing to act or becoming incapable of acting as aforesaid; and every Person so to be appointed a Commissioner as aforesaid shall take and subscribe the Oath or Affirmation prescribed in the said recited Act, and shall thereupon have such and the like Powers and Authorities, in all Respects, for putting the said recited Act and this Act into Execution, as if he had been named and appointed a Commissioner in and by this Act.

III. And be it further enacted, That if any Difference of Opinion shall arise between the said Commissioners, touching or concerning any Matter or Thing to be done by them by virtue or in Execution of the said recited Act or this Act, the said Commissioners from Time to Time, and when and so often as such Difference of Opinion shall arise, shall, by Writing under their Hands, appoint some Person (not being interested in the Premises) to be an Umpire between them, and the Matter upon which such Difference of Opinion shall or may arise shall be settled and determined by such Umpire, whose Determination in Writing shall be binding and conclusive upon the said Commissioners, and upon all others whomsoever, so far as the Determination of the said Commissioners is by the said recited Act or this Act made binding or conclusive; and for the Purpose aforesaid, but not for any other Purpose, such Umpire shall have and he is hereby vested with the same Powers and Authorities as by the said recited Act and this Act are given to or vested in the said Commissioners.

Umpire to be appointed.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as an Umpire as aforesaid, until he shall have taken and subscribed an Oath in the Form or to the Effect following, (that is to say,)

Umpire to take an Oath.

I Do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgement, execute and perform the several Powers and Authorities vested and reposed in me as an Umpire, by virtue of an Act passed in the Forty-ninth Year of the Reign of King George the Third, intituled, *An Act* [Here insert the Title of this Act] according to Equity and good Conscience and without Favour or Affection, Prejudice or Partiality to any Person or Persons whomsoever.

Oath.

So help me GOD.

Which Oath the said Commissioners or either of them are and is hereby empowered to administer; and such Oath, and also the Writing appointing such Umpire, shall be annexed to the Award of the said Commissioners.

V. And

Survey.

V. And be it further enacted, That a true, exact, and particular Survey, Admeasurement and Plan of all the Commons and Waste Grounds to be divided, allotted and inclosed by virtue of this Act, and also of all the Messuages, Cottages, Mills, ancient inclosed Lands, Tenements and Hereditaments within the said Manor and Township, and of all Buildings and Encroachments whatsoever made in and upon the said Commons and Waste Grounds, shall as soon as conveniently may be after the passing of this Act, be made and reduced into Writing by the said *Jonathan Taylor*, or by such other Person as shall be nominated in his Stead, in Manner herein-after mentioned; and the Number of Acres and decimal Parts of an Acre in Statute Measure contained in all the said Commons and Waste Grounds, and also in all the said ancient inclosed Lands, Tenements, Hereditaments and Encroachments, shall be therein set forth and specified; and the said Survey, Admeasurement and Plan, shall be verified by the Oath of the said *Jonathan Taylor*, or by the Oath or Affirmation of the Person making the same as aforesaid, at any Meeting to be held after the making thereof, which Oath or Affirmation the said *Jonathan Teale*, or any Commissioner to be appointed in his Stead as herein-before mentioned, is hereby empowered and required to administer; and the Proprietors and their respective Agents, and all Persons interested in the said Division and Allotment, shall have Liberty at all seasonable Times to peruse and inspect the said Survey, Admeasurement, and Plan, and to take Copies thereof and Extracts therefrom respectively.

Appointment
of new Sur-
veyor.

VI. And be it further enacted, That in case the said *Jonathan Taylor*, or any other Person to be nominated in his Stead as herein-before mentioned, shall die, refuse or neglect to act, or become incapable of acting in the Execution of this and the said recited Act, then and in every such Case it shall and may be lawful to and for the said Commissioners for the Time being, by Writing under their Hands and Seals, to nominate and appoint some other fit and proper Person, not interested in the said Division and Inclosure, to be a Surveyor in the Room or Stead of every Surveyor so dying, refusing or neglecting to act, or becoming incapable of acting as aforesaid; and every Surveyor so nominated and appointed shall have the like Powers and Authorities, and shall be subject to the like Rules, Regulations and Restrictions, as if he had been originally named a Surveyor in and by this Act, which said several Appointments shall be annexed to the Award of the said Commissioners.

Notice of At-
tendances.

VII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice in Writing under their Hands to be affixed upon the principal outer Door of the Parish Church of *Calverley* aforesaid, and also to be inserted in the *Leeds Mercury*, or some other public Newspaper circulated in the County of *York*, of the Time and Place of their First, Second, and Third Meetings respectively for the Execution of this Act, at least Fourteen Days before such respective Meetings; and that the said Commissioners shall and may, after the said Third Meeting, from Time to Time appoint such Time and Place for every subsequent Meeting as they shall think proper, they causing a Notice in Writing under their Hands to be affixed upon the principal outer Door of the said Parish Church, Ten Days at least before every such subsequent Meeting; but the said Commissioners shall have full Power and Authority from Time to Time, as they shall think proper, to continue such First,
Second,

Second, Third, and any subsequent Meeting by Adjournment, for such Time and Times as they shall think proper for the due Execution of this Act, without giving any Notice thereof; provided that every Meeting of the said Commissioners for the Execution of this or the said recited Act, whether by Adjournment or otherwise, shall be held within the Township of *Idle* aforesaid.

VIII. Provided always, and be it further enacted, That all other Notices necessary or requisite to be made or given by the said Commissioners, shall be made and given by Advertisements in the Newspaper called *The Leeds Mercury*, or in case the same shall not then be published, then in some other Newspaper printed or circulated in the said County of *York*.

Other Notices
how to be
given.

IX. And be it further enacted, That if any Person or Persons interested therein shall be dissatisfied with the Determination of the said Commissioners made in pursuance of the Directions of the said recited Act, respecting the Boundaries of the said Manor and Township of *Idle*, or of any Parish, Manor, Township, Hamlet, or District adjoining thereto, and shall be desirous of having the Boundaries affected by such Determination tried at Law, and shall by themselves or their respective Agents or Attornies, within Two Calendar Months next after the Determination of the said Commissioners shall have been made and published by them, give Notice in Writing to the said Commissioners of such his, her, or their Objection to the said Boundaries so determined by the said Commissioners, and of such Desire to have the same Boundaries settled by Trial at Law, then and in every such Case the said Commissioners shall and they are hereby required immediately on receipt of such Notice as aforesaid, or as soon afterwards as conveniently can be, to give Notice to one or more of the Party or Parties interested therein, who shall insist upon the Boundaries so determined by the said Commissioners, or to his, her or their respective Agents or Attornies, by Writing under their respective Hands, to be delivered to or left at the usual Place of Abode of such Party or Parties, Agents or Attornies respectively; and it shall and may be lawful to and for the Person or Persons giving such Notice to the said Commissioners as aforesaid, or his or their Heirs, Successors, or Assigns, after the Expiration of Two Calendar Months from the Time of such Notice being given to the said Commissioners as aforesaid, to proceed to a Trial at Law for the ascertaining of such Boundaries so objected to as aforesaid, at the next Assizes to be holden for the County of *York*, in an Action or Actions for that Purpose, to be commenced in One of His Majesty's Courts at *Westminster*, by the Person or Persons giving such Notice to the said Commissioners as aforesaid, their respective Heirs, Successors, or Assigns, against any such Person or Persons interested therein, who shall insist on the Boundaries so determined by the said Commissioners as aforesaid; and the Defendant or Defendants in such Action or Actions shall forthwith name an Attorney or Attornies, who shall file common Bail, or appear and accept one or more Issue or Issues, whereby all such Boundaries may be properly tried and determined, (such Issue or Issues, if the Parties differ about the same, to be settled by the proper Officer of the Court wherein such Action or Actions shall be commenced); and the Jury or Juries who shall try such Issue or Issues, shall find the true Boundary or Boundaries of all or any of such Townships, Manors, Parishes, Hamlets or Districts so in Dispute, and the same shall, under the Direction of the Judge who shall try the said Issue or Issues, be indorsed specially on the Poitea in case the same

Boundaries to
be settled by
a Trial at
Law.

shall be thought necessary for ascertaining such Boundaries, and the Verdict or Verdicts which shall be given in any such Action or Actions, shall be final and conclusive to every Person and Persons, Body and Bodies Politic and Corporate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside the Verdict or Verdicts so to be given as aforesaid, and order a new Trial or new Trials to be had (which it shall be lawful for the Court to do, and also upon sufficient Cause shewn to put off the Trial of such Issue, as is usual in other Cases); and after any Verdict or Verdicts shall have been obtained and not set aside by the Court as aforesaid, the said Commissioners shall and they are hereby authorized and required to conform to such Verdict or Verdicts, any Thing in the said Act or in this Act contained to the contrary notwithstanding; provided, that the Defendant or Defendants in any such Action shall be by the said Commissioners reimbursed all the Costs, Charges, and Expences which he or they shall reasonably pay, expend, or be put unto in the Defence of such Action or Actions, by and out of the Money to be raised for carrying this Act into Execution.

Disputes to be determined by the Commissioners;

X. And be it further enacted, That if any Difference or Dispute shall arise between any of the Parties interested in or claiming to be interested in the said Division, Allotment and Inclosure, 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 Division and Allotment, it shall be lawful for the said Commissioners for the Time being, and they are hereby authorized to examine into, hear and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands or Hereditaments whatsoever.

and Power to award Costs.

XI. And be it farther enacted, That in case the said Commissioners shall, upon the Hearing or Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess and award such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections shall be thereby disallowed or over-ruled; 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 Commissioners for the Time being, and they are hereby authorized and required by Warrant under their Hands and Seals directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels, within the said Riding, 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.

Parties dissatisfied with the Commissioners Determination may try their Rights at Law.

XII. Provided always, and be it further enacted, That in case any Person or Persons making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Rights or Interests therein, or objecting to any such Claim or Claims, shall be dissatisfied

tisfied with the Determination of the said Commissioners or Umpire for the Time being, and shall by Writing under his or their Hand or Hands signify the same to the said Commissioners within One Calendar Month after such Determination shall be made, it shall be lawful for the Person or Persons so dissatisfied with such Determination, to have the Matter thereof tried at Law by One or more Action or Actions to be brought or commenced within Three Calendar Months next after such Determination shall be made, upon a feigned Issue or Issues, to be settled by the proper Officer or Officers of the Court or Courts in which such Action or Actions shall be brought, if the Parties shall differ about the same, in which Action or Actions the said Commissioners for the Time being shall be Plaintiffs, and the Person or Persons so dissatisfied with such Determination the Defendant or Defendants; and each Party shall so proceed therein as to have the same tried at the First or Second Assizes to be holden in and for the County of *York*, next after such Determination of the said Commissioners or Umpire for the Time being, and the Costs and Charges of prosecuting and defending such Action or Actions shall abide the Event of the Trial or Trials to be had therein respectively, but all such Costs and Charges as shall be incurred by the Plaintiffs in every such Action and Actions, or which the Plaintiffs shall or may in anywise become liable to in consequence of any such Action or Actions, shall be raised, levied, and paid in like Manner as the Costs and Charges of obtaining and passing this Act are hereby provided for, the Persons and Estates of the said Commissioners being hereby expressly discharged from all such Costs and Charges; 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, Body or Bodies Politic, Corporate or Collegiate, 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 that after such Verdict or Verdicts shall be obtained and not set aside by the Court, the said Commissioners for the Time being shall and they are 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 all such Determinations of the said Commissioners for the Time being as aforesaid, which shall not be objected to as aforesaid, or being objected to, and the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be binding, final, and conclusive upon all Parties.

XIII. 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 Action, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

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

XIV. Provided always, and be it further enacted, That if any Person or Persons, in whole Favour any such Determination shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Bodies Politic or Corporate, who might have brought such Action or Ac-

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

tions, against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action or Actions in the same Manner as the Party or Parties might have been served therewith if living; and it shall therein also 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, as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

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

XV. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties, (except in Cases of Encroachments made within the Period of Twenty Years as herein-after mentioned); but in case the said Commissioners shall be of Opinion against the Rights of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment or other due course of Law.

Allotment for Stone Quarries, &c.

XVI. And be it further enacted, That the said Commissioners shall, after setting out and appointing the public Carriage Roads and Highways through and over the said Commons and Waste Grounds intended to be divided, allotted and inclosed as aforesaid, set out such Part or Parts of the said Commons and Waste Grounds as they shall think proper, not exceeding Five Acres in the whole, to be used and enjoyed by the respective Proprietors of Lands within the said Manor and Township of *Idle*, for the Purposes of Common Watering Places for Cattle, and getting Stones and other Materials for erecting and repairing Buildings, Bridges, Walls, Fences and other Works, and for the Reparation of the public and private Roads within the said Manor and Township.

Allotment to the Lord of the Manor, &c.

XVII. And be it further enacted, That the said Commissioners shall in the next Place assign, set out, allot, and award unto and for the said *Joshua Crompton* as Lord of the said Manor, or to such Person or Persons as shall then be entitled to the said Manor, his, her, or their Heirs and Assigns, such Part and Parcel of the Residue and Remainder of the said Commons and Waste Grounds as shall in the Judgement of the said Commissioners be equal in Value to One full Sixteenth Part of the said Residue of the said Commons and Waste Grounds in lieu of and as a full Recompence for all such Right and Interest in and to the Soil of the said Commons and Waste Grounds as is not herein-after expressly saved and reserved; and that after the setting out, assigning, and allotting such Sixteenth Part to the said *Joshua Crompton* as aforesaid, the said Commissioners for the Time being shall set out, assign, and allot the Residue of the said Commons and Waste Grounds unto and amongst the said *Joshua Crompton* and the said several other Persons entitled to Right of Common or other Rights and Interests in and upon the said Commons and Waste Grounds, their respective Heirs, Executors, Administrators, and Assigns, according to the Value of the ancient Messuages, Cottages, Mills, old inclosed Lands, Tenements and Hereditaments in respect whereof they are so respectively entitled

entitled to such Right of Common as aforesaid, and according to the true and real Value of such other Rights or Interests as aforesaid, estimating Lands at their full and fair Value as they are worth to be let, and Messuages, Cottages, Mills and other Buildings at One-half only of such their respective Values; but in estimating the Value of Messuages, Cottages, and Mills, no regard shall be had to any Additions or Improvements made within Forty Years last past, and the Mill of the said *Joshua Crompton*, called *Buck Mill*, shall be estimated at the annual Value of Sixty Pounds and no more: Provided always, that no Person shall be entitled to any Allotment from the said Commons and Waste Grounds, or any Part thereof, for or in respect of any Messuage, Cottage, Mill or other Building which shall be proved to the Satisfaction of the said Commissioners to have been erected at any Time within Sixty Years next before the passing of this Act, unless such Erection shall have been made upon the Scite of some ancient Messuage, Cottage, Mill or other Building, which shall have been originally erected Sixty Years or upwards before the passing of this Act.

XVIII. And be it further enacted, That all Encroachments which at any Time within Twenty Years now last past have been made upon the said Commons and Waste Grounds shall be deemed Part thereof, and shall be divided and allotted accordingly; and in case any Dispute or Difference shall arise, touching any such Encroachments or the Extent thereof, such Dispute or Difference shall be determined by the said Commissioners.

Encroachments within Twenty Years declared Part of the Waste.

XIX. Provided always, and be it enacted, That the Lands and Grounds comprized in such Encroachments shall be allotted to the Person or Persons who shall be in Possession thereof, in case such Person or Persons shall be entitled to any Allotment by virtue of this Act, without Regard to the Value of such Improvements as shall or may have been made thereon since such Encroachments were made, in case the Person or Persons so in Possession shall desire the same to be so allotted, and shall signify such Desire by Writing signed by him, her, or them to be delivered to the said Commissioners at their First or Second Meeting to be holden in pursuance of this and the said recited Act, and the Value of such Encroachments shall be deducted from the Allotments to which such Person or Persons shall be entitled under this Act, unless it shall happen that the Value of such Encroachments respectively (Quantity and Quality considered) shall be greater than the Allotment or Allotments to which such Person or Persons shall be entitled by virtue of this and the said recited Act, and in that Case a proportionable Part only of such Encroachments shall be deducted therefrom, and the Residue thereof shall be sold by the said Commissioners; and if the Person or Persons in Possession of such Encroachments shall not be entitled to any Allotment under or by virtue of this and the said recited Act, then the whole of such Encroachments shall be sold by the said Commissioners, and conveyed by them in Fee Simple to the Purchaser or Purchasers thereof, and the Money arising from such Sale or Sales shall be applied towards defraying the Expences of obtaining and executing this Act.

Encroachments to be allotted to the Persons in Possession.

XX. And be it further enacted, That in case any Surplus shall remain after such last-mentioned Sale as aforesaid, such Surplus Money shall be divided and apportioned between the several Proprietors of the Lands and Grounds hereby directed to be divided, allotted and inclosed, according to their several and respective Interests therein, and paid to them in case they

Application of Surplus Money (if any) arising by Sale of Encroachments.

shall be seized in Fee Simple of their several Allotments, or otherwise such Surplus Money shall be paid into the Bank of *England* in Manner directed by the said recited Act, with respect to Money thereby directed to be paid into the Bank for the Purchase or Exchange of Lands, Tenements or Hereditaments, or any Timber or Wood growing thereon, and which ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments, to be settled to the same Uses.

Alienation of
Common
Rights and
Power, to
award Allot-
ments to Pur-
chasers.

XXI. And be it further enacted, That if any Person or Persons hath or have sold, or contracted or agreed to sell, or shall at any Time before the Execution of the Award of the said Commissioners sell, contract or agree to sell his, her or their Right, Interest or Property, in, over or upon the said Commons and Waste Grounds, or any Part thereof, to any other Person or Persons, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required to make an Allotment of Land to the Purchaser or Purchasers in such Sale, Contract or Agreement, or to his, her or their Heirs or Assigns, for or in respect of such Right, Interest or Property so sold, contracted or agreed to be sold as aforesaid; and every such Purchaser or Purchasers, his, her or their Heirs or Assigns, shall and may from and after the Execution of the said Award hold and enjoy the Land so to be allotted to him, her or them as aforesaid, in the same Manner to all Intents and Purposes as the Vendor or Vendors in every such Sale, Contract or Agreement might, could or ought to have held and enjoyed the same, in case such Sale, Contract or Agreement had not been made.

Settlements,
&c. not to be
affected.

XXII. Provided always, and be it further enacted and declared, That nothing in this Act contained shall extend or be construed or adjudged to extend to revoke, make void, annul or alter any Settlement, Deed, Will or Lease, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Rent, Debt, Charge or Incumbrance whatsoever, in, out of, upon or affecting any of the Lands, Tenements or Hereditaments hereby directed to be divided and allotted, or which shall be exchanged or assigned in Compensation for any other Estate or Right in pursuance of this or the said recited Act, but as well the Lands allotted as the Tenements or other Hereditaments which shall be assigned in Exchange or in Compensation for any other Estate or Right, shall, immediately after such Allotment, Exchange or Assignment shall be made, be vested, remain and enure, and the several Persons to whom the same shall be allotted, assigned or given in Exchange as aforesaid, his, her or their Heirs and Assigns respectively, shall thenceforth stand and be seized and possessed thereof respectively, to, for and upon such and the same Uses, Estates, Trusts, Intents and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations and Remainders, Conditions, Charges, Tenures, Rents, Services and Incumbrances, as the several Lands, Tenements and Hereditaments, in respect whereof such Allotments, Assignments and Exchanges shall have been made, should or would have stood severally limited, settled, vested, or subject or liable to, or been held by in case the same had not been allotted, assigned or exchanged, and this Act had not been made, save and except such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority of this Act or of the said recited Act.

XXIII. And

XXIII. And be it further enacted, That from and immediately after the passing of this Act until the Execution of the Award of the said Commissioners, it shall not be lawful for any Person or Persons whomsoever to grave, dig, get, pare, cart or carry away any Sods or Turves from any Part of the Commons or Waste Grounds aforesaid, and if any Persons shall grave, dig, get, pare, cart or carry away any Sods or Turves contrary to the true Intent and Meaning of this Act, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Twenty Shillings.

Graving of Turves, &c. prohibited.

XXIV. And be it further enacted, That the Money which shall be advanced or expended by any Person or Persons for the Purpose of obtaining and passing this Act, shall be repaid with lawful Interest to such Person or Persons who shall advance or lend the same, his Executors, Administrators and Assigns, by the said Commissioners, out of the first Monies which they shall receive by virtue of this Act: Provided always, that the said Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioners at any of their Meetings to be holden in pursuance of this Act.

Monies advanced for the Purposes of this Act to bear lawful Interest.

Proprietors to defray their own Expences at Commissioners Meetings.

XXV. Provided always, and be it further enacted, That all Terms in Leases and Agreements held at Rack Rents, and now subsisting of or respecting any Common Rights upon the said Commons and Waste Grounds, or any Messuages, Buildings, Homesteads, Gardens, Orchards, or inclosed Lands, which shall be exchanged by virtue of this or the said recited Act, shall cease, determine and be void immediately on such Allotment or Exchange being made, the respective Tenants and Lessees thereof receiving from the respective Owners and Proprietors of the same Premises so leased or held as aforesaid what the said Commissioners shall ascertain and declare to be reasonable, and direct to be paid to such Lessees or Tenants respectively; which Money shall (if not paid within Ten Days after Demand made thereof) be raised by the said Commissioners for the Time being, in such and the same Manner, as the Charges and Expences of obtaining and passing this Act are herein-after directed to be raised, but such Terms and Leases being made void as aforesaid shall not affect any Promise, Contract or Agreement, respecting any other Lands, or Hereditaments contained in such Leases or Agreements respectively: Provided always, that if there shall be any Lease of Lands, Part of which shall lie in the said Parish of *Calverley*; and Part in any adjoining Parish, all and every such Lease or Leases upon Rack Rent now subsisting may be vacated, but where any Lands shall have been taken in exchange, which Lands shall be under Lease and wholly situate in an adjoining Parish, the Lease of such last-mentioned Lands shall not be vacated.

Leases at Rack Rent made void.

XXVI. And be it further enacted, That the Award to be made by the said Commissioners for the Time being in Manner directed by the said recited Act, shall, within the Space of Twelve Calendar Months from the Execution thereof, be inrolled in the public Register Office at *Wakefield*, in the said West Riding of the said County of *York*, and the Registrar of the said Office, or his Deputy for the Time being, is and are hereby directed to cause the said Award to be inrolled in one of the Books used for inrolling Bargains and Sales of Lands in the said Office accordingly, and a true Copy, to be signed by the said Commissioners for the Time being,

Commissioners Award.

being, 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 thereto annexed, shall, immediately after the Inrolment of such Award, be put into and be lodged in safe Custody in the Parish Church of *Calverley*, subject to 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 seasonable Times, and to make Copies or Extracts therefrom; and the said Registrar shall be entitled to such Fees for the Inrolment of the said Award as he is entitled to for inrolling any Bargain and Sale; and the said Registrar, 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 said Register Office, and to inspect and examine such Copy of the Map or Plan, paying for the same to the Registrar, 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, for which the said Registrar, 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 Registrar, 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.

Expences of
the Act.

XXVII. And be it further enacted, That the Charges and Expences incident to and attending the obtaining and passing of this Act, and of the surveying, measuring, dividing, allotting and inclosing the said Commons and Waste Grounds, and of surveying the other Premises, and of the preparing and filing the said Award, and also the Charges and Expences of the said Commissioners, and of the several Persons to be employed by them either before or after the Execution of the said Award, and other the necessary Expences in and about the Premises, shall be paid, borne and defrayed by the Owners or Proprietors and Persons interested in the Premises, in proportion to their respective Shares, Interests and Properties therein, at such Time or Times as the said Commissioners shall, either before or after the Execution of the said Award, by Notice in Writing under their Hands, to be affixed on the principal outer Door of the Parish Church of *Calverley* aforesaid, order or direct, which Notice is hereby directed to be fixed at least Fourteen Days before the Time of such Payment; and in case any of the Persons aforesaid shall refuse or neglect to pay his, her or their Share or Shares of such Charges and Expences, or any Part thereof, within the Time to be limited, unto the said Commissioners or such Person or Persons as they shall appoint to receive the same, then the same shall be levied and recovered in Manner directed by the said recited Act.

Expences of
Exchanges and
Partitions to
be borne and
paid by the
Parties.

XXVIII. Provided always, and be it further enacted, That all Costs, Charges and Expences attending the making and completing of any Exchanges and Partitions, shall be paid, borne and defrayed by the several Persons making such Exchanges and Partitions, in such Manner and in

such Proportions as the said Commissioners shall by their Award order and direct.

XXIX. And be it further enacted, That if any Person or Persons shall find himself, herself or themselves aggrieved by any Thing done or to be done in pursuance of this or the said recited Act, then and in every such Case (except as to such Claims, Matters and Things as are herein-before or by the said recited Act directed or authorized to be tried, settled or determined by the Verdict of a Jury, or where any of the Clauses or Provisions of the said recited Act or of this Act, shall express that the same shall be final and conclusive) such Person or Persons may appeal to the General Quarter Sessions of the Peace which shall be held in and for the said West Riding of the County of *York*, within Four Calendar Months next after the Cause of Complaint shall have arisen, and the Justices at such Sessions are hereby required to hear and determine the Matter of every such Complaint, and to make such Order therein as they shall think reasonable; and such Determination of the said Justices shall be final and conclusive on 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.

Appeal to the
West Riding
Sessions.

XXX. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to defeat, lessen or prejudice the Right, Title or Interest of the said *Joshua Crompton*, or any future Lord or Lords, Lady or Ladies of the Manor of *Idle* aforesaid, in or to the Seigniories and Royalties incident or belonging to the said Manor of *Idle*; but that the said *Joshua Crompton*, and such other Person or Persons as aforesaid, shall and may from Time to Time, for ever hereafter, hold and enjoy all Rents, Services, Courts, Perquisites and Profits of Courts, Goods and Chattels of Felons and Fugitives, Felons of themselves, Persons outlawed and put in Exigent, Deodands, Waifs, Estrays, Forfeitures and all other Jurisdictions whatsoever, in and upon the said Commons and Waste Grounds, hereby directed to be divided and inclosed as aforesaid, and all Mines, Minerals and Quarries, of what Nature or Kind soever, lying and being within or under the said Commons and Waste Grounds in as full, ample, and beneficial a Manner, to all Intents and Purposes, as they could or might respectively have held and enjoyed the same in case this Act had not been made; and that the said *Joshua Crompton*, and such other Person or Persons as aforesaid, shall and may from Time to Time and at all Times hereafter have, hold, win, work and enjoy exclusively all Mines and Quarries of what Nature or Kind soever, within and under the said Commons and Waste Grounds, and within and under every Part thereof (save and except only the said public Quarries herein-before directed to be set out as aforesaid), together with all convenient and necessary Ways, and full Liberty of laying, making and repairing Waggonways and other Ways, in, through, over and along the said Commons and Waste Grounds, or any Part thereof, and with full and free Liberty, Power and Authority of digging, sinking, searching for, winning and working the said Mines, Minerals and Quarries, and leading and carrying away the Stones, Slate, Flags, Lead Ore, Lead, Coals, Iron Stone, Fossils, and other Things to be gotten thereout, and of making Pits, Shafts and Pumps, Pitrooms, Drifts, Levels and Watercourses, and of repairing, amending and upholding the same, and of erecting, building and using Houses, Kilns, Fire Engines and other Engines, Mills and other Erections and Buildings, and of altering, changing, pulling down and carrying away the same, or all or any of the Materials thereof at their free Will and

Saving Clause
to th Lord
of the Manor.

Pleasure, and to do, execute and perform all such other Works, Acts, Matters and Things, either now in use or hereafter to be invented, as shall or may be necessary or convenient for the full and complete working, use and enjoyment of the said Mines, Minerals and Quarries hereby reserved, in as full, ample and beneficial a Manner, to all Intents and Purposes, as they might or could have done in case this Act had not been made, without any Interruption, Disturbance, Claim or Demand whatsoever: Provided nevertheless, that the said *Joshua Crompton*, his Heirs and Assigns, and his and their Tenants and Lessees, shall and they are hereby required in the searching for and working the said Mines, Minerals and Quarries, to keep the first Layer or Stratum of Earth separate and apart by itself without mixing the same with the lower Strata.

Mining Damages to be reimbursed.

XXXI. And be it further enacted, That all and every such Damage and Injury as shall or may be occasioned in any Allotment or Allotments which shall be set out under this Act, by means of the searching for or working the aforesaid Mines, Minerals and Quarries or any of them, or on Account of any Works, Buildings or Concerns relating thereto, upon or within the said Allotments, shall be reimbursed to the Owner and Owners, Occupier and Occupiers of the same Allotments respectively, and shall be borne and paid by the several Owners of the Allotments to be made in pursuance of this Act, in such Shares and Proportions as the said Commissioners by their Award shall order and direct.

The Modus of 3l. 6s. 8d. confirmed.

XXXII. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice, impeach or affect the said Modus or ancient Composition Real of Three Pounds Six Shillings and Eight-pence, payable to the said *Joshua Crompton*, in lieu of the Tythes of Corn, Grain and Hay, and other Tytheable Matters arising within the said Township of *Idle*, but that the said Modus or ancient Composition Real shall be and the same is hereby confirmed and established.

General Saving Clause.

XXXIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and all and every other Person or Persons, Bodies Politic, Corporate and Collegiate, his, her and their Heirs, Successors, Executors and Administrators (except the several Persons to whom any Allotment or Allotments shall be made in pursuance of this Act, for and in respect of such Rights and Interests as are hereby meant and intended to be barred, destroyed and extinguished, and all Persons respectively claiming under them or in Remainder after them, and such other Person and Persons herein mentioned, as far as his, her or their respective Rights and Interests shall be respectively affected thereby), all such Estate, Right, Title and Interest as they, every, or any of them could or ought to have had or enjoyed, in, to, or out of the Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been made.

Evidence Clause.

XXXIV. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty; and a true Copy thereof so printed, shall be admitted as Evidence thereof by all Judges, Justices, and others.