ANNO QUINQUAGESIMO QUARTO

GEORGII III. REGIS.

Cap. 91.

An Act for incloſing Lands in the Manor of *Barkiſland*, in the Pariſh of *Halifax*, in the County of *York*. [27th *May* 1814.]

WHEREAS within the Manor of *Barkiſland*, in the Pariſh of *Halifax*, in the County of *York*, there are divers Commons, Moors, and Waſte Grounds, called *Wiſket Hill*, *Gallipole Hill*, *Coney Garth Hill*, *Hillhouſe Hill*, *Barkiſland Croſs*, *Height Common*, *Ringſtone Edge*, *Brick Green*, *Hiley Hill*, *Flocktons Cliff Hill*, *Horſe Paſture*, *Whole Stones*, *Withens Pike*, *Law* and *Bog Holes*, containing together One thouſand Acres or thereabouts; and various other Parcels of Waſte not diſtinguiſhed by any particular Name: And whereas the Honourable and Reverend *John Lumley Savile*, is Lord of the Manor of *Barkiſland* aforeſaid, and Owner of the Soil of the ſaid ſeveral Commons, Moors, and Waſte Grounds, and alſo of the Coal Mines, Veins, and Seams of Coal, and all other Mines and Minerals therein, and is likewiſe Owner of certain Lands, Tenements, and Hereditaments, within the ſaid Manor of *Barkiſland*: And whereas the King's moſt Excellent Majeſty, in Right of His Crown, is Patron of the Vicarage of *Halifax*; and the Reverend *Henry William Coulthurſt* Doctor in Divinity, is Vicar thereof, and as ſuch entitled to the Tythe of Agiſtment, and all other Vicarial or Small Tythes whatſoever within the ſaid Manor of *Barkiſland*: And whereas the ſaid *John Lumley Savile*, *Peter Patten Bold*, and *Edward Dyne Briſco*, and others, as Owners and Proprietors of Lands and Tenements within the ſaid Manor of *Barkiſland*, are entitled to Right of Common upon the

ſaid Commons, Moors, and Waſtes: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for conſolidating in One Act, certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts:* And whereas the ſaid Commons, Moors, and Waſte Grounds, afford little Profit or Advantage in their preſent State; but it would be very advantageous to the ſeveral Perſons intereſted therein, if ſuch Commons, Moors, and Waſtes were divided and incloſed, and ſpecific Shares allotted to them, according to their reſpective Intereſts therein; but ſuch Diviſion and Incloſure cannot be effected and eſtabliſhed without the Aid and Authority of Parliament: May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That all the ſaid Commons, Moors, and Waſte Grounds, ſhall as ſoon as conveniently may be, be ſet out, divided, and allotted, by *Thomas Gee* of *Little Houghton*, in the Pariſh of *Darfield*, in the ſaid County of *York*, Gentleman, and *Jonathan Taylor* of *Leeds*, in the ſaid County, Gentleman, who are hereby appointed Commiſſioners for that Purpoſe, and for carrying the ſeveral Purpoſes of this Act and the ſaid recited Act into Execution (except ſuch Parts of the ſaid recited Act as are hereby altered or varied) unto and amongſt the ſaid ſeveral Owners and Proprietors, and other Perſons intereſted, according to their reſpective Rights, Shares, and Intereſts therein; under and ſubject to the Directions herein contained, and to ſuch of the Rules, Orders, Regulations, Reſtrictions, and Directions contained in the ſaid recited Act, as are not repugnant to, or varied or controuled by, or otherwiſe provided for by this Act; and that it ſhall be lawful for the ſaid Commiſſioners, or either of them, or for any Juſtice of the Peace for the Weſt Riding of the County of *York*, to adminiſter to the ſaid Commiſſioners, or either of them, the Oath of Affirmation directed by the ſaid recited Act to be taken by Commiſſioners.

Commiſſioners appointed.

Appointment of new Commiſſioners, in caſe of Death, &c.

II. And be it further enacted, That if the ſaid *Thomas Gee*, or any Commiſſioner to be appointed in his Stead, as herein-after mentioned, by the Lord of the ſaid Manor for the Time being, ſhall die, refuſe, or become incapacitated to act, then and in every ſuch Caſe the Lord of the ſaid Manor for the Time being ſhall and may thereupon appoint a new Commiſſioner, not intereſted in the ſaid Incloſure, in the Stead of the ſaid *Thomas Gee*, or of ſuch Commiſſioner ſo dying, refuſing, or becoming incapacitated to act; and if the ſaid *Jonathan Taylor*, or any Commiſſioner to be appointed by the Majority in Value of the Perſons intereſted in the ſaid Lands, preſent at a Meeting, as herein-after mentioned, ſhall die, refuſe, or become incapacitated to act, a new Commiſſioner, not intereſted in the ſaid Incloſure, ſhall and may be thereupon appointed in the Stead of the ſaid *Jonathan Taylor*, or of any ſuch Commiſſioner dying, refuſing, or becoming incapacitated to act, by a Majority in Value (to be aſcertained by the Land Tax Aſſeſſment) of the Perſons intereſted in the Lands hereby intended to be divided and incloſed, who ſhall be preſent at a Meeting to be holden for that Purpoſe in the Chapel of *Ripponden*, in the Townſhip of *Barkiſland*, purſuant to Notice to be affixed upon the principal outer Door of the ſaid Chapel of *Ripponden*, ſpecifying the Time and Place of

ſuch

such Meeting, upon a *Sunday*, at least Ten Days before such Meeting; and in Default of any such Appointment of a new Commissioner for the Space of Twenty-eight Days after any such Death, Refusal, or Incapacity to act shall happen, a new Commissioner, not interested in the said Inclosure, shall be forthwith appointed by the surviving or remaining Commissioner; and every such Appointment of a new Commissioner shall be reduced into Writing, and signed by the Person or Persons making the same, and shall be deposited and kept with the Award of the said Commissioners hereinafter directed to be made; and every Commissioner so to be appointed shall have the like Powers and Authorities for putting this Act and the said recited Act into Execution, in all Respects as the Commissioner in whose Place he shall have been so appointed was invested with, or as if he had been nominated in and by this Act.

Umpire to be appointed.

III. And be it further enacted, That the said Commissioners shall (after having taken and subscribed the Oath or Affirmation prescribed by the said recited Act, and before they proceed to any other Business touching the Execution of this Act) and they are hereby authorized and required to appoint some other Person (not interested in the said Commons, Moors, and Waste Grounds, or the Division and Inclosure thereof) to be an Umpire for the Purposes of this Act; and in case such Person or any other Person to be appointed as Umpire for the Purposes of this Act, shall die or refuse to act, or shall become incapable of acting as such Umpire, the said Commissioners shall, and they are hereby required forthwith to appoint another Person (not interested in the said Division and Inclosure) to be an Umpire for the Purposes of this Act; and that whenever the said Commissioners shall differ or disagree in Opinion, touching any Matter or Thing to be by them done or performed in pursuance of this Act or the said recited Act, then and in every such Case, the Matter or Thing in question shall be determined by the Umpire so to be appointed for the Purposes of this Act; whose Determination therein and thereupon, shall be deemed to be the Determination of the said Commissioners, and shall be acted upon accordingly.

Umpire to be sworn.

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

'I do swear, [*or*, being One of the People called *Quakers*, do solemnly affirm,] that I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the Powers and Authorities vested in me as Umpire, by virtue of an Act passed in the Fifty-fourth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for inclosing Lands in the Manor of* Barkisland, *in the Parish of* Halifax, *in the County of* York, according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice, to any Person or Persons. So help me God.'

Which Oath or Affirmation it shall be lawful for the said Commissioners, or either of them, or for any Justice of the Peace for the West Riding of the County of *York*, to administer; and the said Oath or Affirmation so taken and subscribed by such Umpire, shall be enrolled with, and annexed

to

to and depoſited with the Award of the ſaid Commiſſioners; and a Copy of the Enrolment thereof ſhall be admitted as legal Evidence.

Commiſſioners to give Notice of Meetings.

V. And be it further enacted, That the ſaid Commiſſioners ſhall cauſe a Notice, ſpecifying the Time and Place of their Firſt Meeting for executing this Act, to be affixed on the principal outer Door of the Chapel of *Ripponden* aforeſaid, on ſome *Sunday* before Divine Service, Ten Days at leaſt before ſuch Meeting; and it ſhall be lawful for the Commiſſioners to adjourn their Meetings, without giving any public Notice, as they ſhall ſee Occaſion; and that all ſuch Meetings to be held in purſuance of this Act or the ſaid recited Act, ſhall be held within the ſaid Pariſh of *Halifax*, or within Eight Miles of the Boundary thereof.

Proprietors, &c. to pay their own Expences.

VI. And be it further enacted, That the ſaid Proprietors, their Attornies and Agents, ſhall pay their own Expences when they, or any of them, ſhall attend the ſaid Commiſſioners or Surveyors, on any Buſineſs relating to this or the ſaid recited Act.

Notice of Meetings.

VII. And be it further enacted, That the Notices by the ſaid recited Act required to be given in ſome public Newſpaper ſhall be given in the *Wakefield and Halifax Journal*, or if that Newſpaper ſhall not then be publiſhed, in ſome other Newſpaper then publiſhed in *Wakefield* or at *Leeds* in the ſaid County of *York*.

Commiſſioners empowered to determine Differences.

VIII. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted, or claiming to be intereſted in the Lands or Grounds hereby directed or intended to be divided and allotted, touching or concerning the reſpective Shares and Proportions, which they or any of them ſhall have or claim to have therein, or touching or concerning any other Matter relating to the ſaid Diviſion, Allotment, or Incloſure, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required, upon proper and ſufficient Inquiry and Evidence, to examine into, hear, and determine the ſame; provided that nothing herein contained ſhall authorize or empower the ſaid Commiſſioners or Umpire to determine the Title to any Lands, Tenements, or Hereditaments whatſoever, nor to determine any Right between any Parties contrary to the Poſſeſſion of any of ſuch Parties (except in Caſes of Encroachments as herein mentioned); but in caſe the ſaid Commiſſioners or Umpire ſhall be of Opinion againſt the Right 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 ſuch Perſon or Perſons, or recovered from ſuch Perſon or Perſons, by Ejectment or other due Courſe of Law or Equity.

Commiſſioners empowered to award Coſts in certain Caſes.

IX. And be it further 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 the ſaid recited Act or of this 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 or Umpire ſhall be made, by the Perſon or Perſons, Body or Bodies Politic

Politic or Corporate, whoſe Claim or Claims Objection or Objections ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons, Body or Bodies Politic or Corporate, 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 to and for the ſaid Commiſſioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Perſon or Perſons whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons, Body or Bodies Politic or Corporate, ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand to the Perſon or Perſons, Body or Bodies Politic or Corporate, whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Perſons diſſatisfied may have Recourſe to a Court of Law, and try their Rights within a given Time.

X. Provided always, and be it further enacted, That if any Perſon or Perſons, Body or Bodies Politic or Corporate, making any Claim or Claims to any Lands, Grounds, or Hereditaments intended to be divided or affected by this Act, or any Right or Intereſt therein, or objecting to any ſuch Claim or Claims, ſhall be diſſatisfied with the Determination of the ſaid Commiſſioners or Umpire, and ſhall be deſirous of having ſuch Claim or Claims, Rights and Intereſts reſpectively tried at Law, and the Perſon or Perſons, Body or Bodies Politic or Corporate, ſo deſirous to have the ſame tried at Law, ſhall and do by themſelves or their reſpective Stewards, Receivers, Attornies, or Agents, give or cauſe to be given, Notice thereof in Writing to the ſaid Commiſſioners, within Two Calendar Months next after ſuch Determination ſhall have been ſo made and notified to ſuch Party or Parties, or his, her, or their known Steward or Agent, by the ſaid Commiſſioners or Umpire, (of which Notice the ſaid Commiſſioners are hereby required immediately on the Receipt thereof, or as ſoon afterwards as conveniently may be done, to give Information to the adverſe Party or Parties, or his, her, or their reſpective Stewards, Receivers, Attornies, or Agents, by Writing under their reſpective Hands, to be delivered to or left at the uſual Place of Abode of ſuch Party or Parties, Stewards, Receivers, Attornies, or Agents as aforeſaid), then it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic or Corporate, giving ſuch Notice as aforeſaid, their reſpective Heirs, Succeſſors, or Aſſigns, and he, ſhe, and they is or are hereby required to proceed to a Trial or Trials at Law of the ſame, at the Firſt or Second Aſſizes to be holden for the County of *York*, next after the Expiration of Six Calendar Months from the Time when ſuch Notice as aforeſaid ſhall be given, in a feigned Action or Actions for that Purpoſe to be commenced in any of His Majeſty's Courts at *Weſtminſter*, by the Perſon or Perſons, Body or Bodies Politic or Corporate, giving ſuch Notice as aforeſaid, againſt any Perſon or Perſons, Body or Bodies Politic or Corporate, intereſted in the ſaid Diviſion, in whoſe Favour ſuch Determination of the Commiſſioners or Umpire ſhall have been made; 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 the Claim or Claims, Rights and Intereſts in queſtion, may be properly tried and determined (ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court wherein ſuch Action ſhall be brought, if the Parties ſhall differ about the ſame); and if at the Trial of any ſuch Iſſue or Iſſues,

it ſhall appear that the Party claiming is entitled to any qualified or leſs Right or Rights or Intereſts than was or were claimed by ſuch Party or Parties, then it ſhall and may be lawful for the Jury by whom ſuch Iſſue or Iſſues ſhall be tried, to find and declare the ſame by their Verdict, which ſhall be indorſed on the Poſtea, in addition to the Verdict given on the Iſſue or Iſſues joined; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions upon the Iſſue or Iſſues therein joined, in caſe there ſhall be no ſuch Special Finding and Indorſement, or ſuch Special Finding and Indorſement, if any ſuch ſhall be made, ſhall be binding upon all and every Body and Bodies Politic and Corporate, and Perſon and Perſons whomſoever, unleſs the Court wherein ſuch Action or Actions ſhall be brought ſhall ſet aſide ſuch Verdict or Verdicts, or Finding and Indorſement, and order a new Trial or Trials to be had thereupon (which it ſhall be lawful for the Court to do as uſual in other Caſes); and after ſuch Verdict or Verdicts and Special Finding or Indorſement ſhall be obtained (the ſame not being ſet aſide by the Court) the ſaid Commiſſioners ſhall, and they are hereby required to act in Conformity thereto; and to allow or diſallow the Claim or Claims, Right or Rights, or Intereſt or Intereſts thereby determined, according to ſuch Verdict or Verdicts, Finding or Findings, and Indorſement as aforeſaid: Provided always, that it ſhall be lawful for the Court in which any Action to be commenced in purſuance of this Act ſhall be depending, upon ſufficient Cauſe ſhewn to put off the Trial of ſuch Action, although the Time herein-before limited for the Trial of ſuch Action may be thereby exceeded; but if no ſuch Action or Actions ſhall be brought or commenced by the Perſon or Perſons, Body or Bodies Politic or Corporate giving ſuch Notice within the Time aforeſaid; or if ſuch Action or Actions ſhall not be proceeded in to Trial or Trials at the Firſt Aſſizes which ſhall be holden for the ſaid County of *York* after the Expiration of Six Calendar Months from the Day of giving ſuch Notice, by or on account of the Neglect or Default of the Plaintiff or Plaintiffs therein, then and in ſuch Caſe the Determination of the ſaid Commiſſioners or Umpire ſhall be final, binding, and concluſive, unto and upon all Parties whomſoever.

Actions not to abate by the Death of Party.

XI. Provided always, and be it enacted, That if any of the Parties in any Action or Actions to be brought and proſecuted in purſuance of this Act, ſhall die pending the ſame, ſuch Action or Actions ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened; and if any Perſon or Perſons in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for any Perſon or Perſons, Body or Bodies Politic or Corporate reſpectively, who might have brought ſuch Action 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 thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or

Perſons

Perſons ſo dead, and Proceedings ſhall be had therein in the ſame Manner as if ſuch Perſon or Perſons had been actually living; and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

Surveyors appointed.

XII. And be it further enacted, That *Joſeph Young* of *Carlton*, in the County of *Nottingham*, and *Thomas Dinſley* of *Huddersfield*, in the County of *York*, ſhall be, and they and each of them are and is hereby appointed Surveyors or Surveyor of the Commons, Moors, and Waſte Grounds, and alſo of ſuch of the ancient incloſed Lands within the ſaid Manor, as the ſaid Commiſſioners ſhall think neceſſary to be ſurveyed for the Purpoſes of this Act; and in caſe both of them ſhall die before they ſhall have completed all the Buſineſs required of them, or in caſe they ſhall refuſe or neglect to do the Buſineſs of a Surveyor pending the Execution of this Act, it ſhall be lawful for the ſaid Commiſſioners to appoint ſome other fit and competent Perſon or Perſons, not intereſted in the ſaid Lands and Grounds, to be the Surveyor or Surveyors for the Purpoſes of this Act: Provided always, that the ſaid *Joſeph Young* and *Thomas Dinſley*, or ſuch other Perſon or Perſons ſo to be appointed Surveyor or Surveyors as aforeſaid, before they or either of them ſhall proceed to act as ſuch Surveyors or Surveyor, ſhall take and ſubſcribe an Oath, or being a Quaker or Quakers, ſhall affirm in the following Form of Words; (that is to ſay),

Oath.

'I do ſwear [*or*, affirm, *as the Caſe may be*] That I will faithfully, impartially, and honeſtly do, execute, and perform the ſeveral Duties incumbent on me as Surveyor, under and by virtue of an Act paſſed in the Fifty-fourth Year of the Reign of King *George* the Third, intituled *An Act for incloſing Lands in the Manor of* Barkiſland, *in the Pariſh of* Halifax, *in the County of* York, according to the beſt of my Skill and Judgment, and according to Equity and good Conſcience, and without Partiality, Favour, or Affection, Prejudice or Malice to any Perſon or Perſons whomſoever. So help me GOD.'

Which Oath or Affirmation the ſaid Commiſſioners, or either of them, are hereby empowered and required to adminiſter; and the ſaid Oath, ſo taken and ſubſcribed by ſuch Surveyors, ſhall be annexed to and inrolled with the Award of the ſaid Commiſſioners, and a Copy of the Enrolment thereof ſhall be admitted as legal Evidence.

Encroachments.

XIII. And be it further enacted, That all Encroachments which ſhall have been made upon the ſaid Commons, Moors, and Waſte Grounds, within Twenty Years next before the Twenty-ninth Day of *November* One thouſand eight hundred and thirteen, ſhall be deemed Part of the ſaid Commons, Moors, and Waſte Grounds, to be incloſed and allotted by virtue of this Act; and that all Rents and Annual Paymentsin reſpect thereof to the Lord of the ſaid Manor, ſhall from and after the Twenty-ninth Day of *December* One thouſand eight hundred and fourteen, ceaſe and determine and be no longer paid or payable: Provided nevertheleſs, that all Encroachments made within the ſaid Space of Twenty Years, by any Perſon or Perſons having Right of Common, ſhall be allotted to ſuch Perſon or Perſons who ſhall, at the Time of paſſing this Act, be in Poſſeſſion or Receipt of the Rents and Profits of ſuch Encroachments, as the Whole or Part of the Share or Proportions of the ſaid Commons, Moors, and Waſte Grounds, to which ſuch Perſon or Perſons will be entitled by virtue

virtue of this Act, without conſidering the Value of the Erections thereon or Improvements made thereto; and in caſe any ſuch Encroachments ſhall, in the Judgment of the ſaid Commiſſioners, be of greater Value (excluſive of ſuch Erections and Improvements) than the Share or Proportion of the ſaid Commons, Moors, and Waſte Grounds, to which the Perſon or Perſons in Poſſeſſion or Receipt of the Rents and Profits thereof ſhall be entitled, then the Perſon or Perſons to whom ſuch Encroachments ſhall be ſo allotted as aforeſaid, ſhall pay to the ſaid Commiſſioners at or within ſuch Time as they ſhall appoint, ſuch Sum of Money as the ſaid Commiſſioners ſhall adjudge to be the Value of ſuch Encroachments, over and above the Value of the Allotment to which ſuch Perſon ſhall be entitled, and excluſive of any ſuch Erections and Improvements as aforeſaid; which Money ſhall be paid and applied by the ſaid Commiſſioners towards the Expences of this Act; and in caſe any Surplus ſhall remain of any ſuch Money, after Payment of ſuch Coſts, Charges, and Expences, ſuch Surplus ſhall be apportioned, divided, and paid amongſt and unto the ſeveral Perſons and Parties entitled thereto, in caſe they ſhall be ſeiſed in Fee Simple of their reſpective Eſtates in Right whereof they ſhall be ſo entitled, or otherwiſe ſuch Surplus Money ſhall be applied and diſpoſed in Manner directed by the ſaid recited Act in Caſes where Money to be paid for the Purchaſe or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, is thereby directed to be paid into the Bank of *England*, and to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments to be ſettled to the ſame Uſes; and that all Encroachments made by or in the Poſſeſſion of any Perſon or Perſons not entitled to Right of Common by virtue of this Act, ſhall be allotted and awarded to the ſaid *John Lumley Savile*, in Part of his Allotment as Lord of the ſaid Manor, without conſidering the Value of any Improvement made thereupon; and if any Diſputes or Differences ariſe touching the ſaid Encroachments, or the Antiquity or Duration thereof, or otherwiſe, the ſame ſhall be determined by the ſaid Commiſſioners: Provided nevertheleſs, that in caſe it ſhall be diſcovered or aſcertained, that any Encroachments or Parts of Land, heretofore ſold by the preſent or any former Lord or Lords of the ſaid Manor, for the Redemption of Land Tax, or otherwiſe, ſhall have been taken in or incloſed from any of the Moors, Commons, or Waſte Lands, by this Act intended to be divided and incloſed, ſuch Encroachments or Parcels of Land as ſhall have been ſo ſold, ſhall not by the ſaid Commiſſioners be conſidered or reckoned as Part of the Encroachments made within Twenty Years as aforeſaid, but ſhall be conſidered and taken as Encroachments which have been made upwards of Twenty Years, previous to the ſaid Twenty-ninth Day of *November* One thouſand eight hundred and thirteen.

Roads may be ſtopped up or altered.

XIV. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioners to ſtop up, diſcontinue, divert, or alter any Carriage Road (except Turnpike Roads) Bridle Way, or Footpath leading through or over the Lands and Grounds intended to be divided or allotted by virtue of this Act; and alſo to ſtop up or diſcontinue, or to divert, widen, or alter any Public Carriage Road, Bridle Way, or Footpath, paſſing or leading through any of the incloſed Lands within the ſaid Manor and Townſhip of *Barkiſland*, as they ſhall think proper; and the Soil of the Roads and Ways ſo to be ſtopped up or diſcontinued, ſhall be

deemed and taken as Part of the Lands and Grounds to be divided and allotted by virtue of this Act; provided that no Carriage Road, Bridle Way or Footpath, passing or leading through any of the inclosed Lands in the said Manor, shall be stopped or discontinued, diverted or altered, without the Concurrence and Order of Two Justices of the Peace for the said West Riding, not interested in the Repair of the said Roads; and which Order shall be subject to Appeal to the Quarter Sessions for the said Riding, in like Manner as if the same had been originally made by such Justices.

Power to widen Road.

XV. And be it further enacted, That the said Commissioners shall and may, and they are hereby authorized and empowered to widen the Public Roads, not exceeding the statutable Width or Breadth where they shall think requisite or necessary within the said Manor and Township of *Barkisland*, in the Parish of *Halifax* aforesaid; and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands or Grounds adjoining to such Roads, the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House; and the said Commissioners shall and may, and they are hereby authorized and empowered to make a full Compensation for the Value of the Land or Ground so to be taken for the widening of such Public Road, by allotting and awarding unto the Person or Persons from whom any such ancient inclosed Land or Ground shall be so taken, an adequate Part or Parts of the said Commons, Moors, or Waste Grounds within the same Manor wherein such widened Road shall be situate; and that the said Commissioners shall and may, and they are hereby authorized and empowered to make good and substantial Fences on each Side of all such widened Roads, for and in lieu of the Fences which shall be injured or destroyed by means of such widening, and that the Charges and Expences attending the widening such Roads, and making such Fences as aforesaid, shall be raised and paid in such and the like Manner as the Expences of and attending this Act are hereby directed to be raised within the said Manor wherein any such Road shall be so widened.

Allotments for Watering Places.

XVI. And be it further enacted, That the said Commissioners shall (after setting out and appointing the necessary Public Carriage Roads and Highways, through and over the said Commons, Moors, and Waste Grounds hereby directed to be divided and inclosed), and they are hereby authorized and required to assign, set out, and allot unto the Surveyors of the Highways within the said Manor, such Parts of the said Commons, Moors, and Waste Grounds hereby directed to be divided and inclosed as the said Commissioners shall think necessary, not exceeding One Acre in the Whole, as and for public Watering Places for Cattle.

Allotments for Stone Quarries.

XVII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out and appoint, in such Situation or Situations as they shall judge most convenient and think fit, One or more Piece or Pieces of Ground, not exceeding in the whole Eight Acres, as and for public Stone Quarries or a public Stone Quarry, for the Purpose of digging and getting Stone, Slate, Gravel and other Materials, for the making or forming and repairing the Highways and Roads, public and private, to be set out and appointed, and continued

upon, through, and over the ſaid Commons, Moors, and Waſte Grounds hereby directed to be divided, incloſed, aſſigned and allotted; and for the Purpoſe of repairing all other public and private Highways or Roads within the ſaid Manor and Townſhip of *Barkiſland*, and alſo for the Uſe and Benefit of all and every the Owners and Proprietors for the Time being, and his and her and their Tenants and Occupiers of Eſtates ſituate within the ſaid Manor and Townſhip, for the Purpoſe of building or repairing any Meſſuages or Tenements, Outhouſes, or other Buildings and Erections, Walls, or Fences, or otherwiſe improving their ſaid Eſtates within the ſaid Manor and Townſhip of *Barkiſland*, but not to be given away, ſold, exchanged, or elſewhere or otherwiſe uſed, applied, or diſpoſed of; and that the Graſs and Herbage and Right of improving the Soil and Surface of the Lands and Grounds to be ſet out for public Stone Quarries as aforeſaid (but without Prejudice to the Rights and Privileges hereby given and allowed therein reſpectively) ſhall, from and after the Execution of the Award of the ſaid Commiſſioners be veſted in the Surveyor or Surveyors of the Highways for the Time being, within the ſaid Townſhip of *Barkiſland* in Truſt, to let the ſame for the moſt Money that can be made thereof, and to apply the Rents and Profits ariſing from the ſame towards the Repairs of the public Roads or Highways within the ſaid Townſhip; and the ſaid Surveyor or Surveyors ſhall account for ſuch Rents and Profits in the ſame Manner as he or they are accountable for any other Money that ſhall come to his or their Hands as Surveyor or Surveyors of the Highways, and ſhall be under and ſubject to the like Penalties for the Neglect thereof.

Allotment to the Lord of the Manor.

XVIII. And be it further enacted, That the ſaid Commiſſioners ſhall, in the next Place, ſet out, allot, and award, previous to any other Allotment, in one or more Plot or Plots, unto and for the Lord of the Manor of *Barkiſland* aforeſaid, and as a Compenſation for his Right and Intereſt in and to the Soil of the ſaid Commons, Moors and Waſte Grounds, within the ſaid Manor of *Barkiſland* aforeſaid, one full Sixteenth Part (Quantity, Quality, and Situation conſidered) of the Remainder of the ſaid Commons, Moors, and Waſte Grounds, over and above ſuch Shares, Proportions, and Allotments of the ſaid Commons, Moors, and Waſte Grounds, herein-after directed to be allotted to him the ſaid *John Lumley Savile*, in reſpect of the Meſſuages, Cottages, Lands, and Grounds, in Right whereof he is entitled to Allotments in and upon the ſaid Commons, Moors, and Waſte Grounds of *Barkiſland* aforeſaid; and alſo to ſet out and allot unto the Lord of the ſaid Manor, ſuch further Allotment as they the ſaid Commiſſioners ſhall deem equal in Value and a full Compenſation for his working Stone Quarries.

Land to be ſold to defray the Expnces of this Act, &c.

XIX. And be it further enacted, That the ſaid Commiſſioners ſhall in the next Place ſet out and allot, ſuch Part or Parts of the ſaid Commons, Moors, and Waſte Grounds, as in their Judgment will be neceſſary to be ſold, in order, by Sale thereof, to raiſe a Sum of Money for or towards paying the Charges of obtaining and paſſing this Act, and all other incidental Charges and Expences whatſoever, for or by reaſon of the ſaid intended Diviſion and Incloſure, and carrying this Act into Execution; and to ſell ſuch Allotment or Allotments to any Perſon or Perſons for the beſt Price that can be reaſonably had or gotten for the ſame; and One Seventh Part at leaſt of the Money for which ſuch Land ſhall be ſold ſhall at the

Time

Time of ſuch Sale be depoſited in the Hands of the Commiſſioners, by the Purchaſer or Purchaſers thereof, and the Remainder of the Purchaſe Money ſhall be paid to the ſaid Commiſſioners within Three Calendar Months next after ſuch Sale, or in Default of ſuch Payment, the Money depoſited as aforeſaid ſhall be forfeited and ſhall be applied towards carrying this Act into Execution, and the Allotment or Allotments ſhall again be put up to Sale in Manner aforeſaid; and after Payment of the full Purchaſe Money for any ſuch Allotments, the ſame ſhall be veſted in Fee Simple in the Purchaſer or Purchaſers, and ſhall be aſſigned and allotted to ſuch Purchaſer or Purchaſers in and by the ſaid Award; and all the Money ariſing from ſuch Sale or Sales ſhall be applied by the ſaid Commiſſioners in defraying the ſeveral Charges and Expences aforeſaid; and in caſe any Surplus ſhall remain after Payment of ſuch Charges and Expences, ſuch Surplus ſhall be applied and diſpoſed of in Manner herein-after provided and directed.

Allotment to the Vicar of Halifax.

XX. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required, in the next Place, to make a juſt and true Eſtimate of the true Value, one Year with another, of Tithes of Agiſtment, and all other Vicarial or Small Tithes whatſoever, ariſing or payable to the Vicar of *Halifax*, aforeſaid, and his Succeſſors, within the ſaid Manor of *Barkiſland*; and after ſuch Eſtimate is made as aforeſaid, the ſaid Commiſſioners ſhall ſet out, allot, and award unto the Vicar of *Halifax* aforeſaid, and his Succeſſors, ſuch Portion of the ſaid Commons, Moors, and Waſte Grounds, as they the ſaid Commiſſioners ſhall think equivalent or equal in Value to the Vicarial or Small Tithes, which grow, ariſe, or become due or payable within and throughout the ſame Manor of *Barkiſland*; which ſaid Allotment ſhall be in lieu of and in full Compenſation for all Vicarial Tithes, yearly or otherwiſe, growing, ariſing, increaſing and becoming due and payable within and throughout the ſaid Manor of *Barkiſland*.

Saving Mortuaries and Surplice Fees.

XXI. And be it further enacted, That nothing herein contained ſhall extend to prejudice or impeach the Right of the ſaid Vicar of *Halifax*, or any of his Succeſſors, to all *Eaſter* Offerings, Mortuaries, Surplice and other Fees, which ſhall be and continue and remain payable, and be recoverable in the ſame Manner as if this Act had not been paſſed.

Allotments to the Vicar to be laid together and fenced.

XXII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, to ſet out the Lands or Grounds hereinbefore directed to be allotted to the Vicar of *Halifax* aforeſaid, and his Succeſſors, in reſpect of his Tithes within the ſaid Manor, together in one Plot, on ſuch Part of the ſaid ſeveral Commons, Moors, and Waſte Grounds as the ſaid Commiſſioners ſhall think fit; and that the ſaid Allotment ſo to be made and ſet out to the ſaid Vicar, ſhall be well and ſufficiently incloſed or fenced round with an outward Ring Fence, with a ſufficient Stone Wall, in ſuch Manner as the Commiſſioners ſhall direct; and that the Expence thereof ſhall be borne and defrayed, levied, and paid in the ſame Manner as the Coſts, Charges, and Expences of obtaining, paſſing, and executing this Act are herein-after directed to be raiſed and paid; and that the ſaid Fence, when ſo made, ſhall for ever afterwards be rapaired and maintained by and at the Expence of the Vicar of *Halifax*, and his Succeſſors, for the Time being.

XXIII. And

Vicar not to lease without Consent of the King and the Archbishop.

XXIII. And be it further enacted, That no Lease or Leases to be made by virtue of the said recited Act or this Act, of any of the Lands and Grounds to be alloted to the Vicar of the said Vicarage of *Halifax* aforesaid for the Time being, in Right of his Vicarage, shall be good, valid, and effectual, unless the Consent of the King's most Excellent Majesty, His Heirs and Successors, as Patrons of the said Vicarage, and of the Archbishop of *York* for the Time being, shall be had and obtained thereto, previous to the Execution of such Lease or Leases.

Allotment of Residue of Commons, &c.

XXIV. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out, allot, and award the Residue of all the said Commons, Moors, and Waste Grounds hereby directed to be inclosed, unto and amongst the several Owners and Proprietors of Messuages, Cottages, and Tofts, having Right of Common thereon, and also unto and amongst the Owners and Proprietors of ancient inclosed Land within the said Manor, in due Proportion to the real Value of their respective Messuages, Cottages, Tofts and Lands, to be settled and determined by the said Commissioners, in which Valuation no Messuage shall be estimated at more than the Annual Value of Five Pounds, or any Cottage or Toft at more than the Annual Value of Three Pounds, and in full Bar and Compensation of and for their respective Rights of Common, or other Rights or Interests in, over, and upon the said Commons, Moors, and Waste Grounds, or any Part thereof; and the said several Allotments shall be laid as contiguous and near to the respective Estates of the several Persons entitled to the same, as conveniently may be; and that in ascertaining the Value of Wood Lands within the said Manor, the Commissioners shall and they are hereby required to estimate the Value thereof, according to the Nature and Quality of the Soil thereof, as if no Wood was growing thereon.

Allotment to be delineated upon the Plan, and shewn to the Proprietors.

XXV. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the said Proprietors, in the Lands and Grounds to be divided and allotted by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively, in lieu thereof, they the said Commissioners shall give Notice in Manner aforesaid, of some convenient Time and Place when and where the Proprietors may be informed of such intended Allotments, and a Map or Plan shall be produced for their Inspection; and as some Proprietors may, upon Inspection of such Map or Plan, be dissatisfied with the intended Allotments, the said Commissioners shall at such Time and Place as last aforesaid, or some other Time and Place to be appointed by them for that Purpose, receive Statements in Writing, of the Complaints and Objections against such Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same, and their Determination therein, as to the said Allotments, shall be final and conclusive on all Parties.

Allotment of the Lord of Manor of Barkisland to be ring-fenced by Proprietors.

XXVI. And be it further enacted, That the said Commissioners shall, at the Expence of the Proprietors, cause the Allotment or Allotments to be set out for the Lord of the Manor of *Barkisland* aforesaid, under and by virtue of this Act, to be well and sufficiently Ring-fenced, of a proper Height, with good and sufficient Stone Walls, and also pay and defray the

Expence

Expence of making thereof, by and out of the Monies to be raiſed as herein-after directed for defraying the Expences of obtaining and executing this Act; but the ſame Fences, when made, ſhall for ever afterwards be repaired and maintained by the Lord of the ſaid Manor for the Time being; and the ſaid Commiſſioners ſhall alſo cauſe all other the Allotments to be ſet out for the ſaid Lord of the ſaid Manor, under and by virtue of this Act, to be well and ſufficiently Ring-fenced, of a proper Height, with good and ſufficient Stone Walls, and pay and defray the Expence of making thereof, and alſo pay and defray the Part or Share of the Expence of the ſaid Lord of the ſaid Manor, in obtaining and putting this Act into Execution, by and out of the Monies to be raiſed as herein-after directed; but it ſhall be lawful for the ſaid Commiſſioners to deduct from the Allotments to be made to the Lord of the ſaid Manor as laſt mentioned, ſo much as in their Judgment ſhall be equal in Value to the Proportion of the Expence of the Lord of the ſaid Manor, of obtaining and putting into Execution this Act, and the Expences of Ring-fencing the laſt-mentioned Allotment or Allotments, ſo to be made as aforeſaid; provided that ſuch Deduction ſhall not exceed the Value of Five Pounds for each Acre of ſuch Allotments, and the ſaid Commiſſioners ſhall allot and award the Land ſo to be deducted unto and equally amongſt the Proprietors and Owners of Eſtates, within the Manor of *Barkiſland* aforeſaid.

Allotments to be fenced.

XXVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to give and make ſuch Directions and Regulations, either by their Award, or any Writing under their Hands, reſpecting fencing the ſeveral Allotments upon the ſaid Commons, Moors, and Waſtes, as they ſhall think proper; and ſuch their Directions ſhall be obſerved and carried into Execution.

Power to ſell, &c. before Execution of Award.

XXVIII. And be it further enacted, That it ſhall and may be lawful for any Perſon or Perſons entitled to any Allotment under or by virtue of this Act, to ſell, mortgage, diſpoſe of and convey his Eſtate and Intereſt therein, before the Execution of the Commiſſioners Award, ſeparate and diſtinct from the Eſtate in Right of which he, ſhe, or they is or are entitled to the ſame, in the ſame Manner as he, ſhe, or they might have done at any Time after the Execution of the ſaid Award; and alſo to mortgage, ſell, diſpoſe of and convey the Eſtate in Right of which he, ſhe, or they may be entitled to any Allotment, ſeparate and apart from, and retaining to himſelf, herſelf, or themſelves, ſuch Allotments, Common Right and Intereſts; and the ſaid Commiſſioners are hereby required to award ſuch Allotments or Allotment accordingly.

Allotments to be of the ſame Tenure.

XXIX. And be it further enacted, That all and every the Allotments to be made by virtue of this Act, to the Owners or Proprietors of any Meſſuages, Lands, or Hereditaments, or in right or in reſpect thereof, ſhall, from and immediately after the ſame ſhall be ſo ſet out and allotted by the ſaid Commiſſioners, be of the ſame Tenure reſpectively as the Meſſuages, Lands, or Hereditaments in reſpect whereof the ſaid ſeveral Allotments ſhall be reſpectively made.

Exchanges.

XXX. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioners to ſet out or allot any of the Lands or Grounds hereby directed to be divided and allotted, or any other Lands, Tenements,

or Hereditaments, in the ſaid Manor of *Barkiſland*, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments, in the ſame Manor or in the ſaid Pariſh of *Halifax*, or in any adjoining Manor, Pariſh, Townſhip or Place, ſo as every ſuch Exchange be ſet forth and aſcertained in and by the Award of the ſaid Commiſſioners; and ſo alſo as every ſuch Exchange be made with the Conſent of the reſpective Proprietors or Perſons ſeiſed or entitled, in Poſſeſſion of or to the Hereditaments ſo to be exchanged, for any Life or Lives, or for Years determinable on any Life or Lives, or for ſome Eſtate of Inheritance leſs than an Eſtate in Fee Simple, or with the Conſent of the Huſbands, Guardians, Truſtees, Committees or Attornies of any ſuch Proprietors who ſhall at the Time of making ſuch Exchange be Femes Covert, Infants, Lunatics, beyond the Seas, or under any other legal Diſability or Incapacity of acting for themſelves, and ſo as that every ſuch Exchange of any Lands, Tenements, or Hereditaments holden in right of any Church, Chapel, or other Eccleſiaſtical Benefice, be made with the Conſent of the Patron thereof and the Biſhop of the Dioceſe within which the ſame ſhall lie or be ſituate; and that all ſuch Conſents as aforeſaid be reſpectively ſignified by Writing under the Hands of the conſenting Parties, or under the Seals of any of them, being Corporations Aggregate; and every Exchange which ſhall be ſo made and declared, ſhall be for ever good, valid, and effectual in the Law to all Intents and Purpoſes.

Expences of Exchanges.

XXXI. 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 and borne by the ſeveral Perſons making ſuch Exchanges and Partitions, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioners ſhall by their Award, or other ſeparate Deed or Inſtrument, order and direct.

Chief Rents to be extinguiſhed.

XXXII. And whereas there are ſeveral Owners and Proprietors, and Owners of Eſtates within the Manor of *Barkiſland* aforeſaid, who pay certain Chief Rents, Fee Farm Rents, Quit Rents, or other Annual Payments to the Lord of the ſaid Manor, and others; be it therefore enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, at the Requeſt in Writing of the Lord of the ſaid Manor or his Agent, and others, and the reſpective Parties paying any ſuch Chief Rents, Fee Farm Rents, Quit Rents, or other Annual Payments, to ſet out and allot unto the ſaid Lord of the ſaid Manor, and others (if any ſuch there be) out of the Shares or Allotments of ſuch Perſon or Perſons from whom ſuch Chief Rents, Fee Farm Rents, Quit Rents or other Annual Payments are due and payable, ſuch Part or Parts thereof as in the Judgment of the ſaid Commiſſioners ſhall be equal to the reſpective Annual Value of ſuch Chief Rents, Fee Farm Rents, Quit Rents or other Annual Payments; and after ſuch Allotments ſhall have been ſet out and awarded to the ſaid Lord of the ſaid Manor, and others (if any ſuch there be) ſuch Chief Rents, Fee Farm Rents, Quit Rents or other Annual Payments ſhall ceaſe, determine, and be from thenceforth for ever extinguiſhed.

Wills and Settlements not to be affected or altered.

XXXIII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend, to revoke, make void, alter or annul any Will or Settlement, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Portion, Debts,

Rents or Incumbrances, out of or upon or affecting any of the Meſſuages, Buildings, Lands, or Grounds, to be divided, allotted, and exchanged as aforeſaid, or any Part or Parts thereof reſpectively; but that the reſpective Perſons to whom any Lands or Hereditaments ſhall be allotted or given in Exchange by virtue of this Act, ſhall be ſeiſed thereof, to ſuch and the ſame Uſes and for ſuch and the ſame Eſtates, and ſubject to ſuch and the ſame Wills, Jointures, Rents, Charges and Incumbrances, and no other, as the Meſſuages, Buildings, Lands, Grounds, and Hereditaments whereof ſuch Perſon was ſeiſed or poſſeſſed, at or immediately before the Execution of the Award to be made by the ſaid Commiſſioners, or for which or in reſpect whereof ſuch Allotments and Exchanges ſhall be made, would have been ſubject to, charged with, or affected by, in caſe this Act had not been paſſed.

Expences of Act.

XXXIV. And be it further enacted, That all the Coſts, Charges, and Expences incident to and attending the obtaining and paſſing of this Act, and of carrying the ſame and the ſaid recited Act into Execution, ſhall be paid and defrayed out of the Money ariſing from ſuch Sale and Sales of Land as herein-before mentioned; and the ſaid Commiſſioners are hereby directed and required to apply the ſaid Money accordingly in defraying the ſeveral Charges and Expences aforeſaid; and in caſe there ſhall remain any Surplus of the Money to ariſe by Sale of Land, as herein-before mentioned, after Payment of ſuch Coſts, Charges, and Expences, ſuch Surplus ſhall be divided and apportioned between and among the ſeveral Perſons intereſted in the ſaid Commons, Moors, and Waſte Grounds, according to their ſeveral and reſpective Rights and Intereſts, and ſhall be paid to them in caſe they ſhall be ſeiſed in Fee Simple; or otherwiſe, ſuch Surplus 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 of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes: Provided always, that in caſe the Money ariſing by the Sale of any ſuch Allotment and Allotments as aforeſaid, ſhall not be ſufficient to defray all the Charges and Expences aforeſaid, then the Deficiency ſhall be made up by the ſeveral Perſons intereſted in the Lands and Grounds hereby intended to be divided and incloſed (other than and except the Lord or Lords of the ſaid Manor for the Time being; and alſo the Perſon or Perſons to whom any Allotment ſhall be made in Right of any College, Chapel, School, Hoſpital, or other public Uſe or Charity); and ſhall be paid in ſuch Shares and Proportions, and within ſuch Time as the ſaid Commiſſioners ſhall direct and appoint: Provided alſo, that the ſaid Commiſſioners ſhall, and they are hereby required to aſſeſs and charge the Owners of the ſaid Commons, Moors, and Waſte Grounds (other than and except the Lord or Lords of the ſaid Manor for the Time being, and alſo the Perſon or Perſons to whom any Allotment ſhall be made in Right of any College, Chapel, School, Hoſpital, or other public Uſe or Charity) with ſuch Share of the Charges and Expences before mentioned as they ſhall think juſt and equitable, for or on account of the Benefits to ariſe to them by the allotting and incloſing the ſaid Commons, Moors and Waſte Grounds; the ſame to be paid to ſuch Perſon or Perſons, and within ſuch Time, and applied for the Benefit of the Perſons intereſted in the ſaid Commons, Moors, and Waſte Grounds, in ſuch

ſuch Manner as the ſaid Commiſſioners ſhall direct or appoint; and in caſe any Perſon herein-before made ſubject to the Payment of any Money towards the ſaid Charges or Expences as aforeſaid, ſhall neglect or refuſe to pay his or her Share or Proportion thereof, within the Time to be appointed as aforeſaid, the ſame ſhall and may be levied and recovered by Diſtreſs and Sale of the Goods and Chattels of ſuch Perſon, by Warrant under the Hands and Seals of the ſaid Commiſſioners; and the Overplus (if any) after deducting the Charges of ſuch Diſtreſs and Sale, ſhall be returned to the Perſon whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold.

Tenants for Life borrowing Money, not to exceed 5l. per Acre.

XXXV. And whereas the Owners and Proprietors of Allotments to be made by virtue of this Act, may have occaſion to borrow Money to defray their reſpective Shares and Proportions of the Charges and Expences incident to and attending the obtaining and executing this Act, and the incloſing their reſpective Allotments, but cannot by reaſon of ſome Settlement, Incapacity, or Impediment, make effectual Securities for Money ſo to be borrowed, be it therefore enacted, That it ſhall and may be lawful to and for all or any of the Perſons to whom any Allotments ſhall be made by virtue of this Act, being Tenants for Life or in Tail; and alſo to and for the Huſbands, Guardians, Committees, Truſtees, Attornies or Agents, of or for ſuch of the ſaid Owners, Proprietors or Perſons intereſted, as ſhall be under Coverture, Minors, Lunatic, or beyond the Seas, or otherwiſe incapable of acting for themſelves, and every of them reſpectively for the Time being, or for the ſaid Commiſſioners (in caſe the ſaid Proprietors ſhall refuſe or neglect) by Writing under their Hands and Seals from Time to Time, to charge the Lands and Grounds which ſhall be allotted and aſſigned to them reſpectively by virtue of this Act, with ſuch Sum or Sums of Money, not exceeding Five Pounds *per* Acre, to be applied for the Purpoſes before mentioned (and for no other) as the ſaid Commiſſioners ſhall direct and appoint; and for ſecuring the Repayment of ſuch Sum or Sums of Money, with Intereſt, the Perſon or Perſons borrowing the ſame reſpectively may, by Indenture or other Deed under his, her, or their Hand and Seal, or Hands and Seals, atteſted by Two or more credible Witneſſes, grant, mortgage, demiſe, and aſſure the ſaid Lands and Grounds intended to be divided and allotted as aforeſaid, or any Part or Parts thereof, for any Term or Number of Years, or otherwiſe, unto or in Truſt for ſuch Perſon or Perſons as ſhall advance and lend ſuch Money, ſo as every ſuch Grant, Mortgage, Demiſe, or other Security, ſhall be made with a Proviſo or Condition for Re-entry, or to ceaſe and be void, or with an expreſs Truſt to be aſſigned, ſurrendered, or re-conveyed, when ſuch Sum or Sums of Money thereby to be ſecured, with the Intereſt thereof, ſhall be fully paid and ſatisfied, and do alſo contain a Covenant to pay and keep down the Intereſt of the thereby ſecured Money, during his, her, or their reſpective Lives; and that no Perſon afterwards becoming poſſeſſed of any ſuch Lands or Grounds, ſhall be liable to pay any further or large Arrear of Intereſt than for One Year preceding the Time that the Title to ſuch Poſſeſſion ſhall have commenced; and that every Grant, Mortgage or Demiſe ſo to be made, ſhall be good, valid, and effectual in the Law, for the Purpoſes thereby intended.

Tenants for Life not to deduct and

XXXVI. Provided always, and be it further enacted, That in caſe any Deduction ſhall be made, by virtue of this Act, from the Allotment or Allotments

Allotments of any Perſon or Perſons being Tenant for Life or in Tail, or otherwiſe in Poſſeſſion of, but not having the abſolute Eſtate or Intereſt in the Lands, Tenements, or Hereditaments in reſpect whereof ſuch Allotment or Allotments ſhall be made for Sale to pay the Coſts and Expences, or any Part thereof, of ſuch Perſon or Perſons, of paſſing and executing this Act, it ſhall not be lawful to raiſe by ſuch Sale, any further or greater Sum of Money than the Perſon or Perſons (Part of whoſe Allotment or Allotments ſhall be ſold as aforeſaid) would have been empowered or authorized to borrow, or charge upon his, her, or their Allotment or Allotments, under or by virtue of the ſaid recited Act or this Act; nor ſhall it be lawful for the Perſon or Perſons, from whoſe Allotment or Allotments Land ſhall be deducted as aforeſaid, to charge his, her, or their Allotment or Allotments, by virtue of the ſaid recited Act or this Act, with any Money towards the Payment of ſuch Expences, unleſs the Money to ariſe by ſuch Sale ſhall not amount to the Sum of Five Pounds *per* Acre of ſuch Allotment or Allotments; and then and in ſuch Caſe, it ſhall be lawful for ſuch Perſon or Perſons to charge his, her, or their Allotment or Allotments, or to raiſe by Mortgage thereof, or by ſuch other Ways and Means as mentioned in the ſaid recited Act or this Act, the Remainder of ſuch Money, for the Payment of the Expences of obtaining and executing this Act, ſo as that the whole Sum to be raiſed by virtue of this Act and the ſaid recited Act, ſhall not exceed the Sum of Five Pounds *per* Acre, according to the Number of Acres contained in ſuch Allotment or Allotments.

borrow in the whole together more than 5l. an Acre.

XXXVII. And be it further enacted, That all and every Perſon and Perſons to whom any Grant, Mortgage or Demiſe ſhall be made by virtue of this Act, as a Security for any Sum or Sums of Money by him, her, or them lent and advanced, for the Purpoſes of this Act, or who ſhall be entitled to any Money thereby ſecured, ſhall and may from Time to Time, by any Writing or Writings under his, her, or their Hand and Seal, or Hands and Seals, indorſed upon ſuch Grant, Demiſe, Mortgage or Security, and to be executed in the Preſence of Two or more credible Witneſſes, aſſign or transfer the ſame Security or Securities, or Principal Money or Intereſt thereby ſecured, and all his, her, and their Benefit, Right, Title, and Intereſt in and to the ſame, or any Part or Parts thereof, unto any Perſon or Perſons whomſoever, who may again in like Manner aſſign the ſame, and ſo as often as ſhall be requiſite and convenient; and ſuch Mortgagee or Mortgagees, Aſſignee or Aſſignees, his, her, and their Executors, and Adminiſtrators, and all Perſons claiming under them, or any of them, ſhall and may uſe, take, and purſue all ſuch lawful Methods and Expedients in Law or Equity, for recovering and obtaining the Poſſeſſion of the Premiſes ſo to be mortgaged, demiſed, or aſſigned as aforeſaid, in caſe of Non-payment of the Principal Money and Intereſt to be thereby ſecured, or any Part thereof, as is or are uſed, taken and purſued, in Caſes of the like Nature.

Securities aſſigned.

XXXVIII. And be it further enacted, That if any Perſon or Perſons ſhall advance any Money towards defraying the Expences of obtaining this Act, or carrying the ſame or the ſaid recited Act into Execution, by the ſaid Commiſſioners, the ſame ſhall be repaid with lawful Intereſt out of the firſt Monies to be raiſed by the ſaid Commiſſioners by virtue of this Act.

Money advanced to be repaid with Intereſt.

Allowance to Commissioners and Surveyors.

XXXIX. And be it further enacted, That the said Commissioners shall be paid or allowed by the said Proprietors the Sum of Three Guineas each (and no more) for every Day they shall attend and be employed at any Meeting or Meetings, or going to or returning from thence or otherwise howsoever, in executing the Powers and Authorities hereby given to them, including their Expences; and the Surveyors shall be paid such Sum or Sums of Money for Plans, Maps, Surveys, and Attendances, as the said Commissioners shall order and direct.

Commissioners to account, &c.;

XL. And be it further enacted, That once at least in every Year during the Execution of this Act, (such Year to be computed from the Day of the passing thereof), the said Commissioners shall make, and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act or the said recited Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before some Justice of the Peace for the West Riding of the said County of *York* (not interested in the said Inclosure), to be by him examined and balanced; and such Balance shall be by such Justice stated in the Book of Accounts, to be kept in the Office of the Clerk to the said Commissioners, and be open for the Inspection of all Persons interested in the said Inclosure, and their Stewards or Agents; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice, who is hereby authorized and required to hear and decide upon such Objections to the said Accounts, or any Items therein, as shall be made by or on Behalf of any Person or Persons interested in the said Inclosure.

and lay their Accounts before a Justice of Peace.

Award to be enrolled in the Register Office at Wakefield.

XLI. And be it further enacted, That the Award to be made by the said Commissioner shall be made and executed within the Space of Three Years from the passing of this Act, and shall be enrolled in the Public Register Office kept at *Wakefield*, in and for the West Riding of the County of *York*, and when so enrolled shall, together with a Plan annexed, be lodged in a Box or Chest in the Parish Church of *Halifax* aforesaid, to the end Recourse may be had thereto by any Person or Persons interested in the said Inclosure, who are hereby empowered to inspect the same on Payment of Sixpence for every such Inspection; and the Register for the Time being, or his Deputy, is hereby required to enrol the said Award or Instrument in the proper Book for the Enrolment of such Instrument in the said Office; a true Copy of such Enrolment, or of any Part or Parts thereof, under the Hand of the said Register or his Deputy, shall be admitted and allowed as legal Evidence in all Courts, and on all Occasions whatsoever; and which Copy the Register or his Deputy is hereby required to make, attest, and deliver to any Person or Persons requiring the same, he or they paying for such Copy after the Rate of Two-pence *per* Sheet, reckoning Seventy-two Words to each Sheet; and the said Register or his Deputy shall be entitled to such Fees for such Enrolment only as are allowed him by the Act for Enrolment of any Bargain and Sale; and the said Register or his Deputy shall permit any Person or Persons, within the Office Hours of Attendance, to peruse or inspect the Enrolment at the said Public Office, he and they paying for every such Perusal or Inspection One Shilling and no more.

Persons dissatisfied may appeal to Quarter Sessions.

XLII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done or omitted to be done in pursuance of the said recited Act or of this Act, (except as to such Acts, Determinations, or Proceedings of the said Commissioners as are by the said recited Act or this Act directed to be final, binding, and conclusive; and also except as to such Claims, Objections, Matters, and Things, as by this Act are directed or authorized to be ascertained, settled, tried, or determined by the Verdict of a Jury), he, she, or they may appeal to the General Quarter Sessions of the Peace, to be held for the West Riding of the County of *York*, within Four Months next after the Cause of Complaint shall have arisen; and the said Quarter Sessions are hereby authorized to determine such Appeal, and to award such Costs as to them shall seem reasonable; and which Determination shall be final and conclusive, and shall not be removed or removable by *Certiorari* or any other Writ or Process whatsoever.

Mines, &c. reserved to the Lord,

XLIII. Provided always, and be it further enacted, That nothing in this Act contained shall defeat, lessen, or prejudice the Right, Title, or Interest of the Lord of the said Manor for the Time being, of or to the Mines, Beds, and Seams of Coal, or any Mines of Iron, Ironstone, or other Mines or Minerals in or under the said Commons, Moors, and Waste Grounds hereby intended to be inclosed, or to any Seigniories or Royalties incident and belonging to the said Manor, the same being hereby reserved to the Lord or Lords of the said Manor for the Time being, with full Power for him and them at all Times to hold and enjoy all Quit Rents, Free Rents, and other Rents, not extinguished or abolished, and compensated for by this Act, Reliefs, Duties, Customs, and Services, and all Courts and Perquisites and Profits of Courts, and Liberty of Hawking, Hunting, Coursing, Fishing, and Fowling, within and throughout the said Manor; and all Goods and Chattels of Felons and Fugitives, Felons of themselves, Persons outlawed, waifed and put in exigent, Deodands, Treasure-trove, Waifs, Estrays, Forfeitures, Royalties, Jurisdictions, Franchises, and Privileges whatsoever to the said Manor incident or appertaining, (other than and except such Common Right and Rents of Cottages and Encroachments, as could or might be claimed by him as Owner of the Soil and Inheritance of the said Commons and the Quarries of Stone therein), in as full, ample, and beneficial Manner to all Intents and Purposes as if this Act had not been made; and that the Lord or Lords of the said Manor for the Time being shall and may at all Times hereafter, have, hold, win, work, and enjoy all Mines of Coal, Ironstone, and Minerals, of what Nature or Kind soever, (Quarries or common Stone only excepted), under the said Commons, and the Encroachments, Allotments, and Improvements made and to be made therefrom, together with all convenient and necessary Ways, Roads, and Passages already made and hereafter to be made, and Liberty of laying, making, and repairing Waggon Ways and other Ways, in, over, and along the same, or any of them, or any Part thereof, and searching for, winning, and working the said Mines and Minerals, and loading and carrying away the Coal, Ironstone, Lead, Minerals, and other Produce thereof, and of making Pits, Shafts, Pit Rooms, Air Pits, Heap Rooms, Stand Yards, Drifts, Levels, Ways, and Watercourses, (as well as using and continuing those already made), and of erecting and using Fire Engines and other Engines, and necessary Buildings, and of altering, changing, pulling down, and

with Power to work them,

carrying

carrying away the ſame, or any of the Materials thereof, at his and their own free Will and Pleaſure, and doing all other Acts and Things, either now in uſe, or hereafter to be invented, as may be neceſſary or convenient for the full and complete Enjoyment thereof, in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as he or they could or might have done in caſe this Act had not been paſſed; yet nevertheleſs, that the Lord or Lords of the ſaid Manor for the Time being ſhall be obliged to pay, and ſhall from Time to Time pay to the reſpective Owners and Occupiers of ſuch Allotments reſpectively, a reaſonable and adequate Recompence and Satisfaction for all ſuch Damages as ſhall from Time to Time be thereby done thereto, in proportion to the Loſs ſuſtained by ſuch Owners and Occupiers reſpectively, according to their reſpective Rights and Intereſts therein; ſuch Damages, in caſe of Diſpute concerning the ſame, to be ſettled and aſcertained by ſome Juſtice of the Peace for the ſaid Riding.

Making Satisfaction for Damages.

XLIV. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, as well in Right of His Crown as in Right of His Duchy of *Lancaſter*, and alſo to all Perſons, Bodies Politic and Corporate, their reſpective Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, (other than and except the ſeveral Perſons, Bodies Politic and Corporate, to whom any Allotment or other Compenſation ſhall be made, and provided by virtue of this Act, in reſpect of the Intereſt or Property for which ſuch Allotment or Compenſation ſhall be made, their Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, and except ſuch other Rights and Intereſts as the Intent and Purpoſe of the Incloſure hereby authorized, ſhall abſolutely require to be barred, deſtroyed, or extinguiſhed by virtue of this Act), all ſuch Eſtates, Rights, Titles, and Intereſts, as he, they, every, or any of them, had and enjoyed of, in, to, or out of the ſaid Commons, Moors, and Waſte Grounds hereby directed to be incloſed before the paſſing of this Act, or could or might have had and enjoyed if this Act had not been paſſed.

General Saving.

XLV. And be it further enacted, That this Act ſhall be printed by the ſeveral Printers to the King's moſt Excellent Majeſty, duly authorized to print the Statutes of the United Kingdom, and a Copy thereof ſo printed by any of them ſhall be admitted as Evidence thereof, by all Judges, Juſtices, and others.

Evidence Clauſe.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1814.