ANNO QUADRAGESIMO TERTIO

GEORGII III. REGIS.

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Cap. 138.

An Act for incloſing Lands, within the Manor and Townſhip of *Batley* in the Weſt Riding of the County of *York*. [27th *July* 1803.]

WHEREAS there are within the Manor and Townſhip of *Batley* in the Weſt Riding of the County of *York*, ſeveral Open Commons, Moors, and Waſte Grounds, called *Staincliffe Common*, *Whitelee*, *Smithies Moor*, *Brownhill*, *Clark Green*, *Havercroft Green*, and *Batley Carr*, and others not diſtinguiſhed by particular Names, containing in the whole Two hundred and thirty-five Acres or thereabouts; and alſo a certain Field called *The Ilbe Royd*, containg about Fourteen Acres: And whereas *Thomas* Earl of *Wilton* and Counteſs of *Wilton*, are Lord and Lady of the Manor of *Batley* aforeſaid, and Owners of the Soil of the ſaid ſeveral Commons, Moors, and Waſte Grounds, and of the Coal Mines, Veins, Beds, and Seams of Coal, and all other Mines and Minerals therein; and the ſaid Earl of *Wilton* and Counteſs of *Wilton* are alſo Proprietors or Owners of the Impropriate Rectory of *Batley* aforeſaid, and entitled to the Tythes of

Lord and Lady of the Manor.

of Corn and Grain, and all other Great or Rectorial Tythes, yearly or otherwiſe ariſing out of or from the ſeveral incloſed Lands or Grounds within the Townſhip of *Batley* aforeſaid: And whereas *Thomas Foxley* Clerk, is Vicar or Incumbent of the Pariſh or Living of *Batley* aforeſaid, and as ſuch entitled to the Tythes of Wool, Lambs, and other Vicarial or Small Tythes: And whereas the ſaid Earl of *Wilton* and Counteſs of *Wilton*, *John Taylor*, *Thomas Thompſon*, *Joſhua Ingham*, *Shepley Watſon*, *Henry Preſton*, *John Tunnadine Vincent*, *John Blayds*, and *Benjamin Walker*, Eſquires; Meſſieurs *John Cooper*, *John Scatcherd*, *Joſeph Burrell*, *Edward Dean*, *Jeremy Sharp*, and divers other Perſons, are Proprietors of ancient Meſſuages, Cottages, Lands, Tenements, and Hereditaments, within the ſaid Manor and Townſhip, having Right of Common in and upon the ſaid ſeveral Commons, Moors, and Waſte Grounds, and ſome of them are Owners of or intereſted in the ſaid Open Field, or ſome Part thereof: 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 Lands and Grounds are in their preſent State incapable of much Improvement, and it would be very advantageous to the Proprietors thereof, and other Perſons intereſted therein, if the ſame were exonerated from the Great and Small Tythes ariſing therefrom, and if ſuch Commons, Moors, and Waſte Grounds, were divided and incloſed in Manner herein-after mentioned, and an Allotment or ſeveral Allotments made thereout to the ſaid Rectors and Vicar, in lieu of the ſaid Tythes; and it would alſo be for the Benefit of the Proprietors of and Perſons intereſted in the aforeſaid Open Field, if the ſame was divided and incloſed, and ſpecifick Shares allotted to them according to their ſeveral and reſpective Intereſts therein; but ſuch Diviſion, Allotments, 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 *Nicholas Brown*, of *Huddersfield* in the County of *York*, Gentleman, ſhall be and he is hereby appointed the Commiſſioner for dividing, allotting, and incloſing, the ſaid ſeveral Commons, Fields, Lands, Moors, and Waſte Grounds, and for carrying this Act into Execution, in Manner and ſubject to the Regulations in this Act contained, ſubject nevertheleſs to the Regulations of the ſaid recited Act, except in ſuch Caſes where the ſame are hereby varied or altered.

Vicar.

Freeholders.

Commiſſioner.

II. And be it further enacted, That if the ſaid *Nicholas Brown*, or any other Commiſſioner that ſhall be elected and appointed as herein-after directed, ſhall die, or refuſe or become incapable to act in the Execution of this Act of Parliament, the Perſons who reſpectively for the Time being ſhall be intereſted in the Lands and Grounds to be divided, allotted, and incloſed as aforeſaid, or the major Part of them in Value, who in Perſon or by their Agent or Attorney, ſhall attend at a Meeting to be called purſuant to Notice in Writing to be affixed on the principal Door of the Pariſh Church of *Batley* aforeſaid, on ſome *Sunday* either during or immediately before

How a new Commiſſioner is to be appointed.

before or after Divine Service (which Notice the Perſon who acts as Clerk to the ſaid Commiſſioner is hereby authorized to give within One Calendar Month next after ſuch Death, Refuſal, or Incapacity of the ſaid Commiſſioner ſhall be made known, and Ten Days at leaſt previous to ſuch Meeting), ſhall and may from Time to Time by Writing under their Hands, or the Hands of their Agent or Attornies, elect, nominate, or appoint ſome other fit and proper Perſon (not intereſted in the ſaid intended Diviſion, Allotment, and Incloſure) to be the Commiſſioner in the Place and Stead of ſuch Commiſſioner ſo dying, refuſing, or becoming incapable to act as aforeſaid, which ſaid Commiſſioner ſo to be elected and appointed as aforeſaid ſhall (after taking the Oath preſcribed in that Behalf) have the like Power and Authority for carrying this Act into Execution as if he had been the Commiſſioner originally nominated and appointed hereby.

Notice of firſt and every ſubſequent Meeting.

III. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required, to cauſe Notice in Writing to be affixed on the principal Door of the Pariſh Church of *Batley* aforeſaid, on ſome *Sunday* either during or immediately before or after Divine Service, of the Time and Place of his firſt Attendance, or beginning to put this Act into Execution, and alſo of ſuch other Times and Places as he ſhall appoint for the receiving, adjuſting, and ſettling the Claims, Rights, Shares, and Proportions of any Perſons intereſted in the ſaid Commons, Field, Lands, Moors, and Waſte Grounds, hereby directed to be divided, exchanged, and incloſed under and by virtue of this Act of Parliament, or for any other Purpoſe whatſoever, which ſhall or may require the Attendance of any Perſon or Perſons intereſted in the ſaid intended Diviſion, Allotment, and Incloſure, ſo as the Place of every ſuch Attendance or Meeting be within Three Miles of *Havercroft Green*, in the ſaid Manor or Townſhip, and that Fourteen Days previous Notice be given thereof (Meetings by Adjournment only excepted).

Certain Notices to be publiſhed in *The Leeds Intelligencer*.

IV. And be it further enacted, That the Notices requited by this Act or the ſaid recited Act, to be given or publiſhed in ſome publick Newſpaper, of ſetting out publick Carriage Roads, and of reading and executing the Award of the ſaid Commiſſioner, ſhall be given and publiſhed in *The Leeds Intelligencer*, or if that Paper ſhall not be then publiſhed, then in ſome other Newſpaper uſually circulated in the Weſt Riding of the County of *York*.

Allotment to be made to the Earl of *Wilton* and Counteſs of *Wilton*, Lord and Lady of the Manor.

V. And be it further enacted, That the ſaid Commiſſioner ſhall, after ſetting out and appointing the neceſſary publick Carriage Roads and Highways through and over the ſaid ſeveral Commons, Moors, and Waſte Grounds, hereby directed to be divided, exchanged, allotted, and incloſed, aſſign, ſet out, allot, and award unto and for the ſaid Earl of *Wilton* and Counteſs of *Wilton*, as Lord and Lady of the ſaid Manor of *Batley*, ſuch Part and Parcel of all the then Reſidue of the ſaid ſeveral Commons, Moors, and Waſte Grounds, as (Quantity, Quality, and Situation conſidered) ſhall in his Judgement be equal in Value to One Sixteenth Part

thereof, which ſaid Allotment, and alſo the Allotments to be made to the ſaid Earl of *Wilton* and Counteſs of *Wilton*, in reſpect of his, her, and their ancient incloſed Lands, Tenements, Hereditaments, and Premiſes, and alſo in reſpect of their Rectorial Tythes within the ſaid Manor of *Batley*, ſhall be made in or upon the ſaid ſeveral Commons, Moors, and Waſte Grounds, called *Whitelee*, *Brownhill*, *Smithies Moor*, *Havercroft Green*, and *Staincliffe Common*, or on ſuch Part or Parts thereof as the ſaid Earl of *Wilton* and Counteſs of *Wilton*, or their Agent or Agents, to be appointed by Writing under their Hands and Seals, ſhall elect and chooſe, which ſaid Allotment ſhall be in lieu of and as a full Compenſation and Recompence for their Right to the Soil of, and all Mines and Minerals within the ſaid ſeveral Commons, Moors, and Waſte Grounds.

Encroachments.

VI. Provided always, and be it further enacted, That all the Cottages, Buildings, and Encroachments erected upon and taken from any Part of the ſaid ſeveral Commons, Moors, and Waſte Grounds, within the laſt Twenty-one Years, ſhall be allotted and awarded to the ſaid Earl of *Wilton* and Counteſs of *Wilton*, Lord and Lady of the ſaid Manor of *Batley*, in Part of the Sixteenth Share of the ſaid ſeveral Commons, Moors, and Waſte Grounds herein-before directed to be allotted and awarded to them, without conſidering the Improvements made thereon or thereto; and that ſuch Encroachments as have been made on the ſaid ſeveral Commons, Moors, and Waſte Grounds upwards of Twenty-one Years before the paſſing of this Act, ſhall belong to the ſaid Earl of *Wilton* and Counteſs of *Wilton*, as their own Freehold, though not entitled to any Allotment in reſpect thereof; but if any of the ſaid Encroachments ſhall have been made on any Part or Parts of the ſaid ſeveral Commons, Moors, and Waſte Grounds adjoining or near to ancient Meſſuages or Buildings, or incloſed Lands and Grounds, then and in that Caſe it ſhall be lawful for the ſaid Commiſſioner to allot and award ſuch Encroachment or Encroachments to the Proprietor or Proprietors of the ſaid Meſſuages, Buildings, Lands, and Grounds, in Part or full Compenſation for his, her, or their Claim or Claims upon the ſaid ſeveral Commons, Moors, and Waſte Grounds, he, ſhe, or they paying to the ſaid Earl of *Wilton* and Counteſs of *Wilton*, their Heirs or Aſſigns, ſuch Sum or Sums of Money for the Improvements made on ſuch Encroachment or Encroachments as the ſaid Commiſſioner ſhall by his ſaid Award direct and appoint.

Allotment to the Vicar in lieu of his Small Tythes.

VII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required, in the next Place, to make a juſt and fair Eſtimate of the true Value, One Year with another, of all the Tythes of Wool, Calves, Lambs, Geeſe, Hens, Turnips, Potatoes, Rapes, Hemp, Flax, and all other Vicarial or Small Tythes whatſoever ariſing or payable to the Vicar of *Batley* aforeſaid, and his Succeſſors, out of and in reſpect of the Lands and Grounds within the Manor or Townſhip of *Batley* aforeſaid (as well thoſe already incloſed as thoſe intended to be hereby

hereby divided, allotted, and incloſed); and after ſuch Eſtimate is made as aforeſaid, the ſaid Commiſſioner ſhall ſet out, allot, and award unto the ſaid Vicar of *Batley* and his Succeſſors, ſuch Portion of the ſaid ſeveral Commons, Moors, and Waſte Grounds, as he the ſaid Commiſſioner ſhall think equal in Value to the ſame Vicarial or Small Tythes, which ſaid Allotment ſhall be in full Compenſation for all Vicarial Tythes yearly or otherwiſe growing, ariſing, increaſing, or becoming due or payable out of all or any Part of the Lands or Grounds within the aforeſaid Manor or Townſhip of *Batley*.

Saving Mortuaries, Surplice Fees, &c. to the Vicar.

VIII. Provided always, and be it further enacted, That nothing herein-before contained ſhall extend to prejudice or impeach the Right of the ſaid Vicar of *Batley*, or any of his Succeſſors, to any Dues, and other Payments not ariſing from or for or in reſpect of the Lands and Grounds within the ſaid Manor or Townſhip of *Batley*; but all Mortuaries, Surplice and other Fees, ſhall remain payable and be recoverable in the ſame Manner as if this Act had not been made.

Allotments to be made in lieu of Great or Rectorial Tythes, Part of which ſaid Allotments is to Truſtees.

IX. And be it further enacted, That the ſaid Commiſſioner ſhall and may and he is hereby authorized and required in the next Place to ſet out, allot, and award, unto the ſaid Earl of *Wilton* and Counteſs of *Wilton*, their Heirs and Aſſigns for ever, ſo much and ſuch Part or Parts of the ſaid ſeveral Commons, Moors, and Waſte Grounds called *Whitelee*, *Brownhill*, *Smithies Moor*, *Havercroft Green*, and *Staincliffe Common*, as he the ſaid Commiſſioner ſhall think equal to the yearly Sum of Sixty-ſeven Pounds Fifteen Shillings and Sixpence, being the annual Value of the Great or Rectorial Tythes ariſing within the ſaid Townſhip or Manor of *Batley*.

Allotments not exceeding Six Acres to be made for Quarries for the Repair of the Highways within the Townſhip of *Batley*.

X. And be it further enacted, That the ſaid Commiſſioner ſhall and may in the next Place aſcertain, ſet out, and appoint certain Pieces or Parcels of Ground (Part of the ſaid ſeveral Commons, Moors, and Waſte Grounds, hereby directed to be incloſed) not exceeding Six Acres, for the Purpoſe of getting Stone, Gravel, Sand, and Materials, for the fencing of the Allotment or Allotments herein-before directed to be ſet out to the Vicar of *Batley* aforeſaid, and for the Repairs of the ſeveral Highways and Roads within the ſaid Manor or Townſhip of *Batley*, and of the Roads to be made under or by virtue of this Act, and of the ſaid General Incloſure Act; which ſaid Piece or Parcel of Land or Ground ſhall be fenced in and cultivated by and at the Expence of the Churchwardens and Overſeers of the Poor for the Time being of the ſaid Townſhip of *Batley*, and the Rents and Profits thereof applied by them to and for the Uſe of the Poor within the Pariſh of *Batley* aforeſaid, until the ſame is broken up in order to get the Stone or Gravel therein.

Piece of Ground heretofore incloſed for the Uſe of the

XI. Provided always, and be it further enacted, That the Piece or Parcel of Land or Ground heretofore taken and incloſed (by the Churchwardens and Overſeers of the Poor for the Uſe of the Paupers within the Pariſh of *Batley* aforeſaid) from the ſaid Common called *Whitelee*, containing by Eſtimation

Poor, and Quarry Ground after the Stone is got, to belong to the Poor of and within the Pariſh of *Batley*.

Eſtimation Nine Acres or thereabouts; and alſo the Ground and Soil of the Allotment or Allotments ſo to be ſet out as aforeſaid, by furniſhing Materials for the Repairs of the Highways within the ſaid Townſhip of *Batley*, after the Stones, Gravel, and Sand therein have been dug and got, ſhall be veſted in the Churchwardens and Overſeers of the Poor of the ſaid Townſhip of *Batley* for the Time being for ever, in Truſt to apply the Rents, Iſſues, and Profits of the ſame reſpectively to and for the Uſe of the Poor of and within the ſaid Pariſh of *Batley*.

For paying the Expences of this Act, and of the Award to be made in purſuance thereof.

XII. And be it further enacted, That the ſeveral and reſpective Perſons intereſted in the ſaid Open Fields ſo intended to be divided and incloſed, ſhall contribute ſuch Sum and Sums of Money towards defraying the Coſts, Charges, and Expences of preparing, obtaining, and carrying this Act into Execution, and of preparing the Award of the ſaid Commiſſioner, in proportion and according to the Value of their ſeveral and reſpective Shares and Intereſts in and to the aforeſaid Open Field, at ſuch Time and Place or Times and Places as the ſaid Commiſſioner ſhall, either before or after the Execution of his ſaid Award, by Notice or Notices in Writing under his Hand, direct or appoint; and in caſe any Perſon or Perſons ſhall neglect or refuſe to pay his, her, or their Share or Shares, Proportion or Proportions of ſuch Charges and Expences, or any Part thereof, within the Time or Times to be limited by the ſaid Commiſſioner, to ſuch Perſon or Perſons as he ſhall appoint to receive the ſame, then and in either of the Caſes aforeſaid it ſhall and may be lawful for the ſaid Commiſſioner by Warrant under his Hand and Seal, directed to any Perſon or Perſons whomſoever, to levy the ſame by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay, in Manner directed by the ſaid recited Act; and that the Reſidue of the ſaid Coſts, Charges, and Expences of preparing, obtaining, and carrying this Act into Execution, and of preparing the ſaid Award, and alſo the Coſts and Charges of forming and completing the publick Highways to be ſet out and appointed over and upon the ſaid ſeveral Commons, Moors, and Waſte Grounds hereby intended to be divided and incloſed, and of making the outward Fences of the Allotments to be ſet out for the Vicar of *Batley* aforeſaid, and likewiſe all other Coſts, Charges, and Expences whatſoever relating to or concerning the obtaining, paſſing, and executing this Act, ſhall be raiſed, paid, and defrayed by Sale of ſuch Part or Parts of the ſaid ſeveral Commons, Moors, and Waſte Grounds (purſuant to the Directions of the ſaid recited Act) as the ſaid Commiſſioner ſhall think fit for that Purpoſe; and that it ſhall be lawful for the ſaid Commiſſioner to offer to Sale ſuch Part or Parts of the ſaid ſeveral Commons, Moors, and Waſte Grounds ſo directed to be ſet out by him as aforeſaid, and ſold, towards defraying the Expences of obtaining and carrying this Act into Execution, to any Proprietor or Proprietors of ancient Meſſuages, Buildings, Lands, or Grounds adjoining or near thereto, at ſuch Price or Prices as he the ſaid Commiſſioner ſhall think proper; and in caſe ſuch Proprietor or Proprietors ſhall neglect or refuſe to become a Purchaſer or Purchaſers of ſuch Pieces or Parcels of Ground at the Price or Prices fixed thereon, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner to ſell and diſpoſe of the ſame by publick Auction or private Contract, as to him

him ſhall ſeem beſt, notwithſtanding any Thing herein contained to the contrary thereof.

Allotment of the Reſidue of Commons and of Field Lands.

XIII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required to aſſign, ſet out, allot, and award the Reſidue of the ſaid ſeveral Commons, Moors, and Waſte Grounds, hereby directed to be divided and incloſed (after making the Deductions before enumerated), unto and amongſt the ſeveral Owners or Proprietors of ancient incloſed Lands and Grounds, ſituate, lying, and being within the ſaid Manor or Townſhip of *Batley* (except certain Lands or Grounds which were ſome Time ago, with the Conſent of the then Lord or Lords, Lady or Ladies, and Freeholders of and within the ſaid Manor or Townſhip, taken off and incloſed from the Waſte Grounds within the ſaid Manor or Townſhip, or ſome Part or Parts thereof, for the Uſe of the Vicar of *Batley* aforeſaid for the Time being for ever, in order to increaſe the Value of the Vicarage or Living of *Batley* aforeſaid, and which ſaid Lands or Grounds are hereby intended to be exempt from any Claim or Claims of Common Right upon the ſaid ſeveral Commons, Moors, and Waſte Grounds) in proportion and according to the Quantity and Value of ſuch their reſpective Lands and Grounds, in full Bar and Compenſation for their reſpective Rights and Intereſts upon the ſeveral Commons, Moors, and Waſte Grounds, within the ſaid Manor or Townſhip; and alſo ſhall divide, ſet out, and allot the ſaid Common Fields ſo intended to be incloſed, unto and amongſt the Proprietors and Perſons intereſted therein, according and in Proportion (Quantity, Quality, and Situation conſidered) to ſuch their ſeveral and reſpective Rights and Intereſts in the ſame, and ſhall and may plot and lay out the Allotments of the ſaid ſeveral Commons, Moors, and Waſte Grounds, and of the ſaid Open or Common Field, to each reſpective Proprietor, as nearly together, and to their reſpective ancient Property, as conveniently may be.

Allotments to the Vicar to be laid together, and the Expence of fencing the ſame, to be defrayed in the ſame Manner as the Coſts and Charges of obtaining and carrying this Act into Execution.

XIV. Provided always, and be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required, to ſet out the Land or Ground herein-before directed to be allotted to the Vicar of *Batley* aforeſaid (in reſpect of his Small Tythes within the ſaid Townſhip) together in One Plot, on ſuch Part of the ſaid ſeveral Commons, Moors, and Waſte Grounds (not interfering with the Allotments to be made to the ſaid Earl of *Wilton* and Counteſs of *Wilton*) as he the ſaid Commiſſioner ſhall think fit; and that the Allotment ſo to be ſet out to the ſaid Vicar, ſhall be well and ſufficiently incloſed or fenced with outward Ring Fences, which ſhall be made with good Stone Walls, or planted with Quickſets, and guarded with Poſts and Rails, in ſuch Manner as the ſaid Commiſſioner ſhall direct; and that the Expence thereof ſhall be borne, defrayed, levied, and paid in the ſame Manner as the Coſts, Charges, and Expences of obtaining, paſſing, and executing this Act, are herein-before directed to be raiſed and paid; and that the ſaid Fences when ſo made, ſhall for ever afterwards be reſpectively maintained and repaired by and at the Expence of the Vicar of *Batley* aforeſaid for the Time being.

XV. And

Proprietors may ſell their Common Right and exchange ancient incloſed Lands, and the Commiſſioner may award the ſame accordingly.

XV. And be it further enacted, That it ſhall and may be lawful to and for any of the Perſons entitled to Right of Common upon the ſaid ſeveral Commons, Moors, and Waſte Grounds, hereby directed to be incloſed, to ſell and diſpoſe of his, her, or their Right, Share, or Intereſt in ſuch Commons, Moors, and Waſte Grounds, ſeparate and apart from the Property to which ſuch Right or Intereſt is appurtenant, or exchange any of his, her, or their ancient incloſed Lands or Grounds; and that the ſaid Commiſſioner ſhall and may award the Allotment or Allotments to be made in lieu of the Right of Common ſo ſold and diſpoſed of to the Purchaſer or Purchaſers thereof reſpectively, and ſuch Exchange or Exchanges, to the Perſon or Perſons deſirous of making the ſame, having received a Requeſt in Writing ſo to do, ſigned by the Owners or Proprietors of ſuch Rights of Common, or the Proprietors of the ancient incloſed Lands and Grounds, deſirous of making ſuch Exchange or Exchanges, in the Preſence of One or more credible Witneſs or Witneſſes; and that the Perſon or Perſons purchaſing ſuch Common Right, or exchanging ſuch ancient incloſed Lands or Grounds, ſhall hold and enjoy the ſame unto him, her, or them, his, her, or their Heirs and Aſſigns for ever, any Law, Cuſtom, or Uſage to the contrary thereof notwithſtanding.

Commiſſioner to ſettle Diſputes and Differences.

XVI. 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 Diviſion, Exchange, and Incloſure hereby directed to be made, touching or concerning the Right to the Soil of the ſaid ſeveral Commons, Moors, and Waſte Grounds, or any Part or Parts thereof, or touching or concerning the ſeveral and reſpective Rights and Intereſts therein, which they or any of them have or claim to have in or to ſuch Commons, Moors, and Waſte Grounds, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion, Exchange, or Incloſure, it ſhall be lawful for the ſaid Commiſſioner to examine into, hear, and determine the ſame: Provided always, that nothing herein contained ſhall authorize the ſaid Commiſſioner to determine the Title to any Meſſuages, Cottages, Lands, or Hereditaments whatſoever; and the ſaid Commiſſioner ſhall have and be allowed (over and above the Sum herein-after directed to be paid to him for his Trouble in dividing and allotting the ſaid ſeveral Commons, Moors, and Waſte Grounds) the Sum of Two Pounds and Two Shillings a Day for his Loſs of Time and Expences on each and every Day that he ſhall attend and be engaged in examining Witneſſes, and ſettling and determining ſuch Diſputes or Differences, to be paid by the Perſon or Perſons againſt whom the Deciſion or Determination of the ſaid Commiſſioner ſhall be made; and if the ſaid Commiſſioner upon the hearing and determining of any Claim or Claims, Objection or Objections, to be delivered to him in purſuance of this Act, ſhall ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby empowered, upon Application made to him for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as he ſhall think reaſonable to be paid to the Party or Parties in whoſe favour any Deciſion of the ſaid Commiſſioner 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 the ſaid Commiſſioner to award Coſts.

Commiſſioner

missioner such Recompence for his Trouble and Expences, and such other Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall and may be lawful to and for the said Commissioner and he is hereby empowered, authorized, and required, by Warrant under his Hand and Seal 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 so neglecting or refusing to pay the same, rendering the Overplus (if any) after deducting the reasonable Costs and Charges attending such Distress and Sale, upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold.

Parties dissatisfied may try their Rights by a feigned Issue.

XVII. Provided always, and be it further enacted, That in case any Person or Persons whomsoever interested or claiming to be interested in the said intended Division, Exchange, and Inclosure, shall be dissatisfied with any Determination of the said Commissioner, touching or concerning any Claim or Claims herein-before directed to be settled by him, or of the Right to the Soil of the said several Commons, Moors, and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any Part or Parts thereof, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the then next or following Assizes to be held in and for the County of *York*, and for that Purpose the Person or Persons who shall be dissatisfied with the Decision of the said Commissioner shall cause an Action to be brought upon a feigned Issue, against the Person or Persons in whose favour such Determination shall have been made, within Two Calendar Months next after the said Decision of the said Commissioner; and the Defendant or Defandants in such Action shall, and he, she, or they are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action shall be binding on all Persons, and Bodies Politick and Corporate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, 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 that after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioner shall and he is hereby required to act in Conformity thereto.

Allotments to be inclosed and fenced.

XVIII. And be it further enacted, That the several Allotments to be made as aforesaid, shall, within such Time either before or after the Execution of the said Award as the said Commissioner shall direct, be inclosed and fenced, and such Fences for ever afterwards maintained, repaired, and supported by and at the Expence of the several and respective Proprie-

tors thereof, in such Manner, Shares, and Proportions, as the said Commissioner shall by his said Award direct.

Proprietors or Owners of Allotments to get Mines and Minerals therein.

XIX. And be it further enacted, That it shall be lawful for the Proprietors or Owners of the Allotments of the said several Commons, Moors, and Waste Grounds, to get Coal, Lead Ore, Iron-stone and other Stone, Slate, and Gravel, within their several and respective Allotments, and to dispose of the same as he, she, or they shall think proper.

No Sheep or Lambs to be kept upon the Allotments within Ten Years next after the Execution of the Award.

XX. And be it further enacted, That if any Person or Persons whomsoever shall during the Space of Ten Years from the Execution of the said Award, keep or depasture, or permit any Sheep or Lambs to be kept and depastured in the Allotments to be made in pursuance of this Act (unless he, she, or they shall first effectually fence and guard the adjoining Allotment or Allotments belonging to any other Proprietor or Proprietors from any Injury to their Quicksets or new planted Fences), or shall wilfully turn or put, or cause any Sheep, Lambs, Horses, Asses, or other Beasts or Cattle, to be turned or put in any of the Lanes, Ways, or Roads on either Side whereof any new growing Fence shall be planted, every Person so offending shall, upon Conviction before any One or more of His Majesty's Justices of the Peace acting in and for the West Riding of the County of *York*, upon the Oath of One or more credible Witness or Witnesses (which Oath the said Justice or Justices is and are hereby empowered to administer) forfeit and pay for every such Offence any Sum of Money not exceeding Five Pounds nor less than Fifty Shillings (over and above the Costs previous to and attending such Conviction), at the Discretion of the Justice before whom such Offender is convicted, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons subject to the Payment of the said Penalty, by Warrant under the Hand and Seal of such Justice, together with the Costs and Charges of the said Distress and Sale; and every such Penalty when so levied, shall be paid to the Person or Persons injured.

Leases at Rack Rent for any Term not exceeding Twenty-one Years, so far as the same affects the several Commons hereby directed to be inclosed, to be void.

XXI. And be it further enacted, That all and every Lease and Leases for any Term not exceeding Twenty-one Years, subsisting at Rack, improved, or extended Rent, of all or any Part of the Lands or Grounds hereby intended to be divided, allotted, and inclosed as aforesaid, and all Right of Common in and upon the same, and all other Agreements for any Term or Time at Rack, improved, or extended Rent, shall as to the said several Commons, Moors, and Waste Grounds, so intended to be divided and inclosed as aforesaid, upon the First Day of *January* which will be in the Year of our Lord One thousand eight hundred and four, cease and be void; the respective Persons who have made or entered into any such Leases or Agreements making such reasonable Satisfaction for the same to the Lessee or Lessees, Tenant or Tenants, when required, on Account thereof, or as an Equivalent for the same, as the said Commissioner shall direct and appoint.

XXII. And

Settlements, Deeds, or Wills, not to be affected.

XXII. Provided always, and be it further enacted, That nothing in this Act shall extend or be deemed or taken to revoke, make void, alter, or annul any Settlement, Deed, Will, or Limitation, or to prejudice any Person having or claiming any Jointure, Dower, Portion, Reversion, Rent, Service, Debt, Charge, or Incumbrance, of, in, to, out of, upon, or affecting any of the Lands and Grounds so intended to be divided and inclosed, or which shall be exchanged in pursuance of this Act or any Part thereof respectively; but that the several Lands and Grounds to be assigned and allotted upon such Division and Inclosure to the several Parties concerned, or their Trustees, and which shall be taken in Exchange in pursuance of this Act, shall immediately after such Allotments and Exchanges are made, be, remain, and enure, and the several Persons to whom the same shall be allotted and assigned or given in Exchange as aforesaid, shall from thenceforth stand and be seised thereof to and for such and the same Uses and Estates, and subject to such and the same Wills, Settlements, Limitations, Remainders, Charges, Tenures, Rents, Services, Quit Rents and Incumbrances, as the said several Lands, Grounds, Tenements, or Hereditaments, in lieu or in respect whereof such Allotment and Exchanges shall be made as aforesaid, now are, or should or would have been subject and liable to be charged with, or affected by, in case the same had remained unincloſed and unexchanged, or this Act had not been made.

Allowance to the Commissioner.

XXIII. And be it further enacted, That the said Commissioner shall be paid the Sum of One hundred and five Pounds and no more, in full Satisfaction for all his Trouble, and the Expences which he shall incur in the surveying, admeasuring, planning, and valuing all the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and likewise for all his Trouble and the Expences which he shall incur in the dividing and allotting the said several Commons, Field, Lands, Moors, and Waste Grounds; and also the further Sum of Two Pounds and Two Shillings for his Loss of Time and Expences on each and every Day that he shall be engaged or employed in attending the Sale of any Allotment or Allotments herein-before directed to be sold, to defray the Costs and Charges of carrying this Act into Execution; and that the Persons desirous of making any Exchange or Exchanges of ancient inclosed Lands or Grounds, under or by virtue of this or the said recited Act, shall pay to the said Commissioner the Sum of Two Pounds and Two Shillings for his Trouble and Expences on each and every Day that he shall be employed in settling and confirming such Exchange or Exchanges.

For paying Expences of Exchanges.

XXIV. And be it further enacted, That all Costs, Charges, and Expences attending the making of any Exchanges and Partitions by virtue of the said recited Act, shall be paid, borne, and defrayed by the several Persons making such Exchanges and Partitions, in such Manner, and and in such Proportions, as the said Commissioner shall by his Award order or direct.

Proprietors and others to pay their own Expences at Meetings.

XXV. Provided always, That the said Proprietors or Persons interested in the said Division, Exchange, and Inclosure, their Agents and Attornies, shall pay their own Expences when they or any of them shall attend the said Commissioner in the Execution of this Act.

XXVI. And

Persons advancing Money to be repaid with lawful Interest.

XXVI. And be it further enacted, That if any of the said Proprietors, or any other Person or Persons whomsoever, shall advance and pay any Money in discharge of the Fees or other Expences of obtaining, passing, and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said Commissioner, together with lawful Interest for the same.

Award of the Commissioner to be enrolled at the Office of the Register of the West Riding of the County of *York*, or his Deputy.

XXVII. And be it further enacted, That within Three Calendar Months after the said Commissioner shall have made and executed his said Award, the same shall be transcribed or enrolled at the Office of the Register of the West Riding of the County of *York*, or his Deputy; and that a true Copy of such Inrolment, or of any Part thereof, signed by the said Register or his Deputy (for which no more than Four-pence a Sheet of Seventy-two Words shall be paid), and also the original Award, shall be admitted and allowed as good and legal Evidence in all Courts, and upon all Occasions whatsoever; and the several Allotments, Divisions, and Exchanges, and all Orders, Directions, Regulations, Decisions, Matters, and Things whatsoever, which shall be made, specified, and set forth in and by the said Award, shall be final, binding, and conclusive upon all Persons and Parties interested therein.

Commissioner to lay his Accounts before Two Justices Once in every Year.

XXVIII. And be it further enacted, That Once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of the passing thereof), the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by him laid before any Two or more of His Majesty's Justices of the Peace for the West Riding of the said County of *York*, to be by them examined and balanced, and such Balance shall be by such Justices stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justices.

Saving the Rights of the Lord and Lady of the Manor of *Batley* aforesaid.

XXIX. Provided always, and be it further enacted, That nothing contained in this Act shall be construed to defeat, lessen, or prejudice the Right, Title, or Interest of the said Earl of *Wilton* and Countess of *Wilton* as Lord and Lady of the said Manor of *Batley*, their Heirs or Assigns, of, in, and to, the Seigniories and Royalties incident and belonging to the said Manor; but that the said Earl of *Wilton* and Countess of *Wilton*, and all succeeding Lords or Ladies of the said Manor, shall and may from Time to Time and at all Times hold and enjoy all Quit Rents, Free Rents, Reliefs, Duties, Customs, and Services, and all Courts, Perquisites and Profits of Courts within the said Manor, Goods and Chattels of Felons and Fugitives, Felons of themselves and put in Exigent, Deodands, Treasure Trove, Waifs, Estrays, Forfeitures, Royalties, Jurisdictions, Franchises, Matters, and Things whatsoever, to the said Manor or to the Lord or Lords, Lady or Ladies thereof belonging or appertaining (other than and except such Common Rights as could or might be claimed by them as Owners of the Soil and Inheritance of the said several Commons, Moors, and Waste Grounds,

and

and the Right of winning and getting the Mines and Minerals therein, which is and are hereby intended to be barred, and for ever extinguiſhed) in as full, ample, and beneficial a Manner to all Intents and Purpoſes, as they might have had, held, and enjoyed the ſame, if this Act had not been made: Provided always, that nothing herein-before contained ſhall prevent or be conſtrued and taken as intended to prevent the ſaid Earl of *Wilton* and Counteſs of *Wilton*, their Heirs and Aſſigns, from digging, ſinking, ſearching for, working, and getting the Mines of Coal, Lead Ore, Iron-ſtone, and other Minerals, within and under the ſeveral Allotments herein-before directed to be awarded and ſet out for them as aforeſaid.

Perſons thinking themſelves aggrieved may appeal to the Quarter Seſſions.

XXX. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance of this Act, then and in every ſuch Caſe (except as to ſuch Claims, Matters, and Things as are herein-before 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 any General Quarter Seſſions of the Peace to be held in and for the Weſt Riding of the County of *York*, within Six Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving Thirty Days Notice to the ſaid Commiſſioner of ſuch his, her, or their Intention of appealing, and the Juſtices at ſuch Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and to award ſuch Coſts as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order or Warrant, to levy the Coſts and Charges which ſhall be ſo awarded by Diſtreſs and Sale of the Goods and Chattels of the Party liable to pay the ſame, rendering the Overplus (if any) on Demand, to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale; which Determination of the ſaid Juſtices ſhall be final and concluſive on all Parties, and ſhall not be removed or removeable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts at *Weſtminſter*, or elſewhere; and in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then the ſaid Juſtices ſhall and may, and are hereby authorized and empowered, to award ſuch Coſts to be paid by the Appellant or Appellants, and to be levied in Manner aforeſaid, as to them in their Diſcretion ſhall ſeem reaſonable.

General Saving.

XXXI. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politick and Corporate, his, her, or their Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns (other than and except the ſeveral and reſpective Perſons to whom any Allotment or Allotments of Lands, or other Compenſation ſhall be made or provided by virtue of this Act, in reſpect of the Intereſts or Property for which ſuch Allotment or Compenſation ſhall be made, and except ſuch other Rights and Intereſts as the Intent and Purpoſe of the Diviſion, Exchange, and Incloſure, hereby authorized, ſhall abſolutely require to be barred, deſtroyed, or extinguiſhed by this Act) all ſuch Eſtates, Rights, and Intereſts, as they, every, or any of them, had or enjoyed, of, in, to, or in reſpect of the ſeveral Commons, Field Lands, Moors, and Waſte Grounds, directed to be divided, exchanged,

and inclosed, before the passing of this Act, or could or might have had or enjoyed, if this Act had not been made.

For printing the Act by the King's Printer.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1803.