ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 135.

An Act for incloſing Lands in the Pariſh of *Gateſhead*, in the County of *Durham*. [27th *May* 1809.]

WHEREAS there is within the Pariſh of *Gateſhead*, in the County of *Durham*, a certain Common or Tract of Waſte Ground called *Gateſhead Fell*, containing by Eſtimation Six Hundred Acres, or thereabouts: And whereas the Honourable and Right Reverend *Shute* Lord Biſhop of *Durham*, in Right of his See, is Lord of the Manor of *Gateſhead* aforeſaid, and as ſuch is ſeiſed of the Soil and Royalties within and under the ſaid Tract of Common or Waſte Land called *Gateſhead Fell*, and *Elizabeth Hudſon*, Widow, is the preſent Leſſee thereof: And whereas the Owners of certain Burgages or ancient Tenements within the Town and Borough of *Gateſhead* aforeſaid, and which ſaid Owners are uſually denominated Borough-holders, and the Freemen of the ſame Town or Borough, and the Owners of certain Lands within the ſaid Pariſh of *Gateſhead*, which adjoin the ſaid Common or Waſte Ground, are or claim to be entitled to Right of Common, at all Times in the Year, within and over the ſame: And whereas ſeveral Cottages or Tenements and Buildings, have from Time to Time been erected upon the ſaid Tract of Common or Waſte Ground, and certain Garths or ſmall Parcels of Land incloſed and attached thereto, and the ſame are held as Tenancies at Will, under certain Annual Rents or Acknowledgments payable to the Lord of the ſaid Manor or his Leſſee, and the ſaid Borough-holders and Freemen,

in equal Shares: And whereas the ſaid Borough-holders and Freemen are or claim to be entitled to an excluſive Right or Privilege of letting Stints to Perſons not entitled to Right of Common on the ſaid Tract of Common or Waſte Ground, for depaſturing the Cattle of ſuch Perſons thereon, at certain Annual Rents or Payments: And whereas the ſaid Tract of Common or Waſte Ground is, in its preſent State, incapable of Cultivation; and it would be highly beneficial to the ſeveral Perſons intereſted therein if the ſame were divided and incloſed, and ſpecific Allotments made thereof, in the Manner herein-after expreſſed; but inaſmuch as ſuch Diviſion and Incloſure cannot be effected without the Aid and Authority of Parliament; may it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That *John Bell*, *John Fryer*, and *Matthew Wheatley*, all of the Town and County of *Newcaſtle-upon-Tyne*, Gentlemen, and their Succeſſors, to be appointed in the Manner herein-after directed, ſhall be, and they are hereby appointed Commiſſioners, for dividing and allotting the ſaid Tract of Common or Waſte Land, called *Gateſhead Fell*, and for carrying this Act into Execution, in ſuch Manner, and ſubject to ſuch Regulations as are herein-after contained, and with ſuch of the Powers, and ſubject to ſuch of the Rules, Orders, Directions, Authorities, Regulations, Reſtrictions, and Proviſions contained in an Act 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*, as are not controlled by or repugnant to any of the Clauſes, Proviſions, or Regulations contained in this Act.

Commiſſioners appointed.

Power to appoint new Commiſſioners.

II. And be it further enacted, That if the ſaid *John Bell* ſhall die or refuſe to act, or become incapable of acting as a Commiſſioner in the Execution of this Act, before all the Powers, Authorities, and Truſts hereby repoſed in the ſaid Commiſſioners ſhall be fully executed and performed, it ſhall be lawful for the Lord of the ſaid Manor of *Gateſhead* for the Time being, or his Leſſee or Leſſees, by Writing under his or their Hand or Hands, to nominate and appoint One other fit and proper Perſon not intereſted in the Premiſes, to be a Commiſſioner in the Place of the ſaid *John Bell*, and if any Commiſſioner or Commiſſioners who ſhall be appointed in the Place of the ſaid *John Bell*, ſhall die, refuſe to act, or become incapable of acting as aforeſaid, ſuch Vacancies ſhall be filled up in like Manner by ſuch Lord, or ſuch Leſſee or Leſſees for the Time being; and if the ſaid *John Fryer* ſhall die, or refuſe to act, or become incapable of acting as a Commiſſioner in the Execution of this Act, before all the Powers, Authorities, and Truſts hereby repoſed in the ſaid Commiſſioners ſhall be fully executed and performed, it ſhall be lawful for the Majority in Number of the ſaid Borough-holders and Freemen, or their reſpective Agents or Attornies preſent, at a Meeting to be holden for that Purpoſe, by Writing under their reſpective Hands, to nominate and appoint One other fit and proper Perſon not intereſted in the Premiſes, to be a Commiſſioner in the Place of the ſaid *John Fryer*; provided that Ten Days Notice of the Time and Place and Purpoſe of ſuch Meeting, ſhall be given by Three or more

of

of ſuch Borough-holders and Freemen in like Manner as herein-after is directed, with reſpect to the Meetings of the ſaid Commiſſioners, and that ſuch Meetings ſhall be held within the Pariſh of *Gateſhead* aforeſaid; and if any Commiſſioner or Commiſſioners who ſhall be appointed in the Place of the ſaid *John Fryer* ſhall die, refuſe to act, or become incapable of acting as aforeſaid, ſuch future Vacancies ſhall in like Manner be filled up by the Majority in Number of the ſaid Borough-holders and Freemen; and if the ſaid *Matthew Wheatley*, or any Perſon to be appointed in his Place, ſhall die, refuſe to act, or become incapable of acting as a Commiſſioner in the Execution of this Act, before all the Powers, Authorities, and Truſts aforeſaid ſhall be fully executed and performed, it ſhall be lawful for the Two other Commiſſioners for the Time being, and they are hereby required, within the Space of Thirty Days next after every or any ſuch laſt-mentioned Vacancy ſhall happen, by Writing under their reſpective Hands, to nominate and appoint ſome other fit and proper Perſon, not intereſted in the Premiſes, to be a Commiſſioner in the Place of the Commiſſioner by whoſe Refuſal, Death, or Incapacity the ſame Vacancy ſhall occur; and if any Commiſſioner ſhall neglect to attend Three ſucceſſive Meetings of the ſaid Commiſſioners, unleſs prevented by Sickneſs, ſuch Neglect ſhall be deemed and taken to be a Refuſal to act in the Execution of this Act; and if every Vacancy which ſhall happen in the ſaid Commiſſion, by the Death, Refuſal, or Incapacity of the ſaid *John Bell* and *John Fryer*, or either of them, or their reſpective Succeſſors, ſhall not be filled up in the Manner herein-before directed, within the Space of Thirty Days next after the ſame reſpectively ſhall occur, it ſhall be lawful for the ſurviving or remaining Commiſſioners or Commiſſioner for the Time being, by Writing under their or his Hands or Hand, to appoint ſome other fit and proper Perſon, not intereſted in the Premiſes, to be a Commiſſioner for ſupplying every ſuch laſt-mentioned Vacancy, from Time to Time, as often as there ſhall be Occaſion; and every Perſon who ſhall be nominated and appointed a Commiſſioner, conformably to the Directions herein-before contained, ſhall have the ſame Powers and Authorities, in all Reſpects, as if he had been appointed a Commiſſioner in and by this Act.

Two Commiſſioners may act.

III. And be it further enacted, That it ſhall be lawful for any Two of the Commiſſioners for the Time being to do, execute, and perform any and every Act, Matter, and Thing, by this Act directed or expreſſed to be done, executed, and performed by the ſaid Commiſſioners, as fully and effectually, to all Intents and Purpoſes, as if all the ſaid Commiſſioners had concurred therein.

Commiſſioners to appoint a Surveyor.

IV. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby empowered to appoint a Surveyor to aſſiſt them in the Execution of this Act and the ſaid recited Act; and ſuch Surveyor from Time to Time to remove, and to make any new Appointment whenever ſuch Removal or any other Vacancy in the ſaid Office of Surveyor ſhall take place, and to fix the Allowance and Compenſation to be made to ſuch Surveyor for his Trouble, Charges, and Expences, in the Execution of his ſaid Office.

Commiſſioners to appoint a Clerk.

V. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners, by Writing under their Hands, to nominate and appoint

appoint One other fit and proper Perſon to be their Clerk, to aſſiſt them in the Execution of this Act; and in caſe the ſaid Clerk ſhall die, or refuſe to act, or become incapable of acting as ſuch Clerk in the Execution of this Act, then and in every ſuch Caſe it ſhall and may be lawful to and for the ſaid Commiſſioners, by Writing as aforeſaid, to nominate and appoint One other fit and proper Perſon to be their Clerk in the Place of the ſaid Perſon ſo dying, refuſing, or becoming incapable to act as aforeſaid, and ſo *toties quoties*; and that the ſaid Clerk for the Time being ſhall be paid ſuch Compenſation for his Trouble, Charges, and Expences, as the ſaid Commiſſioners ſhall think fit and reaſonable.

Notice to be given of the Meetings of the Commiſſioners.

VI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, with all convenient Speed after the paſſing of this Act, to give public Notice in the Pariſh Church of *Gateſhead* aforeſaid, upon ſome *Sunday* immediately after Divine Service, or by Notice in Writing under their Hands, to be affixed on one of the outer Doors of the ſaid Church, immediately before Divine Service, and alſo to give Notice in the Newſpaper called *The Newcaſtle Courant*, or ſome other Newſpaper uſually circulated within the ſaid County of *Durham*, of the Time and Place of their Firſt Meeting for carrying this Act into Execution, and ſhall give Notice in the like Manner of their Firſt, Second, and Third Meetings for executing the Powers hereby veſted in them, Twenty Days at leaſt before ſuch Firſt, Second, and Third Meetings reſpectively; and of each and every ſubſequent Meeting the ſaid Commiſſioners ſhall give Notice in the Manner aforeſaid, Ten Days at leaſt before ſuch laſt-mentioned Meetings; and in caſe Two of the ſaid Commiſſioners ſhall not attend at the Time and Place appointed for any Meeting in purſuance of this Act, or to which any ſuch Meeting ſhall be adjourned, it ſhall be lawful for the Commiſſioner who ſhall attend, and to and for the Clerk to the ſaid Commiſſioners, in caſe none of the ſaid Commiſſioners ſhall attend, to adjourn ſuch Meeting, from Time to Time, to any future Day, not exceeding Fourteen Days from the Day of ſuch Adjournment, and to ſuch Place as to the ſaid Commiſſioners or Clerk ſhall ſeem moſt convenient, and the Perſon making ſuch Adjournment is hereby required to give timely Notice thereof to the abſent Commiſſioners, and to leave at the Houſe or Place at which any ſuch Adjournment ſhall be made Notice under his Hand when and where ſuch adjourned Meeting is to be held from Time to Time, but no further or other Notice ſhall be neceſſary to be given of any ſuch Adjournment: Provided always, that all Meetings to be holden by the ſaid Commiſſioners for carrying this Act, or the ſaid recited Act into Execution, ſhall be holden within the Pariſh of *Gateſhead* aforeſaid.

Other Notices, how to be given.

VII. And be it further enacted, That all other Notices neceſſary or required to be given by or in purſuance of this Act, or by or in purſuance of the ſaid recited Act, ſhall be given and publiſhed in the ſaid Paper called *The Newcaſtle Courant*, or in ſome other Newſpaper uſually circulated in the ſaid County of *Durham*; and that at all Meetings whatever holden under or in purſuance of this Act all Parties attending the ſame ſhall pay their own Expences.

Commiſſioners may determine diſputed Claims.

VIII. And be it further enacted, That in caſe any Diſpute or Difference ſhall happen to ariſe between the Parties intereſted, or claiming to be intereſted

interested in the said intended Division or Inclosure, or any of them, touching or concerning the respective Interests or Shares which they or any of them shall claim in the said Tract of Common or Waste Land, or any Inclosures or Encroachments in or upon the same, it shall be lawful for the said Commissioners, and they are hereby authorized and required to hear and determine the same, (except in the Cases in which the Determination of the same is herein otherwise specially provided for.)

Commissioners not to determine Titles, nor Rights contrary to Possession; except as to Encroachments;

IX. Provided always, That nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever: Provided also, that nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties, (except with regard to such Inclosures or Encroachments as shall have been made upon or taken from or out of the said Tract of Common or Waste Land, and for which any Acknowledgement shall have been paid within the Space of Twenty Years now last past, as herein-mentioned); but in case the said Commissioners 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 taken from such Person or Persons by Ejectment or other due Course of Law.

and assess Costs.

X. And be it further enacted, That it shall be lawful for the said Commissioners, in case they shall so think fit, to assess such Costs and Charges as they shall think reasonable for the Use and Benefit of the Party or Parties in whose Favour they shall make their Determination, upon or against the Party or Parties whose Claims or Objections shall be disallowed, as the Case shall happen, and by Warrant under their respective Hands and Seals to levy such Costs and Charges by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), after deducting the reasonable Charges attending such Warrant, Distress, and Sale, to the Party or Parties whose Goods and Chattels shall be distrained and sold.

Persons dissatisfied with the Commissioners' Determination may try their Claims at Law.

XI. Provided always, and be it further enacted, That if the Party or Parties making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Rights or Interests therein, or objecting to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioners, and shall be desirous of having such Claim or Claims, Rights, and Interests respectively, tried at Law; and the Party or Parties so desirous to have the same tried at Law shall, by themselves or their Agents, or Attornies respectively, give Notice thereof in Writing to the said Commissioners within Two Months after such Determination shall have been made, (of which Notice the said Commissioners are hereby required immediately on the Receipt thereof or as soon afterwards as conveniently may be, to give Information to the adverse Party or Parties, or his, her, or their respective Agents or Attornies, by Writing under their Hands to be delivered to or left at the usual Place of Abode of such Party or Parties, Agents, or Attornies respectively), then, but not afterwards, it shall be lawful for the Party or Parties giving such Notice as aforesaid, their respective Heirs, Successors, or Assigns, to pro-

ceed to a Trial at Law for the ſame, at the firſt Aſſizes to be holden for the County of *Durham*, after the Expiration of Thirty Days from the Day of giving ſuch Notice, in a feigned Action for that Purpoſe, to be commenced in the Court of Pleas at *Durham* by the Party or Parties, their reſpective Heirs, Succeſſors, or Aſſigns, giving ſuch Notice as aforeſaid, againſt the adverſe Party or Parties making ſuch Claim or Objection as aforeſaid; and the Defendant or Defendants in ſuch Action or Actions ſhall forthwith name an Attorney or Attornies, who ſhall file common Bail, or appear and accept One or more Iſſue or Iſſues, whereby all ſuch Claims, Rights, and Intereſts, may be properly tried and determined, (ſuch Iſſue or Iſſues to be ſettled by the Prothonotary of the ſaid Court or his Deputy, if the Parties ſhall differ about the ſame), and the Verdict or Verdicts which ſhall be given in the ſaid Action or Actions, ſhall be final and concluſive to all Perſons, Bodies Politic and Corporate whomſoever; and after any Verdict or Verdicts ſhall have been obtained and not ſet aſide by the Court, the ſaid Commiſſioners ſhall and they are hereby authorized and required to conform thereto: Provided always, that it ſhall be lawful for the Court in which any Action commenced in purſuance of this Act ſhall be depending, upon ſufficient Cauſe ſhewn, to put off the Trial of ſuch Action, and to award a new Trial therein, although the Time herein-before limited for the Trial of ſuch Action may be thereby exceeded; but if no ſuch Action or Actions at Law ſhall be brought or commenced, by the Party or Parties giving ſuch Notice, within the Time aforeſaid, or if ſuch Action or Actions ſhall not be proceeded in to a Trial or Trials, at the firſt Aſſizes which ſhall be holden for the County of *Durham*, after the Expiration of Thirty Days 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 ſhall be final, binding, and concluſive, unto and upon all Parties whomſoever: Provided always, that if any Party or Parties, in any ſuch Action or Actions, to be brought or 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: Provided alſo, that 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 the Perſon or Perſons, Bodies Politic or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioners with Notice of ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if living, and it ſhall thereon be incumbent on the Heir or Heirs, or Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions, in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein, in the ſame Manner as if ſuch Perſon or Perſons had been actually living, and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

The Court may put off the Trial or award a new Trial, upon Cauſe ſhewn.

Actions not to abate by the Death of Parties.

Allowing Action to be brought after Death of Parties in certain Caſes.

XII. And

How Common is to be divided.

XII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required, according to the beſt of their Skill and Judgement, after deducting ſo much and ſuch Parts of the ſaid Common or Waſte as they may think proper to ſet out and appoint for public Highways, Roads, and Drains, and for a Common Quarry or Quarries, and Common Watering Places or Wells, by virtue of the ſaid recited Act and this Act, to ſet out and allot the Reſidue of the ſaid Common or Waſte, intended to be hereby divided and incloſed in Manner following; (that is to ſay), in the firſt Place, the ſaid Commiſſioners ſhall ſet out and allot unto and for the Rector for the Time being of the Pariſh of *Gateſhead* aforeſaid, and his Succeſſors, ſuch Plot or Parcel of Land, not exceeding One Acre, as in the Judgement of the ſaid Commiſſioners ſhall be moſt conveniently ſituate and beſt adapted for the Scite of a Church and Church Yard or Cemetery, for the Uſe of the Inhabitants of the ſaid Common or Waſte; and in the next Place, the ſaid Commiſſioners ſhall ſet out and allot unto and for the ſaid *Shute* Lord Biſhop of *Durham*, and his Succeſſors, Lord and Lords of the ſaid Manor of *Gateſhead* for the Time being, and his or their Leſſee or Leſſees, One full Sixteenth Part or Share in Value (the Quantity, Quality, and Situation of the Land being conſidered), of and in the Lands and Grounds intended to be hereby divided and incloſed, (after deducting the ſaid public Highways, Roads, and Drains, Common Quarry or Quarries, and Common Watering Places or Wells, and the ſaid Allotment to the Rector of *Gateſhead*), in full Compenſation and Satisfaction for his and their Right and Intereſt of, in, and to the Soil of the ſaid Common or Waſte; and in the next Place, the ſaid Commiſſioners ſhall ſet out unto, and for the ſaid Boroughholders and Freemen of *Gateſhead* aforeſaid, in full Compenſation and Satisfaction for their excluſive Right and Privilege of letting Stints in the Manner aforeſaid, or in any other Manner howſoever, One other full Sixteenth Part or Share in Value (the Quantity, Quality, and Situation of the Land being conſidered), of and in the ſaid Lands and Grounds intended to be hereby divided and incloſed, (after deducting ſuch Highways, Roads, Drains, Common Quarries, and Common Watering Places or Wells, and Allotment to the Rector of *Gateſhead*, as aforeſaid); and in the next Place, the ſaid Commiſſioners ſhall ſet out and allot the ſeveral additional Allotments herein-after directed to be made to the ſaid Lord of the ſaid Manor and his Leſſee, and the ſaid Boroughholders and Freemen; and ſhall then ſet out and allot all the Reſidue of ſuch Lands and Grounds, (except only ſo much and ſuch Part of the ſaid Tract of Common or Waſte Land as is now marked or ſtaked out for the Purpoſe of making and laying Two Waggon Ways through and over the ſame), unto and among the ſeveral Perſons and Bodies Politic or Corporate, having Rights of Common in and upon the ſame, in Proportion and according to the annual Value of the Meſſuages, Lands, Tenements, Eſtates, and Intereſts, in reſpect of which they may ſeverally be entitled to ſuch Right of Common; each Meſſuage, or ancient Burgage or Tenement, entitled to Right of Common, to be deemed and taken to be of the annual Value of Sixty Pounds, and the Intereſt of each Freeman, in reſpect of which he may be entitled to Right of Common, to be deemed and taken to be of the annual Value of Sixty Pounds; and the annual Value of all other Meſſuages, Lands, and Eſtates, entitled to any ſuch Rights of Common, to be aſcertained by the ſaid Commiſſioners, in ſuch Manner as they ſhall think fit.

Public Highways, &c.

Allotment to the Rector of Gateſhead, for Scite of a Church.

Allotment to the Lord of the Manor.

Allotment to the Boroughholders and Freemen, for excluſive Privilege.

Allotments of Reſidue, except ſo much as is ſtaked out for Two Waggon Ways.

Power to let Leaſes of the Part ſtaked out as Waggon Ways.

XIII. Provided always, and be it further enacted, That from and immediately after the paſſing of this Act, all Right of Common in and upon thoſe Parts of the ſaid Tract of Common or Waſte Land, which are now marked and ſtaked out for the Purpoſe of making and laying ſuch Waggon Ways as aforeſaid, ſhall altogether ceaſe and be extinguiſhed, and that it ſhall and may be lawful to and for the ſaid Lord Biſhop of *Durham*, and his Succeſſors, and his or their Leſſee or Leſſees, and the Stewards for the Time being of the ſaid Borough of *Gateſhead*, by Indenture or Indentures under the Epiſcopal Seal of the See of *Durham*, or the Hand and Seal or Hands and Seals of ſuch Leſſee or Leſſees as aforeſaid, and under the Hands and Seals of the Stewards for the Time being of the ſaid Borough of *Gateſhead* reſpectively, from Time to Time, and at all Times after paſſing this Act, to let and demiſe ſuch laſt-mentioned Parts of the ſaid Tract of Common or Waſte Land, or any Part thereof, unto any Perſon or Perſons whomſoever for any Term or Number of Years, not exceeding Twenty-one Years from the making any ſuch Demiſe as aforeſaid, for the Purpoſe of laying and placing any Waggon Way or Waggon Ways thereon, or for any other Purpoſe whatſoever, reſerving ſuch Rent or Rents for the ſame as they ſhall think proper, one Moiety whereof to be payable to the ſaid Lord Biſhop and his Succeſſors, or his or their Leſſee or Leſſees, and the other Moiety thereof to the Stewards for the Time being of the ſaid Borough of *Gateſhead*.

Subdiviſion of Boroughholders and Freemens' Sixteenth.

XIV. And be it further enacted, That the ſaid Commiſſioners ſhall ſubdivide the One Sixteenth Part or Share herein-before directed to be allotted for the ſaid Boroughholders and Freemen, among them the ſaid Boroughholders and Freemen, in Proportion to the Number of Rights of Common to which they ſhall reſpectively be entitled, ſuch Proportion in Quantity to be regulated according to the Number of ſuch reſpective Rights of Common only, and without Reference to the Value of the Eſtates or Intereſts to which thoſe Rights may belong or be appendant or appurtenant.

Allotments to be made to Landlords, who ſhall make Compenſation.

XV. Provided always, and be it further enacted, That the Allotments to be made and ſet out by virtue of this Act in Right of any Property under Leaſe at Rack Rent, ſhall be allotted and ſet out to the reſpective Leſſors or Landlords, and ſhall be held and enjoyed by them free from all Right and Intereſt of their reſpective Leſſees or Tenants; and ſuch reſpective Leſſors or Landlords, their Heirs or Aſſigns, or the Perſons ſeiſed of their Eſtates for the Time being, ſhall make ſuch Abatement out of the Rents reſerved by ſuch Leaſes reſpectively, on Account of the Determination of the Common Rights comprized therein, as the ſaid Commiſſioners ſhall judge reaſonable, and ſhall in and by their Award or any other Writing under their Hands, aſcertain, direct, or appoint.

Separate Allotments for Eſtates held by different Titles.

XVI. Provided always, and be it further enacted, That where the Proprietor or Proprietors of any Lands, or other Hereditaments which ſhall be allotted or exchanged by virtue of this or the ſaid recited Act, ſhall hold their reſpective Lands or Hereditaments by different Tenures, or for different Eſtates, or under different Titles, the ſaid Commiſſioners ſhall aſcertain and diſtinguiſh the Lands or other Hereditaments held by or under each

each of such respective Tenures, Estates, or Titles, and shall accordingly in their said Award set out and distinguish distinct and several Allotments for such respective Lands and other Hereditaments.

Allotments of Common Rights may be conveyed before the Execution of the Award.

XVII. And be it further enacted, That it shall be lawful for any Person or Persons, who shall be entitled to any Allotment or Allotments under or by virtue of this Act, (except the said Rector for the Time being), to give, grant, bargain, sell, demise, mortgage, convey, and assure the same, at any Time before the Execution of the Award of the said Commissioners, for his, her, or their expectant Estate or Interest therein, and every such Gift, Grant, Bargain, Sale, Demise, Mortgage, Conveyance, and Assurance thereof, shall be of the same Force and Validity as if made after the Execution of the said Award; and it shall also be lawful for any of the Owners or Proprietors of any Common Right, upon the Lands and Grounds hereby directed to be divided and inclosed, to sell and dispose of the same, or of the Allotment or Allotments to be made and set out in respect thereof, by virtue of this Act, either together with or separately and distinctly from the Estate in Right of which he or she is or may be entitled to the same, in such Manner as he or she might have done at any Time after the Execution of the said Award.

If any Person sell his Common Right, the Allotment to be made to the Purchaser.

XVIII. Provided always, and be it further enacted, That if any Person hath sold, or shall, at any Time before the Execution of the Award, sell his or her Right or Interest and Property in, to, over, or upon, the Lands hereby directed to be divided and allotted, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns, for and in respect of such Right, Interest, and Property, so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may, after the Execution of the said Award, hold and enjoy the Land so to be allotted to him, her, or them, as aforesaid, in the same Manner as the Vendor in such Sale might, could, or ought to have held and enjoyed the same, in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotment as aforesaid.

Allotments to be fenced.

XIX. And be it further enacted, That the Allotment herein-before directed to be set out and allotted unto and for the Rector of *Gateshead* aforesaid for the Time being, shall be enclosed and fenced round the Boundaries thereof with Ditches and Quickset Hedges, or other proper Fences with such Gates and Openings to be made, and at all Times afterwards maintained and kept in Repair at the Expence of such of the other Persons interested in the Premises as the said Commissioners shall direct; and the several other Allotments to be made by virtue of this Act shall be enclosed, hedged, ditched, and fenced at the Expence of the respective Proprietors to whom such Fences shall be allotted or directed to belong, with the Ditches and Quickset Hedges, or in such other Manner, and within such Time, as the said Commissioners shall, by their Award, or any other Writing under their Hands, direct or appoint.

Allotments to Boroughholders and Freemen to be of the Tenure of Free and Common Socage.

XX. And be it further enacted, That the ſeveral Allotments to which the ſaid Boroughholders ſhall become entitled, under the Clauſe herein-before contained for the Subdiviſion of the One-Sixteenth Part or Share herein-before mentioned, and the ſeveral and reſpective Allotments which ſhall be made, ſet out, and allotted, under or by virtue of this Act, to or for the ſeveral Freemen of the ſaid Borough of *Gateſhead*, ſhall be of the Tenure of Free Socage, and ſhall be held and enjoyed by the Perſons to whom the ſame reſpectively ſhall be ſo ſet out and allotted, and their reſpective Heirs and Aſſigns, in Severalty, in Fee Simple.

Power to make Exchanges.

XXI. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to aſſign or award any of the Lands or Grounds hereby directed to be divided and allotted, or any Meſſuages, Buildings, incloſed Lands or Grounds, or other Hereditaments, in the Pariſh of *Gateſhead* aforeſaid, in Lieu of and in Exchange for any other Meſſuages, Buildings, Lands, and Hereditaments, in the ſame Pariſh, or in any adjoining Pariſh or Townſhip, ſo as every ſuch Exchange be ſet forth and aſcertained by the Award of the ſaid Commiſſioners, and ſo alſo that 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 upon any Life or Lives, or for ſome Eſtate of Inheritance, or with the Conſent of the Huſbands, Guardians, Truſtees, Committees, or Attornies of any ſuch Proprietors, who ſhall at the Time of making any ſuch Exchange be Femes Covert, Infants, Lunatics, beyond the Sea, or under any other legal Diſability of acting for themſelves; 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, as well in reſpect of the Hereditaments within the Pariſh of *Gateſhead* aforelaid, as in reſpect of the Hereditaments within any other Pariſh or Townſhip adjoining thereto, be for ever good, valid, and effectual in Law, to all Intents and Purpoſes; provided that all Exchanges which ſhall be made by virtue of this Act, of any Lands or Hereditaments belonging to any Eccleſiaſtical Benefice be alſo made with the Conſent of the Patron thereof, and of the Lord Biſhop of the Dioceſe in which the ſame is ſituate, ſuch Conſents to be teſtified in like Manner.

Allotments to go to the ſame Uſes as the Eſtates for which they were made.

XXII. And be it hereby further enacted, That the ſeveral Lands, Tenements, and Hereditaments, which ſhall be reſpectively allotted or exchanged by virtue of this Act (except in the Caſes herein otherwiſe ſpecially provided for) ſhall, upon the Allotment and Exchange thereof reſpectively, go and remain to the ſame Perſons for the ſame Eſtates and Intereſts, and to the like Uſes, upon the ſame Truſts, and to and for the ſame Intents and Purpoſes, and be under and ſubject to the ſame Powers, Proviſoes, Limitations, Conditions, Covenants, Debts, Charges, and Incumbrances and Proviſions of every Kind, and in the ſame Manner as the Hereditaments in reſpect whereof the ſame Lands, Tenements, and Hereditaments, ſhall be reſpectively allotted and exchanged would belong or ſtand, or be limited to or upon, or be ſubject unto, if ſuch Allotment and Exchange had not been made, or this Act had not been paſſed; but ſuch

Allotments

Allotments ſhall nevertheleſs be ſubject to ſuch Charges and Incumbrances thereon as ſhall be made in purſuance of this Act.

Encroachments within the laſt Twenty Years, to be deemed Part of the Lands to be incloſed.

XXIII. And be it further enacted, That all Incloſures or Encroachments within or upon, or which ſhall have been taken from or out of the ſaid Tract of Common or Waſte Land, and for which any Rent or Acknowledgement ſhall have been paid within the Space of Twenty Years laſt paſt, ſhall be deemed Part of the Lands to be divided and incloſed by virtue of this Act, and an Allotment or Allotments ſhall be made of the ſame, or for or in lieu thereof, according to the reſpective Values of the ſame, (ſuch Value to be eſtimated without Reference to any Buildings or other Improvements made thereon); and the ſaid Commiſſioners ſhall divide ſuch laſt-mentioned Allotment or Allotments into Two equal Shares in Value, and ſhall allot and award One of ſuch Shares to the Lord of the ſaid Manor for the Time being, or his Leſſee, in Addition to, and to be held and enjoyed with, and in the ſame Manner as the One Sixteenth Share of the ſaid Common or Waſte ſo to be ſet out and allotted to him as aforeſaid, ſhall be held and enjoyed; and the ſaid Commiſſioners ſhall allot and award the other of ſuch Shares to the ſaid Boroughholders and Freemen, in Addition to the One Sixteenth Share of the ſaid Common or Waſte herein directed to be allotted to them; and ſuch Share ſhall be ſubdivided and held and enjoyed by them in ſuch and the like Manner as the ſaid Sixteenth Share is herein directed to be ſubdivided, held, and enjoyed by them.

Commiſſioners empowered to pull down Cottages prejudicial to the Diviſion, and to ſell the others.

XXIV. Provided always, and be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required within the Space of Six Calendar Months next after the paſſing of this Act, to prepare Two Liſts or Schedules in Writing, ſpecifying in the Firſt of the ſaid Schedules ſuch of the ſeveral Cottages and Buildings ſtanding in or upon ſuch Encroachments as aforeſaid, as in the Judgement of the ſaid Commiſſioners ought to be taken down; and in the Second of the ſaid Schedules ſuch of the ſaid Cottages and Buildings as in the Judgement of the ſaid Commiſſioners will not be prejudicial to the general Benefit of the Perſons intereſted in the ſaid Encloſure, if permitted to remain ſtanding; which ſaid Liſts or Schedules ſhall be ſigned by the ſaid Commiſſioners, and ſhall be depoſited in the Office of their Clerk, and be open for Inſpection to all Perſons intereſted; and a fair Copy of each of the ſaid Liſts or Schedules, ſigned by the Commiſſioners, ſhall be affixed upon the Principal Door of the Pariſh Church of *Gateſhead* aforeſaid, on the *Sunday* next after the Completion of the ſame reſpectively, immediately before Divine Service; and the reſpective Tenants to the ſaid Lord of the ſaid Manor, and the ſaid Boroughholders and Freemen of ſuch of the ſaid Cottages and Buildings as ſhall be ſpecified in the ſaid Firſt Schedule, ſhall and they are hereby authorized and empowered to take down the ſame, and to diſpoſe of and remove the Materials thereof for their reſpective Uſe and Benefit, at any Time before the Expiration of Six Calendar Months next after the *Sunday* on which the ſame Schedule ſhall be ſo affixed on the ſaid Church Door as aforeſaid; and if any of ſuch laſt-mentioned Cottages or Buildings ſhall remain ſtanding after, or the Materials thereof ſhall not be removed before the Expiration of ſuch Six Calendar Months, then and in ſuch Caſe it ſhall be lawful for the

the ſaid Commiſſioners forthwith to take down the ſame Cottages and Buildings, and to ſell, diſpoſe of, and remove the Materials thereof in ſuch Manner as they ſhall think proper, paying the Money ariſing from ſuch Sale, after deducting the Expences of taking down and removing the ſaid Cottages and Buildings, and of ſelling and removing the ſaid Materials, to the ſaid reſpective Tenants of the ſame; and the ſaid Commiſſioners ſhall, and they are hereby empowered and required, to make an Eſtimate or Valuation of the Materials of ſuch of the ſaid Cottages and Buildings as ſhall be ſpecified in the ſaid Second Schedule, and to pay or allow the Amount thereof to the reſpective Perſons holding the ſame Cottages and Buildings as Tenants to the ſaid Lord of the ſaid Manor, and the ſaid Boroughholders and Freemen, from and out of the Money produced by the Sales herein-after directed to be made, and after ſuch Eſtimation and Valuation ſhall be made, the ſaid laſt-mentioned Cottages and Buildings, and the Scites thereof, and the Garths attached to and belonging to the ſame reſpectively, ſhall be ſold and diſpoſed of in Manner following; that is to ſay, the Commiſſioners ſhall, and they are hereby required to give Notice in Writing, to the ſaid reſpective Tenants of ſuch laſt-mentioned Cottages and Buildings, of the Price or Sum which they the ſaid Commiſſioners ſhall deem to be the Value of the Premiſes in their reſpective Occupations, and ſuch reſpective Tenants ſhall have the Option of purchaſing the ſame Premiſes at the Price or Sum ſpecified in ſuch Notice, (ſuch Option to be ſignified in Writing to the ſaid Commiſſioners, or their Clerk, within Forty Days next after ſuch Notice ſhall be delivered); and all ſuch of the ſaid Cottages, Buildings, and Garths, as ſhall not be ſo purchaſed by the reſpective Tenants of the ſame, ſhall be ſold and diſpoſed of by the ſaid Commiſſioners to ſuch other Perſon or Perſons, for ſuch other Price or Prices, and in ſuch Manner as they the ſaid Commiſſioners ſhall think fit, and upon or after Payment to the ſaid Commiſſioners of the Money for which the ſeveral Premiſes hereby made ſaleable ſhall be ſold, they the ſaid Commiſſioners ſhall, by their Award, or by any other Inſtrument or Inſtruments in Writing, under their Hands and Seals, allot and award the ſame Premiſes to the reſpective Purchaſers thereof, or otherwiſe as ſuch Purchaſer ſhall by any Writing under their reſpective Hands direct; and ſuch laſt-mentioned Allotments ſhall, immediately from and after the Execution by the ſaid Commiſſioners of the Award, or ſuch other Inſtrument or Inſtruments as laſt aforeſaid, be veſted in and held and enjoyed by the Perſons to whom the ſame ſhall be reſpectively allotted and awarded in Fee Simple, ſubject only to the Rights, Powers, and Privileges, herein-after expreſsly reſerved.

Commiſſioners to ſet out Ways, &c. for the Uſe of the Cottages ſold.

XXV. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners, in and by their ſaid General Award, to ſet out, allot, and award ſuch Ways, Paſſages, and other Conveniencies, to or for the Uſe of the Cottages, Buildings, and Garths, which ſhall be ſold by virtue of this Act, as they the ſaid Commiſſioners ſhall think convenient or neceſſary; and that nothing in this Act contained ſhall extend to avoid, prejudice, or affect any Leaſe or Leaſes (if any) which may have been granted by the ſaid Lord of the ſaid Manor, and the ſaid Boroughholders and Freemen of any ſuch Cottages, Buildings, and Garths as aforeſaid.

This Act not to affect the Leaſe of any of the Cottages.

XXVI. Provided

The Commissioners empowered to make further Compensation to the Tenants of Cotlages.

XXVI. Provided also, and be it further enacted, That if in the Judgement of the said Commissioners the said respective Tenants of such Cottages and Buildings as aforesaid, or any of them, shall be entitled to or ought to receive any further or greater Compensation than the Value of the Materials of such Cottages and Buildings as aforesaid, it shall be lawful for the said Commissioners, and they are hereby empowered to allow and pay to such respective Tenants, or any of them, such further and additional Sum of Money, as they the said Commissioners shall in their Discretion think a fair and reasonable Compensation for the Money expended by such Tenants, or any of them, in, about, or in respect of the Buildings, or other Improvements upon the Premises held by them respectively; and such additional Sums of Money shall be allowed and paid from and out of the Money produced by the Sales herein-before authorized to be made; and in case the Person or Persons in Possession of any of the Premises hereby made saleable shall refuse to give up the Possession thereof to the Purchaser or Purchasers of the same, and it shall become necessary for such Purchaser or Purchasers to proceed either at Law or in Equity to recover the Possession of the said Premises, then and in every such Case the Costs of such Proceedings shall be satisfied by the said Commissioners, from and out of the Money to be allowed as a Compensation to the Tenant or Tenants thereof, and such Tenant or Tenants shall in that Event be entitled to receive the Surplus only (if any) of such Money after such Costs shall be deducted therefrom.

If Persons in Possession of Cottages to be sold refuse to quit Possession, the Expences of Ejectments, &c. to be deducted from Compensation.

Appropriation of the Monies arising from the Sale of Cottages comprized in the Second Schedule.

XXVII. And be it further enacted, That subject to and after Payment of the Sum and Sums of Money herein-before directed to be paid and allowed thereout, and after deducting the Expences attending the Sales herein-before authorized to be made, the Money produced by such Sales shall be applied for the Purposes and in the Manner following; (that is to say), One Moiety of such Money shall be applied in or towards Payment of the Proportion payable by the said Lord Bishop of *Durham* for the Time being, or his Lessee or Lessees, of the Expences of obtaining and executing this Act, for or in respect of the Allotments which shall be made to him and them in Right of the said See of *Durham*, and the Surplus or Residue thereof (if any) shall be applied by the said Commissioners for the general Purposes of this Act; and such additional Allotment shall be made to the said Bishop for the Time being, and his Lessee or Lessees, as the said Commissioners shall deem to be a fair Equivalent for such Surplus Money; and the other Moiety of the said Money shall be applied in or towards Payment of the Proportion of such Expences as aforesaid, which shall be payable by the said Boroughholders and Freemen in respect of their said Sixteenth Part or Share, and the Allotments herein directed to be made to them in addition thereto; and the Surplus or Residue (if any) of such last-mentioned Moiety shall be applied by the said Commissioners for the general Purposes of this Act, and such further Allotment shall be made to the said Boroughholders and Freemen as the said Commissioners shall deem to be a fair Equivalent for such last-mentioned Surplus Money, such further Allotment to be in addition to, and to be subdivided and held and enjoyed in the same Manner as their said Sixteenth Part or Share is herein-before directed to be subdivided and held and enjoyed.

Award and Plan to be deposited in

XXVIII. And be it further enacted, That the General Award to be made by the Commissioners pursuant to the Directions of the said recited Act, together

the Court of Chancery at Durham.

together with such Plans and Surveys as may be annexed thereto, shall, within the Space of Twelve Months after the Execution of the said Award be respectively lodged and deposited in the Office of the Registrar of the Court of Chancery at *Durham*, to the End that the same may be preserved amongst the Records of the said Court, and that Recourse may be had thereto respectively by any Person or Persons whomsoever.

No Sheep, &c. to be kept in the Roads or Lanes.

XXIX. And be it further enacted, That if any Person shall keep or depasture, or permit to be kept or depastured, any Sheep, Lambs, Horses, Mules, or Asses, in the Roads or Lanes to be set out by virtue of the said Act, every Person offending in either of the Cases aforesaid, upon Conviction thereof before One or more of His Majesty's Justices of the Peace for the said County of *Durham*, on the Oath or Oaths of One or more credible Witness or Witnesses (which Oath the said Justices, or any of them, are and is hereby empowered to administer), shall forfeit and pay for every such Offence the Sum of Forty Shillings to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending, by virtue of a Warrant under the Hand and Seal, or the Hands and Seals, of any One or more of His Majesty's Justices of the Peace for the said County, at any Time within Six Calendar Months next after such Offence committed, rendering the Overplus (if any) upon Demand, after deducting the reasonable Charges of such Warrant, Distress, and Sale, to the Person or Persons whose Goods and Chattels shall be so distrained and sold as aforesaid; and every such Penalty, so to be levied, shall be paid to the Person or Persons injured.

Sheep not to be kept in Allotments for Seven Years.

XXX. And be it further enacted, That no Lambs or Sheep shall be depastured in any of the said Allotments to be made in pursuance of this Act, during the Space of Seven Years from the Execution of the Award of the said Commissioners, unless the Persons respectively so depasturing or keeping Lambs or Sheep do, at their own Expence, effectually guard and fence their Neighbours' Quicksets adjoining such Allotments respectively, in which Lambs or Sheep shall be depastured or kept as aforesaid, so as to prevent any Damage or Injury from being done to such Fence or Fences, and Quicksets, by any such Lambs or Sheep.

Money advanced for passing the Act to be repaid with Interest.

XXXI. And be it further enacted, That the Money that shall be advanced by any Person or Persons for the Purpose of defraying the Expences of applying for and passing this Act, or which after the passing of this Act shall be advanced or lent to the said Commissioners for carrying the same into Execution, shall be repaid, with legal Interest, to the Person or Persons lending, advancing, or paying the same, out of the first Money to be raised for defraying the Expence of obtaining and executing this Act.

Allowance to the Commissioners.

XXXII. And be it further enacted, That each of the Commissioners acting in the Execution of the Trusts and Powers hereby vested in him shall be allowed and paid, in Satisfaction for his Trouble and Expences, the Sum of Two Pounds Two Shillings for every Day on which he shall be employed in carrying this Act into Execution; and at all Meetings to be held in pursuance of this Act such Commissioner shall pay his own Expences.

XXXIII. And

How the Expences of passing and executing the Act are to be raised and paid.

XXXIII. And be it further enacted, That the Costs and Charges of and incident to and attending the obtaining and passing of this Act, of surveying, admeasuring, and planning, valuing, dividing, and allotting the Lands intended to be hereby divided and inclosed, and of surveying, admeasuring, and valuing any Lands or other Hereditaments for any of the Purposes of this Act, and of making the public Roads to be set out, and of preparing and enrolling the Award of the said Commissioners, and of all other the Charges and Expences of the said Commissioners, and of the several Persons to be employed by them, either before or after the Execution of the said Award, in, about, or concerning the Execution of this Act, shall be borne and defrayed by all the Persons (except the said Rector for the Time being in respect of the Allotment herein-before directed to be made to him) having Rights or Interests in the Lands or Grounds hereby intended to be allotted in such Proportion, and shall be paid to such Person or Persons, and at such Time or Times, either before or after the Execution of the said Award, as shall be settled, adjusted, determined, and directed by the said Commissioners by any Writing under their Hands, and the same shall and may be levied and recovered in such Manner as is provided or mentioned by the said Act of the Forty-first Year of His present Majesty's Reign (except in such Cases as herein particularly mentioned and directed to the contrary).

Commissioners' Accounts to be audited and settled.

XXXIV. And be it further enacted, That *Robert Hopper Williamson* Esquire, shall be, and is hereby appointed Auditor of the Commissioners Accounts; and in case of his Death or Refusal to act, then some other fit and proper Person (not interested in the Premises) shall be appointed Auditor for that Purpose by the major Part in Value of the Persons interested in the said Division and Inclosure, who shall be present at any Meeting to be held in like Manner, and after such Notice as is hereby directed for the choice of new Commissioners, and so from Time to Time as often as Occasion shall require; and the Accounts of the Commissioners for the Time being, containing a true Statement of all such Sums by them received and expended, or due to them for their own Trouble and Expences, shall at least once in every Year, from the passing of this Act until such Account shall have been finally allowed, together with the Vouchers relating to the same, be examined by the said Auditor for the Time being, and the Balance by him stated in the Book of Account to be kept in the Office of the Clerk of the said Commissioners; and that no Charge or Item in such Account shall be binding on the Parties concerned, or valid in Law, unless the same shall be duly allowed by the said Auditor.

Saving the Royalties to the Lord of the Manor.

XXXV. Provided always, and be it further enacted, That nothing in this Act shall be construed or adjudged to defeat, lessen, or prejudice the Right, Title, or Interest of the said Lord Bishop of *Durham*, or his Successors, as Lord of the said Manor of *Gateshead*, or his or their Lessee or Lessees, of, in, and to the Seigniory and Royalties incident to the said Manor of *Gateshead*; but that the said Lord of the said Manor, and his Lessee or Lessees for the Time being, shall and may from Time to Time, and at all Times hereafter, hold and enjoy all Courts, Perquisites, and Profits of Courts, Rents, Services, Waifs, Estrays, and all Royalties Jurisdictions, Matters, and Things whatsoever to the said Manor incident, belonging, or appertaining, in as full, ample, and beneficial a Manner to all Intents and Purposes as he or they might or would have enjoyed the same if this Act had not been made; and that the said Lord Bishop of

Durham,

Durham, and his Succeſſors, and all Perſons claiming under him and them, ſhall and may, from Time to Time, and at all Times, have, hold, work, and enjoy excluſively all Mines, Minerals, and Quarries of what Nature or Kind ſoever, lying and being within or under the ſaid Tract of Common or Waſte Land, intended to be divided as aforeſaid, (ſubject only to the Rights and Privileges herein-before reſerved and given in reſpect of the Common Quarry or Quarries), together with all convenient and neceſſary Ways and Way-leaves, in, through, over, and along the ſame, or any Part or Parts thereof reſpectively, not only before, but alſo at all Times after the ſame ſhall be divided, allotted, and incloſed in purſuance of this Act, and full and free Liberty at all Times hereafter of making, laying, repairing, and uſing any new Road or Roads, Waggonway or Waggonways, or any other Way or Ways whatſoever, in, through, over, and along the ſame, or any Part thereof, and for that Purpoſe to take away and remove any Hedges, Fences, Trees, Partitions, or other Obſtructions, which ſhall be made for dividing the ſaid Common or Waſte, or otherwiſe, or which ſhall be ſtanding or growing thereon, and to do every act either now in uſe or hereafter to be invented, which ſhall be neceſſary to be done for the Purpoſe of ſearching for, draining, winning, working, leading, and carrying away the Produce of the ſaid Mines, Minerals, and Quarries, within and under the ſaid Common or Waſte; and alſo of carrying and leading all Iron, Wood, Materials, and Things unto the ſaid Mines and Quarries, needful, neceſſary, or proper for the draining, winning, working, and uſe of the ſame reſpectively, and of making Pits, Shafts, Pit Rooms, Heap Rooms, Drifts, Levels, Watercourſes, and Drains, and of erecting and uſing Fire Engines, and other Engines, Workſhops, and other Buildings, (except Dwelling Houſes), Hay Yards and Raft Yards, and all other neceſſary or convenient Works, Buildings, Erections, Liberties, Powers, and Authorities either now in uſe or hereafter to be invented, together alſo with full and free Liberty, Power, and Authority, from Time to Time, and at all Times at his and their Will and Pleaſure, to remove and take away, and convert to his and their own Uſe and Uſes, all and every the Rails, Sleepers, Iron, Timber, and other Materials of the ſaid Waggon Ways, and other Ways, Pitſhafts, Fire Engines, and other Engines, Shops, and other Works, Buildings, and other Erections whatſoever, already laid, placed, built, or erected, or hereafter to be laid, placed, built, or erected as aforeſaid, as fully and freely as he or they might or could have held, uſed, or enjoyed the ſame, in caſe this Act had not been made, he or they doing as little Damage as may be, and making reaſonable Satisfaction to the Owners and Tenants, or Occupiers reſpectively, of the Allotments in, upon, or through which ſuch Mines, Minerals, and Quarries, Roads, Ways, or other Works ſhall be wrought, made, laid, or carried on for the Deſtruction, Damage, and Spoil of Ground occaſioned thereby, to be aſcertained and paid in ſuch Manner as the ſaid Commiſſioners by their General Award ſhall order and direct.

No Satisfaction for Damage to Coal Mines, &c. to be paid by Lord of Manor.

XXXVI. Provided always, and be it further enacted, That the ſaid Lord Biſhop, or his Leſſee or Leſſees of the ſaid Manor, ſhall not as ſuch be liable to pay, or make any Satisfaction whatſoever, for any Damages or Spoil of Ground to be done or occaſioned to any Allotment or Allotments, by or by Reaſon of working any Coal Mine or Coal Mines, or leading away the Produce thereof, within the Space or Term of Twenty Years after the paſſing of this Act.

XXXVII. And

But Satisfaction for such Damages to be made by the Owners of Allotments.

XXXVII. And be it further enacted, That reaſonable Satisfaction ſhall be made for any ſuch Damages or Spoil of Ground as laſt aforeſaid, during the ſaid Term of Twenty Years, to the Perſon or Perſons in whoſe Allotment or Allotments the ſame ſhall happen or be occaſioned, by the ſeveral and reſpective Perſons, and Bodies Politic or Corporate, to whom Allotments ſhall be made by virtue of this Act, his, her, or their Heirs, Succeſſors, or Aſſigns, in proportion to the Value hereby aſcertained, and which ſhall be aſcertained as herein-before mentioned, of the reſpective Eſtates and Intereſts in reſpect of which ſuch Allotments ſhall be made.

Proprietors of Allotments may work Stones within the common Quarries, for the Uſe of Allotments only.

XXXVIII. Provided always, and be it further enacted, That it ſhall be lawful for the Owners and Occupiers of the Allotments to be made by virtue of this Act (except the Rector of *Gateſhead*, in reſpect of the Allotment herein-before directed to be made to him) at any Time or Times, to win, work, and get Stones within their reſpective Allotments, and alſo to win, work, and get Stones in and out of the Common Quarry or Quarries to be ſet out by the ſaid Commiſſioners, for the Uſe of the Lands to be ſo allotted to them reſpectively, but not for the Purpoſe of Sale, or for any other Purpoſe whatſoever.

Appeal to Quarter Seſſions.

XXXIX. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done by or under Authority of the ſaid Commiſſioners, in purſuance of this Act, or of the ſaid Act of the Forty-firſt Year of His preſent Majeſty's Reign, (other than and except ſuch Claims, Matters, and Things as are herein-before directed or authorized to be aſcertained, ſettled, tried, and determined by the Verdict of a Jury, or where, by any of the Proviſions of this Act, or of the ſaid Act of the Forty-firſt Year of the preſent Reign, the Determinations, Acts, or Proceedings of the ſaid Commiſſioners are directed to be final or concluſive); then and in every ſuch Caſe he, ſhe, or they may appeal to any General Quarter Seſſions of the Peace, which ſhall be held for the ſaid County of *Durham*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen; and the ſaid Juſtices, in their ſaid General Quarter Seſſions, are hereby required to hear and determine the Matter of 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 which ſhall be ſo awarded by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale, which Determination of the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed or removeable by *Certiorari*, or by any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter* or elſewhere.

General Saving.

XL. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politic and Corporate, his, her, or their Heirs, Succeſſors, Executors, Adminiſtrators, or Aſſigns (other than and except the reſpective Perſons to whom any Allotment or Allotments of Land, or other Compenſation ſhall be made or provided by virtue of this Act, in reſpect of the Intereſt or Property for which ſuch Allotment or Compenſation ſhall be made, and except ſuch other Rights and Intereſts as the Intents and Purpoſes of

the Incloſure hereby authorized ſhall 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, for, in, and to, or in reſpect of the Lands and Grounds hereby directed to be divided and incloſed, before the paſſing of this Act, or could or might have had and enjoyed if this Act had not been made.

Publick Act.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1809.