ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 153.

An Act for inclosing Lands in the Manor and Townſhip of *Kirkburton*, in the County of *York*.

[3d *June* 1813.]

WHEREAS there are within the Manor and Townſhip of *Kirkburton*, in the Weſt Riding of the County of *York*, ſeveral Commons, Moors, and Waſte Grounds, containing in the whole, by Eſtimation, Two hundred Acres, or thereabouts: And whereas Sir *John Liſter Kaye* Baronet is Lord of the ſaid Manor of *Kirkburton*; and as ſuch, is Owner of the Soil of the ſaid Commons, Moors, and Waſte Grounds, and the Coal Mines, Veins and Seams of Coals, and all other Mines and Minerals therein: And whereas the King's moſt Excellent Majeſty, in Right of His Crown, is Patron of the Vicarage of *Kirkburton* aforeſaid, and *Edward Markham Willan* Clerk, is the preſent Vicar thereof, and as ſuch, is entitled to all Vicarial Tythes ariſing or renewing within the ſaid Manor and Townſhip of *Kirkburton*, or to certain Moduſes or Compoſitions in lieu thereof: And whereas the ſaid Sir *John Liſter Kaye*, the Right Honourable the Earl of *Dartmouth*, *Joſhua Ingham* Eſquire, and divers other Perſons, are Proprietors of Meſſuages, Lands, and other Hereditaments within the ſaid Manor and Townſhip, having Right of Common in and upon the ſaid Commons, Moors, and Waſte Grounds: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for conſolidating in One Act, certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*: And whereas the ſaid ſeveral Commons, Moors, and Waſte Grounds, are in their preſent State of very little Profit or Benefit to the ſeveral Perſons intereſted therein; and it would be of great Advantage to the ſeveral Owners and Proprietors thereof,

Sir John Liſter Kaye Lord of the Manor.

Proprietors.

thereof, and Persons interested therein, if the same were divided, inclosed, and specific Parts thereof allotted unto and amongst the several and respective Proprietors and Persons interested in the same respectively, in Proportion and according to their respective Rights, Property, and Interests therein; but such Division, Allotment, and Inclosure, cannot be effectually carried into Execution without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Jonathan Teal* of *Leeds*, in the said County of *York*, Gentleman, shall be and he is hereby appointed Commissioner for setting out, dividing, and allotting the said several Commons and Waste Grounds, and for carrying this Act into Execution, under and subject to such of the Regulations, Directions, and Restrictions contained in the said recited Act, as are not altered, varied, or controuled by or repugnant to the Provisions of this Act; except in such Cases where the same are hereby varied or altered.

Commissioner.

For appointing a new Commissioner.

II. And be it further enacted, That if the said *Jonathan Teal*, or any Commissioner to be appointed in Manner herein-after mentioned, shall previous to the making and completing of the Division and Award to be made by the said Commissioner, die, refuse, or become incapable of acting as a Commissioner in the Execution of this or the said recited Act, then it shall be lawful for the major Part in Value (to be ascertained by the Land Tax Assessment) of the several Proprietors or Persons interested in the Lands and Grounds hereby intended to be divided, allotted, and inclosed, who shall attend by themselves, or their Agents or Attornies, at a Meeting to be called by any Two or more of the said Proprietors for that Purpose, at some convenient Place in *Kirkburton* aforesaid, or some other Place not exceeding Six Miles from the Boundary of the Township, in pursuance of public Notice to be given by Advertisements to be inserted Twice in some Newspaper printed or circulated within the said West Riding, within Two Calendar Months next after such Commissioner shall die, refuse, or become incapable of acting, or after such Death, Refusal, or Incapacity shall be known to them, to elect, and by any Instrument in Writing under their Hands, or the Hands of their Agents or Attornies, to nominate and appoint from Time to Time some other fit and proper Person, not interested in the said intended Division and Inclosure, to be a Commissioner in the Place of such Commissioner so dying, refusing, neglecting, or becoming incapable to act as aforesaid; which said Commissioner, when elected and appointed in Manner as aforesaid, shall, after taking the Oath prescribed in that Behalf, have the same Powers and Authorities in all Respects for carrying this and the said recited Act into Execution, as if he had been originally named and appointed a Commissioner in and by this Act.

Notice to be given of Commissioner's First Meeting.

III. And be it further enacted, That the said Commissioner shall and he is hereby empowered and required to give or cause to be given public Notice in the Parish Church of *Kirkburton* aforesaid, upon some *Sunday* immediately before Divine Service, or by Writing under his Hand, to be affixed on the principal Outer Door of the said Parish Church, of the Time and Place of his First Meeting for executing the Powers hereby and by the said recited Act vested in him, Ten Days at least before such Meeting; and the like Notice in some Newspaper usually circulated in the West

Riding

Riding of the ſaid County of *York*, of every ſubſequent Meeting of the ſaid Commiſſioner, to be by him held in purſuance of the Directions of this or the ſaid recited Act, at leaſt Ten Days before ſuch Meeting, (Meetings by Adjournment, which it ſhall and may be lawful for the ſaid Commiſſioner or his Clerk from Time to Time to make, only excepted): Provided always, that all the Meetings of the ſaid Commiſſioner ſhall be held at ſome convenient Place in the Townſhip of *Kirkburton*, or within Six Miles of the Boundary thereof.

Other Notices how to be given.

IV. And be it further enacted, That all other Notices requiſite and neceſſary to be made and given by the ſaid Commiſſioner, ſhall be ſo made and given by Advertiſement in ſome Newſpaper uſually circulated in the Weſt Riding of the ſaid County of *York*.

Commiſſioner to determine upon Differences.

V. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between the Parties intereſted, or claiming to be intereſted in the ſaid intended Diviſion and Incloſure, or any of them, touching or concerning the reſpective Shares, Rights, and Intereſts, which they or any of them ſhall claim in the Commons, Moors, and Waſte Grounds hereby intended to be divided and incloſed as aforeſaid, or touching or concerning the reſpective Shares and Proportions which they or any of them ought to have of or in the ſaid intended Diviſion and Incloſure, it ſhall be lawful for the ſaid Commiſſioner and he is hereby authorized to examine into, hear, and determine the ſame.

Commiſſioner not to determine Titles, nor moleſt Poſſeſſion.

VI. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to authorize or empower the ſaid Commiſſioner to determine the Title to any Meſſuages, Cottages, Lands, Tenements, or Hereditaments whatſoever, nor to determine any Right between any Parties, contrary to the Poſſeſſion of any of ſuch Parties (except in reſpect to Encroachments); but in caſe the ſaid Commiſſioner ſhall be of opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, he ſhall forbear to make any Determination thereupon, until the Poſſeſſion ſhall have been given up by ſuch Perſon or Perſons, or recovered from ſuch Perſon or Perſons by Ejectment or other due Courſe of Law.

Power to aſſeſs Coſts.

VII. And be it further enacted, That in caſe the ſaid Commiſſioner ſhall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in purſuance of this or the ſaid recited Act, ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioner and he is hereby empowered, upon Application made to him for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as he ſhall think reaſonable, to be paid to the Party or Parties in whoſe Favour any ſuch Determination ſhall be made, by the Perſon or Perſons whoſe Claim or Claims, Objection or Objections, ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons who ſhall be liable to pay ſuch Coſts and Charges, ſhall neglect or refuſe to pay the ſame on Demand, then and in ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner and he is hereby required and authorized, by Warrant under his Hand 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) upon Demand, to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

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

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

Determination of the Commiſſioner to be final, if not objected to, or Action not brought.

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

In Caſes of Death of any of the Parties before Action brought, the ſame to

IX. And be it further enacted, That if any of the Parties in any Action to be brought in purſuance of this Act, ſhall die pending the ſame, ſuch Action ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened; and that if any Perſon or Perſons in whoſe Favour any ſuch Determination of the ſaid Commiſſioner 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-

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 to the Commissioner with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear to 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 such Parties shall be equally bound and concluded by the Event of such Action or Actions.

be carried on and defended in their Names.

X. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted, touching or concerning the Title to any Messuages, Lands, Tenements, or Hereditaments, for or in respect of any Right or Interest in, over, or upon the Commons, Moors, and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, such Suit or Suits shall not delay, impede, or hinder the said Commissioner from proceeding in the Powers vested in him by this Act; but the said Allotments shall be proceeded in notwithstanding such Suit or Suits, and may be had and taken by the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who upon the Determination of such Suit or Suits shall become entitled to the same.

Trials not to suspend the Execution of the Act.

XI. And be it further enacted, That if any of the Parties interested in the said intended Division and Inclosure, shall die before the same shall be completed, the Powers and Authorities hereby given to the Commissioner shall not be thereby determined or suspended, but that the said Commissioner shall proceed in the Execution of the Powers given to him by this Act or the said recited Act, in such Manner as he might have done in case such Parties had not died; and that the Share or Shares of the Person or Persons so dying, shall be allotted to such Person or Persons who shall by Law become entitled to the same, and shall be accepted and fenced by him, her, or them, according to the Directions of this or the said recited Act, and he, she, or they shall be liable to the Charges and Expences and other Conditions of this and the said recited Act.

The Death of Persons not to hinder the Commissioner from proceeding in the Inclosure.

XII. And be it further enacted, That the said Commissioner shall and he is hereby empowered to appoint a Clerk to assist him in the Execution of this and the said recited Act; and that *Henry Teal* of *Leeds* aforesaid, Land Surveyor, shall be employed by the said Commissioner as his Surveyor, in the Execution of this Act; and in case of the Misconduct, Death, Incapacity, or declining to act of such Clerk so to be appointed, and of the Death, Misconduct, Incapacity, or declining to act of the Surveyor, then and in either of such Cases the said Commissioner shall and may appoint any other Person or Persons he may think proper, to be the Clerk or Surveyor, as the Case may be, or may remove such Clerk or Surveyor and appoint another or others as he may think necessary.

Commissioner may appoint a Clerk.

Surveyor.

Surveyor to take an Oath.

XIII. Provided always, and be it further enacted, That no Perſon or Perſons ſhall be capable of acting in the Execution of this or the ſaid recited Act as a Surveyor or Surveyors, until he or they ſhall have taken and ſubſcribed an Oath or Affirmation in the following Words; (that is to ſay),

'I Do ſwear, [*or*, being One of the People called *Quakers*, do ſolemnly declare and affirm], That I will faithfully, impartially, and honeſtly, according to the beſt of my Skill and Ability, execute and perform the ſeveral Duties incumbent on me as a Surveyor, by virtue of an Act paſſed in the Fifty-third Year of His Majeſty King *George* the Third, intituled [*here ſet forth the Title of the Act*] according to Equity and good Conſcience, and without Partiality, Favour, or Affection, Prejudice, or Malice to any Perſon or Perſons whomſoever.

'So help me GOD.'

Which Oath or Affirmation it ſhall be lawful for the ſaid Commiſſioner to adminiſter; and ſuch Oath, ſo taken and ſubſcribed, ſhall be annexed to and depoſited with the Award of the ſaid Commiſſioner.

Old Surveys may be uſed, if the Commiſſioner thinks proper.

XIV. And be it further enacted, That if any Plan or Plans, Survey or Surveys already made of the ſaid Commons, Moors, and Waſte Grounds, or of the ancient Incloſures within the ſaid Townſhip of *Kirkburton*, or any Part thereof reſpectively, ſhall be produced and laid before the ſaid Commiſſioner, of the Authenticity of which he ſhall be ſatisfied, it ſhall and may be lawful for the ſaid Commiſſioner to make uſe of the ſame, without cauſing a new Survey or Plan to be made thereof.

For extinguiſhing or ſuſpending Rights of Common before the Award.

XV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required, at any Time or Times before the Execution of the ſaid Award, by Notice in Writing under his Hand, to be affixed upon the principal Outer Door of the Pariſh Church of *Kirkburton* aforeſaid, to order and direct all or any Part of the Rights of Common in, over, or upon the ſaid Commons, Moors, and Waſte Grounds, or any Part thereof, to be extinguiſhed, or the Exerciſe thereof to be ſuſpended, for and during ſuch Time as the ſaid Commiſſioner ſhall by ſuch Writing order and direct to be extinguiſhed, or the Exerciſe thereof to be ſuſpended accordingly, any Law, Uſage, or Cuſtom to the contrary thereof notwithſtanding.

Power to divert or ſtop up old Roads.

XVI. And be it further enacted, That it ſhall be lawful to and for the ſaid Commiſſioner, with the Concurrence and Order of Two Juſtices of the Peace acting in and for the ſaid Riding, in Manner and ſubject to Appeal as in the ſaid recited Act is mentioned, to divert, ſtop up, diſcontinue, alter or change any old public Carriage Roads or Footways leading into, through, over, or upon the ſaid Commons, Moors, and Waſte Grounds, or in, through, or upon the old Incloſures lying within the ſaid Townſhip of *Kirkburton*, as to him ſhall appear uſeleſs and unneceſſary, or proper to be diverted or altered, and that ſuch public Carriage Roads or Footways as ſhall be ſo ſtopped up and diſcontinued, ſhall be deemed Part of the Lands and Grounds to be ſold or divided, allotted, and incloſed, purſuant to this Act.

Drains and Watercourſes.

XVII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby empowered to enlarge, ſcour out, widen, change the Courſe, and divert all or any of the ancient Reſervoirs of Water, Brooks, Drains, Ditches, Streams, Springs, Watercourſes, Tunnels, Banks, and Bridges, as well in, through, and over the Lands and Grounds hereby directed to be divided and incloſed, as alſo in, over, and through any ancient Incloſures in the ſaid Townſhip, or in any adjoining Townſhip or Pariſh, with the Conſent of the Proprietors of the ſame Incloſure in ſuch adjoining Townſhip or Pariſh, as to the ſaid Commiſſioner ſhall ſeem proper and neceſſary (the ſaid Commiſſioner directing reaſonable Compenſation and Satisfaction to be made to all and every Perſon and Perſons who ſhall ſuſtain any Damage or Injury thereby) of ſuch Depth and Breadth, and direct and order the ſaid Brooks, Streams, Springs, and Watercourſes, to be conveyed in ſuch Courſes, and through ſuch Lands as the ſaid Commiſſioner ſhall think proper for the Purpoſe of draining any Land, or ſupplying any other Land with Water, or ſtraightening any ſuch Brooks or Watercourſes, and any other neceſſary Purpoſes; and the ſaid Commiſſioner ſhall and he is hereby required, in and by his ſaid Award, to order and direct by whom, at whoſe Expence, at what Time, and in what Manner, the ſaid Reſervoirs, Brooks, Drains, Ditches, Streams, Springs, Watercourſes, Tunnels, Banks, and Bridges, ſhall be made and thereafter repaired, cleanſed, ſcoured, and maintained: Provided always, that nothing in this Act contained ſhall authorize the ſaid Commiſſioner to divert or turn any Streams, Brooks, Springs, or Watercourſes, without the Conſent in Writing of the reſpective Owners of the Lands from which and into which the ſame ſhall be diverted or turned.

For determining Encroachments.

XVIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner and he is hereby required to inquire into and determine, by Examination of Witneſſes upon Oath, or by ſuch other Means as to him ſhall ſeem meet, what Incloſures and Encroachments have been taken from and made upon the ſaid Commons, Moors, and Waſte Grounds, within the Manor of *Kirkburton* aforeſaid, for Sixty Years or upwards laſt paſt; and all Incloſures or Encroachments which ſhall be proved to the Satisfaction of the ſaid Commiſſioner to have been taken in and incloſed for that Time, ſhall be entitled to have Allotments from off the ſaid Commons, Moors, and Waſte Grounds, in like Manner as the ancient Incloſures, although ſuch Encroachments or Incloſures were formerly Part of ſuch Commons and Waſte Grounds; and alſo to inquire into and determine in like Manner what Incloſures or Encroachments have been taken from and made upon ſuch Commons, Moors, and Waſte Grounds, within Sixty Years laſt paſt, and not within the Space of Forty Years laſt paſt; and all Incloſures or Encroachments which ſhall be proved to the Satisfaction of the ſaid Commiſſioner to have been ſo taken in, and not abated or thrown open within the Time laſt mentioned, ſhall not have or be entitled to any Part of the Commons, Moors, and Waſte Grounds to be divided and allotted by virtue of this Act, allotted to them in reſpect thereof; and alſo to inquire into and determine in like Manner, what Incloſures and Encroachments have been taken from and made upon the ſaid Commons, Moors, and Waſte Grounds, by any Perſon or Perſons whomſoever, within Forty Years laſt paſt; and all ſuch Encloſures and Encroachments reſpectively, as ſhall be proved to the Satisfaction of the ſaid Commiſſioner to have been ſo taken in within the

the Time laſt mentioned, ſhall be deemed as Part of the ſaid Commons, Moors, and Waſte Grounds ſo intended to be divided and incloſed, and ſhall be meaſured and allotted as Part thereof; yet nevertheleſs the ſame, or ſo much thereof as the ſaid Commiſſioner ſhall adjudge to be the Part, Share, and Intereſt of the Perſon or Perſons who hath or have taken in and incloſed, or cauſed to be taken in and incloſed the ſame, ſhall be allotted to the ſaid reſpective Perſon or Perſons as aforeſaid, according to the original Value in their open State; but if ſuch Incloſures or Encroachments do not lie adjoining to their other ancient Eſtates, the ſaid Commiſſioner ſhall have Power to allot the ſame to any other Perſon or Perſons intereſted in the ſaid Commons, Moors, and Waſte Grounds, making ſuch Satisfaction to the reſpective Perſon or Perſons, their Heirs or Aſſigns, who hath or have ſo taken in, incloſed, or cauſed to be taken in and incloſed the ſame, and who had, at the Time of making ſuch Incloſure or Encroachment, a Right of Common, or having at any Time whatſoever acquired ſuch Right in and upon the ſaid Commons, Moors, and Waſte Grounds, as ſhall in his Judgment be an adequate Satisfaction for any Improvement made thereon.

Cottages, &c. built upwards of Sixty Years, entitled to Allotments.

XIX. And be it further enacted, That all Meſſuages and Cottages within the ſaid Manor and Townſhip of *Kirkburton*, which ſhall be proved to the Satisfaction of the ſaid Commiſſioner to have been erected for the Term of Sixty Years or upwards, upon any ancient incloſed Land, ſhall be deemed and conſidered ancient Meſſuages or Cottages, and as ſuch, ſhall be entitled to a Share and Allotment from the ſaid Commons, Moors, and Waſte Grounds, according and in Proportion to the reſpective Values of ſuch Meſſuages and Cottages, ſuch Value to be aſcertained by the ſaid Commiſſioner.

Power to ſell Land for defraying the Expences of this Act.

XX. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to ſet out, aſſign, and allot ſo much and ſuch convenient Part or Parts of the ſaid Commons, Moors, and Waſte Grounds, as in his Judgment ſhall be ſufficient to raiſe a competent Sum of Money for paying the Charges and Expences of obtaining and paſſing this Act, and all other incidental Charges and Expences whatſoever, for or by reaſon of or preparatory to the ſaid intended Diviſion and Incloſure, and of carrying this Act into complete Execution; and ſuch Allotment ſhall be ſold and diſpoſed of in the Manner directed by the ſaid recited Act, and the Purchaſe Money ſhall be applied for the Purpoſes aforeſaid.

Allotments for getting Materials, &c.

XXI. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby empowered and required to ſet out and allot in ſuch Place or Places as he ſhall think proper and moſt convenient for the Proprietors of the Lands and Grounds hereby directed to be divided, allotted, and incloſed, ſuch Quantity or Quantities of the ſaid Commons, Moors, and Waſte Grounds, as he ſhall think proper, not exceeding in the whole Three Statute Acres, for the Uſe and Benefit of all and every the Perſons entitled to any Allotments upon the ſaid Open Commons, Moors, and Waſte Grounds, for the Purpoſe of getting Stone, Sand, Gravel, or other Materials, for making and repairing of the public and private Roads and Drains of or belonging to the ſaid Commons, Moors, and Waſte Grounds, and all other the public Highways, Bridges, Tunnels, and Watercourſes within the ſaid Townſhip, and alſo for the fencing and incloſing

inclosing all and every the Allotment or Allotments to be made therein respectively, in pursuance of this and the said recited Act, and for repairing the ancient and new Roads within the said Townſhip, and also for the Use of the several and respective Owners and Proprietors of Estates in and Inhabitants of the said Townſhip, for repairing, building, or fencing of their respective ancient Messuages or other ancient Buildings, Lands, and Grounds upon and within the said several Parcels of Open Commons, Moors, and Waste Grounds, and also upon and within their other Estates or ancient Inclosures within the said Townſhip of *Kirkburton*.

Allotments to the Lord of the Manor.

XXII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, in the next Place, to set out, allot, and award unto the said Lord of the Manor of *Kirkburton*, as a Compensation for his Right and Interest in and to the Soil of the said Commons, Moors, and Waste Grounds, (except Lead Mines, Coal Mines, Ironstone, or other Minerals) in and under the same, One full Eighteenth Part of the Residue of the said Commons, Moors, and Waste Grounds, over and above, and exclusive of such Shares, Proportions, and Allotments of the said Commons, Moors, and Waste Grounds, herein-after directed to be allotted to the said Lord of the said Manor, in respect of the Messuages and Cottages, Lands, and Hereditaments in Right whereof he shall in like Manner as other Proprietors be entitled to Allotments in and upon the said Commons, Moors, and Waste Grounds.

Tythe Allotment to the Vicar.

XXXIII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, in the next Place, to set out, allot, and award unto and for the said *Edward Markham Willan* and his Successors, Vicars of the said Vicarage of *Kirkburton* aforesaid, so much and such Part, Share, and Proportion of the said several Parcels of Commons, Moors, and Waste Grounds hereby directed to be divided, allotted, and inclosed, as shall within Six Calendar Months after the Allotment thereof, be worth to be let either by the said Commissioner or the said *Edward Markham Willan* or his Successor, to good and sufficient Tenant or Tenants for the Term of Twenty-one Years, at the clear annual Rent or Sum of Thirty-five Pounds, for and in lieu of and as a full Compensation and Satisfaction of all the Vicarial Tithes and all Ecclesiastical Dues, or any Modus or Moduses, Compositions, or Money Payments in lieu thereof (*Easter* Offerings, Surplice Fees, and Mortuaries only excepted, and which said *Easter* Offerings include House Duty and Communicants, as the same are now payable within the said Townſhip) which may afterwards arise, renew, increase, or happen, and which the said *Edward Markham Willan* and his Successors, Vicars of the said Vicarage, is or may be entitled to, from, and out of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, now or after the same shall be so inclosed and let as aforesaid, and from and out of the several Closes, Lands, and Grounds within the said Townſhip, as well Woodlands as otherwise, which are already inclosed.

No Lease of the Vicar's Land to be made without the King's Consent.

XXIV. Provided always, and be it further enacted, That no Lease or Leases to be made by virtue of the said recited Act or this Act, of any of the Lands and Grounds to be allotted to the Vicar of the said Vicarage of *Kirkburton* aforesaid for the Time being, in Right of his Vicarage, shall be

be good, valid, and effectual, unless the Consent of the King's most Excellent Majesty, His Heirs and Successors, as Patrons of the said Vicarage, shall be had and obtained thereto previous to the Execution of such Lease or Leases.

Allotment for Kirkburton School.

XXV. And whereas it will be expedient and beneficial to set out and allot a Part of the said Commons and Waste Grounds for the Benefit of the School of *Kirkburton* aforesaid; be it further enacted, That it shall and may be lawful to and for the said Commissioner, and he is hereby fully authorized, directed, and required to set out, allot, and award unto the Lord or Lady, Lords or Ladies of the said Manor for the Time being, the Vicar of the said Parish of *Kirkburton*, and the Churchwarden or Churchwardens of the said Township of *Kirkburton*, and their Successors for the Time being, so much and such Part of the said Commons, Moors, and Waste Grounds (not exceeding Five Acres), as lies next adjoining to the said School, or the Messuage or Building called *The School*, or as near thereto as may be, and the Nature of the Circumstances will admit, upon Trust, that they the said Lord or Lady, Lords or Ladies of the said Manor for the Time being, and the said Vicar and Churchwarden or Churchwardens and their Successors for the Time being, shall and do permit and suffer all the Net Rents, Issues, and Profits of the said Parcel of Ground hereby directed to be allotted as last aforesaid, from Time to Time and at all Times for ever hereafter, to be paid, applied, and disposed of for the Benefit, Increase, and Augmentation of the Funds and Charitable Purposes of the said School, or the Master thereof for the Time being: Provided always, that nothing herein contained shall authorize and empower the said Commissioner to set out, allot, and award the said last-mentioned Allotment to the said Lord or Lady, Lords or Ladies of the said Manor, Vicar, and Churchwarden or Churchwardens, unless Four-fifths in Value of the Freeholders of the said Manor, to be ascertained from the Land Tax Assessment made for the said Township of *Kirkburton* for the present Year, shall either personally or by Writing signify their Consent to such Allotment being made, at a Meeting to be held by the said Commissioner within the said Manor, and of which Meeting Notice shall be given in the Parish Church of *Kirkburton* aforesaid, during the Time of Divine Service, at least Twenty-one Days before such Meeting shall be held, and of which Meeting such Commissioner is hereby required to give due Notice, and to hold the same within Three Months from and after the passing of this Act.

Allotment to the Lord of the Manor in lieu of Cottage Rent.

XXVI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out, allot, and award unto and for the said Lord of the said Manor, such Part or Parts of the said several Parcels of Commons, Moors and Waste Grounds, as the said Commissioner shall deem in his Judgment to be worth, to let or demise for and be equal to the annual Value of the Rent now paid to the said Sir *John Lister Kaye*, as such Lord of the said Manor, for any Cottage or other Erection upon the said Commons, Moors, and Waste Grounds, in case the Person or Persons now in Receipt of the Rents payable for such Cottages or other Erections shall be willing and desirous to purchase the same, upon and after the Terms herein-after specified, over and above any other Allotment or Allotments to be made to him in pursuance of this Act, and

to

to be in bar of and as a full Compenſation for the ſeveral Cottage Rents, or other annual Payments ſo purchaſed as aforeſaid, and now made to the ſaid Sir *John Liſter Kaye* as ſuch Lord of the ſaid Manor, as Acknowledgments.

For allotting the Reſidue

XXVII. And be it further enacted, That the ſaid Commiſſioner ſhall aſſign, ſet out, allot, and appoint in Severalty, the Reſidue and Remainder of the ſaid Commons, Moors, and Waſte Grounds, unto and amongſt the ſaid Sir *John Liſter Kaye* and the ſeveral other Perſons, Bodies Politic and Corporate, entitled to Right of Common in and upon the ſame, rateably and in a due Proportion to the Value of their reſpective Meſſuages, Cottages, Lands, and Hereditaments, in reſpect whereof they are ſeverally entitled to ſuch Right of Common as aforeſaid.

Commiſſioner may make any Alterations reſpecting Allotments before the Execution of the Award.

XXVIII. Provided always, and be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, at any Time before the Execution of his Award, to make any Alteration in the Allotments and Fences which he may have directed to be ſet out and ordered, as he ſhall think right and expedient; and in caſe any Perſon or Perſons ſhall be injured by ſuch Alterations, on account of any Expences he, ſhe, or they may have been at, the ſaid Commiſſioner ſhall aſcertain and determine what Recompence ſhall be made to him, her, or them, and ſhall direct by whom, and in what Manner ſuch Recompence ſhall be made.

Vicars Allotment to be fenced by the other Proprietors.

XXIX. And be it further enacted, That the Out Fences of all Lands which ſhall be allotted to the ſaid *Edward Markham Willan*, and his Succeſſors Vicars as aforeſaid, by virtue of this Act, ſhall, within Six Calendar Months next after ſtaking out the ſame, be well and ſufficiently made with Quickſets, and guarded and fenced with good and ſufficient Poſts and Rails, or otherwiſe made and fenced with good and ſubſtantial Stone Walls, at the Coſts and Charges of the ſaid ſeveral Perſons intereſted in the ſaid Lands and Grounds hereby intended to be incloſed; which Fences ſhall for ever be kept in Repair by the ſaid *Edward Markham Willan* and his Succeſſors, Vicars as aforeſaid, on ſuch Sides or Parts thereof as the ſaid Commiſſioner ſhall order, direct, and appoint.

Commiſſioner to value and ſell the Cottage Houſes upon the Waſte.

XXX. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required to make a Valuation of each and every of ſuch Cottages and other Erections now erected and built upon the ſaid Commons, Moors, and Waſte Grounds, which have been built within Sixty Years laſt paſt, and which now pay a Rent as an Acknowledgment for each ſuch Cottage, Houſe or other Erection, to the ſaid Sir *John Liſter Kaye*, as Lord of the ſaid Manor, in caſe the ſaid Commiſſioner ſhall be requeſted ſo to do, and which Requeſt and Deſire ſhall be made in Writing to the ſaid Commiſſioner by the Perſon or Perſons in Receipt of or entitled to the Rents and Profits of each ſuch Cottage, Houſe, or other Erection, and who ſhall be willing and deſirous to purchaſe the ſame; which Valuation ſhall be made at and after the Rate of Three Years annual Value of each ſuch Cottage, Houſe, or other Erection, including the Ground on which each ſuch Cottage, Houſe, or other Erection ſhall be built, and ſo that the Purchaſer or Purchaſers of ſuch Cottage or Erection be alſo willing to purchaſe, at a fair Valuation to be affixed by the ſaid Commiſſioner, ſo much and ſuch Parts of the ſaid

Commons, Moors, and Waſte Grounds, as may be requiſite and neceſſary for Roads or Ways to ſuch Cottage, Houſe, or other Erection, in caſe the ſame ſhall require an excluſive Right of Road, and ſo that ſuch Purchaſer be made liable to the making and repairing ſuch Road, and which the ſaid Commiſſioner ſhall and he is hereby authorized and empowered to ſell to the reſpective Perſon or Perſons who ſhall have ſo ſignified their Intention of purchaſing as aforeſaid ſuch their reſpective Cottage Houſes, or other Erections, at and after the Rate of ſuch Valuation which ſhall be ſo fixed and made by the ſaid Commiſſioner in Manner as aforeſaid; and the Receipt of the ſaid Commiſſioner for each Purchaſe which ſhall be ſo made, and the Title of every ſuch Purchaſer, ſhall be good, valid, and effectual, for ever thereafter; and the Money ſo to be received for each ſuch Sale by the ſaid Commiſſioner, ſhall be by him paid and applied towards the Expences of obtaining and putting in Execution this Act.

Proprietors may ſell their Allotment before the Execution of the Award, and their Rights of Common ſeparate from their other Property.

XXXI. And be it further enacted, That it ſhall and may be lawful for any Perſon or Perſons who ſhall be entitled to any Allotment or Allotments under or by virtue of this Act, to give, grant, bargain, ſell, demiſe, limit, convey, aſſure and diſpoſe of the ſame, for all or any Part of his, her, or their Eſtate and Intereſt therein, or Right thereto, at any Time before the Execution of the Award of the ſaid Commiſſioner; and every ſuch Gift, Grant, Bargain, Sale, Demiſe, Limitation, and Diſpoſition thereof, ſhall be of the ſame Force and Validity as if made after the Execution of the ſaid Award; and alſo that it ſhall 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, ſeparate and diſtinct from the Eſtate in Right of which he or ſhe is entitled to the ſame, in ſuch Manner as he or ſhe might have done at any Time after the Execution of the ſaid Award; and it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and empowered to award all and every ſuch Allotment or Allotments which ſhall be ſo ſold and diſpoſed of, or be made and ſet out in lieu of any Common Right ſo ſold or diſpoſed of, to the Purchaſer or Purchaſers thereof, or other Perſon or Perſons who ſhall be entitled to the ſame by virtue of any ſuch Sale or Diſpoſition; and every ſuch Purchaſer or Purchaſers, and his, her, and their Heirs and Aſſigns ſhall and may, from and after the Execution of the ſaid Award, hold and enjoy the Land ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner, to all Intents and Purpoſes, as the Vender in every 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.

Directing Exchanges to be made.

XXXII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner to ſet out, allot, and award any Lands, Tenements, or Hereditaments within the ſaid Manor and Townſhip, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments within the ſaid Manor and Townſhip, or within any adjoining Manor, Pariſh, Townſhip or Place, provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the Award of the ſaid Commiſſioner, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements or Hereditaments which ſhall be ſo exchanged, whether

whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for Charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange or Exchanges so to be made shall be good, valid and effectual in the Law to all Intents and Purposes whatsoever; provided nevertheless, that no Exchange shall be made of any Lands, Tenements or Hereditaments held in right of any Church, Chapel, or any other Ecclesiastical Benefice, without the Consent testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements or Hereditaments so to be exchanged shall lie or be situate.

For paying the Expences of Sale and making Exchanges, &c.

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

Leases to be void.

XXXIV. And be it further enacted, That it shall and may be lawful to and for the said Commissioner, upon the Application in Writing of any Proprietor or Proprietors of Messuages, Lands, Tenements, and Hereditaments within the said Township, now held and occupied by virtue of any Lease, or Agreement for a Lease at Rack or extended Rent, for any Term or Number of Years unexpired, to annul and make void such Lease or Agreement, so far as the same may affect any Allotment to be made of the said Commons, Moors and Waste Grounds hereby intended to be inclosed, and by his Award to order and direct from what Time the Term or Terms therein shall cease and determine; the respective Proprietors of such Messuages, Lands, Tenements, and Hereditaments, making such Satisfaction to their respective Lessee or Lessees as the said Commissioner shall think reasonable, and by his Award direct to be paid to them, as a Compensation for such Lease or Agreement.

Not to revoke or make void any Will, Settlement, Lease, &c.

XXXV. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to revoke or make void, alter or annul any Will, Settlement, Lease, Agreement or other Deed, or to prejudice any Person having or claiming any Jointure, Dower, Portion, Debt, Estate or Incumbrance, out of, upon or affecting any of the Lands, Tenements, or Hereditaments which shall be divided, allotted or exchanged in pursuance of this or of the said recited Act; (but the several Messuages, Lands, Tenements or Hereditaments, which shall be so divided, allotted or exchanged, shall immediately after such Division, Allotment or Ex-

change respectively remain and enure, and the several Persons to whom the same shall be so allotted or given in Exchange shall from thenceforth stand seised thereof to such and the same Uses, and for such and the same Estates, and under and subject to such and the same Settlements, Limitations, Remainders, Charges, Tenures and Incumbrances, and under such and the same Restrictions, Covenants and Agreements, as the several Messuages, Lands, Tenements, Rents or Hereditaments, in lieu or in respect whereof such Allotments or Exchanges respectively shall be made as aforesaid, would have been subject to or charged with in case this Act had not passed.

For preventing departuring Cattle, Sheep and Swine on the Roads.

XXXVI. And be it further enacted, That no Person or Persons shall, at any Time within the Space of Seven Years next after the passing of this Act, turn or put, or cause to be turned or put, any Cattle, Sheep or Swine, in or upon any of the Roads, Ways or Lanes within the said Township, where the Fences shall be guarded on each Side thereof according to the Direction of the said Commissioner.

Expences of the Act.

XXXVII. And be it further enacted, That the Money to arise by Sale of such Part or Parts of the Commons, Moors or Waste Grounds hereby directed to be divided and inclosed as herein-before mentioned, shall be accepted by the said Commissioner for or towards paying the Costs, Charges and Expences incident to and attending the obtaining of this Act, and of surveying, measuring, planning, valuing, dividing and allotting the Lands, Grounds and Hereditaments to be divided and allotted by virtue of this or the said recited Act, and of preparing and enrolling the Award of the said Commissioner, and of the Copy or Copies thereof, and the Charges and Expences of the said Commissioner, his Clerks, Assistants and Servants, and the Charges of fencing the Allotment or Allotments to the said Vicar, and all other necessary Expences of the several Persons to be employed by the said Commissioner in and about the Premises, either before or after the Execution of the said Award, and all the Expences of forming, completing and repairing the public Carriage Roads and Highways so set out and appointed by the said Commissioner, and all other incidental Charges and Expences whatsoever, for or by Reason of or preparatory to the said intended Division and Inclosure, and carrying this Act into Execution.

Proprietors to pay their own Expences.

XXXVIII. Provided always, and be it further enacted, That the said Proprietors, their Attornies or Agents, shall bear and pay their own Expences, when they or any of them shall attend the said Commissioner at any of his Meetings to be holden in pursuance of this Act.

And the Deficiency to be raised by a Rate.

XXXIX. Provided always, and be it further enacted, That in case the Money arising by the Sale of such Allotment or Allotments as herein-before mentioned shall not be sufficient to defray all the Charges and Expences aforesaid, then the Deficiency shall be made up, paid, borne and defrayed by the several and respective Owners and Proprietors of Estates within the said Manor and Township of *Kirkburton*, to whom any Allotment or Allotments shall be made by virtue of this or the said recited Act, (other than and except the said *Edward Markham Willan* and his Successors, Vicars of the said Vicarage) in Proportion and according to their respective Rights, Shares and Interests in the said Commons, Moors, and Waste Grounds hereby directed to be divided and inclosed; which said Costs,

Charges

Charges and Expences, together with the Proportion thereof to be paid by the ſeveral Perſons hereby made liable to the Payment thereof, ſhall be ſettled, aſcertained and adjuſted by the ſaid Commiſſioner, and ſhall be paid at ſuch Time and Place, and to ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall appoint; and the ſaid Commiſſioner ſhall and he is hereby authorized and required to make a Rate or Aſſeſſment thereof accordingly under his Hand; and the ſame Rate or Aſſeſſment ſo made and ſigned ſhall be binding and concluſive on all Perſons thereby charged and made liable, and their ſeveral and reſpective Heirs, Executors and Adminiſtrators; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay his, her or their Share or Proportion of ſuch Coſts, Charges and Expences as aforeſaid, within ſuch Time and to ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall appoint, then and in ſuch Caſe the ſaid Commiſſioner ſhall cauſe the ſame to be levied and recovered in Manner directed by the ſaid recited Act.

Application of Surplus Money.

XL. And be it further enacted, That if the ſaid Commiſſioner ſhall happen to raiſe by the Sale of Land as aforeſaid, more Money than will be required to defray ſuch Coſts, Charges and Expences as aforeſaid, then and in ſuch Caſe ſuch Surplus Money ſhall be divided and apportioned between the ſeveral Proprietors and Perſons intereſted in the Lands hereby directed to be divided and incloſed, in ſuch Shares as ſhall be in Proportion to ſuch their reſpective Property and Intereſts, and the Shares of ſuch of them as ſhall be Tenants thereof in Fee Simple, ſhall be paid to them reſpectively, and the Shares of ſuch other Proprietors or Perſons of and in ſuch Surplus Money, ſhall be applied and diſpoſed of in Manner directed by the ſaid recited Act in any Caſe where Money is to be paid for the Purchaſe or Exchange of any Lands, Tenements or Hereditaments, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements and Hereditaments, to be ſettled to the ſame Uſes.

Option given to the Proprietors to pay their Share of Expences in Money.

XLI. And be it further enacted, That in all Caſes where any of the Perſons, Bodies Politic or Corporate, intereſted in any Allotment or Allotments of the ſaid Commons, Moors and Waſte Grounds, ſhall be deſirous of paying their reſpective Shares of the ſaid Expences in Money, inſtead of ſuſtaining any Loſs of Land in their reſpective Allotments, and ſhall, at the Firſt or Second Attendances of the ſaid Commiſſioner for receiving Claims of Right of Common, give Notice in Writing to the ſaid Commiſſioner of ſuch his, her or their Deſire, that then and in every ſuch Caſe the Share or reſpective Shares of the Party or Parties ſo giving ſuch Notice as aforeſaid, of and in all ſuch Expences, ſhall be paid and defrayed in Money by ſuch Party or Parties reſpectively, in ſuch Manner, and at ſuch Time or Times, and to ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall by Writing under his Hand order, direct and appoint; and in all Caſes where any ſuch Payment or Payments in Money ſhall be ſo made as aforeſaid, the ſaid Commiſſioner ſhall conſider the ſetting out the Allotment or Allotments of the Party or Parties making ſuch Payment or Payments reſpectively, and in aſcertaining the Share and Proportion of the ſaid Commons, Moors and Waſte Lands ſo to be ſet out and allotted to ſuch Body or Bodies Politic or Corporate, and other Perſons reſpectively.

XLII. And

Money advanced by Proprietors to be repaid with Intereſt.

XLII. And be it further enacted, That if any of the Proprietors or Perſons intereſted in the Lands and Grounds hereby directed to be divided, allotted and incloſed, or any other Perſon or Perſons on his, her, or their Behalf, ſhall advance and pay any Money in Diſcharge of the Fees or other Expences of obtaining and executing this Act, the Money ſo paid and advanced ſhall be repaid and ſatisfied by the Direction of the ſaid Commiſſioner with lawful Intereſt for the ſame.

Commiſſioner's Allowance.

XLIII. And be it further enacted, That out of the Money that ſhall be raiſed for defraying the Expences of obtaining and executing this Act, there ſhall be paid to the ſaid Commiſſioner, as a Recompence for his Pains and Trouble, the Sum of Three Pounds and Three Shillings, and no more, for each Day he ſhall be employed in travelling to, returning from, and attending at Meetings for the Execution of this or the ſaid recited Act; and that the ſaid Commiſſioners ſhall out of ſuch Allowance pay and defray all his travelling Charges, and alſo his own Expences at all Meetings to be held in purſuance of this Act.

Commiſſioner to lay his Accounts before Two Juſtices once in a Year.

XLIV. 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 of this Act) 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 Two of His Majeſty's Juſtices of the Peace acting in and 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 of 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.

Award to be enrolled in the Regiſter Office at Wakefield, and depoſited in the Church at Kirkburton.

XLV. And be it further enacted, That the Award to be made by the ſaid Commiſſioner, according to the Directions of the ſaid recited Act, ſhall be executed and publiſhed within the Space of Three Years from the paſſing of the Act, and ſhall within Six Calendar Months after the Execution thereof, or as ſoon after as conveniently may be, be enrolled, and a Copy of the Plan annexed to the ſaid Award, ſigned by the ſaid Commiſſioner, lodged in the public Regiſter Office eſtabliſhed at *Wakefield*, in the ſaid Weſt Riding of the County of *York*, for the regiſtering of all Deeds, Conveyances, Wills and other Incumbrances, affecting any Manors, Lands, Tenements or Hereditaments within the ſaid Weſt Riding of the County of *York*; and the Regiſter of the ſaid Office, or his Deputy for the Time being, is hereby required to enrol the ſame in the proper Book for the enrolling of Bargains and Sales of Land, and a true Copy of ſuch Enrolment, or any Part thereof, under the Hand of the ſaid Regiſter or his Deputy, ſhall be allowed as Evidence in all Courts of Law and Equity; and the ſaid Regiſter or his Deputy ſhall be entitled to the ſame Fees for ſuch Enrolment, and the Copies thereof, as he is entitled to for the enrolling any Bargain and Sale, and for the Copies thereof, and ſhall permit any Perſon or Perſons from Time to Time, within the Office Hours of Attendance,

to peruſe the ſaid Enrolment, paying for the ſame to the ſaid Regiſter or his Deputy, One Shilling and no more; and to the ſaid Award ſhall be annexed a Plan of the ſaid Manor, and of every Perſon's diſtinct Property therein, after the ſaid Diviſion and Incloſure hereby intended ſhall be made as aforeſaid, ſigned by the ſaid Commiſſioner; and the ſaid Award and Plan ſhall within Three Calendar Months after ſuch Enrolment be depoſited in the Pariſh Church of *Kirkburton* aforeſaid, there to be kept and preſerved, in order that the ſame may be inſpected by all Perſons intereſted therein.

Appeal. XLVI. And be it hereby further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done or omitted to be done in purſuance of this Act or the ſaid recited Act, then and in every ſuch Caſe (except where the Orders and Determinations of the ſaid Commiſſioner by the ſaid recited Act or this Act are directed to be final, or where an Iſſue at Law is allowed) he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace which ſhall be held in and for the Weſt Riding of the ſaid County of *York*, within Six Calendar Months next after the Cauſe of Complaint ſhall have ariſen; and the Juſtices at their ſaid General Quarter Seſſions are hereby authorized and required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and award ſuch Coſts and Damages as to them in their Diſcretion ſhall ſeem meet and reaſonable, and by their Order or Warrant to levy the Coſts and Damages which ſhall be ſo awarded, by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) upon 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 to all Parties concerned, and ſhall not be removed or removeable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter* or elſewhere; but in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants as to them in their Diſcretion ſhall ſeem reaſonable, and be levied in Manner aforeſaid.

Saving of Manorial Rights. XLVII. And be it further enacted, That nothing in this or the ſaid recited Act contained ſhall defeat, leſſen or prejudice the Right, Title or Intereſt of the Lord of the ſaid Manor for the Time being, of or to the Mines, Beds and Seams of Coal, Ironſtone or other Minerals in or under the ſaid Commons, Moors and Waſte Grounds hereby intended to be divided, allotted and incloſed, or to any Seigniories or Royalties incident and belonging to the ſaid Manor, the ſame being hereby reſerved to the Lord of the ſaid Manor for the Time being, with full Power for him at all Times to hold and enjoy all Quit Rents, Free Rents, and other Rents, Reliefs, Duties, Cuſtoms and Services, and all Courts, Perquiſites, and Profits of Courts, and all other Rights, Royalties, Juriſdictions, Franchiſes and Privileges whatſoever to the ſaid Manor incident or appertaining, in as full, ample and beneficial a Manner, to all Intents and Purpoſes, as if this Act had not been paſſed; and that the Lord of the ſaid Manor for the Time being ſhall and may at all Times hereafter have, hold, win, work and

enjoy all Mines of Coal, Ironſtone and other Minerals, of what Kind or Nature ſoever (except Quarries of Stone), under the ſaid Commons, Moors and Waſte Grounds, and the Allotments to be made therefrom, together with all convenient and neceſſary Ways, Roads and Paſſages, and Liberty of laying, making, and repairing Waggon Ways and other Ways in, under and along the ſame, or any of them or any Part thereof, and ſearching for, winning and working the ſaid Mines and Minerals, and getting, and leading, and carrying away the Coals, Ironſtone, Minerals, and other Produce thereof, and of making Pits, Shafts, Pit Rooms, Air Pits, Heap Rooms, Stand Yards, Drifts, Levels, Ways and Watercourſes, and of erecting and uſing Fire Engines and other Engines and neceſſary Buildings, and of altering, changing, pulling down and carrying away the ſame, or any Part of the Materials thereof, at his and their own free Will and Pleaſure, and doing all ſuch other Acts, Matters and Things, as may be neceſſary and convenient for the full and complete Enjoyment thereof, in as full, ample and beneficial a Manner, to all Intents and Purpoſes, as they could or might have done in caſe this Act had not been paſſed; and alſo that it ſhall and may be lawful for the Lord of the ſaid Manor for the Time being, at all Times for ever hereafter to make or cauſe to be made any Soughs, Drains or other covered or open Watercourſes, to run and paſs in, through, and over any Part or Parts of the ſaid Commons, Moors and Waſte Grounds hereby intended to be divided, allotted and incloſed, for the Purpoſe of draining and carrying away the Water from, and the more convenient winning and working, any Coals, Coal Pits or other Pits now open and working, or hereafter to be opened and worked, in the ancient Fields, Cloſes and Inclofures of the Lord of the ſaid Manor for the Time being, ſituate within and Parcel of the ſaid Manor: Provided always nevertheleſs, that the Lord of the Manor for the Time being ſhall be obliged to pay and ſhall pay to the reſpective Owners or Occupiers of ſuch Allotments reſpectively, a reaſonable and adequate Recompence and Satisfaction for all ſuch Damages as ſhall from Time to Time be thereby done, in proportion to the Loſs ſuſtained by ſuch Owners or Occupiers reſpectively, according to their reſpective Rights and Intereſts therein: Provided alſo, that nothing herein contained ſhall authorize or empower the Lord of the ſaid Manor for the Time being to ſink or make any Pit or Shaft, Quarry or other Works, or to break, ſpoil, or damage the Surface of or in any Garden, Orchard or Plantation, not exceeding Half an Acre of Ground, which may be made or taken in, upon or from the ſaid Commons, Moors and Waſte Grounds, or any Allotment or Allotments thereof, or in anywiſe to damage any Houſe, Building, Courtyard or Avenue, by ſinking for, getting or carrying away any of the Mines, Minerals or Ironſtone aforeſaid.

General Saving.

XLVIII. 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 and their Heirs, Succeſſors and Adminiſtrators, all ſuch Eſtate, Right, Title and Intereſt, (other than ſuch as are meant and intended to be barred and deſtroyed by this Act), as he, they, every or any of them had or enjoyed, of, in, to, or in reſpect of the ſaid ſeveral Parcels of Commons, Moors and Waſte Grounds, before the paſſing of this Act, or could or might have held and enjoyed, in caſe the ſame had not been paſſed.

XLIX. And

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1813.