ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 8.

An Act for incloſing Lands in the Pariſh of *Radcliffe* and the Townſhip of *Ainſworth* in the Pariſh of *Middleton*, in the County Palatine of *Lancaſter*.

[13th *March* 1809.]

WHEREAS there are within the Pariſh of *Radcliffe* and Townſhip of *Ainſworth*, in the Pariſh of *Middleton*, in the County Palatine of *Lancaſter*, Two Tracts or Parcels of Common and Waſte Ground called *Radcliffe Moor* and *Cockey Moor* reſpectively, containing together by Eſtimation Three hundred and ſixty Acres or thereabouts: And whereas the Right Honourable *Thomas* Earl of *Wilton* is Lord of the Manor of *Radcliffe*, which is co-extenſive with the ſaid Pariſh of *Radcliffe*, and as ſuch Lord is entitled to the Soil and Royalties in and over ſuch Parts of the ſaid Commons and Waſte Grounds as are ſituate within that Manor: And whereas the ſaid *Thomas* Earl of *Wilton* is alſo entitled to the Soil of ſuch Parts of the ſaid Commons and Waſte Grounds as are ſituate within the ſaid Townſhip of *Ainſworth*, and to the Coal and Cannel, and other Mines and Minerals, within and under the ſame: And whereas the ſaid *Thomas* Earl of *Wilton*, the Reverend *Thomas Foxley* Rector of *Radcliffe* aforeſaid, *Richard Bealey*, and other Perſons, are Owners and Proprietors of antient Meſſuages, Lands, Tenements, and other Hereditaments within the ſaid Pariſh of *Radcliffe*, and have ſeverally, for them-

selves and their respective Lessees and Tenants, Right of Common or Pasturage in, upon, and over such Parts of the said Commons and Waste Grounds as are situate in the said Parish of *Radcliffe*, in proportion to their said respective Estates within the same Parish; and the said *Thomas* Earl of *Wilton*, *Peter Baron*, *Joseph Bealey*, and several other Persons, are Owners and Proprietors of antient Messuages, Lands, Tenements, and other Hereditaments within the said Township of *Ainsworth*, and have severally for themselves and their respective Lessees and Tenants, Right of Common or Pasturage in, upon, and over such Parts of the said Commons and Waste Grounds as are situate in the said Township of *Ainsworth*, in proportion to their said respective Estates within the same Township: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said Commons and Waste Grounds yield very little Profit in their present State, but the same might be much improved, and it would be very advantageous to the Proprietors thereof, and to the several other Persons interested therein, and of public Utility, if the same were divided, and specific Shares thereof allotted to the respective Proprietors thereof, and Persons interested therein, according to their respective Rights and Interests, and such Allotments inclosed; but such Division, Allotment, 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 *Ralph Fletcher*, of *Tonge with Haulgh* in the said County Palatine of *Lancaster*, Esquire, and *John Clegg*, of *Manchester* in the same County, Gentleman, shall be and they are hereby appointed the Commissioners for dividing, allotting, and inclosing the said Commons and Waste Grounds, and for executing all and every the Powers vested in them by this Act.

Commissioners appointed.

Power to elect a new Commissioner.

II. And be it further enacted, That when and as often as the Commissioners or either of them by this Act appointed, or any Commissioner to be appointed in Manner herein-after mentioned, shall die, or refuse to act, or become incapable of acting as a Commissioner, for the Purposes of this Act, then and in every such Case, the major Part in Value of the several Proprietors of Lands within the said Parish of *Radcliffe*, and the said Township of *Ainsworth* respectively (such Value to be ascertained according to the Amount of their respective Assessments at the then last Rate made for the Relief of the Poor of the said Parish and Township respectively) present at some Public Meeting to be holden in the Parish Church of *Radcliffe* aforesaid, (of which Meeting and the Intent thereof, Notice shall be given by the Clerk to the said Commissioners at least Twenty-one Days previous to such Meeting by affixing such Notice on the Door of the said Parish Church, and also on the Doors of the Two Chapels in *Ainsworth* aforesaid, and by inserting the same in the Newspaper called *Wheeler's Manchester Chronicle* if then published, and if not, then in some other Newspaper circulated in the said County Palatine of *Lancaster*) shall and they are hereby empowered from Time to Time by some Instrument in Writing under their Hands, to nominate and appoint

some other Person or Persons (not interested in the said intended Division and Inclosure) to be a Commissioner or Commissioners in the Room and Stead of the Commissioner or Commissioners so dying, or refusing to act, or becoming incapable of acting as aforesaid, and every Commissioner so nominated and appointed in Manner aforesaid, shall, after taking the Oath prescribed in that Behalf, have such and the like Powers and Authorities in all Respects for carrying this Act and the said recited Act into Execution, and shall be subject and liable to the like Rules, Orders, Regulations, Penalties, and Forfeitures as if he had been originally nominated and appointed a Commissioner in and by this Act; and every such Nomination and Appointment shall be deposited with the Award of the said Commissioners.

For appointing an Umpire.

III. Provided always, and be it further enacted, That in case the Commissioners named or appointed in or by virtue of this Act, shall at any Time or Times disagree in Opinion upon any Matter concerning which it shall be necessary for them to judge and determine in the Execution of this Act or of the said recited Act, then and as often as it shall so happen, the said Commissioners shall and may and they are hereby authorized and required to refer such Difference to the Judgment and Determination of an Umpire to be chosen by the said Commissioners; and in case the said Commissioners shall for the Space of Fourteen Days after such Difference shall arise, neglect to appoint an Umpire as aforesaid, or if such Umpire shall die, or being appointed shall refuse to act, or become incapable of acting, then and in every such Case an Umpire shall be nominated and appointed by the major Part in Value of the said Proprietors of Lands after the like Notice and in such Manner as is herein-before directed concerning the Nomination and Appointment of a Commissioner in the Room or Stead of any Commissioner dying or refusing, or neglecting to act, or becoming incapable of acting; and the Judgment and Determination of such Umpire so to be chosen, or nominated and appointed, shall be final and conclusive upon the said Commissioners, and upon all other Persons interested or concerned in the said Division and Inclosure so far as the Judgments and Determinations of the said Commissioners are in such and the like Cases by this Act or by the said recited Act declared to be final and conclusive.

Umpire to take an Oath.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as Umpire in the Execution of the Powers given by this Act or the said recited Act, until he shall have taken and subscribed the Oath following; that is to say,

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

'So help me GOD.'

Which Oath it shall be lawful for the said Commissioners, or either of them, to administer to such Umpire, and the said Oath so taken and sub-

subscribed by such Umpire, shall be annexed to and inrolled with the Award of the said Commissioners, and a Copy of the Inrollment thereof shall be admitted as legal Evidence thereof.

Notice of Meetings of Commissioners.

V. And be it further enacted, That the said Commissioners shall, and they are hereby required to cause Notice in Writing to be affixed on the Door of the Parish Church of *Radcliffe* aforesaid, and also on the Doors of the said Two Chapels in *Ainsworth* aforesaid, on some *Sunday* immediately before or after Divine Service, and also a like Notice to be inserted in the Newspaper called *Wheeler's Manchester Chronicle*, if then published, and if not, then in some other Newspaper circulated in the said County of *Lancaster*, of the Time and Place of their First Meeting, and of all other subsequent Meetings for executing the Powers hereby or in and by the said recited Act vested in them, at least Ten Days before any such Meeting (Meetings by Adjournment only excepted), and it shall be lawful for the said Commissioners for the Time being to adjourn their Meetings, and appoint the same to be held on any future Day, as they shall see Occasion and think necessary; and if neither of the said Commissioners, or only One of them, shall attend at the Time and Place appointed for any such Meeting, or to which the same shall be adjourned, it shall be lawful for the Clerk to the said Commissioners to adjourn such Meeting to any future Day, not exceeding Fourteen Days from the Day of Adjournment, to be held at the same or any other Place within the said Parish or Townships, or One of them, and such Clerk shall cause Notice of such Adjournment to be given to the said Commissioners: Provided always, that all Meetings of the said Commissioners shall be held within the said Parish or Townships, or within Eight Miles thereof.

Other Notices, how to be given.

VI. Provided always, and be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioners shall be so given by affixing the same on the Doors of the said Parish Church and Chapels, and by Advertisement to be inserted in the Newspaper called *Wheeler's Manchester Chronicle*, if then published, and if no such Newspaper shall be then published, then in some other Newspaper circulated in the said County of *Lancaster*.

Commissioners may appoint a Clerk.

VII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to appoint a Clerk to assist them in the Execution of this Act, and from Time to Time to remove such Clerk and appoint another in his Stead, as to the said Commissioners shall seem meet; and from and out of the Money to be provided for the Purposes of this Act, to allow and pay to such Clerk, such Salary or Allowance for his Trouble and Expences, as to the said Commissioners shall appear just and reasonable.

Proceedings to be entered in a Book.

VIII. And be it further enacted, That all Orders, Proceedings, and Determinations of the said Commissioners, at any of their Sittings to be held in pursuance of this Act, shall be entered in a Book or Books to be provided for that Purpose, and shall be signed by the said Commissioners, and being so signed, shall be deemed and taken for Originals; and all such Books shall and may be read in Evidence in all Cases of Appeal, Suits, Actions, and other Proceedings, touching any Matter or Thing done, or to be done in relation to or in pursuance of this and the said recited Act.

IX. And

Survey to be made.

IX. And for the more juſt and regular Diviſion of the ſaid Lands and Grounds hereby directed to be divided and incloſed, be it further enacted, That the Commiſſioners ſhall make or cauſe to be made a Survey, Admeaſurement, and Plan of the ſaid Commons and Waſte Grounds, and alſo of the old incloſed Lands within the ſaid Pariſh of *Radcliffe*, and Townſhip of *Ainſworth*, or of ſuch Part or Parts thereof reſpectively, as they may think neceſſary, and divide and reduce the ſame into Two ſeparate Parts, to wit, One Plan as to ſo much and ſuch Part thereof only as is ſituate within the ſaid Pariſh of *Radcliffe*, and the other Plan as to ſo much and ſuch Part thereof only as is ſituate within the ſaid Townſhip of *Ainſworth*; and ſuch Survey, Admeaſurement, and Plans ſhall be reduced into Writing, and the Number of Acres, Roods, and Perches in Statute Meaſure, contained in the ſaid Pariſh and Townſhip reſpectively, ſhall be ſet forth and aſcertained, and delivered to the ſaid Commiſſioners, and ſhall be verified upon the Oath or Affirmation of the Perſon making the ſame (which Oath or Affirmation any of the ſaid Commiſſioners, or any Juſtice of the Peace for the ſaid County of *Lancaſter* is hereby authorized and required to adminiſter).

For ſhortening the Boundary Fences.

X. And whereas it may ſhorten the Boundary Fences to be made between ſuch Parts of the Lands and Grounds hereby directed to be divided and incloſed, as lie within the ſaid Pariſh of *Radcliffe* and Townſhip of *Ainſworth* reſpectively, if the ſaid Commiſſioners were empowered to cauſe the Boundaries between the ſame Pariſh and Townſhip to be varied within the Limits of the ſame Lands and Grounds hereby directed to be divided and incloſed in ſuch Direction as they ſhall deem moſt proper and convenient, for ſhortening and making the ſame regular; be it therefore enacted, That it ſhall and may be lawful for the ſaid Commiſſioners with the Conſent in Writing under the Hand or Hands of the Lord or Lords, Lady or Ladies, of the Manor or Manors, or the Owners of the Soil of the ſaid Commons and Waſtes, and under the Hands of the major Part in Value (ſuch major Part to be aſcertained by the Land Tax Aſſeſſment) of the Land Owners in any Pariſh or Pariſhes intereſted in any Commons or Waſte Grounds adjoining to the ſaid Pariſh and Townſhip, and alſo under the Hand or Hands of the Owner or Owners of any adjoining Lands upon which ſuch Fences are intended to be made, to ſet out, aſcertain, and determine the Boundary Fences to be made between the reſpective Parts of the Lands and Grounds by this Act directed to be divided and allotted, lying within the ſaid Pariſh of *Radcliffe* and Townſhip of *Ainſworth* reſpectively, as they ſhall judge proper for the Purpoſes aforeſaid; and after ſuch Boundaries ſhall be ſo ſet out, aſcertained, and determined, the ſame ſhall be incloſed and fenced by ſuch Perſon or Perſons, in ſuch Manner and at ſuch Time or Times as the ſaid Commiſſioners ſhall direct, and ſhall for ever thereafter be deemed and taken to be Boundaries between the ſaid Pariſh of *Radcliffe* and Townſhip of *Ainſworth*, any Law, Uſage, or Cuſtom, to the contrary notwithſtanding: Provided nevertheleſs, that in ſetting out, aſcertaining, and determining ſuch Boundaries for the Purpoſes aforeſaid, regard ſhall be had to the Value of the Land taken from one of the ſaid Places, and laid to the other of them, ſo that the ſame Pariſh and Townſhip reſpectively may each of them give and take Land of equal Value.

Encroachments.

XI. And be it further enacted, That it shall be lawful for the said Commissioners to enquire and determine what Inclosures and Encroachments have been made upon or from the said Commons and Waste Grounds, by any Person or Persons whomsoever, within Sixty Years next before the passing of this Act; and that all Inclosures or Encroachments taken in or made upon, from, or out of any Part of the said Commons and Waste Grounds, intended to be inclosed, or any Part thereof, within Twenty Years next before the passing of this Act, shall be deemed Part and Parcel of the said Commons and Waste Grounds; and that all such Inclosures and Encroachments as shall have been taken in or made from the said Commons and Waste Grounds for the Space of Twenty Years and upwards, and under Sixty Years, shall be the Property of the Persons to whom the same now respectively belong, for such Estate and Interest as they respectively have therein; but no Share or Allotment of or upon the said Commons or Waste Grounds shall be made in respect thereof; and in case any Dispute or Difference shall arise, touching any such Encroachments or the Extent thereof, such Dispute or Difference shall be settled and determined by the said Commissioners: Provided that if there shall be any Cottages or other Buildings erected upon any such Inclosures or Encroachments, as shall have been so taken in or made within Twenty Years next before the passing of this Act, the same Cottages and Buildings shall be valued by the said Commissioners, and the Persons to whom the same shall be respectively allotted shall pay for the same, according to such Valuation to the Persons who shall have respectively erected the same, or be considered by the said Commissioners as the Owners thereof respectively, at such Times and in such Manner as the said Commissioners, either in and by their general Award, or by any Writing under their Hands previous to the Execution thereof, shall for that Purpose order, direct, or appoint.

Commissioners to settle Disputes, etc.

XII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested, or claiming to be interested in the said Division and Inclosure, touching or concerning their respective Rights or Claims, Estates or Interests in, over, or upon the Lands and Grounds hereby directed to be divided and inclosed as aforesaid, or touching or concerning any Matter or Thing relating to the said Division or Inclosure, then and in every such Case the said Commissioners are hereby authorized and required to examine into, hear, and determine the same: Provided always, that nothing herein contained shall authorize or empower the said Commissioners to determine the Title to any Lands, Tenements, or Hereditaments whatsoever.

Power to assess Costs, &c.

XIII. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made by the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such

such Costs and Charges shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Power to try Rights at Law.

XIV. Provided always, and be it enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners or Umpire touching or concerning any Claim or Claims to any Rights of Common, or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, or touching or concerning any Matter or Thing relating to the said Division and Inclosure, and shall, by Writing under his, her, or their Hand or Hands, or under the Hand of his, her, or their Clerk or Agent, signify the same to the said Commissioners or Umpire, together with the Grounds or Reasons of his, her, or their Dissatisfaction, within Two Calendar Months next after such Determination shall be made, then and in every such Case (but not otherwise) it shall and may be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied, to proceed to a Trial at Law of the Matters so determined by the said Commissioners at the then next or at the following Assizes to be holden for the said County Palatine of *Lancaster*, and for that Purpose the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be dissatisfied with the Determination of the said Commissioners or of the said Umpire, shall cause an Action or Actions to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour any Determination shall have been so made within Four Calendar Months next after such Determination shall have been made, and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues whereby such Claim or Claims, and the Rights or Interests 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 upon the Trial of such Action or Actions, shall be final, binding, and conclusive upon all and every Person and Persons, Body and Bodies Politic, Corporate, and Collegiate, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial or Trials therein, which it shall be lawful for the Court to do in case the said Court shall think proper; and it shall also be lawful for the said Court to put off the Trial or Trials of such Issue or Issues upon sufficient Cause shewn as is usual in other Cases, and after such Verdict or Verdicts shall be obtained and not set aside by the said Court, the said Commissioners

ers shall; and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that all such Determinations of the said Commissioners or Umpire as shall not be objected to within the Time and in Manner aforesaid, or being so objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in within the Time and in Manner aforesaid, shall be absolutely binding, final, and conclusive upon all Parties whomsoever.

Actions not to abate by Death of Parties.

XV. And be it further enacted, That if either of the Parties in any Action to be brought or Appeal had in pursuance of this Act, shall die pending the same, such Action or Appeal shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

Suits respecting Titles not to impede the Execution of this Act.

XVI. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted, touching or concerning the Title of any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in or to any Manor, Messuage, Lands, Tenements, or Hereditaments, for or in respect of which any Right of Common, or other Right or Interest, in, over, or upon the Lands or Grounds hereby directed, to be divided, allotted, and inclosed, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, hinder, or prevent the said Commissioners from proceeding in the Powers vested in them by this and the said recited Act, but the said Division, Allotment, and Inclosure shall be proceeded in, notwithstanding such Suit or Suits, and the Allotment or Allotments, in respect of such Rights and Interests, or any of them, 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.

If Parties die before Actions commence, the same shall not stop by reason thereof.

XVII. Provided also, and be it further enacted, 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 Process for commencing such Action or Actions in the same Manner as the Party or Parties might have been served therewith if living, and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons 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.

Commissioners not to determine contrary to Possession.

XVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties,

but in case the 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 given up by or recovered from such Person or Persons by Ejectment or other due Course of Law.

Commissioners may divert and turn Roads.

XIX. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to divert, stop up, or change any Public Road or Roads, Way or Ways, (not being a Turnpike Road) passing or leading through any of the said Commons and Waste Grounds as they the said Commissioners shall deem unnecessary, and as they shall think proper, subject nevertheless to such Provisions and under such Regulations, Directions, and Conditions, as are contained in the said recited Act respecting the stopping up of any old or unaccustomed Road or Roads, Way or Ways, and such Road or Roads, Way or Ways so stopped up, shall be deemed and taken as Part of the Lands and Grounds hereby intended to be divided and inclosed, and shall be divided, allotted, and inclosed accordingly.

Commissioners may suspend or extinguish Rights of Common.

XX. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized at any Time or Times before the Execution of the Award by Notice in Writing under their Hands, to be given and published as aforesaid, to order or direct all or any Part of the Rights of Common, in, over, or upon the said Common or Waste Ground, or any Part thereof, to be extinguished or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Writing, and that all such Rights of Common as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Time expressed in such Writing cease, determine, and be for ever extinguished, or the Exercise thereof be suspended accordingly, any Law, Usage, or Custom, to the contrary thereof notwithstanding.

Allotment for getting Materials for Repair of Roads.

XXI. And be it further enacted, That the said Commissioners shall and they are hereby required to set out, assign, and allot such Part and Parcel of the said Commons and Waste Grounds, lying within the said Parish of *Radcliffe*, as they shall think proper and sufficient, not exceeding in the Whole One Statute Acre, as and for Public Stone, Sand, and Gravel Pits, for the Purpose of getting Materials for the forming, compleating, and repairing the Public and Private Roads and Ways in the said Parish of *Radcliffe*; and also to set out, assign, and allot such Part and Parcels of the said Commons and Waste Grounds lying within the said Township of *Ainsworth* as they shall think proper and sufficient, not exceeding in the Whole the like Quantity of One Statute Acre, as and for Public Stone, Sand, and Gravel Pits, for the Purpose of getting Materials for the forming, compleating, and repairing the Public and Private Roads and Ways in the said Township of *Ainsworth*; which said Two several Allotments last mentioned shall be vested in the respective Surveyors for the Time being of the Highways within the said Parish of *Radcliffe* and Township of *Ainsworth* respectively; and when the same Allotments or either of them shall be worked out, or become wholly useless and unfit for the Purposes aforesaid, then it shall be lawful for such Surveyors of the Highways in whom the same shall be then respectively vested, together with the Church-

wardens and Overſeers of the Poor for the Time being of the ſaid Pariſh of *Radcliffe* and Townſhip of *Ainſworth* reſpectively, publicly to let or diſpoſe of the ſame for any Term or Number of Years, or in Fee Simple, for the beſt Yearly Rent that can be obtained for the ſame, and to apply the ſame Rent and all other Benefit and Advantage ariſing therefrom reſpectively, in Aid of the Highway Rates of the ſame Pariſh or Townſhip reſpectively.

Allotment for additional Burial Ground in Ainſworth.

XXII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required to ſet out, aſſign, and allot, ſuch Part and Parcel of the ſaid Commons and Waſte Grounds, lying within the ſaid Townſhip of *Ainſworth*, as they ſhall think proper and ſufficient, not exceeding Three Quarters of a Statute Acre, as and for an Addition to the preſent Burial Ground, belonging to the Proteſtant Chapel in *Ainſworth* aforeſaid; the ſame Addition to be taken from the ſaid Commons and Waſte Grounds immediately adjoining to the ſaid preſent Burial Ground, and to be veſted in the ſame Perſons in whom the ſaid preſent Burial Ground is veſted.

Commiſſioners to make a Survey and Eſtimate.

XXIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required, according to the beſt of their Skill and Judgement, and in ſuch Manner as to them ſhall appear juſt and right and moſt proper for the Purpoſes of this and the ſaid recited Act, to eſtimate, aſcertain, and ſettle, and by Writing under their Hands ſet down and ſpecify the actual Value of the ſeveral Meſſuages, Lands, Tenements, and Hereditaments within the ſaid Pariſh and Townſhip reſpectively, to which any Right of Common in or upon the ſaid Commons or Waſte Grounds or any of them ſo intended to be incloſed ſhall be appendant or appurtenant, and alſo the Value of the Right of Common appurtenant or appendant to the ſame Meſſuages, Lands, Tenements, and Hereditaments reſpectively, and of all ſuch other Rights in, upon, or to the ſaid Commons and Waſte Grounds, or any of them; and the ſaid Commiſſioners ſhall, and they are hereby required in like Manner to aſcertain, ſettle, ſet down, and ſpecify the ſeveral Quantities, and likewiſe the Value by the Acre or otherwiſe of the ſaid Commons and Waſte Grounds, within the ſaid Pariſh and Townſhip reſpectively, in the different Parts thereof reſpectively, according to the Nature and Situation of ſuch reſpective Parts.

Allotment to the Lord of the Manor.

XXIV. And be it further enacted, That the ſaid Commiſſioners after they ſhall have ſet out and allotted the ſeveral and reſpective Parcels of the ſaid Commons and Waſte Grounds for the aforeſaid Purpoſes, and ſhall have ſet out and appointed the Roads and Highways through and over the ſame, ſhall and they are hereby authorized and required to ſet out, allot, and award unto and for the ſaid Right Honourable *Thomas* Earl of *Wilton*, Lord of the Manor of *Radcliffe*, and Owner of the Soil of the ſaid Commons and Waſte Grounds within *Ainſworth* as aforeſaid, or to his Heirs or Aſſigns, or the Perſon or Perſons for the Time being entitled to the ſaid Manor of *Radcliffe*, and the Eſtates now of him the ſaid *Thomas* Earl of *Wilton* in *Radcliffe* and *Ainſworth* reſpectively, One Sixteenth Part of the ſaid Commons and Waſte Grouuds in lieu of his or their Right to the Soil of the ſaid Commons and Waſte Grounds.

XXV. And

Allotment of the Residue.

XXV. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required in the next place to set out and stake out, allot and award the Residue of all and singular the said Commons and Waste Grounds, unto and amongst the several Proprietors of, and Persons interested in the same, according and in Proportion to the Value to be ascertained as aforesaid of their respective Rights and Interests, in and to the same therein at the Time of the passing of this Act.

Proprietors of Allotments to fence and inclose the same.

XXVI. And be it further enacted, That the several and respective Persons to whom any Allotments shall be made in any of the Lands or Grounds by this Act directed to be divided and allotted, shall respectively at his, her, and their own Expence, fence in and inclose the said Allotments, and provide and set up such Gates, Stiles, and Bars, as may be necessary in such Manner and within such Time, as the said Commissioners shall, in and by their said Award, or by any other Writing under their Hands previous to the Execution thereof, order, direct, or appoint, and that all such Fences shall at all Times thereafter be maintained and repaired, by, and at the Expence of the Owners for the Time being, of the Lands and Grounds to which they shall be respectively allotted, or directed to belong.

Allotments to be set out in such Manner as shall be most beneficial to the Parties.

XXVII. Provided also, and be it further enacted, That it shall and may be lawful for the said Commissioners, and they are hereby directed and required to set out and allot unto and for the several Persons interested aforesaid, the several Allotments to which they may be respectively entitled under this Act, in any such Part or Parts of the Lands and Grounds hereby directed to be divided and allotted, as the said Commissioners shall in their Judgment and Discretion think most beneficial and advantageous to the several Parties interested: Provided nevertheless, that in setting out the said Allotments of the said *Thomas* Earl of *Wilton*, regard shall be had to the Coal and Cannel, and other the Mines and Minerals within and under the said Commons and Waste Grounds, so that the said several Allotments may contain the most valuable Parts of the said Coal and Cannel, and other Mines and Minerals, and to be set out in such Situations as shall be thought most beneficial and convenient for the said *Thomas* Earl of *Wilton*, his Heirs and Assigns, both for the present and future getting and working of the said Coal, Cannel, and other Mines and Minerals, any Thing herein or in the said recited Act contained to the contrary notwithstanding: Provided also, that it shall be lawful for the said *Thomas* Earl of *Wilton*, his Heirs or Assigns, or his or their Agent to elect and chuse any Part of the said Commons and Waste Grounds, not exceeding in the Whole the Quantity of Two Statute Acres, for the Purpose of a Stone Quarry, as well for the Use and Convenience of getting and working the said Mines and Minerals, as for any other Use or Purpose which he or they shall think proper, which said Part so chosen, the said Commissioners, upon Notice in Writing for that Purpose, shall award and allot to the said *Thomas* Earl of *Wilton*, his Heirs or Assigns, as Part of his or their Allotment.

Commissioners to deliver Possession of the Allotments.

XXVIII And be it further enacted, That the said Commissioners shall and may from Time to Time, as they shall find convenient, deliver to the several Persons interested in the several Divisions and Allotments to be set out under this Act, Possession of their respective Allotments hereby directed

directed to be made and set out; and such Possession so delivered shall be kept and retained by the several Persons entitled thereto, against all Persons whomsoever, although the said Award herein-after directed shall not then be made and executed.

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

XXIX. And be it further enacted, That if any Person or Persons whomsoever shall during the Space of Seven Years next after the Execution of the said Award, keep or depasture, or permit any Sheep or Lambs to be kept and depastured in the Allotments to be made in pursuance of this Act, unless he, she, or they shall first effectually fence and guard the adjoining Allotment or Allotments belonging to any other Proprietor or Proprietors from any Injury to their Quickssetts or new planted Fences, or shall wilfully turn or put, or cause any Sheep, Lambs, Horses, Asses, or other Beasts or Cattle, or any Geese to be turned or put into any of the Lanes, Ways, or Roads on either Side, whereof any new growing Fence shall be planted, every Person so offending shall upon Conviction before any One or more of His Majesty's Justices of the Peace acting in and for the said County Palatine of *Lancaster*, upon the Oath of One or more credible Witness or Witnesses (which Oath the said Justice or Justices is and are hereby empowered to administer), forfeit and pay for every such Offence, any Sum not exceeding Five Pounds over and above the Costs previous to and attending such Conviction, at the Discretion of the Justice before whom such Offender shall be convicted, and such Penalty and Costs if not paid forthwith on such Conviction, shall be levied by Distress and Sale of the Goods and Chattels of the Person or Persons subject to the Payment of the said Penalty, by Warrant under the Hand and Seal of such Justice, together with the Costs and Charges of the said Distress and Sale, and every such Penalty, when so levied, shall be paid and applied in Manner following; that is to say, One Half thereof to the Person or Persons injured, and the other Half thereof to the Poor of the Parish or Township respectively within which such Offence shall be committed.

Allotments to be of the same Tenure as the ancient inclosed Lands.

XXX. And be it further enacted, That all and singular the Lands and other Premises which shall be allotted under or by virtue of this Act, shall (immediately after such Allotments are made) be held by and be subject to such and the same Tenures, Customs, Heriots, Rents, and Services as the several and respective Messuages, Buildings, Lands, Tenements, and Hereditaments, in respect whereof such allotted Lands shall be made, are now subject to.

Wills and Settlements not to be affected.

XXXI. Provided always, and be it further enacted, That nothing in this or the said recited Act contained shall extend, or be construed, deemed, or adjudged, or taken to extend to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person having or claiming any Jointure, Dower, Portion, Debt, Rent, or Incumbrance out of, upon, or affecting any of the Lands or Grounds hereby, or by the said recited Act intended to be divided, allotted and inclosed, or which shall be exchanged in pursuance of this Act, or any Part thereof respectively, but that the respective Persons to whom the Lands or Hereditaments shall be allotted or given in Exchange by virtue of this or the said recited Act, shall be, remain, and enure, and the several Persons to whom the same shall be assigned, allotted, or given in Exchange as aforesaid, shall from thence-

forth ſtand and be ſeized thereof, for ſuch and the ſame Uſes, Truſts, and Eſtates, with the ſame Powers, and ſubject to ſuch and the ſame Wills, Settlements, Limitations, Remainders, Charges, Rents, and Incumbrances, and no other, as the ſeveral Lands, Grounds, Tenements, and Hereditaments, whereof ſuch Perſon was ſeized or poſſeſſed at or immediately before the Execution of the Award of the ſaid Commiſſioners, or for which or in reſpect or in lieu whereof ſuch Allotments and Exchanges ſhall be made as aforeſaid, would have been ſubject or liable to in caſe the ſame had remained unincloſed or unexchanged, or this Act had not been made.

Leaſes at Rack Rent to be void.

XXXII. And be it further enacted, That all and every Leaſe and Leaſes upon Rack Rent now ſubſiſting, touching or in anywiſe affecting any Part or Parts of the Lands or Hereditaments by virtue of this Act to be divided, allotted, and incloſed as aforeſaid, and all other Agreements for any Term or Terms of Years therein at Rack Rent, ſhall ceaſe, determine, and be void, at ſuch Time or Times as the ſaid Commiſſioners ſhall, by any Writing or Writings under their Hands in that Behalf order, direct, or appoint, the reſpective Reverſioners, Owners, or Proprietors of the Hereditaments and Premiſes compriſed in ſuch reſpective Leaſes or Agreements making ſuch Satisfaction to their Leſſee or Leſſees, Tenant or Tenants, and at ſuch Time or Times, as they the ſaid Commiſſioners ſhall aſcertain, direct, or appoint, as reaſonable to be paid to ſuch Leſſee or Leſſees, Tenant or Tenants, on Account thereof, or as an Equivalent for the ſame: Provided always, that nothing herein contained ſhall extend, or ſhall be conſtrued to extend to avoid or affect any Agreement or Engagement already made between Landlord and Tenant in contemplation of an Incloſure of the ſaid Commons and Waſte Grounds, or relating thereto: Provided alſo, that if there ſhall be any ſuch Leaſe or Leaſes of Lands as aforeſaid, Part of which ſhall lie in the ſaid Pariſh or in the ſaid Townſhip, and Part in any adjoining Pariſh, Townſhip, or Place, all and every ſuch Leaſe or Leaſes may be vacated; but where any Lands ſhall be taken in Exchange, which Lands ſhall be under Leaſe and wholly ſituate in any adjoining Pariſh, Townſhip, or Place, ſuch laſt-mentioned Leaſe ſhall not be vacated.

Other Leaſeholders to enjoy the Allotments upon certain Conditions.

XXXIII. And be it further enacted, That the ſeveral Leſſees or Tenants who have, under any Leaſe (other than a Leaſe or Leaſes at Rack Rent) any Eſtate or Eſtates in reſpect of which any ſuch Allotment or Allotments ſhall be made as aforeſaid (except ſuch as have only Right of Common upon the ſaid Commons and Waſte Grounds ſo to be allotted, whilſt the ſame remain unincloſed, or at the Will or Pleaſure of the Owner or Owners of the Reverſion and Inheritance of ſuch Leaſehold Eſtates), ſhall, during the Continuance of their reſpective Leaſes, have, hold, and enjoy, the ſeveral Parts and Shares of the ſaid Commons and Waſte Grounds that ſhall be allotted and ſet out for or in reſpect of ſuch Eſtates, upon Condition only that ſuch Leſſee or Leſſees, Tenant or Tenants, do and ſhall, within ſuch Time and Times, and in ſuch Manner, as the ſaid Commiſſioners ſhall order, appoint, or award, well and ſufficiently incloſe, ditch, and fence out the Shares of the ſaid Commons and Waſte Grounds to be allotted to or in reſpect of ſuch Eſtates; and alſo do and ſhall, within ſuch Time or Times as laſt aforeſaid, pay his and their Part and Share, Parts and Shares, in proportion to their Leaſehold Intereſt therein reſpectively

tively of all Coſts, Charges, and Expences relating thereto, to be ſettled by the ſaid Commiſſioners; and the Reverſioners ſhall, and they are hereby directed to pay, within ſuch Time or Times as the ſaid Commiſſioners ſhall order, appoint, or award, the Reſidue of ſuch Charges and Expences for or in reſpect of ſuch Eſtates in Leaſe reſpectively; and if any of the ſaid Leſſees or Tenants ſhall refuſe or neglect well and ſufficiently to incloſe, ditch, and fence out their ſeveral Parts and Shares of the ſaid Commons and Waſte Grounds to be allotted to their ſeveral and reſpective Eſtates, or to pay their reſpective proportionable Parts and Shares of the Charges and Expences aforeſaid, within the Time or Times, and in the Manner, to be by the ſaid Commiſſioners ordered, appointed, or awarded, that then and from and after ſuch Refuſal or Neglect the ſaid Parts and Shares of the ſaid Commons and Waſte Grounds ſhall go, revert, and remain unto, and be in the immediate Poſſeſſion of the Proprietors or Owners of the Reverſion of ſuch Eſtates in Leaſe to which the ſame ſhall be reſpectively allotted as aforeſaid, according to their ſeveral Eſtates and Intereſts therein reſpectively exonerated and abſolutely diſcharged from ſuch Leaſe and Leaſehold Intereſts, which the ſaid Owners or Proprietors are hereby directed, ordered, and authorized to incloſe, ditch, and fence in, and pay ſuch Charges and Expences within ſuch reſpective Time or Times, and in ſuch Manner as the ſaid Commiſſioners ſhall order, appoint, or award.

Leaſehold Eſtates to go to Reverſioners on Expiration of Leaſes.

XXXIV. And be it further enacted, That the Share and Shares of the ſaid Commons and Waſte Grounds ſo to be allotted to the ſaid Leaſeholders reſpectively, for or in reſpect of the ſaid Eſtates in Leaſe (other than Leaſes at Rack Rent as aforeſaid), ſhall nevertheleſs from and after the Determination of their Leaſes reſpectively, go, remain and revert to ſuch Perſon or Perſons as ſhall be entitled to ſuch Eſtates, in reſpect whereof the ſame ſhall be allotted reſpectively, which Perſon or Perſons ſhall ſeverally have and enjoy the ſame Eſtate, Right, Title, Powers and Intereſts in ſuch Share or Shares as he, ſhe, or they hath or have, in and to the ſaid Eſtates, for or in reſpect whereof ſuch Shares ſhall be allotted reſpectively.

Exchanges may be made by Commiſſioners with Conſent of Proprietors.

XXXV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to ſet out, allot, and award any Lands, Tenements, or Hereditaments whatſoever, within the ſaid Pariſh of *Radcliffe* and Townſhip of *Ainſworth*, or either of them, in lieu of, and in Exchange for any other Lands, Tenements, and Hereditaments whatſoever, within the ſame Pariſh and Townſhip, or either of them, or within any adjoining Pariſh, Manor, Townſhip, Hamlet, or Place, provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the Award of the ſaid Commiſſioners, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, and Hereditaments which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail, General or Special, or by 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, 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

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 or Bodies 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 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: Provided alſo, that all Coſts, Charges, and Expences of making any ſuch Exchange or Exchanges, ſhall be borne and paid by the ſeveral Perſons, Body or Bodies Politic or Corporate, or Collegiate, in ſuch Manner, and in ſuch Shares and Proportions, as the ſaid Commiſſioners ſhall order and direct.

For paying the Expences of the Act.

XXXVI. And be it further enacted, That the Coſts, Charges, and Expences of the preparing, ſoliciting, obtaining, and paſſing this Act, and of ſurveying and valuing the Meſſuages, Tenements, and Lands within the ſaid Pariſh and Townſhip, and of the ſurveying, planning, meaſuring, dividing, allotting, and ſetting out the ſaid Commons and Waſte Grounds ſo intended to be divided and incloſed as aforeſaid, and of the preparing, making, and executing the ſaid Award, and of ſetting out and making the neceſſary public and private Ways and Roads, Drains and Watercourſes, and of making Recompence or Satisfaction for any Damage done or Loſs or Inconvenience ſuſtained in conſequence thereof, and the Coſts and Charges of the ſaid Commiſſioners and their Clerk, and the ſeveral Perſons to be employed by them, touching the Execution of this Act, and all other Coſts, Charges, and Expences incident to, or attending the Execution of this Act, ſhall be borne and defrayed by the ſeveral Perſons to whom any Allotments ſhall be made, in purſuance or by virtue of this Act, by an Aſſeſſment or Aſſeſſments, Rate or Rates to be made upon the reſpective Owners of, or Perſons intereſted in the Allotments of the ſaid Commons and Waſte Grounds ſo to be ſet out as aforeſaid, by an equal Pound Rate, according and in Proportion to the real Value of their reſpective Shares and Intereſts, to be ſettled, adjuſted, and aſcertained by the ſaid Commiſſioners, and to be paid to ſuch Perſon or Perſons, and for ſuch Intents and Purpoſes, and at ſuch Time and Times as the ſaid Commiſſioners ſhall for that Purpoſe nominate, direct, or appoint; and in caſe any Perſon or Perſons liable to pay any ſuch Coſts, Charges, or Expences, or any Part or Parts thereof, ſhall refuſe or neglect to pay or contribute his, her, or their Share or Proportion, Shares or Proportions of ſuch Coſts, Charges, and Expences to ſuch Perſon or Perſons, and within ſuch Time as the ſaid Commiſſioners ſhall direct and appoint to receive the ſame, then and in every ſuch Caſe, the ſaid Commiſſioners ſhall cauſe the ſame to be levied and recovered in the Manner directed by the ſaid recited Act.

Perſons advancing Money to be repaid with lawful Intereſt.

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

lawful Intereſt for the ſame out of the Firſt Money to be raiſed by virtue of this Act.

Proprietors and Agents to pay their own Expences at Meetings.

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

Proprietors may ſell their Allotments before the Execution of the Award.

XXXIX. And be it further enacted, That it ſhall be lawful for any Perſon or Perſons who ſhall be entitled to any Allotment to be made by virtue of this Act, to ſell or contract for the Sale of all or any Part of his, her, or their Eſtate, Right, Title, and Intereſt therein, at any Time before the Execution of the Award of the ſaid Commiſſioners; and if any Perſon ſhall ſo ſell or contract for the Sale of all or any Part of his, her, or their Eſtate, Right, Title, and Intereſt in, over, or upon the ſaid Commons and Waſte Grounds, and ſhall give Notice thereof in Writing to the ſaid Commiſſioners Thirty Days at leaſt before the Execution of their ſaid Award, then and in every ſuch Caſe it ſhall and may be lawful for the ſaid Commiſſioners, and they are hereby required to make an Allotment of Land unto the Vendee or Purchaſer in ſuch Sale or Contract, or to his, her, or their Heirs or Aſſigns for or in reſpect of ſuch Eſtate, Right, Title, and Intereſt, ſo ſold or contracted for as aforeſaid; and every ſuch Vendee or Purchaſer, 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 Vendor in every ſuch Sale or Contract might, could, or ought to have held and enjoyed the ſame, in caſe ſuch Sale and Contract had not been made.

Award to be depoſited in the Church Cheſt.

XL. And be it further enacted, That the Award to be made by the ſaid Commiſſioners, when inrolled in Manner directed by the ſaid recited Act, ſhall be depoſited in a Tin Box, in the Church Cheſt of *Radcliffe* aforeſaid.

Commiſſioners to lay Accounts before a Juſtice once in every Year.

XLI. And be it further enacted, That once at leaſt in every Year, during the Execution of this Act, ſuch Year to be computed from the Day of paſſing thereof, the ſaid Commiſſioners ſhall, and they are hereby required to make a juſt and true Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act; and ſuch Statement or Account, when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before ſome one or more of His Majeſty's Juſtices of the Peace for the ſaid County Palatine of *Lancaſter*, to be by him or them examined and balanced; and ſuch Balance ſhall be by ſuch Juſtice or Juſtices ſtated in the Book of Accounts, to be kept in the Office of the Clerk to the ſaid Commiſſioners, and no Charge or Item in ſuch Statement or Account, ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtice or Juſtices.

Mines and Minerals reſerved to the Lord of the Manor, with Powers to work the ſame.

XLII. Provided always, and be it further enacted, That nothing in this Act contained, ſhall be conſtrued to defeat, leſſen, or prejudice, the Right, Title, or Intereſt of the ſaid *Thomas* Earl of *Wilton*, his Heirs and Aſſigns, or the Perſon or Perſons for the Time being, entitled to the ſaid Manor of *Radcliffe*,

Radcliffe, and the ſaid Eſtates of him the ſaid *Thomas* Earl of *Wilton* in *Radcliffe* and *Ainſworth* aforeſaid reſpectively, to the Mines, Beds, Veins and Seams of Coal, Cannel, or other Mines and Minerals in or under the ſaid Commons or Waſte Grounds hereby intended to be incloſed, or any of them, or any Part thereof reſpectively, but that he the ſaid *Thomas* Earl of *Wilton*, his Heirs or Aſſigns, or the Perſon or Perſons for the Time being, entitled as aforeſaid, ſhall and may continue to uſe, exerciſe, and enjoy all ſuch Rights, and the ſame are hereby reſerved to him and them reſpectively, with full and free Liberty, Power, and Authority for him and them reſpectively, from Time to Time, and at all Times for ever hereafter to bore, dig, ſink, and ſearch for, get, raiſe, bank, have, hold, win, work, and enjoy all Mines, Beds, Veins, and Seams of Coal, Cannel, and other Mines and Minerals, of what Nature or Kind ſoever, within and under the ſaid Commons and Waſte Grounds hereby intended to be incloſed, and every or any Part thereof, together with all convenient and neceſſary Roads, Ways, Paſſages, and Appurtenances thereto belonging; and like Liberty, Power, and Authority to ſet out, make, maintain, repair, have, hold, uſe, and enjoy any New Roads, Ways, and Paſſages, or Waggon Ways; and other Ways in, over, and along the ſame Commons and Waſte Grounds, or any of them, or any Part thereof, and to bank, ſtack, lay up, burn into Coke or Charcoal, ſell, load, cart, or otherwiſe carry away the Coal, Cannel, Minerals, or other Produce thereof, and to ſink Pits or Shafts, erect Huts or Cabins, make Pit-banks, Pitrooms, Stack Yards, Ovens, Watercourſes, Drains, Sluices, and Reſervoirs or Lodges for Water, and drive Levels, Ends, or Drifts, and erect or ſet up Fire or Steam Engines, or other Engines, Machines, or Contrivances whatſoever, either now in uſe or hereafter to be invented, for the better diſcovering, getting, working, diſpoſing of, and enjoying the ſaid Coal and Cannel, and other Mines, Minerals, Privileges, and Hereditaments hereby reſerved, to the greateſt Benefit and Advantage; and alſo from Time to Time to alter, change, pull down, remove, and carry away the ſame Huts, Cabins, Engines, Matters and Things, or any of the Materials thereof, and to have and uſe any Stone, Sand, or other Matters got in the ſinking Pits or Shafts, or working or getting the ſaid Mines and Minerals ſo reſerved as aforeſaid, at his and their own free Will and Pleaſure, and to do all ſuch other Acts, Matters and Things, as may be neceſſary and convenient for the full and complete Enjoyment thereof, in as full, complete, and beneficial a Manner, to all Intents and Purpoſes, as he or they could or might have done, in caſe this Act had not been made; he and they nevertheleſs making and allowing to the ſeveral Owners or Occupiers of ſuch Allotments reſpectively, a full and reaſonable Compenſation for all ſuch Damage and Treſpaſs as ſhall from Time to Time be done, to the Herbage or Produce thereof, or to any Erections or Buildings that may be erected or built thereupon, by the working or getting the ſaid Mines and Minerals, or uſing or exerciſing any of the Powers or Privileges hereby reſerved; ſuch Compenſation to be paid within Fourteen Days next after the ſame ſhall be demanded by or on Behalf of the Perſon or Perſons entitled thereto, from the Perſon or Perſons for the Time being in the Occupation or Enjoyment of the ſame Mines, or from his principal Agent or Manager there: Provided always, that nothing herein contained ſhall extend or be conſtrued to extend to enable the ſaid *Thomas* Earl of *Wilton*, his Heirs or Aſſigns, or the Perſon or Perſons for the Time being entitled or claiming

to be entitled as aforesaid, or his, her, or their Lessee or Lessees, to enter into any House, Outhouse, or Building, now or at any Time hereafter to be erected, upon any Part or Parts of the same Commons or Waste Grounds.

Duplicates of Award to be made, if required.

XLIII. And be it further enacted, That the said Commissioners shall, at the Request, Costs, and Charges of any Person or Persons, Bodies Politic, Corporate, or Collegiate, having any Allotment or Allotments of the Lands and Grounds hereby intended to be divided and allotted, make and execute a Duplicate or Duplicates of the general Award to be made by the said Commissioners in pursuance of this Act and the said recited Act, and of the Maps, Surveys, or Plans accompanying the same, or of any of them, or any Part or Parts thereof respectively, for the Use of any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, requesting the same, such Request nevertheless to be made before the said Award shall be deposited or inrolled according to the said recited Act, and every such Duplicate shall be admitted or allowed as legal Evidence in all Courts whatsoever.

Allowing an Appeal to the Quarter Sessions.

XLIV. And be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall think himself, herself, or themselves aggrieved by any Thing done by virtue or in pursuance of this or the said recited Act (other than and except such Orders and Determinations of the said Commissioners or Umpire as are by the said recited Act or this Act directed to be final or conclusive, and except in such Cases where an Issue at Law is herein directed to be tried), then and in every such Case he, she, or they, may appeal to the General Quarter Sessions of the Peace which shall be held for the Division of *Manchester*, in and for the said County Palatine of *Lancaster*, within Four Calendar Months next after the Cause of Complaint shall have arisen; and the Justices of the Peace in such Sessions, are hereby required to hear and determine the Matter of every such Appeal, provided that Notice in Writing of every such Appeal, specifying the Cause of Complaint be given to the said Commissioners, or the other Party interested in the Matter of any such Appeal, or their Agent or Agents for the Time being, Twenty-one Days at least before such Sessions, and the said Justices in their said Sessions assembled may, if they see sufficient Cause, respite every such Appeal to the then next General Quarter Sessions, to be holden for the Division of *Manchester* aforesaid, in and for the said County Palatine; and the said Justices shall make such Order, touching the Matter of such Appeal, and award such Damages and Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant, 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 every such Distress and Sale, and every Order and Determination of the said Justices upon every such Appeal, 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; and in case any such Appeal shall appear to the said Justices to be frivolous and vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants

lants, as to them shall seem reasonable, and to be levied in Manner aforesaid.

General Saving.

XLV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and all other Persons, Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, Administrators, and Assigns, all such Estates, Rights, Title, and Interest (other than and except such as is and are hereby meant and intended to be barred, destroyed and extinguished), as they, every, or any of them had or enjoyed of, in, to, or out of the said Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed before the passing of this Act, or could or might have had or enjoyed, if this Act had not been made.

This Act may be given in Evidence when printed by the King's Printer.

XLVI. 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.