ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

Cap. 5.

An Act for incloſing *Siddal Moor*, ſituate within the Townſhip of *Hopwood*, in the Pariſh of *Middleton*, in the County Palatine of *Lancaſter*.

[28th *February* 1812.]

WHEREAS there is within the Townſhip of *Hopwood*, in the Pariſh of *Middleton* in the County Palatine of *Lancaſter*, a certain Common or Parcel of Waſte Land called *Siddal Moor*, containing Two hundred and fifty Acres, or thereabouts: And whereas the Right Honourable *Mary* Dowager Baroneſs *Suffield* is Lady of the Manor of *Middleton*, which includes the ſaid Townſhip of *Hopwood*, and as ſuch Lady of the Manor, is entitled to the Soil and Royalties, in and over the ſaid Common or Parcel of Waſte Land, except as to the Coal and Cannel, and other Mines and Minerals, within and under the ſame: And whereas the Right Honourable *Thomas* Earl of *Wilton* is entitled to the ſaid Coal and Cannel, and other Mines and Minerals, within and under the ſame Common or Parcel of Waſte Land, with Liberty and Power of getting and working the ſame, and other Liberties and Privileges incidental thereto, and particularly the Privilege of ſinking Pits and making Roads in, through, and over the ſaid Common or Parcel of Waſte Land, without paying for the Treſpaſs thereby committed: And whereas *Robert*

Gregge Hopwood Esquire, and certain other Persons, Owners and Proprietors of ancient Messuages, Lands, and Hereditaments within the said Townshiip of *Hopwood*, have or claim to have, for themselves and their respective Lessees and Tenants, a Right of Common of Pasture, and other Commonable Rights within and upon the said Common or Parcel of Waste Land, in Proportion to their said respective Estates within the said Township; and the said *Thomas* Earl of *Wilton*, *Mary* Dowager Baroness *Suffield*, *Michael Downes Wrigley Ferrabee*, an Infant, or his Trustees, and certain other Persons, Owners and Proprietors of certain ancient Messuages, Lands, and Hereditaments, situate in the Townships of *Middleton*, *Pilsworth*, and *Thornham*, near to the said Common or Parcel of Waste Land, also have or claim to have, for themselves and their respective Lessees and Tenants, a Right of Common of Pasture, and other Commonable Rights within and upon the said Common or Parcel of Waste Land, in Proportion to their said last-mentioned Estates respectively: 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 Common or Parcel of Waste Land yields very little Profit in its present State, but the same might be much improved, and it would be very advantageous to the Proprietors thereof, and Persons interested therein, and of publick Utility, if the same was divided, and specifick 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 here appointed the Commissioners for dividing, allotting, and inclosing the said Common or Parcel of Waste Land, and for executing all and every the Powers vested in them by this Act; subject nevertheless to the Rules, Regulations, and Provisions contained in the said recited Act, (except in such Cases where the same are hereby varied or altered).

Commissioners appointed.

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 (to be ascertained by the Land Tax Assessment) of the several Proprietors, or Persons interested in the said Common or Parcel of Waste Land, present at some publick Meeting to be holden in the Parish Church of *Middleton* 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

Power to elect a new Commissioner.

Pariſh Church, 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 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 Judgement 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, or Perſons intereſted in the ſaid Common or Parcel of Waſte Land, 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 Judgement 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 Judgements and Determinations of the ſaid Commiſſioners are in ſuch and the like Caſes by this Act or 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,

Oath.

'I *A. B.* do ſwear, That I will faithfully, impartially, and honeſtly, according to the beſt of my Skill and Judgement, execute and perform the ſeveral Powers and Authorities veſted and repoſed in me as an Umpire, by virtue of an Act paſſed in the Fifty-ſecond 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 shall be annexed to the Award.

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

Allowance to Commissioners.

V. And be it further enacted, That the said Commissioners who shall act in the Execution of this Act shall be allowed the Sum of Three Guineas each, and no more, for their Trouble and Expences for each and every Day they shall necessarily attend in the Execution of the Powers of this Act or the said recited Act, or be employed in travelling to and from the Places of Meeting for that Purpose; and out of such Allowance the said Commissioners shall pay and defray their own Charges and Expences at all such Meetings, and also their Horse-hire and travelling Expences.

Commissioners may appoint a Clerk.

VI. 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.

Commissioners may appoint Surveyors and Assistants.

VII. And be it further enacted, That the said Commissioners may, and they are hereby authorized and empowered, when and as to them shall seem meet, to appoint any competent Person or Persons not interested in the said intended Inclosure, and not being the Steward or Agent of any Person so interested, to be a Surveyor or Surveyors for the Purpose of the said intended Division and Inclosure, or to be an Assistant to them the said Commissioners, in executing the several Powers and Authorities in them vested by this and the said recited Act; and from Time to Time to displace and remove any such Person or Persons so to be appointed, and to appoint any other competent Person or Persons, not interested as aforesaid, in the Room and Stead of any such Surveyor or Surveyors, Assistant or Assistants, so to be displaced or removed; and to pay, satisfy, and discharge, to each and every such Surveyor and Assistant so to be appointed as aforesaid, from and out of the Monies to be provided for the Purposes of this Act, all such Remuneration for Labour 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 Meetings to be held in pursuance of this Act, shall be entered in a Book or Books to be provided

provided for that Purpoſe, and ſhall be ſigned by the Commiſſioners at ſuch Meetings, 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 Act or the ſaid recited Act.

Commiſſioners and Surveyors to have Power to enter upon Lands to ſurvey.

IX. And be it further enacted, That the ſaid Commiſſioners, and the Surveyor or Surveyors to be appointed by this Act, their Servants and Aſſiſtants, and all Perſons employed by them reſpectively, for the Purpoſes and in the Execution of this Act, ſhall have and they are hereby veſted with full Power and Authority to enter into, view and examine, ſurvey and admeaſure, all and every the Lands and Grounds hereby directed to be divided, allotted, and incloſed, and alſo any other Lands and Grounds having Right of Common upon the Lands and Grounds hereby directed to be divided, allotted, and incloſed, for the Purpoſes of this and the ſaid recited Act.

Notice of Meetings of Commiſſioners.

X. 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 *Middleton* 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 for the future Execution of this Act and the ſaid recited Act; and in caſe neither of the ſaid Commiſſioners ſhall be preſent at ſuch Time, and at the Place appointed for ſuch Attendance, then it ſhall be lawful for the Perſon or Perſons who ſhall act as Clerk or Clerks to the ſaid Commiſſioners to adjourn the ſame to any future Day, not exceeding Twenty-one Days from the Day of Adjournment: Provided always, that all Meetings of the ſaid Commiſſioners to be had by virtue of this Act ſhall be held at the Town of *Middleton*, or within the Diſtance of Eight Miles thereof; and in ſuch Caſes as the Objection or Approbation of the Proprietors to any Act, Matter, or Thing to be done or propoſed to be done in purſuance of the ſaid recited Act or this Act, is directed to be made or teſtified at any Meeting or Meetings, it ſhall be lawful for the ſaid Proprietors to attend at ſuch Meeting or Meetings by their reſpective Agents or Proxies, duly authorized, whoſe Acts or Votes ſhall be as effectual as if ſuch Proprietors were preſent in Perſon.

Other Notices how to be given.

XI. Provided alſo, and be it further enacted, That all other Notices neceſſary or requiſite to be given by the ſaid Commiſſioners ſhall be ſo given by Advertiſement to be inſerted in the ſaid Newſpaper called *Wheeler's Manchester Chronicle*, if then publiſhed, or if the ſame ſhall not

not be then published, then in some other Newspaper circulated in the said County of *Lancaster*.

Commissioners to settle Disputes, but not to determine as to Titles.

XII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Proprietors of or Persons interested, or claiming to be interested, in the said Common or Parcel of Waste Land so intended to be inclosed as aforesaid, or any Part thereof, concerning the respective Rights or Interests which they, or any of them, may have or claim to have in or upon, or in any Manner respecting or relating to the same, or touching or concerning any Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall be lawful for the said Commissioners to hear, adjudge, and determine the same: Provided always, that nothing herein contained shall authorize and empower the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

Power to assess Costs.

XIII. And be it further enacted, That in case the said Commissioners shall, upon the Hearing or Determination of any Claim or Claims, Objection or Objections to be delivered to them in pursuance of this Act 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 Politick, 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 Politick, Corporate or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby respectively authorized and required, by Warrant under their Hands, 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 Politick, 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 Politick, 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.

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

XIV. 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, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioners, or of any Umpire nominated by them in Manner aforesaid, touching or concerning any Claim or Claims of any Rights of Common, or other Rights or Interests, in, over, or upon the said Common or Parcel of Waste Land hereby directed to be divided, allotted, and inclosed, or any Part thereof, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matters so determined by the said Commissioners, or any Umpire nominated by them in

Manner

Manner aforesaid, in His Majesty's Court of King's Bench at *Westminster*, or in the Court of Common Pleas at *Lancaster*, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners or Umpire, shall cause an Action to be brought upon a feigned Issue against the Commissioners for the Time being, in Cases where the Matter of such Claim and Determination shall lie exclusively between the Party or Parties claiming, and the Commissioners or Umpire deciding any such Right or Interest in the said Division, Allotment, and Inclosure; and in Cases where the Matter of such Claim and Determination shall lie between Party and Party, then against the Person or Persons in whose Favour such Determination shall have been made, which Action shall be so commenced within Six Calendar Months next after such Determination of the said Commissioners or Umpire shall have been made known to such dissatisfied Person or Persons, and Two Calendar Months at least before the Assizes at which such Action is to be tried, and shall be proceeded in without Delay; and the Defendants or Defendant in such Action or Actions shall, and they, he, or she are and is hereby required to name an Attorney or Attornies who shall file Common Bail, or 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, binding, and conclusive upon all and every Person or 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 thereon, which it shall be lawful for the Court to do, as is usual in other Cases; and each and every of the Parties in such Action or Actions, for whom or in whose Favour the same shall be determined, shall be entitled to his, her, or their Costs of Suit, against the others or other of them, to be taxed by the proper Officer of the Court in which such Action or Actions shall be brought; and in case the said Commissioners shall be made Defendants in any such Action or Actions, then they shall be entitled to defray their Costs and all incidental Expences, by such Ways and Means as the general Expences of executing this Act are provided to be paid and borne; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall, and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners or Umpire, touching such Claim or Claims of any Rights of Common, or other Rights or Interests in, over, and upon the said Common or Parcel of Waste Land 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.

If any of the Parties die Proceedings not to abate.

XV. 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

such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

If Parties die before Actions commenced, the same shall not be stopped on that Account.

XVI. 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 any Person or Persons, Bodies Politick 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.

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

XVII. 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 Politick, 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 Common or Parcel of Waste Land 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 Politick, Corporate or Collegiate, who, upon the Determination of such Suit or Suits, shall become entitled to the same.

Commissioners not to determine contrary to Possession.

XVIII. Provided always, 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 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, (save and except as to Encroachments in Manner herein-after mentioned).

Commissioners may suspend or ex-

XIX. 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

before the Execution of their 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 Parcel of Waste Land, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Times 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. tinguish Rights of Common.

XX. And be it further enacted, That it shall not be lawful for any Person whomsoever, from and after the passing of this Act, until the Execution of the Award of the Commissioners, to cut, dig, pare, slay, get, gather, and carry away, any Turf, Soil, Manure, or Stone, in, upon, or from the said Common or Parcel of Waste Land, or any Part thereof, without the Leave and Licence of the said Commissioners first had and obtained in Writing under their Hands, (which Leave and Licence they the said Commissioners are hereby empowered to grant,) under such Rules, Orders, Regulations, and Restrictions, as they shall think proper; and if any Person shall, after the passing of this Act, cut, dig, pare, slay, get, gather, or carry away, any Turf, Soil, Manure, or Stone, in, upon, or from such Common or Parcel of Waste Land, or any Part thereof, without the Leave and Licence of the said Commissioners, or having obtained such Leave and Licence shall act in any Manner contrary thereto, or to the Rules, Orders, Regulations, and Restrictions therein contained, every such Person being convicted thereof, either by his or her own Confession, or upon the Oath of One credible Witness before One of His Majesty's Justices of the Peace for the said County of *Lancaster*, not being interested, (who may summon the Parties concerned, and examine Witnesses upon Oath relating to the said Complaint,) shall for every such Offence forfeit and pay such a Sum of Money as the said Justice shall appoint, not exceeding the Sum of Five Pounds; and it shall be lawful for such Justice, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause the said Penalty to be raised and levied by Distress and Sale of the Goods and Chattels of the Person so offending, rendering the Overplus (if any) upon Demand, after deducting the Costs and Charges of such Distress and Sale, to the Person or Persons so offending, and the said Penalty when paid or levied shall be applied by the said Commissioners for the Purposes of this Act. No Turf, &c. to be cut after the passing of this Act, under the Penalty of 5*l.*

XXI. And be it further enacted, That in order to shorten the Boundary Fences between the said Common or Parcel of Waste Land by this Act directed to be inclosed, divided, and allotted, and the Lands and Grounds in any adjoining Parishes or Townships, it shall be lawful for the said Commissioners, with the Consent in Writing under the Hand of the Lord or Lady of the Manor, and of the Majority in Value (to be ascertained by the Land Tax Assessment) of the Land Owners interested in any Commons or Waste Grounds adjoining to the said Township of *Hopwood*, or under the Hand of any Owner of any Land upon which such For shortening Boundary Fences.

ſuch Fence ſhall be intended to be made, to ſet out, aſcertain, and determine the Boundary Fences to be made between the Common or Parcel of Waſte Land hereby directed to be divided and allotted, and the Lands lying in ſuch adjoining Pariſh or Townſhip, Pariſhes or Townſhips reſpectively, as they ſhall judge proper for the Purpoſes aforeſaid; and after ſuch Boundary Fences ſhall be ſo ſet out, aſcertained, and determined, the ſame ſhall be fenced by ſuch Perſons, in ſuch Manner and at ſuch Times, as the ſaid Commiſſioners ſhall direct, and ſhall for ever thereafter be deemed and be taken to be the Boundary between the ſaid Townſhip of *Hopwood*, and ſuch adjoining Pariſh or Townſhip, Pariſhes or Townſhips reſpectively, any Law, Uſage, or Cuſtom to the contrary thereof notwithſtanding.

As to Encroachments.

XXII. 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 Common or Parcel of Waſte Land 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 Common or Parcel of Waſte Land 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 Common or Parcel of Waſte Land; and that all ſuch Incloſures and Encroachments as ſhall have been taken in or made from the ſaid Common or Parcel of Waſte Land 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 Common or Parcel of Waſte Land 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 and 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 Incloſure 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.

Survey to be made of the Common.

XXIII. 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 ſaid Commiſſioners ſhall make or cauſe to be made a Survey, Admeaſurement, and Plan of the ſaid Common or Parcel of Waſte Land, and ſuch Survey, Admeaſurement, and Plan ſhall be reduced into Writing, and the Number of Acres, Roods, and Perches in Statute Meaſure, contained in the ſame Common or Parcel of Waſte

Land, ſhall be ſet forth and aſcertained and delivered to the ſaid Commiſſioners, and ſhall be verified upon 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).

Commiſſioners to ſpecify the Value of the ancient Incloſures, and of Lands to be divided.

XXIV. 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, full, or comparative annual, or other Value, of the ſeveral Meſſuages, Lands, and Hereditaments, to which any Right of Common, in or upon the ſaid Common or Parcel of Waſte Land ſo intended to be incloſed as aforeſaid, ſhall belong; and alſo the Value of the Right of Common to which each Perſon is legally or fairly entitled, and of all ſuch other Rights in, upon, or to the ſaid Common or Parcel of Waſte Land as ſhall have been admitted or proved, according to the Intent and true Meaning of this or the ſaid recited Act; 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 different Parts of the ſaid Common or Parcel of Waſte Land, according to the Quality and Situation of ſuch Parts reſpectively.

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

XXV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to ſet out, aſſign, and allot ſo much and ſuch convenient Part and Parts of the ſaid Common or Parcel of Waſte Land, as in their Judgement 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 for carrying this and the ſaid recited Act into complete Execution; and ſuch Allotment or Allotments ſhall be ſold and diſpoſed of by publick Auction, or otherwiſe, in the Manner directed by the ſaid recited Act, and the Purchaſe Money ſhall be applied for the Purpoſes aforeſaid; and if there ſhall remain any Surplus of the Money to be produced by Sale of the Land hereby directed to be ſold as aforeſaid, (after Payment and Satisfaction of the ſaid Coſts, Charges, and Expences,) then ſuch Surplus Money ſhall be paid by the ſaid Commiſſioners unto ſuch of the Owners and Proprietors of the Lands hereby directed to be divided and allotted as ſhall be ſeiſed in Fee Simple of their ſeveral Allotments, and in ſuch Shares and Proportions as the ſaid Commiſſioners ſhall appoint; or otherwiſe ſuch Surplus Money ſhall be paid into the Bank of *England*, according to the Directions of the ſaid recited Act with reſpect to Money which is thereby directed to be paid into the Bank of *England*, for the Purchaſe or Exchange of Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes, or of any Timber or Wood growing thereon, and which ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, as therein mentioned.

XXVI. Provided

Deficiency (if any) to be made good by the Proprietors.

XXVI. Provided always, and be it further enacted, That in caſe the Money to be raiſed by ſuch Sale or Sales as aforeſaid ſhall not be ſufficient to pay and defray the Coſts, Charges, and Expences incurred preparatory to and in the obtaining and executing this Act, the Deficiency ſhall be made up by the ſeveral Perſons intereſted in the ſaid Common or Parcel of Waſte Land, and ſhall be paid in ſuch Shares and Proportions, and within ſuch Time, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct, nominate, and appoint; or in caſe any Expences ſhall be incurred in the Execution of any of the Powers and Proviſions of this Act, which in the Judgement of the ſaid Commiſſioners ought to be borne and defrayed by any particular Perſon or Perſons, and not out of any Money to be raiſed for the ſeveral Purpoſes of this Act, then the ſame ſhall be paid in ſuch Shares and Proportions, and by ſuch Perſon and Perſons, and within ſuch Time, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct, nominate, or appoint; and in caſe any Perſon herein-before made ſubject to the Payment of any Money towards ſuch Coſts, Charges, and Expences as aforeſaid, ſhall neglect or refuſe to pay his or her Share or Proportion thereof, within the Time to be appointed as aforeſaid, or at any Time after upon Demand, the ſame ſhall and may be levied and recovered in the Manner directed by the ſaid recited Act.

Purchaſers of Land, ſold for defraying Expences, to be ſubject to the Orders of the Commiſſioners.

XXVII. And be it further enacted, That the Perſon or Perſons who ſhall become the Purchaſer or Purchaſers of the ſaid Lands ſo to be allotted and ſold for the Purpoſes aforeſaid, and their reſpective Heirs and Aſſigns, ſhall be ſubject and liable to the making and keeping in Repair all or ſuch Part of the Fences thereof as ſhall be directed by the ſaid Commiſſioners, and alſo to the due Obſervance and Performance of all Orders, Matters, Charges, and Directions, to be made, laid down, and appointed by the ſaid Commiſſioners in and by their Award, in like Manner as if ſuch Lands had been allotted to ſuch Purchaſer or Purchaſers, his, or their Heirs or Aſſigns, for or in reſpect of any Right in, over, or upon the ſaid Common or Parcel of Waſte Land, except only that ſuch Purchaſer or Purchaſers, his, or their Heirs or Aſſigns, ſhall not be ſubject or liable to the Payment of the Charges and Expences of obtaining this Act, or carrying the ſame into Execution.

Allotments for Wells, Watering Places, and Marl Pits.

XXVIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and empowered, (after they ſhall have ſet out and appointed the neceſſary publick Carriage Roads and Highways through and over the ſaid Common or Parcel of Waſte Land hereby directed to be divided and allotted,) to aſſign, ſet out, and allot, ſubject to ſuch Rules, Orders, and Regulations, as the ſaid Commiſſioners ſhall by their Award direct and appoint, ſuch and ſo many Plots and Parcels of the ſaid Common, or Parcel of Waſte Land, as they ſhall think proper and neceſſary to be uſed for the Purpoſe of publick Wells for the Accommodation of the neighbouring Inhabitants, and publick Watering Places for Cattle, and of publick Marl Pits for digging and getting Marl for the Uſe and Improvement of the ſaid Common or Parcel of Waſte Land when incloſed; and that the Herbage growing and renewing in and upon the Lands ſo to be ſet out as aforeſaid, and the Soil and Inheritance thereof

thereof, ſubject to the Uſes aforeſaid, ſhall be veſted in ſuch Perſon or Perſons, and in ſuch Manner, as the ſaid Commiſſioners ſhall by their Award direct and appoint.

Allotment to the Lady of the Manor.

XXIX. And be it further enacted, That the ſaid Commiſſioners, after the neceſſary Roads, and ſuch Allotments for Sale, and other general Purpoſes as herein-before mentioned, ſhall have been ſet out and allotted, ſhall and they are hereby authorized and required to ſet out, allot, and award unto and for the ſaid *Mary* Dowager Baroneſs *Suffield*, Lady of the Manor of *Middleton* aforeſaid, and to her Heirs and Aſſigns, or the Perſon or Perſons for the Time being entitled to the ſame Manor, One Twelfth Part in Value of the ſaid Common or Parcel of Waſte Land hereby directed to be divided and allotted, (ſubject nevertheleſs to a Deduction thereout of One Moiety, or equal Half Part of the Compenſation to be made to the ſaid *Thomas* Earl of *Wilton*, as herein-after mentioned,) in lieu of and full Satisfaction for her or their Right to the Soil of the ſame Common or Parcel of Waſte Land.

Allotment to the Earl of Wilton, as a Compenſation for his Lordſhip's agreeing to pay for the Treſpaſs committed in working the Mines.

XXX. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required, to ſet out, allot, and award unto and for the ſaid *Thomas* Earl of *Wilton*, his Heirs and Aſſigns, or the Perſon or Perſons for the Time being entitled to the Coal and Cannel, and other Mines and Minerals within and under the ſaid Common or Parcel of Waſte Land, Ten Acres Statute Meaſure, Part of the ſaid Common or Parcel of Waſte Land of the medium or average Value thereof, or ſo much of the ſaid Common or Parcel of Waſte Land as ſhall be equal in Value to ſuch Ten Acres, as a Compenſation for the ſaid *Thomas* Earl of *Wilton*, having agreed that he, his Heirs and Aſſigns, ſhall pay for the Damage or Treſpaſs by him or them to be done or committed in ſinking Pits, and making Roads, or otherwiſe, in and about the working and getting of the ſame Coal and Cannel, and other Mines and Minerals, as herein-after more particularly mentioned and provided in this Behalf, and which ſame Ten Acres ſhall be ſet out and allotted in Manner following; that is to ſay, One Moiety or equal Half Part thereof out of the ſaid Twelfth Part herein-before directed to be allotted in lieu of the Right of Soil, and the other Moiety or equal Half Part thereof, out of the Share or Allotment of the ſaid *Robert Gregge Hopwood* in the Reſidue of the ſaid Common or Parcel of Waſte Land.

Allotment of Reſidue.

XXXI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required, in the next Place, to ſet out, ſtake out, allot, and award, the Reſidue of the ſaid Common or Parcel of Waſte Land, 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, ſubject nevertheleſs as to the Share or Allotment of the ſaid *Robert Gregge Hopwood* to the aforeſaid Deduction of One Moiety or equal Half Part of the Compenſation to the ſaid *Thomas* Earl of *Wilton*.

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

XXXII. 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 as aforeſaid, the ſeveral Allotments to which they may be reſpectively entitled under this Act, in ſuch Part or Parts of the ſaid Common or Parcel of Waſte Land hereby directed to be divided and allotted, as the ſaid Commiſſioners ſhall in their Judgement 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 Common or Parcel of Waſte Land, ſo that the ſaid ſeveral Allotments may, in the Judgement of the ſaid Commiſſioners, contain the moſt valuable Parts of the ſaid Coal and Cannel, and other Mines and Minerals, and 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.

Commiſſioners to deliver Poſſeſſion of the Allotments.

XXXIII. 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 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.

Proprietors of Allotments to fence and incloſe the ſame.

XXXIV. And be it further enacted, That the ſeveral and reſpective Perſons, to whom any Allotments ſhall be made by virtue of this Act, 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.

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

XXXV. 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 Common or Parcel of Waſte Land, 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

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 could or ought to have held and enjoyed the ſame in caſe ſuch Sale and Contract had not been made.

Exchanges may be made by Commiſſioners, with Conſent of the Proprietors.

XXXVI. 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 Townſhips of *Hopwood*, *Middleton*, *Pilſworth*, and *Thornham* reſpectively, in lieu of and in Exchange for any other Lands, Tenements, and Hereditaments whatſoever, within the ſame Townſhips, or any of them, or in 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 Politick, 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, Lunaticks, 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 or Bodies Politick, Corporate or Collegiate, and under the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange and 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 Politick, Corporate or Collegiate, in ſuch Manner, and in ſuch Shares and Proportions, as the ſaid Commiſſioners ſhall order and direct.

Allotments to be of the ſame Tenure as the an-

XXXVII. 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

cient inclosed Lands.

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.

Leases at Rack Rent to be void.

XXXVIII. 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 said Common or Parcel of Waste Land by virtue of this Act, to be divided and allotted 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 Premises comprized in such 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 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 Common or Parcel of Waste Land, or relating thereto: Provided also, that if there be any such Lease or Leases of Land as aforesaid, Part of which shall lie in the said Townships of *Hopwood*, *Middleton*, *Pilsworth*, and *Thornham*, some or one of them, and Part in any adjoining Parish, Township, or Place, all and every such Lease and 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.

XXXIX. 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 Common or Parcel of Waste Land so to be divided and allotted, whilst the same remains unenclosed, or at the Will and 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 Common or Parcel of Waste Land 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 Common or Parcel of Waste Land 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 or Share, Parts and Shares, in Proportion to their Leasehold Interest therein respectively, 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

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 Common or Parcel of Waſte Land, 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 Common or Parcel of Waſte Land 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 Intereſt 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.

At the Expiration of ſuch Leaſes, Allotments to go to the Owners of the Inheritance.

XL. And be it further enacted, That the Share and Shares of the ſaid Common or Parcel of Waſte Land, 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.

Wills and Settlements not to be affected.

XLI. 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 thenceforth 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 ſeiſed or poſſeſſed at or immediately before the Execution of the Award of the ſaid Commiſſioners,

sioners, as 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.

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

XLII. And be it further enacted, That no 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 Quickſets or new planted Fences, or shall willingly 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.

Persons advancing Money to be repaid with lawful Interest.

XLIII. 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 Directions 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.

XLIV. 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.

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

XLV. 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 and Account when so made, together with the Vouchers relating thereto, shall be by them laid before *John Johnson* of *Stand*, within *Pilkington* in the said County, Gentleman, or in case of his dying or declining to act, or becoming incapable of acting in this Behalf, then before some Two of His Majesty's Justices of the Peace for the said County Palatine of *Lancaster*, to be by him or them respectively examined and balanced, and such Balance shall be by the said *John Johnson*, or such Two 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 the said *John Johnson*, or by such Two Justices.

Award to be deposited in

XLVI. 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 the Parish Church of *Middleton* aforesaid. the Church Chest.

XLVII. And be it further enacted, That the said Commissioners shall, at the Request, Costs, and Charges of any Person or Persons, Bodies Politick, Corporate or Collegiate, having any Allotment or Allotments of the said Common or Parcel of Waste Land 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 Politick, 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. Duplicates of Award to be made if required.

XLVIII. And be it further enacted, That if any Person or Persons, Body or Bodies Politick, 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 *Middleton*, in and for the said County Palatine of *Lancaster*, within Four 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 *Middleton* 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 Allowing an Appeal to the Quarter Sessions.

then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants as to them ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

Mines and Minerals reſerved to the Earl of Wilton, with Power to work the ſame.

XLIX. 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 Mines, Beds, Veins, and Seams of Coal, Cannel, or other Mines and Minerals in or under the ſaid Common or Parcel of Waſte Land hereby directed to be divided and allotted, or any Part thereof reſpectively, (except only ſo far as relates to paying or making Compenſation for Damage or Treſpaſs as herein-after provided,) 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 from Time to Time, and at all Times for ever hereafter, by himſelf or themſelves reſpectively, or by his or their Agents, Leſſees or Tenants for the Time being, 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 Common or Parcel of Waſte Land hereby directed to be divided and allotted, and every or any Part thereof, together with all convenient 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, or Paſſages, or Waggon Ways and other Ways, in, over, and along the ſame Common or Parcel of Waſte Land, or any Part thereof, and that as well for the carting as otherwiſe carrying away the ſaid Coal and Cannel, and other Minerals, raiſed from and upon the ſaid Common or Parcel of Waſte Land, as alſo the Coal, Cannel, and other Minerals, raiſed from or banked, and laid up upon any Part of the incloſed Lands of him the ſaid *Thomas* Earl of *Wilton*, his Heirs or Aſſigns, or the Perſon or Perſons aforeſaid, ſituate near or adjoining to the ſame Common or Parcel of Waſte Land, 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, Pit Rooms, 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 to 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

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; and alſo to drain, dig, draw, and work any Coal, Cannel, or other Minerals, within and from any adjacent Mine or Mines, belonging to or in the Holding of the ſaid *Thomas* Earl of *Wilton*, his Heirs or Aſſigns, or the Perſon or Perſons aforeſaid, or his or their Leſſees or Tenants for the Time being, through and under the ſaid Mines and Works hereby reſerved, and to raiſe the ſame at the Pit or Pits, and to lay the ſame upon the Banks, and cart or otherwiſe carry the ſame through and over the Roads or Ways, to be ſunk or made reſpectively, in, upon, and over the ſaid Common or Parcel of Waſte Land hereby directed to be divided and allotted, and to have, uſe, and enjoy, for and in reſpect of the Coal, Cannel, and other Minerals of ſuch adjacent Mines, all ſuch Powers, Liberties, Privileges, and Authorities, as are herein-before given, reſerved, or provided for or in reſpect of the Coal and Cannel, or other Mines and Minerals, within and under the ſame Common or Parcel of Waſte Land hereby directed to be divided and allotted, 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, or to any Occupation or other private Roads or Ways to be made in, through, or over the ſame, by the working of the ſaid Mines, and getting, embanking, and carrying away the ſaid Coal and Cannel, or other 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 and Enjoyment of the ſame Mines, or from his principal Agent or Manager there: Provided always, that nothing herein contained ſhall extend to 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 Common or Parcel of Waſte Land.

General Saving.

L. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to the ſaid *Mary* Dowager Baroneſs *Suffield*, Lady of the Manor of *Middleton* aforeſaid, and to all other Perſons, Bodies Politick, 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 Common or Parcel of Waſte Land hereby directed to be divided and allotted, 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.

LI. 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.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1812.