ANNO QUINQUAGESIMO TERTIO

# GEORGII III. REGIS.

## *Cap.* 101.

### An Act for incloſing Lands in the Manor of *Thurgoland*, in the County of *York*. [21ſt *May* 1813.]

WHEREAS there are within the Manor of *Thurgoland*, in the Pariſh of *Silkſtone*, in the Weſt Riding of the County of *York*, ſeveral Commons, Waſte Lands, and Moors, uſually called or known by the Names of *Huthwaite*, *Little Huthwaite*, *Thurgoland Bank*, *Copſter*, *Coates*, *Coates Green*, *Hadley Houſe Green*, *Berry Moor*, *Holling Dyke*, *Holling Moor*, and *Crane Moor*, and others not diſtinguiſhed by particular Names, containing in the Whole Four hundred Acres, or thereabouts: And whereas the Honourable and Reverend *John Lumley Savile* is Lord of the ſaid Manor of *Thurgoland*, and as ſuch is alſo Owner of the Soil of all the ſaid Commons, Waſte Lands, and Moors, and the Coal Mines, Veins, and Seams of Coal, and all other Mines and Minerals therein; and *Walter Spencer Stanhope* Eſquire is, or claims to be, Lord of the ſubordinate Manor of *Eaſtfield*: And whereas the ſaid *Walter Spencer Stanhope* Eſquire, and *Francis Fawkes* Eſquire, *James Cockſhutt* Eſquire, *William Elmhurſt* Eſquire, and ſeveral other Perſons, are Owners and Proprietors of Meſſuages, Cottages, Lands, and other Hereditaments, ſituate and lying within the ſaid Manor of *Thurgoland*, and in reſpect thereof are entitled to Right of Common in, over, and upon the ſaid Commons, Waſtes, and Moors; and it would be of Advantage to them if the ſame were incloſed, and divided among them in Proportion to their reſpective Rights; but ſuch Diviſion cannot be effectually eſtabliſhed without the Authority of Parliament: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act*

The Hon. and Rev. John Lumley Savile Lord of the Manor.

Proprietors.

*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:* 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

Commiſſioner appointed.

the Authority of the ſame, That *Thomas Gee* of *Little Houghton*, in the County of *York*, Gentleman, ſhall be and he is hereby appointed Commiſſioner for dividing and allotting the ſaid Commons, Waſte Lands, and Moors, and for carrying this Act and the ſaid recited Act into Execution, under and ſubject to ſuch of the Regulations, Directions, and Reſtrictions contained in the ſaid recited Act, as are not altered, varied, or controlled by or repugnant to the Proviſions of this Act.

In caſe of Commiſſioner's Death, &c.

**II.** And be it further enacted, That if the ſaid *Thomas Gee* ſhall die, or neglect to act for the Space of Three Calendar Months, when Occaſion ſhall require his Attendance on the Buſineſs of the ſaid Incloſure, or ſhall become incapable of acting before all the Powers and Authorities hereby veſted in him ſhall be carried into Execution, then and in ſuch Caſe it ſhall be lawful for the Majority in Value of the Proprietors of the ſaid unincloſed Lands, (to be aſcertained by the Land Tax Aſſeſſment), or their reſpective Agents preſent at a Meeting to be holden for that Purpoſe, (of which Meeting Ten Days previous Notice ſhall be given by any Five or more of the ſaid Proprietors in like Manner as is herein-after directed with reſpect to the Firſt Sitting of the Commiſſioner), by Writing under their Hands, to appoint One fit Perſon to be a Commiſſioner in the room of the ſaid *Thomas Gee*; provided that before ſuch Perſon ſo to be appointed a new Commiſſioner as aforeſaid ſhall act in the Execution of this Act, the ſaid *John Lumley Savile*, his Heirs or Aſſigns, ſhall, by Writing under his or their Hand or Hands, ſignify his or their Approbation of ſuch Appointment; and ſuch Perſon ſo appointed, after taking the Oath preſcribed by the ſaid recited Act, ſhall be a Commiſſioner for the Purpoſes of this Act, and ſhall be inveſted with ſuch and the like Powers and Authorities as if he had been originally named a Commiſſioner in and by this Act; and ſo *toties quoties* all future Vacancies ſhall be ſupplied in like Manner, and under the like Proviſions.

Notice to be given of Commiſſioner's Firſt Meeting.

**III.** And be it further enacted, That the Commiſſioner ſhall cauſe a Notice, ſpecifying the Time and Place of his Firſt Meeting for executing this Act to be affixed on the principal outer Door of the Pariſh Church at *Silkſtone* aforeſaid, on ſome *Sunday* before Divine Service Ten Days at leaſt before ſuch Meeting; and it ſhall be lawful for the Commiſſioner to adjourn his Meetings (without giving any Public Notice) as he ſhall ſee Occaſion; and that all Meetings to be held in purſuance of this Act ſhall be held within Eight Miles of the Pariſh of *Silkſtone*.

Proprietors to pay their own Expences.

**IV.** 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 Commiſſioner or Surveyor on any Buſineſs relating to the Execution of this or the ſaid recited Act.

How other Notices are to be given.

**V.** And be it further enacted, That the Notices by the ſaid recited Act required to be given in ſome Public Newſpaper ſhall be given in the *Sheffield*

*field Mercury* and *Leeds Mercury*; and if thoſe Papers ſhall not then be publiſhed, then in ſome other Newſpaper then publiſhed in *Sheffield*, or at *Leeds* or *Wakefield*, in the ſaid County of *York*.

Commiſſioner empowered to determine Differences.

VI. 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 Lands or Grounds hereby directed to be divided and allotted, touching or concerning the reſpective Shares and Proportions which they or any of them ſhall have or claim to have therein, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion, Allotment, or Incloſure, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required, upon proper and ſufficient Enquiry and Evidence, to examine into, hear, and determine the ſame.

Commiſſioner not to determine Titles, nor moleſt Poſſeſſion.

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

Power to award Coſts.

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

Perſons diſſatisfied with the Commiſſioner's Determination, may try their Rights at Law.

IX. Provided always, and be it further enacted, That if any Perſon or Perſons, Body or Bodies Politic or Corporate, making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Right or Intereſt therein, or objecting to any ſuch Claim or Claims, ſhall be diſſatisfied with the Determination of the ſaid Commiſſioner, and ſhall be deſirous of having ſuch Claim or Claims, Rights and

Intereſts, tried at Law, and the Perſon or Perſons, Body or Bodies Politic or Corporate, ſo deſirous to have the ſame tried at Law, ſhall and do by themſelves or their reſpective Stewards, Receivers, Attornies, or Agents, give or cauſe to be given Notice in Writing to the ſaid Commiſſioner within Two Calendar Months next after ſuch Determination ſhall have been ſo made by the ſaid Commiſſioner, (of which Notice the ſaid Commiſſioner is hereby required immediately on the Receipt thereof, or as ſoon afterwards as conveniently may be done, to give Information to the adverſe Party or Parties, or his, her, or their reſpective Stewards, Receivers, Attornies, or Agents, by Writing under their reſpective Hands, to be delivered to or left at the uſual Place of Abode of ſuch Party or Parties, Stewards or Receivers, Attornies or Agents, as aforeſaid), then it ſhall and may be lawful for the Perſon or Perſons, Body or Bodies Politic or Corporate, giving ſuch Notice as aforeſaid, their reſpective Heirs, Succeſſors, or Aſſigns, and he, ſhe, or they is and are hereby required to proceed to a Trial or Trials at Law of the ſame at the Firſt Aſſizes to be holden for the County of *York* next after the Expiration of Two Calendar Months from the Time when ſuch Notice as aforeſaid ſhall have been given, in a feigned Action or Actions for that Purpoſe, to be commenced in His Majeſty's Court of King's Bench or Common Pleas at *Weſtminſter*, by the Perſon or Perſons, Body or Bodies Politic or Corporate, giving ſuch Notice as aforeſaid, againſt any Perſon or Perſons, Body or Bodies Politic or Corporate, intereſted in the ſaid Diviſion, in whoſe Favour ſuch Determination of the Commiſſioner ſhall have been made, and the Defendant or Defendants in ſuch Action or Actions ſhall forthwith name an Attorney or Attornies, who ſhall file common Bail, or appear and accept One or more Iſſue or Iſſues, whereby the Claim or Claims, Rights and Intereſts in queſtion, may be properly tried and determined, (ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court wherein ſuch Action ſhall be brought, if the Parties ſhall differ about the ſame); and if at the Trial of any ſuch Iſſue or Iſſues it ſhall appear that the Party claiming is entitled to any qualified or leſs Right or Rights, or Intereſts, than was or were claimed by ſuch Party, then it ſhall and may be lawful for the Jury by whom ſuch Iſſue or Iſſues ſhall be tried to find and declare the ſame by their Verdict, which ſhall be indorſed on the Póſtea, in Addition to the Verdict given on the Iſſue or Iſſues joined; but nevertheleſs the Coſts of ſuch Action or Actions ſhall abide and be determined by the Verdict given upon the Iſſue or Iſſues joined, as if no ſuch Special Finding had been made; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions upon the Iſſue or Iſſues therein joined, in caſe there ſhall be no ſuch Special Finding and Indorſement, or ſuch Special Finding or Indorſement, if any ſuch ſhall be made, ſhall be binding upon all and every Body or Bodies Politic and Corporate, and Perſon and Perſons whomſoever, unleſs the Court wherein ſuch Action or Actions ſhall be brought ſhall ſet aſide ſuch Verdict or Verdicts, or Finding and Indorſement, and order a new Trial or Trials to be had thereupon, (which it ſhall be lawful for the Court to do as is uſual in other Caſes); and after ſuch Verdict or Verdicts, or Special Finding or Indorſement, ſhall be obtained, (the ſame not being ſet aſide by the Court), the ſaid Commiſſioner ſhall and he is hereby required to act in Conformity thereto, and to allow or diſallow the Claim or Claims, Right or Rights, or Intereſt or Intereſts thereby determined, according to ſuch Verdict or Verdicts, or Finding and Indorſement as aforeſaid: Provided always, that it ſhall be lawful for the Court in which any Action commenced

commenced in purſuance of this Act ſhall be depending, upon ſufficient Cauſe ſhewn, to put off the Trial of ſuch Action, although the Time herein-before limited for the Trial of ſuch Action may be thereby exceeded; but if no ſuch Action or Actions ſhall be brought or commenced by the Perſon or Perſons, Body or Bodies Politic or Corporate, giving ſuch Notice within the Time aforeſaid, or if ſuch Action or Actions ſhall not be proceeded in to a Trial or Trials at the Firſt Aſſizes which ſhall be holden for the ſaid County of *York*, after the Expiration of Two Calendar Months from the Day of giving ſuch Notice, by or on account of the Neglect or Default of the Plaintiff or Plaintiffs therein, then and in ſuch Caſe the Determination of the ſaid Commiſſioner ſhall be final, binding, and concluſive, unto and upon all Parties whomſoever.

Actions not to abate by the Death of a Party.

X. Provided always, and be it further enacted, That if any of the Parties in any Action or Actions to be brought and proſecuted in purſuance of this Act ſhall die pending the ſame, ſuch Action or Actions ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened; and 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, Body or Bodies Politic or Corporate, who might have brought ſuch Action 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 Commiſſioner with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perons 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.

Surveyor appointed.

XI. And be it further enacted, That *William Bingley* of *Woodhead* in *Wombwell*, in the ſaid County of *York*, Land Surveyor, ſhall be and he is hereby appointed Surveyor of the ſaid Commons, Waſte Lands, and Moors, and alſo of ſuch of the ancient incloſed Lands within the ſaid Manor, as the ſaid Commiſſioner ſhall think neceſſary to be ſurveyed for the Purpoſes of this Act; and in caſe he ſhall die before he ſhall have completed all the Buſineſs required of him, or in caſe he ſhall refuſe or neglect to do the Buſineſs of a Surveyor, pending the Execution of this Act, the ſaid Commiſſioner ſhall have Power to appoint ſome other fit and competent Perſon or Perſons, not intereſted in the ſaid Lands and Grounds, to be the Surveyor or Surveyors for the Purpoſes of this Act: Provided always, that the ſaid *William Bingley*, or ſuch other Perſon ſo to be appointed Surveyor as aforeſaid, before he ſhall proceed to act as ſuch Surveyor, ſhall take and ſubſcribe the Oath following; (that is to ſay),

'I ..... do ſwear, That I will faithfully, impartially, and 'honeſtly, do, execute and perform the ſeveral Duties incumbent on 'me

'me as Surveyor, under and by virtue of an Act, paſſed in the Fifty-third 'Year of the Reign of King *George* the Third, intituled *An Act for incloſing 'Lands in the Manor of* Thurgoland, *in the County of* York, according to 'the beſt of my Skill and Judgment, and according to Equity and good 'Conſcience, and without Partiality, Favour or Affection, Prejudice or 'Malice, to any Perſon or Perſons whomſoever. So help me GOD.'

Which Oath it ſhall be lawful for the ſaid Commiſſioner to adminiſter, and he is hereby required to adminiſter the ſame at his Firſt Meeting; and the ſaid Oath ſo taken and ſubſcribed by ſuch Surveyor ſhall be annexed to and enrolled with the Award of the ſaid Commiſſioner, and a Copy of the Enrolment thereof ſhall be admitted as legal Evidence.

Encroachments within 20 Years to be aſcertained.

XII. And be it further enacted, That the ſaid Commiſſioner ſhall, as ſoon as conveniently may be, examine into, ſettle, determine, and aſcertain, upon the Oath of any credible Witneſſes, or ſuch other Information as he ſhall think neceſſary, (which Oath he is hereby empowered to adminiſter,) what Encroachments have at any Time, within Twenty Years next before the paſſing of this Act, been made upon the ſaid Commons, Waſte Grounds, and Moors, or any of them.

Encroachments to be valued.

XIII. And be it further enacted, That where any Encroachments ſhall have been made upon the ſaid Commons, Waſtes, and Moors, within Twenty Years laſt before the paſſing of this Act, in Addition to any Encroachments therefrom of older ſtanding belonging to the Lord of the ſaid Manor, or any of the Freeholders of the ſaid Manor, ſuch additional Encroachments ſhall be valued in like Manner as the ſaid other Encroachments which have been made within Twenty Years before the paſſing of this Act; and where the ſaid Commiſſioner ſhall judge it expedient the ſame ſhall be allotted and awarded to the ſaid Lord of the Manor, or any ſuch Freeholder or Freeholders, either in Part of the Allotments to be made to him or them as before mentioned, or on Payment by him to the ſaid Commiſſioner of a Satisfaction in Money, to be ſettled and fixed by the ſaid Commiſſioner at his or their Election, the ſaid Lord of the Manor, and ſuch Freeholder or Freeholders, making ſuch Election, and cauſing the ſame to be ſignified under his or their Hand, or the Hand of the Steward of the ſaid Manor, to the ſaid Commiſſioner, within Six Calendar Months after the ſaid Commiſſioner ſhall have given to the ſaid Lord of the Manor, or the Steward thereof, or to the Freeholder or Freeholders poſſeſſed of any ſuch Encroachments, Notice of his or their having aſcertained what ſuch Encroachments are, and the Amount of his Valuation thereof; and in caſe the ſaid Lord of the Manor, or ſuch Freeholder or Freeholders, ſhall elect to take the ſame on a Money-payment, and ſhall pay the Amount of ſuch Valuation within Two Calendar Months then next following, which he or they are hereby required to do in caſe he or they accept the ſame on ſuch Money-payment, the ſaid Money to be paid by the ſaid Lord of the Manor, or ſuch Freeholder or Freeholders, and ſhall be applied for the Purpoſes of this Act.

Roads.

XIV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to ſtop up, diſcontinue, divert, or alter, any public Carriage Road, Bridle Way, or Footpath, leading through or over the Lands

and

and Grounds intended to be divided or allotted by virtue of this Act, or passing or leading through any of the inclosed Lands within the said Manor and Township of *Thurgoland*, and the Soil of the Roads and Ways, so to be stopped up or discontinued, shall be deemed and taken as Part of the Lands and Grounds to be divided and allotted by virtue of this Act; provided that no such Carriage Road, Bridle Way, or Footpath, passing or leading through any of the inclosed Lands in the said Manor, shall be stopped or discontinued, diverted or altered, without the Concurrence and Order of Two Justices of the Peace for the said West Riding, not interested in the Repair of such Roads, and which Order shall be subject to an Appeal to the Quarter Sessions for the said Riding, in like Manner as if the same had been originally made by such Justices; and the said Commissioner shall and may, and he is hereby authorized and empowered to widen the Public Roads, not exceeding the statuteable Width or Breadth, where he shall think requisite and necessary, within the said Manor of *Thurgoland*, in the Parish of *Silkstone* aforesaid, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands or Grounds adjoining to such Roads, not being a Yard, Garden, Orchard, Paddock, Plantation, or Avenue to any House; and the said Commissioner shall and may, and he is hereby authorized and empowered to make a full Compensation for the Value of the Land or Ground so to be taken for the widening of such public Road, by allotting and awarding unto the Person or Persons from whom any such ancient inclosed Land or Ground shall be so taken an adequate Part or Parts of the said Commons and Waste Grounds within the same Manor wherein such widened Road shall be situate; and that the said Commissioner shall and may, and he is hereby authorized and empowerred to make good and substantial Fences on each Side of all such widened Roads, for and in lieu of the Fences which shall be injured or destroyed by means of such widening; and that the Charges and Expences attending the widening of such Roads, and the making such Fences as aforesaid, shall be raised and paid in such and the like Manner as the Expences of and attending this Act are hereby directed to be raised within the said Manor wherein any such Road shall be so widened.

**Allotments for Stone Quarries.**

XV. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out and appoint, in such a Situation or Situations as he shall judge most convenient and think fit, One or more Piece or Pieces or Parcels of Ground, not exceeding in the whole Five Acres, as and for public Stone Quarries, or a public Stone Quarry, for the Purpose of digging and getting Stone, Slate, Gravel, and other Materials for the making or forming and repairing the Highways and Roads, public and private, to be set out and appointed and continued upon, through, or over the said Commons, Wastes, and Moors hereby directed to be divided, inclosed, assigned, and allotted, and for the Purpose of repairing all other public and private Highways or Roads within the said Manor and Township of *Thurgoland*, and also for the Use and Benefit of all and every the Owners and Proprietors for the Time being, and his and their Tenants and Occupiers of Estates situate within the said Manor or Township, for the Purpose of building and repairing any Messuages or Tenements, Outhouses or other Buildings and Erections, Walls or Fences, or otherwise improving their said Estates within the said Manor and Township of *Thurgoland*, but not to be given away, sold, exchanged,

or elſewhere or otherwiſe uſed, applied, or diſpoſed of; and that the Graſs and Herbage, and Right of improving the Soil and Surface of the Lands and Grounds to be ſet out for public Stone Quarries aforeſaid (but without Prejudice to the Rights and Privileges of getting Stone, Slate, Gravel, and other Materials hereby given and allowed therein reſpectively) ſhall, from and after the Execution of the Award of the ſaid Commiſſioner, be veſted in the Surveyor or Surveyors of the Highways for the Time being within the ſaid Townſhip of *Thurgoland*, in Truſt, to let the ſame for the moſt Money that can be made thereof, and to apply the Rents and Profits ariſing from the ſame towards the Repairs of the public Roads or Highways within the ſaid Townſhip; and the ſaid Surveyor or Surveyors ſhall account for ſuch Rents and Profits in the ſame Manner as he or they are accountable for any other Money that ſhall come to his or their Hands as Surveyor or Surveyors of the Highways, and ſhall be under and ſubject to the like Penalties for the Neglect thereof.

Allotment to the Lord of the Manor.

**XVI.** And be it further enacted, That after the ſaid Commiſſioner ſhall have ſet out the Allotments herein-before directed and adjuſted, and ſettled all Claims and Diſputes, and made ſuch Valuation as aforeſaid, and ſet out ſuch Piece or Pieces of Ground for getting Stone, Gravel, and Sand as aforeſaid, and public and private Roads, Ways, Watercourſes, and Drains, and other Requiſites, according to the Directions aforeſaid, he the ſaid Commiſſioner ſhall and he is hereby authorized and required to ſet out, allot, and award, previous to any other Allotment, in One or more Plot or Plots, unto and for the ſaid *John Lumley Savile* as Lord of the Manor of *Thurgoland* aforeſaid, and as a Compenſation for his Right and Intereſt in and to the Soil of the ſaid Commons, Waſtes, and Moors within the ſaid Manor of *Thurgoland* aforeſaid, One full Sixteenth Part (Quantity, Quality, and Situation conſidered) of the Remainder of the ſaid Commons, Waſtes, and Moors, over and above and excluſive of ſuch Shares, Proportions, and Allotments of the ſaid Commons, Waſte Grounds, and Moors herein-after directed to be allotted to him the ſaid *John Lumley Savile*, in reſpect of the Meſſuages, Cottages, Lands, and Grounds, in right whereof he is entitled to Allotments in and upon the ſaid Commons and Waſte Grounds and Moors of *Thurgoland* aforeſaid; and alſo to ſet out and allot unto the ſaid *John Lumley Savile*, his Heirs and Aſſigns, ſuch further Allotment as he the ſaid Commiſſioner ſhall deem equal in Value and a full Compenſation for his working Stone Quarries.

Allotment Land to be ſold for defraying the Expences of the Act.

XVII. And be it further enacted, That the ſaid Commiſſioner ſhall in the next Place ſet out and allot ſuch Part or Parts of the ſaid Commons, Waſte Grounds, or Moors, as in his Judgment will be proper to be ſold, in order by Sale thereof to raiſe a Sum of Money for or towards paying the Charges and Expences of obtaining and paſſing this Act, and of dividing and allotting the ſaid Commons, Waſte Grounds, and Moors, and of preparing and enrolling the Award of the ſaid Commiſſioner, and all other incidental Charges and Expences whatſoever, for or by reaſon of or preparatory to the ſaid intended Diviſion and Incloſure, and carrying this Act into Execution; and to ſell ſuch Allotment and Allotments to any Perſon or Perſons for the beſt Price that can be reaſonably had or gotten for the ſame; and One Seventh Part at leaſt of the Money for which ſuch Land ſhall be ſold ſhall at the Time of ſuch Sale, by the Purchaſer or Purchaſers, be depoſited in the Hands of the ſaid Commiſſioner, and the

the Remainder of the Purchaſe Money ſhall be paid to the ſaid Commiſſioner within Three Calendar Months next after ſuch Sale, or in Default of ſuch Payment the Money depoſited as aforeſaid ſhall be forfeited, and ſhall be applied towards carrying this Act into Execution; and the Allotment or Allotments ſhall be again put up to Sale in Manner aforeſaid; and after Payment of the full Purchaſe Money for any ſuch Allotment the ſame ſhall be veſted in Fee Simple in the Purchaſer or Purchaſers, and ſhall be aſſigned and allotted to him or them in and by the Award of the ſaid Commiſſioner.

Allotment of Reſidue of Commons, Waſte Grounds, and Moors.

XVIII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required to ſet out, allot, and award the Reſidue of all the ſaid Commons, Waſte Grounds, and Moors, hereby directed to be incloſed, unto and amongſt the ſeveral Perſons having Right of Common in, over, and upon the ſaid Commons, Waſte Grounds, and Moors, in the Proportions and in Manner following; (that is to ſay); One Fourth Part of ſuch Commons, Waſte Grounds, and Moors, unto and amongſt the ſeveral Owners or Proprietors of ancient Meſſuages, Cottages, and Tofts, having Right of Common, in Proportion to the Number, and without Regard to the Value, of ſuch Meſſuages, Cottages, and Tofts; and the remaining Three Fourth Parts of the Reſidue and Remainder of ſuch Commons, Waſte Grounds, and Moors, unto and amongſt the ſeveral and reſpective Owners and Proprietors of ancient incloſed Lands or Grounds ſituate and being within the ſaid Manor, in Proportion and according to the Value thereof, and in full Bar and Compenſation of and for their reſpective Rights of Common, or other Rights or Intereſts in, over, and upon the ſaid Commons, Waſte Grounds, and Moors, or any Part thereof; and the ſaid ſeveral Allotments ſhall be laid as contiguous and near to the reſpective Eſtates of the ſeveral Perſons entitled to the ſame as conveniently may be.

One Fourth Part to Houſes.

Three Fourths to Land Owners.

The Hon. and Rev. John Lumley Savile's Allotment to be fenced, deducting the Expence thereof, and of obtaining this Act, from his Allotment.

XIX. And be it further enacted, That the ſaid Commiſſioner ſhall cauſe the ſaid Allotments to be ſet out for the ſaid *John Lumley Savile*, his Heirs and Aſſigns, under and by virtue of this Act, to be well and ſufficiently Ring-fenced, of a proper Height, with good and ſufficient Stone Walls, and ſhall alſo pay and defray the Expence of making thereof; and alſo the Part or Share of the ſaid *John Lumley Savile* in obtaining and putting into Execution this Act, by and out of the Monies to be raiſed for the Purpoſe of defraying the Expences of obtaining and executing this Act; but the ſame Fences ſhall for ever afterwards be repaired by the ſaid *John Lumley Savile*, his Heirs and Aſſigns; and it ſhall be lawful for the ſaid Commiſſioner to deduct from the ſaid Allotments to be made to the ſaid *John Lumley Savile* as aforeſaid, ſo much as ſhall in the Judgment of the ſaid Commiſſioner be equal in Value to the ſaid *John Lumley Savile*'s Proportion of the Expence of obtaining and putting into Execution this Act, and the Expences of Ring-fencing the Allotment or Allotments ſo to be made to him as aforeſaid; and the ſaid Commiſſioner ſhall allot and award the Land ſo to be deducted unto and equally amongſt the Proprietors and Owners of Eſtates within the Manor of *Thurgoland*.

Other Allotments to be fenced as the Commiſſioner ſhall direct.

XX. And be it further enacted, That the Commiſſioner ſhall have Power to give ſuch Directions, either by his Award, or any Writing under

under his Hand, about fencing the ſeveral Allotments upon the ſaid Commons, Waſte Lands, and Moors, as he ſhall think proper, and ſuch his Directions ſhall be obſerved and carried into Execution.

Power to ſell, &c. before the Execution of Award.

XXI. And be it further enacted, That it ſhall and may be lawful for any Perſon or Perſons entitled to any Allotment to ſell, mortgage, diſpoſe of, and convey his Eſtate and Intereſt therein, before the Execution of the Commiſſioner's Award, ſeparate and diſtinct from the Eſtate in Right of which he, ſhe, or they is or are entitled to the ſame, in the ſame Manner as he, ſhe, or they might have done at any Time after the Execution of the Award, and alſo to ſell, mortgage, diſpoſe of, and convey the Eſtate in Right of which he, ſhe, or they may be entitled to any Allotment, ſeparate and apart from, and retaining to himſelf, herſelf, or themſelves, ſuch Allotments, Common Right, and Intereſt, and the ſaid Commiſſioner is hereby required to award ſuch Allotment or Allotments accordingly.

Allotments to enure to the ſame Uſes as the Eſtates in Right of which they ſhall be made.

XXII. And be it further enacted, That the ſeveral Lands and Hereditaments which ſhall be allotted by virtue of the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, or of this Act, ſhall go to the ſame Perſons, and be held for and upon the ſame Eſtates, Uſes, and Truſts, and be ſubject to the ſame Charges and Incumbrances of every Kind, as the Hereditaments in reſpect whereof the ſame ſhall be reſpectively allotted, ſhall at the Time of making ſuch Allotment, be limited or ſubject to, or affected by.

Exchanges.

XXIII. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioner to ſet out or allot any of the Lands or Grounds hereby directed to be divided and allotted, or any Meſſuages, Buildings, incloſed Lands, Grounds, or Hereditaments, in the ſaid Manor or Townſhip in lieu of and in Exchange for any other Meſſuages, Buildings, Lands, or Hereditaments, in the ſame Manor or Townſhip, or in any adjoining Pariſh, Townſhip, Hamlet, Manor, or Place, ſo as every ſuch Exchange be ſet forth and aſcertained in and by the Award of the ſaid Commiſſioner, and ſo alſo as every ſuch Exchange be made with the Conſent of the reſpective Proprietors or Perſons ſeiſed or entitled in Poſſeſſion of or to the Hereditaments ſo to be exchanged for any Life or Lives, or for Years determinable on any Life or Lives, or for ſome Eſtate of Inheritance leſs than an Eſtate in Fee Simple, or with the Conſent of the Huſbands, Guardians, Truſtees, Committees, or Attornies, of any ſuch Proprietors, who ſhall at the Time of making ſuch Exchange or Exchanges be Femes Covert, Infants, Lunatics, beyond the Seas, or under any other legal Diſability or Incapacity of acting for themſelves, and ſo as that every ſuch Exchange of any Lands, Tenements, or Hereditaments, holden in Right of any Church, Chapel, or other Eccleſiaſtical Benefice, be made with the Conſent of the Patron thereof, and of the Lord Biſhop of the Dioceſe within which the ſame ſhall lie or be ſituate; and that all ſuch Conſents as aforeſaid be reſpectively ſignified by Writing under the Hands of the conſenting Parties, or under the Seals of any of them, being Corporations Aggregate; and every Exchange which ſhall be ſo made and declared ſhall, as well in reſpect to the Hereditaments within the Manor and Townſhip of *Thurgoland*, or Pariſh of *Silkſtone* aforeſaid, as in reſpect of the Hereditaments within any other adjoining Pariſh, Townſhip, Hamlet, Manor,

or Place, be for ever good, valid, and effectual in the Law, to all Intents and Purpoſes.

Expences of Exchanges and Partitions, how to be paid.

XXIV. Provided always, and be it further enacted, That all Coſts, Charges, and Expences attending the making and completing of any Exchanges and Partitions ſhall be paid and borne by the ſeveral Perſons making ſuch Exchanges and Partitions, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioner ſhall by his Award, or other ſeparate Deed or Inſtrument, order or direct.

Chief Rents to be extinguiſhed.

XXV. And whereas there are ſeveral Owners and Proprietors of Eſtates within the Manor of *Thurgoland* aforeſaid, who pay certain chief Fee Farm or Quit Rents to the Lord of the ſaid Manor, and the ſaid *Walter Spencer Stanhope*, or others; be it therefore enacted, That the ſaid Commiſſioner ſhall and he is hereby required to ſet out and allot unto the ſaid Lord of the ſaid Manor, *Walter Spencer Stanhope*, and others, if ſuch there be, out of the Shares or Allotments of ſuch Perſon or Perſons from whom ſuch chief Fee Farm or Quit Rents are due and payable, ſuch Part or Parts thereof as in the Judgment of the ſaid Commiſſioner ſhall be equal to the reſpective annual Value of ſuch chief Fee Farm or Quit Rents; and after ſuch Allotments ſhall have been ſet out and awarded to the ſaid Lord of the ſaid Manor, the ſaid *Walter Spencer Stanhope*, and others, if ſuch there be, ſuch chief or Quit Rents ſhall be from thenceforth extinguiſhed.

Wills and Settlements not to be affected.

XXVI. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances, out of or upon or affecting any of the Meſſuages, Buildings, Lands, or Grounds to be divided, allotted, and exchanged as aforeſaid, or any Part or Parts thereof reſpectively, but that the reſpective Perſons to whom any Lands or Hereditaments ſhall be allotted or given in Exchange by virtue of this Act ſhall be ſeiſed thereof to ſuch and the ſame Uſes, and for ſuch and the ſame Eſtates, and ſubject to ſuch and the ſame Wills, Jointures, Rents, Charges, and Incumbrances, and no other, as the Meſſuages, Buildings, Lands, Grounds, and Hereditaments, whereof ſuch Perſon was ſeiſed or poſſeſſed at or immediately before the Execution of the Award to be made by the ſaid Commiſſioner, or for which or in reſpect whereof ſuch Allotments or Exchanges ſhall be made would have been ſubject to, charged with, or affected by in caſe this Act had not been made.

Expences of Act.

XXVII. And be it further enacted, That all the Coſts, Charges, and Expences incident to and attending the obtaining and paſſing of this Act, and of carrying the ſame and the ſaid recited Act into Execution, ſhall be paid and defrayed out of the Money ariſing from ſuch Sale and Sales of Land as herein-before mentioned; and the ſaid Commiſſioner is hereby directed and required to apply the ſaid Money accordingly in defraying the ſeveral Charges and Expences aforeſaid; and in caſe there ſhall be any Overplus, the ſame ſhall be diſtributed amongſt or applied for the Uſe or Benefit of the ſeveral Perſons intereſted in the ſaid Commons, Waſte Grounds, and Moors, in ſuch Manner as the ſaid Commiſſioner ſhall think proper, and in Proportion to their reſpective Rights and Intereſts: Provided always, that in

in case the Money arising by the Sale of such Allotment and Allotments as aforesaid shall not be sufficient to defray all the Charges and Expences aforesaid, then the Deficiency shall be made up by the several Persons interested in the Lands and Grounds hereby intended to be divided and inclosed, (other than and except the said *John Lumley Savile*, his Heirs or Assigns; and also the Person or Persons to whom any Allotment shall be made in Right of any College, Chapel, School, Hospital, or other public Use or Charity), and shall be paid in such Shares and Proportions, and within such Time, as the said Commissioner shall direct and appoint: Provided also, that the said Commissioner shall and he is hereby required to assess and charge the Owners of the said Commons, Waste Grounds, and Moors, (other than and except the said *John Lumley Savile*, his Heirs or Assigns, and also the Person or Persons to whom any Allotment shall be made in Right of any College, Chapel, School, Hospital, or other public Use or Charity, with such Share of the Charges and Expences before mentioned as he shall think just and equitable, for or on account of the Benefits to arise to them by the allotting and inclosing of the said Commons, Waste Grounds, and Moors), the same to be paid to such Person or Persons, and within such Time, and applied for the Benefit of the Persons interested in the said Commons, Waste Grounds, and Moors, in such Manner as the said Commissioner shall direct or appoint; and in case any Person hereinbefore made subject to the Payment of any Money towards the said Charges or Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion thereof, within the Time to be appointed as aforesaid, the same shall and may be levied and recovered by Distress and Sale of the Goods and Chattels of such Person, by Warrant under the Hand and Seal of the said Commissioner, and the Overplus (if any) after deducting the Charges of such Distress and Sale, shall be returned to the Person whose Goods and Chattels shall have been so distrained and sold.

Money advanced to be repaid with Interest.

XXVIII. And be it further enacted, That if any Person or Persons shall advance any Money towards defraying the Expences of obtaining this Act, or carrying the same into Execution, by the said Commissioner, the same shall be repaid with lawful Interest out of the first Monies to be raised by the said Commissioner by virtue of this Act.

Allowance to Commissioner and Surveyor.

XXIX. And be it further enacted, That the said Commissioner shall be paid or allowed by the said Proprietors the Sum of Three Guineas, and no more, for every Day he shall attend and be employed at any Meeting or Meetings, or going to or returning from thence, or otherwise howsoever, in executing the Powers and Authorities hereby given to him, including his Expences, and the Surveyor shall be paid such Sum or Sums of Money for Plans, Maps, Survey, and Attendances, as the said Commissioner shall order and direct.

Commissioner to lay Accounts before One Justice.

XXX. 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 the passing of this Act), the said Commissioner shall make and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended or due to him for his own Trouble and Expences in the Execution of this Act, and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by him laid before some Justice of the Peace for the said Riding,

Riding, (not intereſted in the ſaid Incloſure), to be by him examined and balanced, and ſuch Balance ſhall be by ſuch Juſtice ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioner; and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtice.

Award. XXXI. And be it further enacted, That within Six Calendar Months after the ſaid Commiſſioner ſhall have made and executed his Award, the ſame ſhall be enrolled in the Regiſter Office for the Weſt Riding of the ſaid County of *York*, and an atteſted Copy of ſuch Part or Parts of the ſaid Award as ſhall relate to any Allotments or Exchanges to be made in reſpect of or relating to any Meſſuages, Tofts, Lands, or Hereditaments held of the Lord of the ſaid Manor of *Thurgoland*, by Copy of Court Roll, or by Cuſtom of the ſaid Manor, ſhall be depoſited with the Steward of the Courts of the ſaid Manor, and be kept amongſt the Court Rolls and Records thereof; and that a Copy of ſuch Enrolment or any Part thereof, ſigned by the ſaid Steward or his Deputy, for which no more than Two-pence for each Sheet of Seventy-two Words ſhall be charged or paid, and alſo the ſaid original Award, and the atteſted Copy of a Part or Parts thereof, ſo directed to be depoſited as aforeſaid, ſhall be admitted and allowed as legal Evidence in all Courts, and upon all Occaſions whatſoever; and that after the ſame ſhall be enrolled, and an atteſted Copy of ſuch Part or Parts thereof as before directed ſhall be made as aforeſaid, the ſaid Award, together with a Plan annexed, ſhall be depoſited and kept in the Pariſh Church of *Silkſtone* aforeſaid.

Perſons diſſatisfied, may appeal to the Quarter Seſſions. XXXII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves, aggrieved by any Thing done, or omitted to be done, in purſuance of the ſaid recited Act or of this Act, (except as to ſuch Acts, Determinations, or Proceedings of the ſaid Commiſſioner, as are by the ſaid recited Act or this Act directed to be final, binding, or concluſive, and alſo except as to ſuch Claims, Objections, Matters, and Things as by this Act are directed or authorized to be aſcertained, ſettled, tried, or determined by the Verdict of a Jury), he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace to be held for the Weſt Riding of the County of *York*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, and the ſaid Court of Quarter Seſſions are hereby authorized to determine ſuch Appeal, and to award ſuch Coſts as to them ſhall ſeem reaſonable, which Determination ſhall be final and concluſive, and ſhall not be removed by *Certiorari*, or any other Writ or Proceſs whatſoever.

Mines, &c. reſerved to the Lord of the Manor. XXXIII. Provided always, and be it further enacted, That nothing in this Act contained ſhall defeat, leſſen, or prejudice the Right, Title, or Intereſt of the Lord of the ſaid Manor for the Time being, of or to the Mines, Beds, and Seams of Coal, or any Mines of Iron, Ironſtone, or other Mines or Minerals, in or under the ſaid Commons, Waſte Grounds, or Moors hereby intended to be incloſed, or to any Seigniories or Royalties incident and belonging to the ſaid Manor, the ſame being hereby reſerved to the Lord or Lords of the ſaid Manor for the Time being, with full Power for him and them at all Times to hold and enjoy all Quit Rents, Free Rents and other Rents, Reliefs, Duties, Cuſtoms and Services, and

all Courts and Perquiſites and Profits of Courts, and Liberty of Hawking, Hunting, Fiſhing, and Fowling in the ſaid Manor, and all Goods and Chattels of Felons and Fugitives, Felons of themſelves, Perſons outlawed, waved, and put in Exigent, Deodands, Treaſure Trove, Waifs, Eſtrays, Forfeitures, Royalties, Juriſdictions, Franchiſes, and Privileges whatſoever to the ſaid Manor incident or appertaining, (other than and except ſuch Common Right, and Rents of Cottages, and Encroachments as could or might be claimed by him as Owner of the Soil and Inheritance of the ſaid Commons, and the Quarries of Stone therein), in as full, ample, and beneficial a Manner to all Intents and Purpoſes as if this Act had not been made; and that the Lord of the ſaid Manor for the Time being ſhall and may at all Times hereafter have, hold, win, work, and enjoy all Mines of Coal, Iron, Stone, and Minerals, of what Nature or Kind ſoever, (Quarries or common Stone only excepted), under the ſaid Commons, and the Encroachments, Allotments, and Improvements, made and to be made therefrom, together with all convenient and neceſſary Ways, Roads, and Paſſages, already made and hereafter to be made, and Liberty of laying, making, and repairing Waggon Ways and other Ways, in, over, and along the ſame, or any of them, or any Part thereof, and ſearching for, winning, and working the ſaid Mines and Minerals, and loading and carrying away the Coal, Iron, Stone, Lead, Minerals, and other Produce thereof, and of making Pits, Shafts, Pit Rooms, Air Pits, Heap Rooms, Stand Yards, Drifts, Levels, Ways, and Watercourſes, (as well as uſing and continuing thoſe already made), and of erecting and uſing Fire Engines and other Engines, and neceſſary Buildings, and of altering, changing, pulling down, and carrying away the ſame, or any of the Materials thereof, at his and their own free Will and Pleaſure, and doing all ſuch other Acts and Things, either now in Uſe, or hereafter to be invented, as may be neceſſary or convenient for the full and complete Enjoyment thereof, in as full, ample, 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; yet nevertheleſs, that the Lord of the ſaid Manor for the Time being ſhall be obliged to pay and ſhall annually pay to the reſpective Owners and Occupiers of ſuch Allotments reſpectively, a reaſonable and adequate Recompence and Satisfaction for all ſuch Damages as ſhall from Time to Time be thereby done thereto, in proportion to the Loſs ſuſtained by ſuch Owners and Occupiers reſpectively, according to their reſpective Rights and Intereſts therein.

General Saving.

XXXIV. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, as well in Right of His Crown as in Right of His Duchy of *Lancaſter*, and alſo to all Perſons, Bodies Politic and Corporate, their reſpective Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, (other than and except the ſeveral Perſons, Bodies Politic and Corporate, to whom any Allotment or other Compenſation ſhall be made or provided by virtue of this Act, in reſpect of the Intereſt or Property for which ſuch Allotment or Compenſation ſhould be made, their reſpective Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, and except ſuch other Rights and Intereſts as the Intent and Purpoſe of the Incloſure hereby authorized ſhall abſolutely require to be barred, deſtroyed, or extinguiſhed by virtue of this Act), all ſuch Eſtates, Rights, Titles, and Intereſts, as he, they, every, or any of them, had and enjoyed of, in, to, or out of the ſaid Commons, Waſte Grounds, and Moors, hereby directed to

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

Evidence Clauſe.

XXXV. 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.

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