



ANNO QUINQUAGESIMO PRIMO

GEORGI II. REGIS.



Cap. 55.

An Act for inclosing certain Tracts, or Parcels of Common and Waste Grounds, called *Fulwood Moor* and *Cadeley Moor*, within and Parcel of the Forest [of *Fulwood*, in the County Palatine of *Lancaster*. [6th May 1811.]

WHEREAS there are within, and Parcel of the Forest of *Fulwood*, in the County Palatine of *Lancaster*, certain Tracts of Common and Waste Grounds, commonly called *Fulwood Moor* and *Cadeley Moor*, both lying within the Township of *Fulwood*, and in the Parish of *Lancaster*, in the said County, and containing together Nine hundred and sixty Acres of Land, Statute Measure, or thereabouts: And whereas the King's most Excellent Majesty, in Right of his Duchy of *Lancaster*, is seized to Himself, His Heirs and Successors of the Soil, Inheritance, and Royalties, of and within the said Commons and Waste Grounds, as Parcel of or belonging to His Majesty's said Forest of *Fulwood*, subject to a certain Indenture of Lease, under the Seal of the Duchy, of *Lancaster*, bearing Date the Thirty-first Day of *July* One thousand eight hundred and six, granted to the Right Honourable *Edward Stanley*, commonly called *Lord Stanley*, for a Term of Thirty-one Years from the Date thereof, under and subject to the Rents, Covenants, Exceptions, and Provisoes therein contained and reserved: And whereas the Mayor, Bailiffs, and Burgeses of *Preston*, in the said County, and the Owners of ancient Messuages, [Loc. & Per.] Lands,

41 G. 3. c. 109.

Commissioners.

Lands, Tenements, and Hereditaments, within the said Township of *Fulwood*, and divers other Persons, Owners of ancient Messuages, Lands, and Hereditaments, within the several Townships of *Broughton*, *Ribbleton*, *Haighon*, and *Preston*, or some of them, have or claim to have and enjoy, for themselves, their Lessees and Tenants, a Right of Common of Pasture, and Common of Turbary, and other Commonable Rights, within and upon the said Commons or Waste Grounds, called *Fulwood Moor* and *Cadeley Moor* : 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 it would be of great Benefit and Advantage to the several Persons who are Proprietors of and interested in the said Moors, Commons, and Waste Grounds, if the same were divided and inclosed, and specific Parts and Shares thereof assigned and allotted unto the several Persons intitled thereto, according and in proportion to their respective Rights and Interests therein ; but such Division, Allotment, and Inclosure cannot be effectually made and established without the Aid and Authority of Parliament : May it therefore please Your Majesty that it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Jonathan Teal* of *Leeds*, in the County of *York*, Land Surveyor, and *William Miller* of *Preston*, in the County of *Lancaster*, Land Surveyor, and their Successors, to be appointed in Manner herein-after mentioned, shall be, and they are hereby appointed Commissioners for setting out, dividing, allotting, and inclosing, the said Tracts of Common and Waste Grounds, called *Fulwood Moor* and *Cadeley Moor*, and for carrying this Act and the said recited Act into Execution, subject to such Directions and Provisions as are herein-after contained in that Behalf, and also with and subject to such of the Powers, Authorities, Directions, Clauses, and Provisions contained in the said Act of the Forty-first Year of His present Majesty, herein-before mentioned or referred unto, as are not altered, varied, or otherwise provided for in and by this Act.

An Umpire to be appointed.

II. And for the Purpose of settling and determining any Difference or Dispute that may arise between the said Commissioners, touching or concerning any of the Matters and Things to be by them done and performed in pursuance of the said recited Act or of this Act ; be it further enacted, That the said Commissioners shall, and they are hereby required, immediately after their taking and subscribing the Oath or Affirmation by the said recited Act directed to be by them taken and subscribed, by Writing under their Hands to choose, nominate, and appoint some other proper and skilful Person, not interested in the said Land or Ground, or Agent for, or usually employed by any Person so interested, who shall be willing and consent to act as an Umpire, and such Umpire is hereby authorized and required to hear and determine any such Difference or Dispute as may arise between the said Commissioners touching any Matter or Thing relating to the said Division and Inclosure ; and the Judgement and Determination of the said Umpire, so far only as immediately relates to the Matter in Dispute, shall be deemed and considered to be the Judgement and Determination of the said Commissioners, and shall be final and conclusive upon

the said Commissioners, and upon all other Persons concerned in the said Division and Inclosure, so far as the Acts of the said Commissioners are by the said recited Act or this Act made final and conclusive: Provided always, that in case the Person so nominated and appointed by the said Commissioners as Umpire shall die, or refuse to act, or become incapable of acting in the Execution of the said recited Act or of this Act, then and in every such Case it shall be lawful for the said Commissioners to nominate and appoint one other Person not interested or concerned as Agent as aforesaid, as Umpire in the Room and Stead of the Person so dying, refusing to act, or becoming incapable of acting in the Execution of the said recited Act and of this Act; and so from Time to Time, as often as any Person so nominated and appointed an Umpire shall die, or refuse to act, or become incapable of acting in the Execution of the said recited Act and of this Act; and in case any such Umpire shall neglect to settle and determine any such Difference or Dispute within Thirty Days after the same shall have been referred to him by the said Commissioners, such Neglect shall be deemed and taken to be a Refusal to act within the Intent and Meaning of this Act.

III. Provided always, and be it further enacted, That no Person shall be capable of acting in the Execution of this Act, as Umpire, until he shall have taken and subscribed the Oath following; that is to say, Umpire to be sworn before he acts.

‘ I, *A. B.* do swear, (or, being One of the People called *Quakers*, do solemnly affirm), that I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the Power and Authority reposed in me, as Umpire, by virtue of an Act passed in the Fifty-first Year of the Reign of King *George* the Third, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice, to any Person or Persons whomsoever. So help me God.

Which Oath or Affirmation it shall be lawful for either of the said Commissioners to administer, who are hereby required to administer the same; and such Oath or Affirmation when so taken or subscribed by such Umpire, shall be annexed to and inrolled with the Award of the said Commissioners.

IV. And be it further enacted, That in case either of the said Commissioners, or any of their Successors, to be appointed as herein-after is provided, shall happen to die, or decline to act, or become incapable of acting, before the Execution of all the Powers hereby vested in them, or shall refuse to qualify and act in the Execution hereof, then the surviving or acting Commissioner shall not proceed further in the Execution of this Act, until another Commissioner shall be duly appointed, in Manner and Form herein-after directed; and that in every such Case it shall and may be lawful to and for the several Persons after named, to proceed to a new Nomination and Appointment of a Commissioner or Commissioners, in Manner following; (that is to say), in case the said *Jonathan Teal*, or any Person appointed in his Room or Stead, as hereafter mentioned, shall die, or refuse to act, then, and so often, the Chancellor of the Duchy of *Lancaster* for the Time being, on the Part and Behalf of His Majesty, shall and may, by Warrant under his Hand, nominate and appoint such other Person to be a Commissioner, in the Room of the said *Jonathan Teal*, or any of his Successors so dying or refusing to act, as aforesaid, as the said Chancellor For supplying the Number of Commissioners in case of Death or Resignation.

Chancellor shall think fit; and if the said *William Miller* shall die, or become incapable of acting, or shall neglect or refuse to act as aforesaid, and so from Time to Time as to his Successors, it shall be lawful for the major Part in Value (to be ascertained by the Land Tax Assessment) of the said Proprietors, or Persons interested in the said Moors, Commons, and Waste Grounds hereby directed to be inclosed, (other than and except the Chancellor of His Majesty's said Duchy for the Time being), who shall attend by themselves, or their Agents or Attornies, at a Meeting to be called by or by the Order of One or more of the said Proprietors for that Purpose, at some convenient Place in *Preston*, in the said County Palatine of *Lancaster*, in pursuance of Notice to be given upon some *Sunday*, before or during Divine Service, by Writing to be affixed on the principal outer Doors of the Parish Church of *Preston*, and of *Broughton* Church near *Fulwood* aforesaid, and also by Advertisement to be inserted in one or both of the *Preston* and *Lancaster* Weekly Newspapers, called the *Preston Journal*, and the *Lancaster Gazette*, or some other public Newspaper usually circulated in the said County of *Lancaster*, at least Ten Days before such Meeting, by Writing under their Hands, to appoint from Time to Time some other fit and proper Person, not interested in the said Division and Inclosure, to be a Commissioner in the Room of the said *William Miller*, and so from Time to Time as often as any Commissioner appointed by the said Proprietors, or the major Part in Value of them present at such Meeting as aforesaid, shall die or become incapable of acting, or shall neglect or refuse to act as aforesaid; and in case the said respective Parties, or any of them, shall make Default in appointing any such new Commissioner within Three Calendar Months next after the Death of any Commissioner, or his Refusal to act or Neglect of Attendance shall be known, then the surviving or remaining Commissioners or Commissioner shall, and they and he are and is hereby required from Time to Time, by Writing under their or his Hands or Hand, to nominate and appoint a Commissioner or Commissioners, as the Case may require, in the Room of every such Commissioner so dying, refusing to act, or neglecting to attend; and every such Commissioner so to be appointed shall, after taking the Oath prescribed in that Behalf, have the like Powers and Authorities in all Respects for carrying this and the said recited Act into Execution, as if he or they had been originally named and appointed a Commissioner or Commissioners in and by this Act.

Notice of Meetings.

V. And be it further enacted, That the said Commissioners shall and they are hereby required to cause public Notice to be given upon some *Sunday*, before or during Divine Service, by Writing to be affixed upon the principal outer Doors of the said Parish Church of *Preston*, and of *Broughton* Church aforesaid, and also by Advertisement in Manner aforesaid of the Time and Place of the First Meeting, and all other subsequent Meetings for the Execution of this or the said recited Act, Ten Days at least before every such Meeting shall be held, (Meetings by Adjournment only excepted); and the said Commissioners, or either of them, shall and may adjourn any and every such Meetings from Time to Time as he or they shall see Occasion, for the further 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

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all Meetings of the said Commissioners to be had by virtue of this Act shall be held at the Town of *Preston*, 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.

VI. 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 *Preston Journal* and *Lancaster Gazette*, or one of them, or if the same shall not be then published, then in some Two other Newspapers circulated in the said County of *Lancaster*.

Other Notices how to be given.

VII. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby authorized and empowered to appoint a Clerk or Clerks to assist them in the Execution of this Act; and from Time to Time to remove such Clerk or Clerks, 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 or Clerks such Salary or Allowance for his or their Trouble as to the said Commissioners shall appear just and reasonable.

Commissioners may appoint a Clerk.

VIII. 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, Recompence, and incidental Expences as to the said Commissioners shall appear just and reasonable.

Commissioners may appoint Surveyors and Assistants.

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

Surveyors to take an Oath;

I Do swear, (or, being one of the People called *Quakers*, do solemnly declare and affirm), that I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Powers and Authorities vested and reposed in me as a Surveyor, by virtue of

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‘ an Act passed in the Fifty-first Year of His Majesty King *George* the
 ‘ Third, intituled, [*here set forth the Title of the Act*], according to Equity
 ‘ and good Conscience, and without Favour or Affection, Prejudice or
 ‘ Partiality to any Person or Persons whomsoever. So help me God.’

Which Oath or Affirmation it shall be lawful for any One of the said Commissioners to administer to each and every Surveyor as aforesaid, and such Oath, so taken and subscribed, shall be annexed to, and deposited with, the Award of the said Commissioners.

Allowance
to Commis-
sioners.

X. 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 at all such Meetings the said Commissioners shall, out of such Allowance, pay and defray their own Charges and Expences.

Proceedings
to be entered
in a Book.

XI. 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 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 or the said recited Act.

Commissioners
may settle
Disputes;

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 Moors, Commons, or Waste Grounds, 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.

but not to
determine
Disputes as
to Titles, &c.

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 Politic, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on
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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 Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons, Body or Bodies 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.

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 Moors, Commons, and Waste Grounds, 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 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 be 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;

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

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, or upon the said Moors, Commons, and Waste Grounds, hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting, and 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 Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

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

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

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

XVII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Bodies Politic or Corporate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons, as if actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living, and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner

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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.

XVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties, except with regard to Encroachments made within Twenty Years next before the passing of this Act; 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 therein, until the Possession shall have been given up or recovered from such Person or Persons by Ejectment or other due Course of Law.

Commissioners not to determine contrary to Possession.

XIX. And for the more just and regular Division of the said Lands and Grounds hereby directed to be divided and enclosed; be it further enacted, That the said Commissioners shall make, or cause to be made, a Survey, Admeasurement, and Plan of the said Moors, Commons, and Waste Grounds, 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 said Moors, Commons, and Waste Grounds aforesaid, 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).

Survey to be made.

XX. Provided nevertheless, That if any Plan or Plans, Survey or Surveys already made of the said Moors, Commons, or Waste Grounds, or any Part or Parts thereof, shall be produced and laid before the said Commissioners, of the Authenticity of which they shall be satisfied, it shall be lawful for the said Commissioners to make use of the same; without causing such new Survey or Plan to be made thereof.

Plans and Surveys already made to be made use of, if Commissioners shall think fit.

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

Commissioners may suspend or extinguish Common Right before Award made, upon giving Notice.

XXII. 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, flay, get, and carry away, any Turf, Soil, Gorse, or Stone, in, upon, or from the said Moors, Commons, or Waste Grounds, or any Part thereof, without

No Turf, &c. to be cut after the passing of this Act, under Penalty of 5l.

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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, flay, get, or carry away any Turf, Soil, Gorse, or Stone, in, upon, or from such Commons and Waste Lands, 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.

Commissioners to enquire into Encroachments.

XXIII. And be it further enacted, That it shall and may be lawful for the said Commissioners to enquire and determine what Inclosures and Encroachments have been from Time to Time made upon or taken from the said Moors, Commons, and Waste Grounds, or any Part or Parts thereof, by any Person or Persons whomsoever, within Sixty Years next before the passing of this Act, and that all Inclosures and Encroachments which shall have been made, taken in, held, and enjoyed for Twenty Years and upwards, next before the passing of this Act, without Interruption, shall, after the passing of this Act, be absolutely vested in the Person or Persons holding the same, in such Manner as he, she, or they have hitherto enjoyed such Inclosures and Encroachments, and shall be allotted to him, her, or them, having made or being in the legal Possession of the same, as Part of his, her, or their respective Shares or Allotments of the said Moors, Commons, and Waste Grounds to be divided and allotted by virtue of this Act; and in case any Difference or Dispute shall arise touching any such Inclosures or Encroachments, or the Extent thereof, such Difference or Dispute shall be determined by the said Commissioners: Provided always, that no Person or Persons who is, or are, or shall be entitled to any such Inclosures or Encroachments so made within Sixty Years next before the passing of this Act, shall in respect thereof be entitled to any Part or Share of or in the said Moors, Commons, or Waste Grounds intended to be divided and allotted by virtue of this Act.

Encroachments within 20 Years to be deemed Part of the Commons, and the Com-

XXIV. And be it further enacted, That all such Lands as have been heretofore inclosed and incroached upon or from the said Moors, Commons, or Waste Grounds, within Twenty Years previous to the passing of this Act, with all Buildings and Erections standing and being thereon, shall be considered as Part of the Commons and Waste Grounds intended to

to be hereby allotted and inclosed : Provided nevertheless, that the Stands, Booths, Buildings, and Erections now standing upon or near the Race Ground, and herein-after directed to be allotted to the King's Majesty, shall be so allotted without putting any Charge or Value upon the same : Provided also, that the said Commissioners shall have full Power and Authority to sell, and by their general Award or other Writing under their Hands and Seals to convey or allot all or any other the Encroachments so made within the last Twenty Years as aforesaid, with all the Buildings and Erections standing and being thereon respectively, unto the several Persons who have made or erected the same, and are considered to be entitled thereto respectively, for such Price and Prices in Money as the said Commissioners shall think just and reasonable ; which Money shall be applied towards the Expences of the said Inclosure, as herein-after mentioned.

Commissioners to have Power to sell the same to the Persons who have made the same.

XXV. And be it further enacted, That it shall be lawful for the said Commissioners, with the Concurrence and Order of Two Justices of the Peace acting in and for the said County of *Lancaster*, such Order being hereby declared to be subject to Appeal in Manner as in the said recited Act is mentioned, to divert, stop up, or change any of the public Roads (not being a Turnpike Road) passing or leading through any of the said Moors, Commons, and Waste Grounds, as they the said Commissioners shall deem unnecessary, and as they shall think proper ; and such Roads so stopped up shall be deemed and taken as Part of the Lands and Grounds hereby intended to be divided and inclosed, and shall be divided, allotted, and inclosed accordingly.

Commissioners may divert and turn Roads.

XXVI. And be it further enacted, That in order to shorten the Boundary Fences between the Lands and Grounds by this Act directed to be 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 Hands of the Chancellor of His Majesty's Duchy of *Lancaster*, and of the Lords of the Manors, 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 *Fulwood*, or under the Hand of any Owner of any Land upon which such Fence shall be intended to be made, to set out, ascertain, and determine the Boundary Fences to be made between the Lands and Grounds hereby directed to be divided and allotted, and the Lands lying in such adjoining Parish or Township, Parishes or Townships respectively, as he 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 *Fulwood* and such adjoining Parish or Township, Parishes or Townships respectively, any Law, Usage, or Custom to the contrary thereof notwithstanding.

For shortening Boundary Fences.

XXVII. 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 public Carriage Roads and Highways through and over the said Moors, Commons, and Waste Grounds hereby directed to be divided and inclosed) to assign, set out, and allot, subject

Allotments for Watering Places, and getting Stones, &c.

ject 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 Moors, Commons, and Waste Grounds, as they shall think proper and necessary to be used for the Purpose of public Wells, for the Accommodation of the neighbouring Inhabitants, and public Watering Places for Cattle, and for digging and getting Sand and Marl for the Use and Improvement of the said Commons and Waste Grounds when inclosed, and Sand, Stone, Gravel, and other Materials for the making or repairing the Bridges, Highways, and Roads within the said Forest, Moors, Commons, and Waste Grounds; and for the Use of the Proprietors of Estates within the same Forest, Moors, Commons, and Waste Grounds, and their Tenants for the Time being, for and in respect of their Estates within the same, and that the Herbage growing and renewing in and upon the Lands so to be set out as aforesaid, shall be vested in such Person or Persons, and applied to such Uses as the said Commissioners shall by their Award direct and appoint.

Allotment to
the King.

XXVIII. And be it further enacted, That the said Commissioners shall and they are hereby required to allot and set out unto the King's Majesty, His Heirs and Successors, as Lord of the said Forest and Owner of the Soil of the said Moors, Commons, and Waste Grounds, One full Twelfth Part thereof, which Twelfth Part shall be so allotted and set out from that Part of *Fulwood* Moor aforesaid which is now used as a Race Ground, and from other Parts of the same Moor adjoining or near thereto, and shall comprize the Scite of the Race Course, and all the Land within the same, and so much other Land surrounding the same, and lying most conveniently thereto as will make up the Remainder of the said Twelfth Part, and shall also include all the Stands, Booths, Erections, and Buildings, now standing and being at the Southerly Side of the same Race Course, together with the Right of passing and repassing through and over all Roads and Ways leading to and communicating with the same Race Ground, and the Use and Benefit of all other Conveniences appurtenant or belonging thereto; which same Twelfth Part, with the Appurtenances as aforesaid, shall become and remain the exclusive Property of the King's Majesty, His Heirs and Successors, as Parcel of the Possessions of His Duchy of *Lancaster*, freed, exonerated, and for ever discharged of and from all Rights of Common of Pasture, Turbary, and other Rights of what Nature or Kind soever; subject nevertheless to such Leasehold Right and Interest therein of the said *Edward* Lord *Stanley*, as hereinafter mentioned; that is to say, that the said *Edward* Lord *Stanley*, his Executors, Administrators, and Assigns, shall have such and the like Estate, Right, and Interest in the same Twelfth Part, with the Appurtenances, so to be allotted to the King's Majesty as aforesaid, from and immediately after the Allotment thereof for and during all the Residue and Remainder which shall be then to come and unexpired of the said Term of Thirty-one Years, demised and created by the said Indenture of Lease of the Thirty-first Day of *July* One thousand eight hundred and six as aforesaid, as he or they would have had in the Premises demised by the same Lease in case this Act had not been passed, under and subject to such and the like Rents, Covenants, Exceptions, and Provisions, as are in the same Lease contained, and in like Manner to all Intents and Purposes as if the same Twelfth Part with the Appurtenances (except as in the said Lease is excepted), had been originally comprized in and demised by such Lease in Lieu and Stead of the Premises therein mentioned and described.

XXIX. And

XXIX. And be it further enacted, That it shall not be lawful for the said Commissioners to make or set out any public or private Road or Way; in, through, or over any Part of the said Land so to be allotted to the King's Majesty, His Heirs or Successors as aforesaid; but in setting out and making the public Roads or Ways in, through, and over the said Moors, Commons, and Waste Grounds hereby directed to be inclosed, the said Commissioners are hereby authorized and required to set out and make a public Highway, to form the Boundary Line of the King's Allotment all along the Southerly Side thereof, which Highway shall be of the Width of Twenty Yards at the least, so far as the same lies co-extensive with the same Allotment.

No Road to be made through the King's Allotment, but one to be made on the Southerly Side thereof.

XXX. And be it further enacted, That after the aforesaid several Allotments shall have been made and set out, according to the Directions hereinbefore contained, the said Commissioners shall and may and they are hereby authorized and required to divide, apportion, set out, and allot all the Residue and Remainder of the said Moors, Commons, and Waste Grounds hereby directed to be inclosed, unto and amongst the several Proprietors of and Persons interested in the same, or any Part thereof, according to their several and respective Rights and Interests, and in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportionate to the Value of, and a full Compensation and Satisfaction to him, her, or them respectively, for his, her, or their respective Rights and Interests in, to, over, or upon the said Moors, Commons, or Waste Grounds respectively, by the said recited Act and this Act directed to be divided, allotted, or inclosed as aforesaid.

Allotment of the Residue of the Commons, &c. to the Proprietors.

XXXI. And be it further enacted, That the said Commissioners shall, and they are hereby required, according to the best of their Skill and Judgment, 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, Tenements, and Hereditaments within the said Forest and Townships, to which any Right of Common in or upon the said Moors, Commons, or Waste Grounds so intended to be inclosed as aforesaid, shall belong, and also the Value of the Right of Common to which such Person is legally or fairly entitled, and of all such other Rights in, upon, or to the said Moors, Commons, or Waste Grounds, 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 said Moors, Commons, or Waste Grounds, in the different Parts of the said Forest respectively, according to the Nature and Situation of such respective Parts.

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

XXXII. And be it further enacted, That the several Allotments to be made by virtue of this Act, shall be inclosed and fenced at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, in such Manner and within such Time or Times respectively as the said Commissioners shall by their said Award or by any other Writing previous to the Execution thereof order, direct, or appoint; and that

Allotments to be fenced.

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.

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.

Parties may sell their Interest in Allotments before the Award.

XXXIV. 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, mortgage, demise, and dispose of all his, her, or their Estate, Right, Title, and Interest therein, at any Time before the Execution of the Award, and on a proper Conveyance, Surrender, and Disposition thereof made, shall be good, valid, and effectual in the Law; and also, that it shall be lawful for any Person or Persons interested in the said Allotment, Division, and Inclosure, at any Time not being less than Two Calendar Months before the Execution of the Award, to sell and dispose of all such Estate, Right, Title, Interest, and Property, which he, she, or they, shall have in or to the said Moors, Commons, and Waste Grounds, or in or to any Allotment or Allotments, to be made in respect thereof by virtue of this Act, separate from the Estate in Right of which he, she, or they shall be so entitled; and it shall be lawful for the said Commissioners, and they are hereby authorized and required to allot the same to the Purchaser or Purchasers thereof respectively.

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

XXXV. 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 shall be made) be held by, and be subject to such and the same Tenures, Customs, Heriots, Rents, and Services, as the several and respective Messuages, Buildings, Lands, Tenements, and Hereditaments, in respect whereof such allotted Lands shall be made, are now subject to.

Directing Exchanges to be made.

XXXVI. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to set out, allot, and award any Buildings, Lands, Tenements, or Hereditaments whatsoever, within the said Forest, in lieu of and in Exchange for any other Buildings, Lands, Tenements, or Hereditaments whatsoever, within the said Forest, or within any adjoining Parish, Hamlet, or Township, 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 King's Majesty, His Heirs and Successors, or of the Owner or Owners, Proprietor or Proprietors of the Buildings, Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail general or special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees
for

for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent of His said Majesty, His Heirs or Successors, to be signified in Writing, by an Order of the Chancellor and Council of the said Duchy, in Court of Revenue assembled, and such Consent of any Body Politic, Corporate, or Collegiate, or other Person or Persons, to be testified in Writing, under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange or Exchanges so to be made shall be good, valid, and effectual in the Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Buildings, 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 attending the making of any Exchanges and Partitions, shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioners shall by their said Award order and direct.

XXXVII. Provided always, and be it further enacted, That all the Costs, Charges, and Expences attending the making of any such Exchange or Partition, shall be paid, borne, and defrayed by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportion as the said Commissioners shall by their Award order or direct.

Costs of the Exchanges to be paid by the Parties making the same.

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 Moors, Commons, or Waste Grounds, to be inclosed as aforesaid, by virtue of this Act, and all other Agreements for any Term or Terms of Years thereon 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 Owners and Proprietors of the Premises comprized in such respective Leases or Agreements, making such Satisfaction to their said 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 Moors, Commons, or Waste Grounds, or relating thereto.

Leases at Rack Rent to be void.

XXXIX. And be it further enacted, That the several Lessees or Tenants who have under Leases (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 Moors, Commons, and Waste Grounds so to be allotted, whilst

Other Leaseholders to enjoy Allotments upon certain Conditions.

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

Wills and
Settlements
not to be
affected.

XL. Provided always, and be it further enacted, That nothing in this Act, 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, Tenements, or Hereditaments, to be divided, allotted, or exchanged, by virtue of the said recited Act, or of this Act, or any Part or Parts thereof respectively, but that the several Persons to whom such Lands, Tenements, or Hereditaments shall be assigned, allotted, or given in Exchange by virtue of this Act as aforesaid, 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 be seized and possessed 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, Tenements, or Hereditaments whereof such Person was seized or possessed, at or immediately

diately before the Execution of the Award of the said Commissioners, or for which, or in respect or in lieu whereof such Allotments and Exchanges shall be made as aforesaid, would have been subject or liable to in case the same had remained uninclosed, or unexchanged, or this Act had not been made.

XLI. And be it further enacted, That no Sheep or Lambs shall be depastured or kept in any of the Allotments to be made by virtue of this Act, where Quick Fences shall be planted, during the Space of Seven Years next after the Execution of the said Award, unless the Person or Persons so keeping the same shall first, at his, her, or their own Expence, make and maintain a Fence sufficient to guard the young Quick Fences round such Allotments from being cropped, hurt, or damaged by such Sheep or Lambs, whether such Quick Fences be planted or set by, or belong to, the Owner or Occupier, or Owners or Occupiers, of such Allotments as aforesaid, or the Owner or Occupier, or Owners or Occupiers, of the Allotment or Allotments adjoining thereto.

No Sheep to be kept in the Inclosures, unless, &c. for first Seven Years.

XLII. 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 or Parts of the said several Moors, Commons, and Waste Grounds, 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 public 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 seized 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.

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

XLIII. 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 Moors, Commons, and Waste Grounds, and shall be paid in such Shares and Proportions,
[*Lac. & Per.*] 12 H and

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

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, and appoint; and in case any Person or Persons 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.

XLIV. 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, or of the said Encroachments so to be sold and conveyed, or allotted as herein-before mentioned, 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 or Encroachments 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 Moors, Commons, and Waste Grounds, except only that such Purchaser or Purchasers shall not be subject or liable to the Payment of the Charges and Expences of obtaining this Act, or carrying the same into Execution.

Proprietors, &c. to pay their own Expences.

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

Persons advancing Money to pay the Expences of this Act to be repaid with Interest.

XLVI. And be it further enacted, That if any Person or Persons shall advance any Money in Discharge of the Fees or other Expences in or about the applying for and obtaining this Act, or carrying the same into Execution, such Person and Persons shall be repaid the same with Interest, after the Rate of Five Pounds *per Centum per Annum*, out of the Monies which shall be first raised to defray the Expences of this Act.

The whole Forest disafforested.

XLVII. And be it further enacted, That from and immediately after the said Commissioners shall have made and executed their Award, as mentioned and directed by this Act, and by the said recited Act, all and singular the Lands lying within the ancient Limits or Boundaries of the said Forest, as well such as are already inclosed, as also all and singular the said Moors, Waste Commons, or Waste Grounds, under and by virtue of this Act

Act intended to be divided and inclosed, shall from thenceforth become, and be, and continue from thenceforth for ever absolutely exonerated and discharged from Game of Deer, Warrens of Conies, and all Forestial Rights and Privileges whatsoever, which His said Majesty and His Successors may or could, or might otherwise claim therein, except in respect of the Performances of such Fealties, Suits of Court, Services, Customs, Rights, and Privileges, as are due for and in respect of Mesfuages, Buildings, and Lands of ancient Inclosure within the Limits of the said Forest, and as are intended to be in and by this Act particularly reserved.

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

Commissioners to lay their Accounts before Two Justices once in every Year.

XLIX. And be it further enacted, That as soon as conveniently may be after the said Commissioners shall have finished and completed the said intended Division and Allotment, they shall and are hereby authorized and required to form and draw up, or cause to be formed and drawn up, an Award in Writing; which said Award, together with the Maps, Plans, and Surveys to be annexed thereto, shall, within Three Calendar Months next after the Execution of the said Award, by the said Commissioners, be inrolled in the Office of the Clerk of the Council of the Duchy of *Lancaster*, and after such Inrolment the same shall be deposited with the Clerk of the Peace of the County Palatine of *Lancaster*, to be by him kept amongst the Records of the said Court, and the said Clerk of the Peace, or his Deputy, is hereby authorized and required to receive and deposit the same, upon receiving a Fee of One Guinea for so doing, to which all Persons interested in the said Moors, Commons, or Waste Lands, may, at all reasonable Times, have access, paying One Shilling for each Time of inspecting the same; and a Copy of the said Award or the Inrolment thereof, or of any Part or Parts thereof, shall from Time to Time, and at all Times thereafter, be admitted and allowed in all Courts whatsoever, as legal Evidence; which Copy the Clerk of the Council of the Duchy of *Lancaster*, and the said Clerk of the Peace, or their respective Deputies, for the Time being, are hereby severally and respectively required to make and deliver unto any Person or Persons requiring the same, upon Payment of the accustomed Fees allowed to be taken for Copies of Records made in their respective Offices, and no more, and the said Award so to be executed, or the Inrolment thereof as aforesaid, shall be and is hereby declared to be binding,

Award.

Duplicate of Award to be made if required.

binding and conclusive unto and upon all and every the Persons interested therein.

Allowing an
Appeal to
the Quarter
Sessions.

L. And be it further enacted, That if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall think himself, herself, or themselves aggrieved by any Thing done by virtue or in pursuance of this or the said recited Act, (other than and except as to such Claims, Matters, and Things as are herein before, or by the said recited Act, directed or authorized to be tried, settled, or determined by an Issue at Law, or where any of the Clauses of the said recited Act, or of this Act, shall express that the same shall be by the Orders and Determination of the said Commissioners final and conclusive), then and in every such Case, he, she, or they, may appeal to the General Quarter Sessions of the Peace, which shall be held at *Preston*, in and for the said County of *Lancaster*, within Five Calendar Months next after the Cause of Complaint shall have arisen; and the Justices of the Peace in such Sessions are hereby required to hear and determine the Matter of every such Appeal, provided that Notice in Writing of every such Appeal, specifying the Cause of Complaint, be given to the said Commissioners, or the other Party interested in the Matter of any such Appeal, or their Agent or Agents for the Time being, Two Calendar Months 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 Session, to be holden at *Preston* aforesaid, in and for the said County; 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 any *Certiorari*, or any Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

The King's
Rights to the
Mines pre-
served.

LI. 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 His Majesty, His Heirs or Successors, in Right of his said Duchy, and his Lessee as aforesaid, to the Mines, Beds, Veins, and Seams of Coal, Cannel, Slack, Ironstone, Lead Ore, Manganese, or other Mines or Minerals, in or under the said Moors, Commons, or Waste Grounds, within the Parcel of the same Forest hereby intended to be inclosed, or to any Seignories or Royalties incident or belonging to the same; but that His Majesty, His Heirs and Successors, and his Lessee as aforesaid, shall and may continue to use, exercise, and enjoy all such Rights, and the same are hereby reserved to His Majesty, His Heirs and Successors, and his Lessee as aforesaid, with full and free Liberty, Power, and Authority from Time to Time, and at all Times hereafter, to hold,
win,

win, work, and enjoy all Mines, Beds, Veins, and Seams of Coal, Cannel, Slack, Ironstone, Lead Ore, Manganese, and other Mines and Minerals of what Nature and Kind soever, within and under the said Forest, Moors, and Waste Grounds, hereby intended to be inclosed, together with all convenient and necessary Roads, Ways, and Passages, 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 of searching for, winning, and working the said Mines and Minerals, and loading and carrying the Coal, Cannel, Slack, Iron Stone, Lead Ore, Manganese, or other Produce thereof, and sinking, digging, and making Pits, Shafts, Pit Rooms, Stand Yards, Air Pits, Drifts, Levels, Ways, and Water-courses, and of erecting and using Fire or Steam Engines, or other Engines, and of altering, changing, pulling down, and carrying away the same, or any of the Materials thereof, and to have and use any Stone got in the sinking Pits or Shafts, or working or getting the said Mines and Minerals, so reserved as aforesaid, for the Uses and Purposes of the said Work, at his and their own free Will and Pleasure; and to do all other Acts and Things, and to employ, use, and exercise all such other Machines, Engines, and Things, either now in use or hereafter to be invented, as may be necessary and convenient for the full and complete Enjoyment thereof, in the most full, complete, and beneficial Manner, to all Intents and Purposes, His Majesty, His Heirs and Successors, and his Lessee as aforesaid, making and allowing to the several Owners or Occupiers of such Allotments respectively, a reasonable and adequate Recompence and Satisfaction for all such Damages as shall from Time to Time be done thereto, or to any Erections or Buildings that may at any Time of working or getting of the said Mines and Minerals, or exercising the Privileges aforesaid, be erected or built thereupon, by or in the Use or Exercise of any such Right, Title, Interest, Liberty, Power, or Authority, in Proportion to the Loss thereby sustained, according to the Rights and Interests therein: Provided always, that nothing herein contained shall extend, or be construed to extend, to enable His Majesty, His Heirs or Successors, or his Lessee or Lessees, to enter into any House or Building, or to break the Surface of the Soil within any Yard or Garden which may be erected or made upon any Part or Parts of the same Commons, Moors, Heath, or Waste Grounds, by virtue of the Powers and Authorities hereby given.

LII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and all other Persons, Bodies Politic, Corporate, and Collegiate, their Heirs, Successors, Executors, Administrators, and Assigns, (other than and except the several Persons, Bodies Politic, Corporate, or Collegiate, to whom any Allotment or other Compensation shall be made or provided by virtue of this Act, in respect of the Interest or Proportion for which such Allotment or Compensation shall be made, their Heirs, Successors, Executors, Administrators, and Assigns respectively, 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 they, every, or any of them had or enjoyed, of, in, to, or out of the said Moors, Commons, and Waste
 [Loc. & Per.] 12 I Grounds

General
Saving.

Grounds; hereby directed to be divided, allotted, and inclosed, before the passing of this Act, or could or might have been had or enjoyed, if this Act had not been made.

This Act
may be given
in Evidence.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1811.