



ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

Cap. 102.

An Act for inclosing Lands in *Tonge*, in the Parish of *Bolton in the Moors*, and County of *Lancaster*.

[5th May 1812.]

WHEREAS there is within the Manor or Township of *Tonge* otherwise *Tonge with Haulgh*, in the Parish of *Bolton in the Moors*, in the County Palatine of *Lancaster*, a certain Piece or Parcel of open Common, or Waste Land, called *Tonge Moor*, and also certain other open Common or Waste Grounds: And whereas *Le Gendre Starkie* Esquire is Lord of the said Manor of *Tonge* otherwise *Tonge with Haulgh*, and as such is Owner of the Soil of the said Commons and Waste Grounds, and entitled to all Mines, Minerals and Royalties of, within and under the said Commons and Waste Grounds: And whereas the said *Le Gendre Starkie*, and the Right Honourable *Orlando Lord Bradford*, *Thomas Parker* Esquire, and *John Gartside* Esquire, and several other Persons, are or claim to be entitled to Right of Common, and other Rights and Interests in and upon the said Commons and Waste Grounds: And whereas the said Commons and Waste Grounds in their present State afford very little Profit or Advantage, but are capable of considerable Improvement; and the same would, if divided, allotted and inclosed, be of great Advantage to the several Persons interested therein; but such Division, Allotment and Inclosure, cannot be made and effectually established without the Aid and Authority of Parliament: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty,

[*Loc. & Per.*]

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Majesty,

General In-
closure Act,
41 G. 3. c. 109.

Commission-
ers.

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*: 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 *William Harper of Samlesbury, in the County of Lancaster, Gentleman, and John Albinson of Bolton in the Moors aforesaid, Gentleman, 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 Commons and Waste Grounds within the said Manor of Tonge otherwise Tonge with Haulgh, and for otherwise putting this Act in Execution, with such Powers, and subject to such Rules, Orders, Regulations and Directions as are contained in the said recited Act, except in such Cases where the same are hereby varied or altered.*

An Umpire
to be ap-
pointed.

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 having taken and subscribed 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 Judgment 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 Judgment 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

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 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 Powers and Authorities reposed in me as an Umpire, by virtue of an Act of Parliament passed in the Fifty-second Year 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 major Part in Value (to be ascertained by the Land Tax Assessment) of the said Proprietors or Persons interested in the said Commons and Waste Grounds hereby directed to be inclosed, 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 *Bolton in the Moors* aforesaid, in pursuance of Notice to be given upon some *Sunday* before or during Divine Service, by Writing to be affixed on the principal outer Door of the Parish Church of *Bolton in the Moors* aforesaid, and also by Advertisement to be inserted in One of the *Manchester Weekly Newspapers*, 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 any such Commissioner so dying, declining to act, or become incapable of acting as aforesaid, 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 every such Commissioner so to be appointed shall, after taking the Oath prescribed in that Behalf, have the like Power 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.

For supplying the Number of Commissioners in case of Death or Resignation.

V. 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

Commissioners may appoint a Clerk.

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.

Notice of Meetings.

VI. 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 Door of the said Parish Church of *Bolton in the Moors*, 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 all Meetings of the said Commissioners to be held by virtue of this Act, shall be held within the Parish of *Bolton in the Moors* aforesaid, 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.

Adjournment of Meetings.

If neither of the Commissioners attend, their Clerk may adjourn.

Other Notices how to be given.

VII. 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 one of the said *Manchester Weekly Newspapers*, or in some other Newspaper circulated in the said County of *Lancaster*.

Proceedings to be entered in a Book.

VIII. And be it further enacted, That all Orders, Proceedings and Determinations of the said Commissioners at any of their Meetings to be held in pursuance of this Act, shall be entered in a Book or Books to be provided 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 to settle Disputes, but not to determine Disputes as to Titles, &c.

IX. 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 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

and Inclosure, it shall be lawful for the said Commissioners to hear, ad-
judge and determine the same: Provided always, that nothing herein
contained shall authorize and empower the said Commissioners or Umpire
to determine the Title to any Messuages, Cottages, Lands, Tenements or
Hereditaments whatsoever.

X. Provided also, and be it further enacted, That nothing in this
Act contained shall extend to enable the said Commissioners or Umpire
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 or Umpire shall be of Opinion against the Right of the
Person or Persons so in Possession, they shall forbear to make any Deter-
mination therein until the Possession shall have been given up by such
Person or Persons, or recovered from such Person or Persons by Eject-
ment, or other due Course of Law.

Commission-
ers not to
determine
contrary to
Possession.

XI. 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, and from Time to Time to dis-
place 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 so to be dis-
placed or removed, and to pay, satisfy, and discharge to each and every
Surveyor 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.

Appointment
of Surveyors.

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

Surveyor 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, ac-
‘ cording to the best of my Skill and Ability, execute and perform the several
‘ Duties incumbent on me as a Surveyor, by virtue of an Act, passed in
‘ Fifty-second 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 either of the said Com-
missioners 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.

XIII. And be it further enacted, That in case the said Commissioners
shall upon the Hearing or Determination of any Claim or Claims, Ob-
jection or Objections, to be delivered to them in pursuance of this Act,
[*Loc. & Per.*]

Power to
affect Costs.

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 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 Politic, Corporate or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

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

XIV. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division, Allotment and Inclosure, shall be dissatisfied with any Determination of the said Commissioners, or of any Umpire nominated by them in Manner aforesaid, touching or concerning any Claim or Claims of any Rights of Common, or other Rights or Interests in, over, or upon the said 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

Actions shall be commenced, in case 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, Interest 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 Postea, in Addition to the Verdict given on the Issue or Issues joined, but nevertheless the Costs of such 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, and also if any such shall be made, 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, or Finding and Indorsement, 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 after such Verdict or Verdicts, or Special Finding or Indorsement, shall be obtained, and not set aside by the Court, the said Commissioners or Umpire shall and they and he are and is hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to such Verdict or Verdicts, or Finding and Indorsement as aforesaid: Provided always, that in case the said Commissioners shall be made Defendants in any such Action or Actions, 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 directed to be paid and borne: Provided also, that the Determinations of the said Commissioners or Umpire touching such Claim or Claims of any Rights of Common, or other Rights or Interest, in, over, and upon the said 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.

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.

If any of the Parties die Proceedings not to abate.

XVI. 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 hereinbefore 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,

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

aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

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

XVII. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching 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.

Death of Parties not to suspend the Execution of the Act.

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

Survey to be made.

XIX. And, for the more just and regular Division of the said Lands and Grounds hereby directed to be divided and inclosed, be it further enacted, That the said Surveyor shall make or cause to be made a Survey, Admeasurement, and Plan of the said 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 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); provided nevertheless, that if any Plan or Plans, Survey or Surveys already made of the said 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 the Commissioners shall think fit.

XX. And

XX. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized, at any Time or Times before the Execution of the Award, by Notice in Writing under their Hands, to be given and published as aforesaid, to order or direct all or any Part of the Rights of Common in, over, or upon the said 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.

XXI. And be it further enacted, That it shall not be lawful for any Person whomsoever from and after the passing of this Act, and before 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 Commons or Waste Grounds, or any Part thereof, without the Leave or License 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 Grounds, or any Part thereof, without the Leave and Licence of the said Commissioners, or having obtained such Leave and Licence, shall act in any Manner contrary thereto, or to the Rules, Orders, Regulations and Restrictions therein contained, every such Person being convicted thereof, either by his or her own Confession, or upon the Oath of One credible Witness before One of His Majesty's Justices of the Peace for the said County of *Lancaster*, not being interested, (who may summon the Parties concerned, and examine Witnesses upon Oath relating to the said Complaint), shall for every such Offence forfeit and pay such a Sum of Money as the said Justice shall appoint, not exceeding the Sum of Five Pounds; and it shall be lawful for such Justice, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause the said Penalty to be raised and levied by Distress and Sale of the Goods and Chattels of the Person so offending, rendering the Overplus, if any, upon Demand, after deducting the Costs and Charges of such Distress and Sale, to the Person or Persons so offending, and the said Penalty, when paid or levied, shall be applied by the said Commissioners for the Purposes of this Act.

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

XXII. And be it further enacted, That if the said Commissioners shall deem it expedient or proper 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 Parish or Township adjoining thereto, or to make the same Boundary Fences respectively regular, it shall be lawful for the said Commissioners, with the Consent in Writing, under the Hand or Hands of the Lord or Lords of the Manor or Manors in which the Lands are situate, and of the Owner or Owners of the Lands upon which any Fence or Fences shall or may be intended to be made, to set out and ascertain

For shortening Boundary Fences.

certain the Boundary between the Lands and Grounds by this Act directed to be divided and allotted, and the Lands lying in such adjoining Parish or Township, Parishes or Townships respectively, in such Manner as they shall judge proper for the Purposes aforesaid; and after such Boundaries shall be let out and ascertained as aforesaid, the same shall be fenced by such Person or Persons, in such Manner, and at such Time or Times, as the said Commissioners shall direct, and shall for ever thereafter be deemed and taken to be the Boundaries between the said Township of *Tonge* otherwise *Tonge with Haulgh*, and such adjoining Parish or Township, Parishes or Townships respectively, any Law, Usage or Custom to the contrary thereof notwithstanding.

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 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 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 Commons or Waste Grounds intended to be divided and allotted by virtue of this Act.

Encroachments within Twenty Years to be deemed Part of the Commons, and the Commissioners to have Power to sell the same to the Persons who have made the same.

XXIV. And be it further enacted, That all such Lands as have been heretofore inclosed and encroached upon or from the said Commons and Waste Grounds within Twenty Years previous to the passing of this Act, shall be considered as Part of the Commons and Waste Grounds intended to be hereby allotted and inclosed; provided also that the said Commissioners shall have full Power and Authority and are hereby required 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, and who may be desirous of becoming Purchasers thereof, for such Price and Prices in Money as the said Commissioners shall think just and reasonable, for such Encroachments respectively in the unimproved State thereof, which Money shall be applied towards the Expences of the said Inclosure, as herein-after mentioned.

Allotment of Land for Sale.

XXV. And be it further enacted, That it shall be lawful for the said Commissioners, as soon after the passing of this Act as conveniently may be, and from Time to Time, or at any Time, as they shall see Occasion, before the Execution of their Award, to set out and sell by public Auction or private Contract such Pieces or Parcels of the said

Commons or Waste Lands hereby directed to be divided, allotted and inclosed, as they shall deem expedient, proper, and beneficial for the said Inclosure, and sufficient for the Purposes of raising Money for defraying the Costs, Charges and Expences of obtaining this Act, and carrying the same into Execution, such Sale to be subject to the Regulations and Directions mentioned in the said recited Act; and all and every Part and Parts of the said Commons and Waste Lands which shall be so sold by the said Commissioners, shall upon Payment by the respective Purchaser or Purchasers thereof of his, her, or their Purchase Money for the same to the said Commissioners, or to such Person or Persons, and at such Place and Time as the said Commissioners shall for that Purpose appoint, be conveyed by the said Commissioners to and to the Use of such Purchaser or Purchasers, and his, her, or their respective Heirs and Assigns, in Fee Simple, or as he, she, or they shall direct or appoint, and the Piece or Parcel of Common or Waste Land so sold and conveyed as aforesaid, shall be inclosed and held by such Purchaser or Purchasers, or such other Person or Persons as aforesaid, and his, her, or their Heirs and Assigns in Severalty, and the Receipt or Receipts of the said Commissioners shall be a good and effectual Discharge to such Purchaser or Purchasers, and such other Person or Persons as aforesaid, for his, her, or their Purchase Money, and every Part and Parcel thereof, and he, she, or they shall not be liable to see to the Application thereof, or be answerable or accountable for the Mis-application or Non-application of the same, or any Part or Parcel thereof: Provided always, that the Person or Persons who shall become the Purchaser or Purchasers of the said Lands so to be allotted and sold for the Purpose of defraying the Expences of this Act, 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 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.

XXVI. 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 Commons and Waste Grounds hereby directed to be divided and inclosed) to assign, set out, and allot, subject to such Rules, Orders and Regulations as the said Commissioners shall by their Award direct and appoint, such and so many Plots and Parcels of the said Commons and Waste Grounds as they shall think proper and necessary, not exceeding Two Statute Acres in the whole, to be used for the Purpose of public Wells for the Accommodation of the neighbouring Inhabitants, and public Watering Places for Cattle, and for getting Sand, Stone, Gravel, and other Materials, for the making or repairing the Bridges, Highways and Roads within the said Commons and Waste Grounds, and for the Use of the Proprietors of Estates within the same Township, and

Allotments
for Watering
Places and
getting
Stones, &c.

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 Lord
of the
Manor.

XXVII. And be it further enacted, That the said Commissioners (after setting out such public and private Roads and Ways, and such other Allotments for public or general Purposes, as are by the said recited Act or this Act directed to be set out) shall and they are hereby required to set out, allot and award, unto the said *Le Gendre Starkie*, as Lord of the Manor of *Tonge* aforesaid, or such other Person or Persons as for the Time being shall be the Owner or Owners of the said Manor, his, her, or their Heirs and Assigns, such Parts and Parcels of the then Residue of the Commons and Waste Grounds hereby directed to be divided, allotted and inclosed, as shall in the Judgement of the said Commissioners (Quantity, Quality, and Situation considered) be equal in Value to One Twentieth Part of such Residue of the said Commons and Waste Grounds, the same to be in lieu of and as a full Satisfaction and Compensation for all Rights and Interests in and to the Soil of the said Commons and Waste Lands.

Allotment
of the Residue
of the Com-
mons, &c. to
the Proprie-
tors

XXVIII. And be it further enacted, That after the aforesaid several Allotments shall have been made and set out according to the Directions herein-before contained, the said Commissioners shall and they are hereby authorized and required to divide, apportion, set out and allot all the Residue and Remainder of the said 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 Commons and Waste Grounds respectively by the said recited Act and this Act directed to be divided, allotted or inclosed as aforesaid.

In making
Allotments,
Convenience
and Situation
to the Per-
sons entitled
to be regard-
ed.

XXIX. And be it further enacted, That in making the said Allotments due Regard shall be had by the said Commissioners to the Convenience of the Parties interested therein respectively, not only with respect to the Situation of the Estates or Property contiguous, or near adjoining to the said Commons and Waste Lands, but also with respect to the laying and plotting of the several Allotments to be made to any of such Persons together in one Plot, or otherwise, as the Necessity or Convenience of the Case may require, provided the same can be done, in the Judgment of the said Commissioners, without Prejudice to any other Proprietor; so as that all such Persons being desirous of having their Allotments laid together, or as near as may be as aforesaid, shall signify such their Desire to the said Commissioners in Writing under their Hands, within the Space of Two Calendar Months next after the first Attendance of the said Commissioners for receiving the Claims of the Parties as aforesaid, or at the Time of making such Claims respectively.

XXX. And

XXX. 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 all such Fences shall at all Times thereafter be maintained and repaired by and at the Expence of the Owners for the Time being of the Lands and Grounds to which they shall be respectively allotted or directed to belong.

Allotments to be fenced.

XXXI. 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.

Commissioners to deliver Possession of Allotments.

XXXII. 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 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.

Parties may sell their Interests in Allotments before the Award.

XXXIII. 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, 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.

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

XXXIV. 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 Lands, Tenements, or Hereditaments within the said Manor, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments within the said Manor, or within any adjoining Manor, Parish, Hamlet, Township or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements or Hereditaments, which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate or

Directing Exchanges to be made.

[Loc. & Per.]

23 Z

Collegiate,

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

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

XXXV. 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.

Leases at Rack Rent to be void.

XXXVI. 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 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 comprised 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 be construed to extend to avoid or affect any Agreement or Engagement already made between Landlord and Tenant in Contemplation of an Inclosure of the said Commons and Waste Grounds, or relating thereto: Provided always, that nothing in this Act contained shall extend to vacate any Lease of Lands taken in Exchange, if such Lands shall be wholly situate in an adjoining Manor or Parish.

Other Leaseholders to enjoy Allotments upon certain Conditions.

XXXVII. And be it further enacted, That the several Lessees or Tenants who have under Lease (other than a Lease or Leases at Rack Rent) any Estate or Estates in respect of which any such Allotment or Allotments shall be made as aforesaid, (except such as have only Right of Common upon the said Commons and Waste Grounds so to be allotted, whilst the same remains uninclosed, or at the Will and Pleasure of the Owner or Owners of the Reversion and Inheritance of such Leasehold Estates),

Estates), shall during the Continuance of their respective Leases, have, hold and enjoy the several Parts and Shares of the said Commons and Waste Grounds that shall be allotted and set out for or in respect of such Estates, upon Condition only that such Lessee or Lessees, Tenant or Tenants, do and shall within such Time or Times, and in such Manner as the said Commissioners shall order, direct, appoint or award, well and sufficiently inclose, ditch, and fence out the Shares of the said Commons and Waste Grounds to be allotted to or in respect of such Estates; and also do and shall within such Time or Times as last aforesaid, pay his and their Part and Share, Parts and Shares, in Proportion to their Leasehold 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 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 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.

XXXVIII. 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 seised 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 seised or possessed at or immediately before the Execution of the Award of the said Commissioners, or for which, or in respect or in lieu whereof such Allotments and Exchanges shall

Wills and Settlements not to be affected.

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.

Not to affect
Tythes, &c.

XXXIX. Provided always, and be it enacted, That nothing in this Act or the said recited Act contained shall prejudice, lessen, defeat, or in anywise affect the Right, Title, or Interest of the Tythe Owner or Tythe Owners for the Time being respectively, in or to any Tythes, Moduses, Dues, Payments, Mortuaries, *Easter Offerings*, Surplice or other Fees, happening, arising, and renewing out of, or payable in respect of, any Lands, Tenements, or Hereditaments within the said Township of *Tonge* otherwise *Tonge with Haulgh*, but that such Tythes, Moduses, Dues, Payments, Mortuaries, *Easter Offerings*, Surplice and other Fees, shall be payable and paid at all Times hereafter in the same Manner as if this Act, or the said recited Act, had not been passed.

No Sheep to
be kept in
the Inclo-
sures, &c.
for first
Seven Years.

XL. 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.

Expences of
procuring
and execut-
ing the Act.

XLI. And be it further enacted, That the Fees and Payments to the said Commissioners, and all Charges and Expences already incurred and hereafter to arise relative to the said intended Division, Allotment and Inclosure, and to the soliciting, obtaining, and passing of this Act, and of surveying, planning, dividing, and allotting the said Lands and Grounds, and of preparing, making, and depositing the Award of the said Commissioners, and all Plans, Maps, Surveys, Instruments, Papers and Writings, or any of them, respectively directed by the said Commissioners to be prepared and made out, and all other Costs, Charges, and Expences whatsoever in anywise attending the Execution of this Act, or of any of the Powers, Authorities, Provisoes or Directions thereof, and not otherwise provided for by this Act, shall be defrayed and paid out of the Money to arise by Sale of Land as herein-before mentioned; and that in case the Money to be raised by such Sale or Sales as are herein-before mentioned shall not be sufficient to pay and defray the Costs, Charges, and Expences aforesaid, the Deficiency shall be made up by the several Persons interested in the said Commons, Moors, Heath and Waste Land, and shall be paid in such Shares and Proportions, and within such Time, and to such Person or Persons, as the said Commissioners shall nominate, direct and appoint; and that if 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, her, or their 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: Provided
always,

always, that in case the Part or Parts of the said Commons or Waste Grounds hereby directed to be sold shall produce more Money than will be required for defraying the Charges and Expences hereby directed to be defrayed thereout, then and in such Case the Surplus Money arising by such Sale shall be divided and apportioned between the several Proprietors of the Lands hereby directed to be divided, allotted and inclosed, according to their several and respective Interests therein, and paid to them in case they shall be seised in Fee Simple, or Fee Tail General or Special of their several Allotments; or in case any of the Parties shall not be so seised, the Shares of such last-mentioned Parties shall be paid into the Bank of *England* in the Manner directed by the said recited Act, in respect of Money thereby directed to be paid into the Bank for the Purchase or Exchange of Lands, Tenements or Hereditaments, or any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments to be settled to the same Uses.

Application
of Surplus
Money.

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

Proprietors,
&c. to pay
their own
Expences.

XLIII. 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.

Persons ad-
vancing
Money to
pay the Ex-
pences of
this Act to
be repaid
with In-
terest.

XLIV. And be it further enacted, That the said Commissioners who shall act in the Execution of this Act shall be allowed the Sum of Two Guineas and a Half 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.

Allowance
to Commis-
sioners.

XLV. And be it further enacted, That once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of the passing of this Act), the said 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.

Commission-
ers to pass
their Ac-
counts before
Two Justices,
once in every
Year.

[*Loc. & Per.*]

24 A

XLVI. And

Award.

XLVI. 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 with the Clerk of the Peace of the County Palatine of *Lancaster*, which Inrolment shall 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 Inrolment upon receiving a Fee of One Guinea for so doing; and the said Award, together with the Map or Plan thereto annexed, shall immediately after the Inrolment of such Award be put into and lodged for safe Custody in the Parish Church of *Bolton in the Moors* aforesaid, and all Persons interested in the said Commons or Waste Lands may at all seasonable Times have Access to the said Award, or the Inrolment thereof, paying One Shilling for each Time of inspecting the same; and the said Award, and also a Copy thereof, or of any Part or Parts thereof, after such Inrolment, shall from Time to Time and at all Times be admitted and allowed in all Courts whatsoever as legal Evidence, which Copy the said Clerk of the Peace, or his Deputy for the Time being, is hereby 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 such Offices, and no more; and the said Award so to be executed shall be and is hereby declared to be binding and conclusive unto and upon all and every the Persons interested therein.

Allowing an
Appeal to
Quarter
Sessions.

XLVII. 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 or omitted to be done under 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 Determinations 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 *Manchester* 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 Sessions to be holden at *Manchester* 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 removable by *Certiorari*, or any Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

XLVIII. Provided always, and be it further enacted, That nothing in this Act contained shall be construed to defeat, lessen, or prejudice the Right, Title, or Interest of the said *Le Gendre Starkie*, or any of the future Lord or Lords, Lady or Ladies of the Manor of *Tonge* otherwise *Tonge with Haulgh* 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 Commons or Waste Grounds hereby intended to be inclosed, or to any Seigniories or Royalties incident or belonging to the same; but that the said *Le Gendre Starkie*, or such other Person or Persons as aforesaid, shall and may continue to use, exercise, and enjoy all such Rights, and the same are hereby reserved to the said *Le Gendre Starkie*, and such other Person or Persons as aforesaid, with full and free Liberty, Power and Authority, from Time to Time and at all Times hereafter, to hold, 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 Commons 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, Ironstone, Lead Ore, Manganese, or other Produce thereof, and sinking, digging and making Pits, Shafts, Pit Rooms, Stand Yards, Air Pits, Drifts, Levels, Ways and Watercourses, 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, as if this Act had not been passed, the said *Le Gendre Starkie*, or such Lord or Lords, Lady or Ladies of the said Manor for the Time being, making and allowing to the several Owners or Occupiers of such Allotments respectively, a reasonable and adequate Re-compense 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 the said *Le Gendre Starkie*, or such

Saving
Manorial
Rights.

such other Person or Persons as aforesaid, 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 said Commons or Waste Grounds by virtue of the Powers and Authorities hereby given: Provided always, that it shall and may be lawful for the Owners and Occupiers of Allotments of the said Commons and Waste Lands, to get Marle, Clay, Stones, Sand and Gravel, within their respective Allotments, for their own respective Use only, and not for Sale, or any other Purposes whatsoever.

General
Saving.

XLIX. 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 and County Palatine of *Lancaster*, and also to all 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 Interest 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, Title and Interests, as they, every or any of them had or enjoyed of, in, to, or out of the said Commons and Waste Grounds hereby directed to be divided, allotted and inclosed, before the passing of this Act, or could or might have been had or enjoyed, if this Act had not been made.

This Act
may be
given in
Evidence.

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

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