



ANNO SECUNDO & TERTIO

VICTORIÆ REGINÆ.

Cap. 31.

An Act for inclosing Lands in the Township of *Hartishead* otherwise *Hartshead* in the Parish of *Dewsbury* in the West Riding of the County of *York*.
[1st July 1839.]

WHEREAS there are within the Township of *Hartishead* otherwise *Hartshead* in the Parish of *Dewsbury* in the West Riding of the County of *York* certain Commons or Waste Lands, containing by Estimation One hundred and fifty Acres, or thereabouts: And whereas *Sackville Walter Lane Fox* Esquire claims to be Lord of the Manor of *Wakefield* in the said West Riding, (within which the said Township of *Hartishead* otherwise *Hartshead* is situate, and of which it is Parcel,) and as such to be Owner of the Soil of all the said Commons and Waste Lands within the said Township, and of the Coals, Mines, Veins and Seams of Coal, and all other Mines and Minerals therein: And whereas *Sir George Armytage* Baronet, the Reverend *Thomas Atkinson* Clerk, *Samuel Walker*, *Richard Horsfall*, and sundry other Persons, as Owners of Messuages, Cottages, Lands, Tenements, and Hereditaments within the said Township, are or claim to be respectively entitled to Rights of Common upon the said Commons and Waste Lands: And whereas an Act was passed in the Forty-first Year of the Reign of His late Majesty

[Private.]

41G.3.c.109. Majesty King George the Third, 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 another Act was passed in the First and Second Years of the Reign of His late Majesty King George the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: And whereas the said Commons or Waste Lands are in their present State incapable of Improvement, and it would be advantageous to the several Persons interested therein if the said Commons or Waste Lands were divided and inclosed, and specific Parts thereof allotted to the several and respective Proprietors or Persons interested therein, in proportion to their several and respective Rights: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen'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 *Henry Holt of Wakefield* in the said West Riding of the County of *York*, Gentleman, shall be and he is hereby appointed the Commissioner for surveying, planning, valuing, dividing, allotting, and inclosing the Commons and Waste Lands in the Township of *Hartishead* otherwise *Hartshead* aforesaid, amongst the Proprietors and Persons interested therein respectively, according to their several and respective Estates, Rights, and Interests, and for carrying this Act and the said recited Acts into execution (except such Parts of the said recited Acts as are hereby varied or altered), under and subject to the Directions, Regulations, and Provisions herein contained, and also under and subject to such of the Directions, Regulations, Clauses, and Provisions contained in the said recited Acts, or either of them, as are not controlled by or repugnant to any of the Powers, Authorities, Directions, Regulations, Clauses, and Provisions of this Act.

Appointment
of Commis-
sioner.

Power to
elect a new
Commis-
sioner on
Vacancy.

II. And be it further enacted, That when and so often as the said *Henry Holt*, or any other Commissioner to be appointed in manner herein-after mentioned, shall die, or refuse or neglect for the Space of Three Calendar Months to act, or become incapable of acting as a Commissioner for the Purposes of this Act, then and in every such Case the major Part in Value of the several Proprietors of Lands within the said Township of *Hartishead* otherwise *Hartshead* (such Value to be ascertained according to the Assessment on their respective Estates in the then last Rate made for the Relief of the Poor of the said Township), present at some public Meeting, by themselves or known Agents, to be holden at *Hartishead* otherwise *Hartshead* aforesaid, or at some convenient Place within the said Manor, (of which Meeting and the Intent thereof Notice shall be given Fourteen Days previously to such Meeting, by affixing such Notice in Writing on or near to the principal Door of the Church of *Hartishead* otherwise *Hartshead* aforesaid immediately before Divine Service, and by inserting the same in the *Wakefield* Newspaper, or some other Newspaper circulated in the County of *York*;) shall and they are hereby empowered from Time to Time to elect, and by Writing under their Hands to appoint, some other fit and proper Person, not interested in

the said intended Division and Inclosure, to be a Commissioner in the Room and Stead of the Commissioner so dying, or refusing or neglecting to act, or becoming incapable of acting as aforesaid; provided that before such Person appointed to be a new Commissioner as aforesaid shall act the said *Sackville Walter Lane Fox*, or the Lord or Lords of the said Manor for the Time being, or his or their Steward or Deputy Steward for the Time being of the said Manor, and the said *Sir George Armytage* Baronet, or the Owner or Owners for the Time being of his Estates in the said Township of *Hartishead* otherwise *Hartshead*, shall, by Writing under their respective Hands, signify their Approbation of such Appointment; and in case such Lord or Lords, or his or their Steward or Deputy Steward as aforesaid, and such Owner or Owners as last aforesaid, or any of them, shall disapprove of the Person so elected, then such Election shall be void, and some other Person shall in like Manner be chosen, and so *toties quoties* until a Commissioner be chosen who shall be approved of by such Lord or Lords, or his or their Steward or Deputy Steward, or Owner or Owners respectively; and every such Commissioner so to be appointed shall, after taking the Oath or Affirmation prescribed by the first above recited Act to be taken by Commissioners, have the same Power and Authority to act in the Execution of this Act and the said recited Acts as the said *Henry Holt* is hereby invested with, which Appointment shall be annexed to and deposited with the Award of such Commissioner.

III. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to appoint some fit and proper Person or Persons to be Clerk or Clerks to assist him in the Execution of the Powers of this Act, and may, if necessary, from Time to Time remove such Clerk or Clerks, and appoint another or others in his or their Place and Stead, when it shall seem meet to the said Commissioner so to do. Appointment of Clerk.

IV. And be it further enacted, That, out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same and the said recited Acts, the said Commissioner, and the Clerk or Clerks to be appointed by the said Commissioner, as herein-before directed, shall respectively be paid, for each and every Day they shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts, during the first Two Years next after the passing of this Act, the Sum of Three Pounds Three Shillings, and no more, and after the Expiration of the said Two Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds Two Shillings, and no more, for each and every Day they shall respectively be employed as aforesaid, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall be put unto during their several Journeys and Attendances in the Execution of this Act or the said recited Acts, other than and except the Expences for the Use of the Room in which the Meetings shall be holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of drawing, preparing, copying, engrossing, and enrolling the Award of the said Commissioner, and of Advertisements. Allowance to Commissioner and Clerk.

V. And

For regu-
lating the
Duration of
Meetings.

V. And for regulating the Duration of all Meetings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours (as the Case may be) shall be charged as only Half a Day, and the said Commissioner and the said Clerk or Clerks shall be paid accordingly; and a Book shall be kept by the said Commissioner, or his Clerk or Clerks, in which shall be entered the several Days on which the said Commissioner shall hold his Meetings, and at what Hour they respectively left the same; and such Book shall be signed by the said Commissioner and Clerk or Clerks at the Termination of each Meeting, and shall be open for the Inspection of any Person or Persons interested, or his, her, or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book, without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioner to retain or pay himself, or such Clerk or Clerks, out of any Monies to be received by him or over which he may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-before directed to be made to such Commissioner and Clerk or Clerks respectively beyond One Third of such Allowance as they respectively shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award herein-after directed to be made, or in case the Account of the said Commissioner be appealed against then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner, or of the said Clerk or Clerks, previous to the Execution of the Award herein-after directed to be made, the Commissioner for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner, or of such deceased Clerk, such Sum of Money as shall appear by the said Accounts to be due to the said Commissioner or Clerk: Provided also, that the said Commissioner shall and he is hereby directed and required, from Time to Time, after the Accounts of the said Commissioner shall have been examined and balanced, and signed by a Justice or Justices of the Peace, annually or oftener, as herein-after mentioned, lay out the remaining Two Thirds or other Proportion of such Allowance as aforesaid in Exchequer Bills or other Government Securities, in the Names of any Two or more of the Proprietors or Persons interested in the Commons and Waste Lands by this Act intended to be divided and allotted, and shall lodge or deposit such Exchequer Bills or other Government Securities in the Hands of the Banker or Person to be appointed under this Act for receiving the Monies to be raised under the same, for safe Custody, until the said Commissioner and Clerk or Clerks shall become entitled to such Allowance in pursuance of the Provisions of this Act.

VI. And

VI. And be it further enacted, That the said Commissioner shall and he is hereby required to give or cause to be given public Notice in the *Wakefield* Newspaper (if then published), and if not, then in some other Newspaper or Newspapers circulated in the County of *York*, and also Notice in Writing, by affixing the same on or near to the principal Door of the Church of *Hartishead* otherwise *Hartshead* aforesaid on some *Sunday* immediately before Divine Service, of the Time and Place of the first and every other subsequent Meeting for executing the Purposes of this Act and the said recited Acts, Ten Days at least before every such Meeting (Meetings by Adjournment only excepted); and all Meetings for the Execution of this Act shall be held at *Hartishead* otherwise *Hartshead* aforesaid, or at some convenient Place within the said Manor; and in case the said Commissioner shall not attend at the Time and Place appointed for such Meeting, or to which any such Meeting shall be adjourned, it shall and may be lawful to and for the Clerk or Clerks to the said Commissioner to adjourn such Meeting to any future Day, not exceeding Forty Days from the Day of such Adjournment; and the said Clerk or Clerks is hereby required to give Notice of such Adjournment to the said Commissioner Fourteen Days at least before the Day appointed for such adjourned Meeting.

Commis-
sioner to give
Notice of
Meetings.

VII. Provided always, and be it further enacted, That all other public Notices necessary or requisite to be given by the said Commissioner in pursuance of this Act or the said recited Acts, and the Manner of giving which is not hereby otherwise particularly directed, shall be given by Advertisement in the *Wakefield* Newspaper, if then published, and if not, then in some other Newspaper or Newspapers usually circulated in the County of *York*, Ten Days at least before the Day for doing the Business to which such Notices shall relate.

Other No-
tices how to
be given.

VIII. And be it further enacted, That all Orders and Proceedings of the said Commissioner shall be entered in a Book or Books to be provided for that Purpose, and shall be signed by the said Commissioner; and such Orders, so signed, shall be admitted in Evidence in all Suits or Proceedings concerning any thing done in relation to or execution of this Act, and by all Judges, Justices, and others.

Proceedings
to be entered
in a Book.

IX. And be it further enacted, That it shall and may be lawful for the said Commissioner to refer to, inspect, and make use of the Survey, Admeasurement, and Plan already made by the said *Henry Holt* of the said Commons and Waste Lands, and also to refer to, inspect, and make use of any Survey, Admeasurement, or Plan already made which may be produced to him of the said Commons or Waste Lands hereby directed to be divided, set out, allotted, and inclosed, and of the old inclosed Lands within the said Township of *Hartishead* otherwise *Hartshead*, for the Purpose of ascertaining the Lands of the several Proprietors, and the Abuttals and Boundaries thereof, and of the said Commons or Waste Lands, or for other Purposes of carrying this Act into execution, as he shall think proper and deem expedient; and the said *Henry Holt* shall be paid and allowed, out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same and the said

Present and
old Surveys
may be used.

[Private.]

recited Acts, the Sum of Thirty Pounds for the said Survey, Admeasurement, and Plan so made by him of the said Commons and Waste Lands as aforesaid.

Commis-
sioner em-
powered to
determine
Differences.

X. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the Commons and Waste Lands hereby directed to be divided and allotted, touching or concerning the respective Shares and Proportions which they or any of them shall have or claim to have therein, or touching or concerning any other Matter or Thing relating to the said Division, Allotment, or Inclosure, it shall be lawful for the said Commissioner and he is hereby authorized and required, upon proper and sufficient Inquiry and Evidence, to examine into, hear, and determine the same: Provided that nothing herein contained shall authorize the said Commissioner to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever, nor any Right between any Parties, contrary to the Possession of any such Parties, (except in Cases of Encroachment made within Twenty Years, as herein-after mentioned,) but in case the said Commissioner shall be of opinion against the Right of the Person or Persons so in Possession he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law.

Commis-
sioner em-
powered to
award Costs.

XI. And be it further enacted, That in case the said Commissioner shall, upon the Hearing or Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of the said first-recited Act or of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made, by 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 such Case it shall be lawful to and for the said Commissioner and he is hereby authorized and required, by Warrant under his Hand and Seal directed to any Person 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.

Persons dis-
satisfied with
Commis-
sioner's De-

XII. Provided always, and be it further enacted, That in case any Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the Commons and Waste
Lands

Lands hereby directed to be divided or inclosed, shall be dissatisfied with any Determination of the said Commissioner touching or concerning any Claim or Claims of any Right of Common, or other Right or Interest in, over, or upon or relating to the said Commons and Waste Lands, or any of them, or any Part thereof, then and in every such Case it shall be lawful for such Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied, to cause an Action to be brought upon a feigned Issue against the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after Notice of such Determination of the said Commissioner shall have been given in Writing to the Party or Parties against whom such Determination shall have been so made, or to his, her, or their known Agent or Attorney; and the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied as aforesaid, shall proceed to a Trial at Law of the Matter so determined by the said Commissioner at the then next Assizes to be holden for the County of *York*, or at the Assizes immediately following the then next Assizes to be holden for the same County after such Action or Actions shall have been commenced; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required, to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the 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 should differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be binding, final, and conclusive on all Parties whomsoever, and on all Body or Bodies Politic, Corporate, or Collegiate, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial or Trials to be had therein, which it shall be lawful for the Court to do, if the said Court shall think proper; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claims thereby determined according to the Event of such Trial or Trials; and the Determination of the said Commissioner touching such Claim or Claims of the Rights and Interests in, over, or upon the said Commons or Waste Lands, or any Part thereof, which shall not be objected to, or, being objected to, the Party or Parties objecting shall not cause such Action at Law to be brought and proceeded in as aforesaid, shall be binding, final, and conclusive upon all Parties: Provided also, that if any of the Parties in any such Action to be brought as aforesaid shall die pending the same, such Action shall not abate by reason of such Death, but shall be proceeded in as if no such Death had happened.

termination
may try their
Rights at
Law.

Actions not to
abate by
Death of
Parties.

XIII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination of such Commissioner as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die

In case of
Death of
Parties before
Action
brought, the
same to be

carried on
and defended
in their
Names.

die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate respectively, 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 said Commissioner, or the Clerk of the said Commissioner, with Process for commencing such Action or Actions, in the same Manner as the Party or Parties so dying might have been served therewith if living; and the said Clerk shall serve the Heir or other Person forthwith, or as soon as he may be ascertained or known, 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 thereupon 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 not to
impede the
Execution of
the Act.

XIV. 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 in or to the said Commons and Waste Lands hereby directed to be divided and inclosed, or any Part thereof, such Suit or Suits shall not impede, delay, or hinder the Commissioner from proceeding in the Execution of the Powers vested in him by this Act and the said recited Acts, or any of them, but the Division, Allotment, and Inclosure of the said Commons and Waste Lands shall be proceeded in notwithstanding such Suit or Suits, and the Allotment and Allotments may be had and taken by the Person or Persons who, on the Determination of such Suit or Suits, shall become entitled to the same.

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

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

Commis-
sioner may
stop or alter
existing
Roads, &c.

XVI. And be it further enacted, That in setting out and appointing any public Carriage Roads, Highways, Bridle Roads, or Footways, in pursuance of this Act or either of the said recited Acts, every Commissioner for executing this Act is hereby authorized and empowered,

empowered, with the Consent and with the Order in Writing of any Two Justices of the Peace for the West Riding of the County of *York* in Petty Sessions assembled (such Justices not being interested in the said Division, Allotment, and Inclosure), to discontinue, stop up, divert, turn, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footways passing or leading through, over, or to any of the Lands or Grounds intended to be divided and allotted by virtue of this Act, or passing or leading through, over, or to any of the old Inclosures within the said Township of *Hartishead* otherwise *Hartshead*; and the Soil of the Roads and Ways so to be discontinued and stopped up shall, in all Cases where such Roads and Ways pass through, over, or to any allottable Lands or Grounds, be deemed and taken to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act: Provided always, that nothing herein contained shall authorize the diverting or altering of any Turnpike Road leading through the said Township of *Hartishead* otherwise *Hartshead*, unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first had and obtained.

XVII. And be it further enacted, That it shall be lawful for the said Commissioner, where he shall see it necessary, to widen any of the Roads or Highways within the said Township of *Hartishead* otherwise *Hartshead*, and for that Purpose to take a sufficient Quantity of the said Commons and Waste Lands, or the inclosed Lands adjoining to such Roads or Highways, (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House,) and to make a full Compensation for the Value of the Land so to be taken, and of any Trees or Bushes growing thereon, for the widening of any such Road or Highway, by a Payment in Money, or by allotting and awarding unto the Person from whom such Land shall be so taken an adequate Part of the said Commons and Waste Lands, at the Option of the Person whose Land shall be so taken, and also to make good and substantial Fences on each Side of all such widened Roads and Highways, for or in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to widen Roads, making Compensation.

XVIII. Provided always, and be it further enacted, That before any Order shall be made by such Two Justices as aforesaid, or any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, diverted, stopped up, or altered by the said Commissioner, he shall cause to be affixed at each End of the said public Carriage Road, Highway, Bridle Road, or Footpath so proposed to be discontinued, diverted, stopped up, or altered, a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footpath is intended to be discontinued, stopped up, diverted, or altered (as the Case may be); and the said Commissioner shall also cause the same Notice to be inserted in the *Wakefield* Newspaper, or some other Newspaper published and usually circulated in the said West Riding, for Two successive Weeks, and shall also cause a like Notice to be affixed on the principal Door of the Church of *Hartishead* otherwise *Hartshead* aforesaid, on Two successive *Sundays*; and after the said several Notices shall have been so published and affixed as

What Notices to be given previously to stopping up or altering Roads.

[*Private.*]

aforesaid, and after such Order as aforesaid shall have been made, the said public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered (as the Case may be), subject however to such Appeal to the Court of General Quarter Sessions for the said West Riding of the County of *York* as is herein-after mentioned.

Persons
aggrieved
may appeal.

XIX. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footpath should be discontinued, stopped up, diverted, or altered, (as the Case may be,) within Two Calendar Months after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the said Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any Hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of
Appeal, Jury
at Sessions to
determine
whether old
Roads, &c.
shall be dis-
continued.

XX. And be it further enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether the said public Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, diverted, or altered shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be injured or aggrieved, impanel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioner, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act of the Forty-first Year of the Reign of His Majesty King *George* the Third; but if the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footpath so to be discontinued, stopped up, altered, or diverted is not unnecessary, or that the same could not beneficially to the Public be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved by such public Carriage Road, Highway, Bridle Road, or Footpath being so discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of Quarter Sessions shall allow such Appeal, and such public Carriage Road, Highway, Bridle Road, or Footpath shall not be discontinued, stopped up, diverted, or altered, or in case the same shall have been
discon-

discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring such public Carriage Road, Highway, Bridle Road, or Footpath to its original State; and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party giving Notice of such Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioner, and shall be raised by him in such and the same Manner as he is hereby directed or empowered to raise the Money for discharging the Costs, Charges, and Expences of this Act.

XXI. And be it further enacted, That the Charges and Expences attending or occasioned by the stopping up, discontinuing, diverting, or altering and widening of such Roads shall be paid by such Person as the Commissioner may direct, or be raised in such and the like Manner as the Expences of passing and executing this Act are hereby directed to be raised.

Expences of discontinuing or altering Roads provided for.

XXII. And be it further enacted, That when and so soon as any Two of Her Majesty's Justices of the Peace for the said West Riding of the County of *York* shall certify any of the public Carriage Roads which shall have been set out or continued in pursuance of this Act, or any Part or Parts thereof, to be sufficiently formed, repaired, and completed, such Road or Roads, or so much thereof as shall be comprised in any such Certificate, shall thenceforth be supported and kept in repair by such Persons and in like Manner as other public Roads are or ought to be by Law amended and kept in repair; and every such Certificate shall, at the General or Quarter Sessions of the Peace to be holden for the said West Riding next after the Date thereof, be filed of Record by the Clerk of the Peace for the said West Riding, and be valid and effectual to all Intents and Purposes.

Justices may order Roads to be repaired.

XXIII. And be it further enacted, That none of the present public Roads over the Commons and Waste Lands to be divided, allotted, and inclosed shall be shut up or discontinued until the said Commissioner shall have caused the public Roads to be set out, and until the same shall be properly formed and made safe and convenient for Horses, Cattle, and Carriages.

Present public Roads not to be discontinued till new Roads are completed.

XXIV. And be it further enacted, That no Person or Persons whomsoever shall permit any Horse, Ass, Bullock, Cow, Sheep, Lamb, Swine, or other Beast or Cattle, or any Geese, to graze in or upon any of the public Roads or Ways which the said Commissioner shall order to be set out and fenced on both Sides, or on either Side thereof; and every Proprietor or Occupier of Lands and Tenements within the said Township, and his or her Servants and Labourers, or the Pindar or Pindars for the Time being of and within the said Township or the Constabulary of *Hartishead* with *Clifton*, is and are hereby empowered from Time to Time to distrain every or any such Horse, Ass, Bullock, Cow, Sheep, Lamb, Swine, or other Beast or Cattle, or Geese, which shall be so found grazing as aforesaid at any Time after any of the said Roads shall be fenced off as aforesaid, and the same to impound as Cattle Damage feasant.

To prevent Cattle grazing on the public Roads.

XXV. And

Commis-
sioner to
divert Water-
courses.

XXV. And for the better enabling the said Commissioner to accommodate and furnish any of the new Allotments with Water, where the same shall in his Judgment be required, be it further enacted, That it shall be lawful for the said Commissioner and he is hereby empowered to direct, order, and award any Streams of Water, Springs, or Watercourses within the said Commons and Waste Lands hereby intended to be divided, allotted, and inclosed, to be carried and conveyed in such Courses, and through such Part or Parts of the same Commons and Waste Lands, as he in his Discretion shall think necessary and proper for the Purposes aforesaid: Provided always, that no such Spring, Stream, or Watercourse shall be altered, diverted, or turned so as to prejudice the Owner of any Mill, or any other Person or Persons entitled to the Benefit of any such Stream of Water, Spring, or Watercourse: Provided also, that no such Stream, Spring, or Watercourse shall be diverted or turned from or into any inclosed Lands or Grounds of any Person or Persons, without the Consent in Writing of the Owners or Proprietors thereof respectively first had and obtained for that Purpose, or to the Prejudice or Injury of any Person interested in such Stream, Spring, or Watercourse.

Rights of
Common
may be ex-
tinguished.

XXVI. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time or Times hereafter, whenever and as often as he in his Discretion shall think convenient, by Notice in Writing, to suspend or totally extinguish all or any Part of the Rights of Intercommoning, Pasturage, and Common in, over, or upon all or any Part of the said Commons and Waste Grounds; and from and after such Notice given all such Right of Intercommoning, Pasturage, and Common in, over, and upon the said Commons and Waste Grounds, or such Part thereof as by such Notice shall be directed to be suspended or extinguished, shall cease and be totally extinguished or otherwise suspended accordingly.

Encroach-
ments.

XXVII. And be it further enacted, That all Encroachments which have been made, at any Time or Times within the Space of Twenty Years previously to the passing of this Act, from, in, or upon the said Commons and Waste Lands hereby directed to be divided and inclosed, shall be deemed and considered to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act; and in case any Difference or Dispute shall arise touching any such Encroachments, or the Extent thereof, or the Space of Time during which they or any of them shall have been made or subsisted, every such Dispute or Difference shall be determined by the said Commissioner.

Encroach-
ments within
20 Years to
be allotted to
Persons in
possession, or
to be sold.

XXVIII. Provided always, and be it further enacted, That the Lands comprised in any Encroachment which shall have been made within Twenty Years next before the passing of this Act shall be allotted to the Person in possession thereof, or who shall be in receipt of or entitled to the Rent for the same, so far as such Person shall be entitled to any Allotment of sufficient Value by virtue of this Act; and in that Case the Value of such Encroachment shall, as Circumstances require, be deducted from or be deemed a Compensation for the Allotments to which such Person shall be entitled under this Act, but if such Person as aforesaid shall not be entitled to any Allotment

by virtue of this Act, or shall not be entitled to any Allotment equivalent to the Value of such Encroachment, then and in either of those Cases the Whole or the surplus Quantities (as the Case may be) of such Encroachment shall be sold by the said Commissioner to the Person so in possession or in receipt of or entitled to the Rent thereof as aforesaid, or in case of his Refusal or Inability to purchase within One Calendar Month next after Offer thereof made to him, then to any other Person, and shall be conveyed by him the said Commissioner in Fee Simple to the Purchaser thereof; and the Money arising by such Sale shall be applied towards defraying the Expences of this Act.

XXIX. Provided always, and be it further enacted, That no Allotment shall be made for or in respect of any Common Right which may be claimed in respect of any Cottages, Buildings, or Encroachments, and Inclosures from the said Commons and Waste Lands; and that in estimating the Value of any Inclosure or Encroachment from the said Commons or Waste Lands, either for the Purpose of Allotment or of Sale (as the Case may be), the said Commissioner shall estimate the Value of the Land only, without regard to any Cottages, Buildings, or Improvements thereon, and according to the Price *per Acre* of the Waste Lands immediately adjoining.

No Common Right to be allotted for Encroachments; and the Value of all Encroachments to be estimated without regard to Improvements.

XXX. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out, allot, and award Part of the said Commons and Waste Lands, of the Extent of Three Acres, as an open Space, in the most appropriate Situation, for the Purposes of Exercise and Recreation of the neighbouring Population, which Allotment shall be invested in the Churchwardens and Overseers of the said Township of *Hartishead* otherwise *Hartshead*, for the Time being, and shall be efficiently fenced, and the Fences efficiently and permanently maintained, by the Overseers of the said Township, out of the Monies in their Hands collected for the Relief of the Poor of the said Township.

Allotment for Recreation.

XXXI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, after setting out the public Roads or Highways in and over the said Commons and Waste Lands, and also setting out and awarding Part of the said Commons or Waste Lands for the Purposes of Recreation of the neighbouring Population as aforesaid, and without making any Deduction from the said Commons and Waste Lands for any other Purpose or in any other respect, to set out, allot, and award, unto and for the said *Sackville Walter Lane Fox* as such Lord of the Soil of the said Commons and Waste Lands, or to the Lord of the said Manor of *Wakefield* for the Time being, such Part and Parts of as in the Judgment of the said Commissioner shall be equal in Value to One Fourteenth Part of the Whole of the Residue of the said Commons and Waste Lands, Quantity, Quality, and Situation considered; which said Allotment or Allotments so to be set out, allotted, and awarded to the said *Sackville Walter Lane Fox* as Lord as aforesaid, or to the Lord or Lords of the said Manor for the Time being, shall be in lieu and in full Compensation and Satisfaction of the Rights of the

Allotment to the Lord of the Manor.

[*Private.*]

10 a

said

said *Sackville Walter Lane Fox* as such Lord, and to such Lord or Lords as aforesaid, to the Soil of the said Commons and Waste Lands hereby directed to be divided and inclosed, and to every Part and Parcel thereof, except Coal Mines, Iron, Stone, and other Mines in and under the same, and such other Rights and Interests as are not intended by this Act to be extinguished.

Allotment
for Stone
Quarries.

XXXII. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out and appoint, in such Situation or Situations as he shall judge most convenient and think fit, One or more Piece or Pieces of Ground, Part of the said Commons or Waste Lands, not exceeding in the whole One Acre, as and for public Stone Quarries, for the Purpose of digging and getting Stone, Gravel, and other Materials for the making or forming and repairing of the public Highways and Roads to be set out and appointed and continued upon, through, or over the said Commons and Waste Lands hereby directed to be divided and inclosed, and for the Purpose of repairing all other public Highways or Roads within the said Township, and shall allot and award the same unto the Surveyors of the Highways within the said Township; and the Herbage growing and renewing in and upon the said respective Piece or Pieces of Ground shall, from and after the Execution of the said Award, be vested in the Surveyors of the Highways for the Time being of and within the said Township, in Trust (but subject to be entered upon for the Purposes aforesaid) to let the same for the most Money that can be made thereof, and to apply the Rents and Profits thereof to the Repairs of the public Roads and Ways within the said Township; and such Surveyors shall account for such Rents and Profits in the same Manner as he or they is or are accountable for any other Money that shall come into their Hands as Surveyors of the Highways, and shall be under and subject to the like Penalties for the Neglect thereof.

When the
Stone is got
the Allot-
ments may
be sold.

XXXIII. And be it further enacted, That after all the Stone shall be had and got from and out of such Allotment or Allotments for Stone Quarries as herein-before mentioned, or any or either of them, the same Allotment or Allotments shall respectively become and be vested in the Surveyor or Surveyors for the Time being of the Highways within the said Township, and shall and may be by him or them sold by public Auction, and conveyed to any Person or Persons willing to become the Purchaser or Purchasers thereof, and his, her, or their Heirs, in Fee Simple, by and under the Hand and Seal or Hands and Seals of the then Surveyor or Surveyors of the Highways within the said Township; and the Purchase Money shall be paid to and applied by the said Surveyor or Surveyors in and towards the Repairs of the Highways and Roads within the said Township, in such Manner as he or they shall order and direct, and his or her Receipt or Receipts for the same Money shall be an effectual Discharge to the Purchaser or Purchasers, and his, her, and their Heirs, Executors, Administrators, and Assigns.

Allotment
for Watering
Places.

XXXIV. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out, allot, and award, unto the Constable of the Township of *Hartishead* otherwise
Hartshead,

Hartshead, so much and such Part or Parts of the said Commons and Waste Lands, and in such Situation or Situations as he shall think proper, as and for public Watering Places for Cattle, which said Watering Places shall and may be from Time to Time for ever hereafter cleansed, repaired, and maintained by the Constable of the said Township for the Time being; and the Costs and Expences thereof shall be charged and chargeable and paid in like Manner as other Expences of the said Constable.

XXXV. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out, allot, and award all the Residue of the said Commons and Waste Lands hereby directed to be divided, allotted, and inclosed unto and amongst all and every Person and Persons who at the Time of making such Allotments shall be entitled to any Estate, Right, or Interest in the said Commons and Waste Lands, according to their several and respective Rights and Interests, and in such Quantities, Shares, and Proportions as the said Commissioner shall adjudge and determine to be a full and just Compensation and Satisfaction to him, her, or them respectively for his, her, or their several and respective Estates, Shares, Rights, and Interests therein: Provided always, that the said Commissioner, in making the Allotments in pursuance of this Act, shall have due Regard to the Quality, Situation, and Convenience, as well as Quantity, of such Allotments respectively.

Allotment of Residue.

XXXVI. And be it further enacted, That when and as soon as the said Commissioner shall have ascertained the respective Rights, Shares, and Interests of the Persons interested in the said Commons and Waste Lands to be divided, allotted, and inclosed by virtue of this Act, and also the respective Shares and Proportions thereof by him proposed to be allotted to such Persons respectively in respect of such Rights, Shares, and Interests, he the said Commissioner shall give Notice, in manner first herein-before directed, of some convenient Time and Place when and where all Persons interested may inspect the Plan whereon the same shall be sketched out and delineated; and as some Persons may, on such Inspection, be dissatisfied with their intended Allotments, the said Commissioner shall give Notice of One Meeting at least to be held by him for receiving Complaints and Objections, and the Determination of the said Commissioner with respect to such Allotments shall be binding and conclusive upon all Parties, subject to the Provisions of this Act.

Meeting for receiving and determining Objections to Allotments.

XXXVII. And be it further enacted, That such of the several Allotments of the said Commons and Waste Lands to be made by virtue of this Act as the said Commissioner shall deem fit and proper to be inclosed, shall be inclosed and fenced in such Manner, and by such Person and Persons, Body and Bodies Politic, Corporate, and Collegiate, and in such Shares and Proportions, and at or before such Time or Times, as the said Commissioner shall in and by his said Award, or by any Writing under his Hand, order and direct; and all such Fences as shall be so made as aforesaid shall for ever afterwards be repaired, preserved, and maintained by such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in such Shares and Proportions.

Allotments to be fenced.

Proportions, and in such Manner, as the said Commissioner shall in and by his said Award order and direct.

Power for Proprietors to fence Allotments with Commissioner's Consent.

XXXVIII. And be it further enacted, That it shall and may be lawful to and for the Proprietors or Persons interested in the said Commons and Waste Lands hereby directed to be divided and inclosed, at any Time or Times after the said Allotments shall be staked and set out by the said Commissioner, and before the Execution of the said Award, to inclose and fence in the same, by and with the Consent of the said Commissioner, and in such Manner as the said Commissioner shall direct.

Lands not to be pastured for Seven Years after Commissioner's Award.

XXXIX. And be it further enacted, That no Horses, Sheep, or Cattle of any Description shall be pastured or kept on or within any of the said Commons or Waste Lands to be divided and allotted in pursuance of this Act which will be required by the said Commissioner to have new Quickset Fences, for the Space of Seven Years after the Execution of the Award of the said Commissioner, unless the Person or Persons so keeping or depasturing the same shall make or cause to be made a Fence or Fences sufficient to guard and protect the young Quick Fences round, on, upon, or adjoining the Allotments so to be made, from being cropped, hurt, or damaged by any such Horses, Sheep, or Cattle, whether such young Quick Fences be planted or set by the Person or Persons who are Owners or Occupiers of such Allotments as aforesaid, or by any Person or Persons who are Owners or Occupiers of the Allotments adjoining thereto; and in case any Person or Persons shall, during the aforesaid Space of Seven Years, depasture with any such Cattle as aforesaid any of the said Allotments, without having sufficiently fenced, guarded, and protected the Quick Fences in manner aforesaid, or if any Person or Persons shall pull down or destroy any Fences which shall have been made under the Authority of this Act before the said Commissioner shall have made and executed his Award, every Person offending in either of the Cases aforesaid, and who shall be thereof convicted upon the Oath of One Witness before any One Justice of the Peace for the West Riding of the County of *York*, shall for every Offence forfeit and pay any Sum not exceeding Five Pounds, at the Discretion of such Justice, to be levied upon the Goods and Chattels of such Offender or Offenders, by Warrant under the Hand and Seal of such Justice, and to be paid to the Person informing, for his own Use; and in case no sufficient Distress can be found for the same such Justice shall commit such Offender or Offenders to the House of Correction for the said West Riding for any Time not exceeding Three Calendar Months.

Persons may sell their Common Rights, and Persons entitled to have Allotments may mortgage, &c. before Execution of Award.

XL. And be it further enacted, That if any Person hath sold, or shall at any Time before the Execution of the Award of the said Commissioner sell, his or her Right, Interest, and Property in the said Commons and Waste Lands hereby directed to be divided, allotted, and inclosed, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioner and he is hereby authorized and required, upon such Sale being made, and upon a Request to him in Writing, signed by the Vendor or Vendors in the Presence of One or more Witness or Witnesses, to make an

Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him or her as aforesaid, in the same Manner, to all Intents and Purposes, as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act to give, grant, bargain, sell, demise, mortgage, limit, appoint, convey, and assure his, her, or their Right, Interest, and Property in the said Commons and Waste Lands, and any Allotment or Allotments, or all or any Part of his, her, or their Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award; and every such Gift, Grant, Bargain, Sale, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award: Provided nevertheless, that any such Request shall be delivered to the said Commissioner at a Meeting to be by him appointed for that Purpose, and not at any Time or Times afterwards, unless for some special Cause to be by the said Commissioner allowed.

XLI. Provided always, and be it further enacted, That all and every the Allotments to be made in pursuance of this Act or the said recited Acts shall, from and after the Execution of the Award of the said Commissioner, be, remain, and enure, and the several Persons to whom the same shall be so respectively allotted and awarded shall from thenceforth stand and be seised and possessed thereof, to and for such and the same Uses, Estates, Trusts, and Purposes, and subject to such and the same Wills, Settlements, Limitations, Powers, Remainders, Leases (except at Rack Rent), Charges, and Incumbrances, as the several Lands, Tenements, and Hereditaments in lieu whereof such Allotment shall respectively be made as aforesaid are now held under, or subject or liable to be charged with or affected by, or might or could have been held under, or subject or liable to be charged with or affected by, in case this Act had not been made.

Tenure of Allotments.

XLII. And be it further enacted, That it shall and may be lawful to and for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever within the said Township of *Hartishead* otherwise *Hartshead*, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments whatsoever within the said Township, or within any adjoining Parish, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent in Writing 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 Pro-

Exchanges.

[Private.]

rietors,

prietors, 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 Lives, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or for any Copyhold or Customary Estate, with the Consent of the Lord or Lords, Lessor or Lessors, and not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any 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 Incapacity, 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 to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie or be situate: Provided also, that every Exchange of any Lands, Tenements, or Hereditaments to be made under the Authority of this or the said first-recited Act shall be certified to the said Commissioner in Writing under the Hands of the Parties making such Exchange, or his, her, or their Agent or Agents, at a Meeting to be by the said Commissioner appointed for the Purpose of receiving such Certificates, and that no Exchange shall be set forth and ascertained in and by the Award of the said Commissioner unless such Certificate shall be so delivered to him as aforesaid.

Costs of Exchange.

XLIII. Provided always, and be it further enacted, That the Costs, Charges, and Expences attending the making and completing of any Exchanges or Partitions under the Powers and Authorities in this Act and the said first-recited Act, or either of them, contained, shall be paid and borne by the several Persons, Bodies Politic, Corporate, or Collegiate, making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioner shall order and direct.

Leases at Rack Rent to be void.

XLIV. And be it further enacted, That all and every Lease and Leases affecting the said Commons and Waste Lands, or any Part or Parts thereof, and all other Agreements for any Term or Terms, at Rack Rent, or from Year to Year, or at Will, affecting the same, shall, in respect of the said Commons and Waste Lands, at such Time as the said Commissioner shall direct, cease and be void, the Person or Persons entitled to the Lands, Tenements, and Hereditaments comprised in such Lease or Leases, Agreement or Agreements respectively, making such Satisfaction to such Lessee or Lessees, Tenant or Tenants, as the said Person or Persons, or their Lessee or Lessees, Tenant or Tenants, shall agree upon, or as the said Commissioner shall

shall ascertain, direct, or appoint to be paid to such Lessee or Lessees, Tenant or Tenants, on account thereof, or as an Equivalent for the Loss or Losses he, she, or they shall respectively suffer on account of the Determination of the same.

XLV. Provided always nevertheless, and be it further enacted, That if there shall be any Lease of Land, Part of which shall lie within the said Township of *Hartishead* otherwise *Hartshead*, and Part in any adjoining Township or Place, all and every such Lease or Leases at Rack Rent now subsisting may be vacated as aforesaid; but where such Lands shall have been taken in exchange by virtue of this Act, which Lands shall be under Lease, and be wholly situate in an adjoining Township or Place, the Lease of such last-mentioned Lands shall not be vacated.

Where Lands taken in exchange lie wholly out of the Township of *Hartishead*, the Lease shall not be vacated.

XLVI. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said recited Acts or this Act, to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments; or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee, for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, it shall and may be lawful to and for the said Commissioner, out of such Sum, to defray such Proportion of the Expence of passing this Act, and of carrying the same and the said recited Acts into execution, as shall (if any) be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Persons, Bodies Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee, in possession of the Lands, Tenements, or Hereditaments so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall, in the Judgment of the said Commissioner, be proper to be made, and shall be made under his Direction, upon any Lands to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee respectively; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method

Application of Compensation when amounting to 200*l*.

1 G. 4. c. 35.

Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward; and shall, when so paid in, there remain, until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith, or to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part or Parts thereof as shall be necessary; or until the same shall, upon the like Application, be laid out, in a summary Way, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands, Tenements, or Hereditaments stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Order can be made the said Money may, by Order of the said Court, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime, and until the said Bank Annuities, or Government or Real Securities, shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interest and annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

When under
200*l.* and
amounting to
20*l.*

XLVII. Provided always, and be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, or of his, her, or their Guardian or Guardians, Committee or Commitees, in case of Infancy, Idiocy, Lunacy, or other Incapacity, with the Approbation of the said Commissioner, to be signified in Writing under his Hand, be paid into the Bank of
England

England in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Person or Persons who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments, such Nomination to be approved of by the said Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money so to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

XLVIII. Provided also, and be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, for his, her, or their own Use and Benefit; or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

When under 20l.

XLIX. And be it further enacted, That the Costs, Charges, and Expences of obtaining and passing this Act, and of surveying, admeasuring, and valuing the Commons and Waste Lands hereby intended to be divided and allotted, and of dividing and allotting the same, and of forming and making the public Roads and other Conveniences which shall be set out by virtue of this Act or the said first-recited Act, and of preparing and enrolling the Award of the said Commissioner, and all other Costs, Charges, and Expences of the said Commissioner, and of the several Persons employed by him, either before or after the Execution of the said Award, in, about, or concerning the Execution of the said recited Act or 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 to the obtaining and carrying this Act into execution, and not herein otherwise directed to be paid, shall be paid, borne, and defrayed by the Owners of or Persons interested in the said Commons and Waste Lands (except the Lord of the said Manor of *Wakefield*, who shall not be subject or liable to pay any Part of such Costs, Charges, and Expences), in proportion and as near as may be to their respective Estates and Interests (due Regard being had to the Value of each Person's Estate and Interest in the Commons and Waste Lands hereby intended to be divided and allotted); and the Shares and

Expences of the Act and of the Commissioners Award how to be paid.

[*Private.*]

Proportions of the said Costs, Charges, and Expences to be borne by the said respective Owners and Persons interested shall be settled and ascertained by the said Commissioner, and shall be paid by such Person or Persons, at such Time or Times, either before or after the Execution of the said Award, as the said Commissioner shall direct or appoint by Writing under his Hand affixed on or near the principal Door of the Church of *Hartishead* otherwise *Hartshead* aforesaid; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Share and Proportion of the said Costs, Charges, and Expences, according to such Direction or Appointment as aforesaid, the said Commissioner shall and may raise and levy the same by such Remedies, Ways, and Means as are provided or mentioned in and by the said first-recited Act.

Money advanced for Expences to be repaid with Interest.

L. And be it further enacted, That if any of the Proprietors or Persons interested in the Commons or Waste Lands hereby intended to be divided and inclosed, or any other Person or Persons, shall advance, lend, and pay any Money for the Purpose of raising or paying the Fees or other Expences of obtaining and executing this Act and the said recited Acts, the Money so paid, lent, and advanced shall be repaid and satisfied by the Direction of the said Commissioner, together with lawful Interest for the same, out of the first Money to be raised for paying such Expences by virtue of this Act.

Proprietors and Agents to pay their own Expences.

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

Commissioner not to suffer Claims to remain unpaid;

to lay his Accounts before a Justice yearly.

LII. And be it further enacted, That the said Commissioner shall not at any Time permit or suffer any just Claims or Demands upon him as such Commissioner to remain unpaid for a longer Period than Three Calendar Months, except such Sums as may from Time to Time be due and owing to the said Clerk or Clerks for Attendances at Meetings to be held in pursuance of this Act; and once at least in each and every Year during the Execution of this Act (such Year to be computed from the passing thereof) the said Commissioner shall and he is hereby required to make a just and true Statement or Account of all Sums of Money by him received and expended, or due to him or to the Clerk or Clerks for their respective Trouble and Expences in the Execution of this Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before One or more of Her Majesty's Justices of the Peace for the said West Riding of the County of *York*, not interested in the said Division and Inclosure, to be by him or them examined and balanced, and such Balance shall be by such Justice or Justices stated in the Books of Accounts to be kept at the Office of the Clerk of the said Commissioner; and an Abstract of such Account so examined and balanced shall be from Time to Time published in the *Wakefield* or some other Newspaper circulated in the said West Riding;

Riding; and no Charge or Item in such Account shall be binding on the Parties concerned, or valid in Law, until the same shall have been duly allowed by such Justice or Justices, and until such Account, or the Abstract thereof, shall have been published in such Newspaper as aforesaid (subject nevertheless to the Power of Appeal herein-after contained): Provided always, that the said Commissioner is hereby required to give Notice, in each and every Year, in the same Manner as other Notices are herein-before directed to be given, of the Day on which he intends to lay such his Accounts before such Justice or Justices of the Peace.

LIII. And be it further enacted, That the Award to be made under the Authority of the said first-recited Act and this Act shall be made and executed within the Term of Six Years from the passing of this Act; and the said Commissioner shall annex to his said Award a correct Map or Plan of each Person's ancient Estate or Estates, and Allotment or Allotments, within the said Township, which said Map or Plan shall be deemed and taken as Part of his Award; and the said Award of the said Commissioner, and the said Map or Plan, shall, within Six Calendar Months next after the Execution thereof, be inrolled in the Register Office for the West Riding of the County of *York*, and in the Rolls Office for the said Manor of *Wakefield*; and after such Inrolment of the said Award and Plan, the said original Award, and Map or Plan thereto annexed, shall be deposited in a Box, to be provided for that Purpose, in the Parochial Chapel of *Hartishead* otherwise *Hartshead* aforesaid, to the End and Intent that Recourse may be had thereto by any Person interested in the said Division and Inclosure, who shall have Liberty to inspect and peruse the said Award, or the said Inrolment thereof respectively, paying for every such Inspection the Sum of One Shilling; and a Copy of the said original Award, or any Part thereof, signed by the Curate for the Time being of the said Chapel, or a Copy of the said Inrolments or either of them, or any Part thereof, signed by the Register or Deputy Register of the said Riding, or by the Steward of the Courts of the said Manor, or his Deputy for the Time being, purporting the same to be true, for which no more shall be paid than Sixpence *per* Sheet, each Sheet to contain One hundred Words, shall, as well as the said original Award and the said Inrolments thereof respectively, be admitted and allowed as legal Evidence in all Courts and upon all Occasions whatsoever.

LIV. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done in pursuance of this Act or the said recited Acts, or any of them, then and in such Case, except in such Cases where the Orders and Determinations of the said Commissioner is by this Act or the said recited Acts directed to be final, binding, or conclusive, and except in such Cases where an Issue at Law shall be tried as herein-before mentioned, he, she, or they may appeal to the General or Quarter Sessions of the Peace which shall be held for the

the said West Riding of the County of *York* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving Ten Days previous Notice to the said Commissioner of such Appeal, and of the Matter thereof, except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and balanced and published as aforesaid, may be appealed against at any Time within Six Calendar Months after the Date of the said Award, on giving to the Commissioner such Notice as last aforesaid; and the Justices in the General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs, as to them in their Discretion shall seem reasonable, and by their Order and Warrant to levy the Costs 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), on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices shall be final and conclusive on all Parties concerned, and shall not be removed or removeable, by Certiorari, or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous or vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and such Costs shall be levied in manner last aforesaid.

Mines, &c.
reserved to
the Lord of
the Manor.

LV. Provided always, and be it further enacted, That nothing in this Act contained shall defeat, lessen, or prejudice the Right, Title, or Interest of the said *Sackville Walter Lane Fox*, or the Lord or Lords of the said Manor of *Wakefield* for the Time being, of or to the Mines, Beds or Seams of Coal, or any Mines of Ironstone, or other Mines and Minerals, (Stone and Gravel only excepted,) in or under the said Commons and Waste Grounds hereby intended to be divided and inclosed, or to any Seignories or Royalties incident and belonging to the said Manor, the same being hereby reserved to the said *Sackville Walter Lane Fox*, and to the Lord and Lords of the said Manor for the Time being, with full Power for him and them at all Times to hold and enjoy all Quit Rents, Free Rents, and other Rents, Fines, Reliefs, Duties, Customs, and Services, and all Courts, Perquisites and Profits of Courts, and all Goods and Chattels of Felons and Fugitives, Felons of themselves, Persons outlawed and put in exigent, Deodands, Treasure Trove, Waifs, Estrays, Escheats, Forfeitures, Rights, Royalties, Jurisdictions, Franchises, and Privileges whatsoever, to the said Manor, or to the Lords and Ladies of the said Manor, incident or belonging, (other than what are extinguished by this Act,) in as full, ample, and beneficial a Manner, to all Intents and Purposes, as if this Act had not been made; and the said *Sackville Walter Lane Fox*, and the Lord or Lords of the said Manor for the Time being, or other Person

Person or Persons claiming under him or them, shall and may at all Times hereafter have, hold, win, work, and enjoy all Mines of Coal, Ironstone, and Minerals, of what Nature or Kind soever, whether now opened or unopened, (Stone and Gravel only excepted,) under the said Commons and Waste Lands, and the Encroachments, Allotments, and Improvements made and to be made therefrom, together with all convenient and necessary Ways, Roads, and Passages already made or hereafter to be made, and Liberty of laying, making, and repairing Waggon Ways, Railways, and other Ways, in, over, and along the same or any of them, or any Part thereof, and searching for, winning, and working the said Mines and Minerals, and leading and carrying away the Coal, Ironstone, Lead, Minerals, and other Produce thereof, and of making Pits, Shafts, Pit-rooms, Air-pits, Heap-rooms, Stand-yards, Drifts, Levels, Ways, and Watercourses, (as well as using and continuing those already made,) and of erecting and using Fire Engines and other Engines and necessary Buildings, and of altering, changing, pulling down, and carrying the same, or any of the Materials thereof, at his and their own free Will and Pleasure, and doing all such other Acts and Things, either now in use or hereafter to be invented, as may be necessary or convenient for the full and complete Enjoyment thereof, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as he or they could or might have done in case this Act had not been made, yet nevertheless that the said *Sackville Walter Lane Fox*, and the Lord and Lords of the said Manor for the Time being, and all other Person or Persons claiming under him or them as aforesaid, shall be obliged to pay to the respective Owners and Occupiers of such Allotments respectively a reasonable and adequate Recompence and Satisfaction for all Damages which shall from Time to Time be thereby done thereto, in proportion to the Loss sustained by such Owners and Occupiers respectively, according to their respective Rights and Interests therein.

LVI. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all and every other Person or Persons, and Body and Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, (except the several Persons, and Body or Bodies Politic or Collegiate, to whom any Allotment or Allotments shall be made by virtue and in pursuance of this Act or the said recited Acts, for and in respect of such Rights or Interests as are hereby meant and intended to be barred, destroyed, and extinguished, and all Persons respectively claiming under them or in Remainder after them,) all such Right, Estate, Title, and Interest as he, she, they, every or any of them, could or ought to have had and enjoyed of, in, to, or in respect of the Lands hereby directed to be divided and allotted in case this Act had not been passed.

General Saving.

LVII. And be it further enacted, That this Act shall be printed by the several Printers to the Queen's most Excellent Majesty duly
 [Private.] [10 d] authorized

Act as printed by Queen's Printers to be Evidence.

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 E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1839.