



ANNO QUADRAGESIMO QUINTO

GEORGI II. REGIS.

Cap. 39.

An Act for inclosing Lands in the Township and Manor of *Frizington*, in the Parish of *Arlecdon*, in the County of *Cumberland*. [17th May 1805.]

WHEREAS there are within the Township and Manor of *Frizington*, in the Parish of *Arlecdon*, in the County of *Cumberland*, certain Commons and Waste Lands, containing by Estimation Nine hundred Acres, or thereabouts: And whereas the Right Honourable *William* Lord Viscount *Lowther* is Lord of the said Manor of *Frizington*, and as such is or claims to be entitled to the Soil and Royalties of and in all the Commons and Waste Lands within the said Manor: And whereas the Right Reverend *Henry William* Lord Bishop of *Chester*, in Right of his See, is Rector of the Parish of *Arlecdon*, within the said County of *Cumberland*, and also Patron of the perpetual Curacy and Parish Church of *Arlecdon* aforesaid, and as such is entitled to all the Great and Small Tythes within the said Township and Manor of *Frizington*, or certain prescriptive Payments in lieu thereof; and *John Bradshaw* Esquire is the present Lessee of the said Tythes under the said Bishop: And whereas the Right Honourable *William* Lord Viscount *Lowther*, Sir *Frederick Fletcher Vane* Baronet, *James Steel*, and *Miles Ponsonby* Esquires, and

[Loc. & Per.]

Commissioners appointed.

and divers other Persons, in respect of certain Messuages, Tenements, Lands, or other Hereditaments, are or claim to be entitled to Right of Common upon the Commons and Waste Lands within the said Township and Manor. And whereas an Act was passed in the Forty-fifth Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said Commons and Waste Lands, in their present Situation, are incapable of Improvement, and it would be to the Advantage of the several Persons interested therein, if the said Commons and Waste Lands were divided and inclosed: But such Division and Inclosure cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *William Nicholson of Weddeker Hall, John Litt of Netherend, and Philip Nelson of Birkby*, in the said County of Cumberland, Gentlemen, and their Successors, to be nominated in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, and allotting the said Commons and Waste Lands, and for carrying this Act into Execution, in the Manner, and subject to the Rules, Orders, and Directions herein contained, and also subject to the Powers and Provisions of the said recited Act, except where the same are hereby varied or altered; and that all Acts, Matters, and Things hereby directed to be done by the said Commissioners, may be done and executed by any Two of them, and the same shall be as valid and effectual as if done and executed by all the said Commissioners.

On Death or Refusal to act of Commissioners, others to be elected.

II. And be it further enacted, That if any of the said Commissioners appointed by this Act, or who shall be nominated in Manner herein-after mentioned, shall, before the Execution of all the Powers and Authorities hereby in them respectively vested, die, or refuse to act, or without some reasonable Cause, neglect to attend a Meeting for putting this Act into Execution, for the Space of Two Calendar Months after he shall have received Notice, from any Person interested in the said Inclosure, of the passing of this Act, or requiring him to attend as a Commissioner, a new Commissioner or Commissioners shall be nominated in the Manner following; that is to say, if the said *William Nicholson* shall die or refuse to act, or neglect to attend as aforesaid, it shall and may be lawful for the said *William Viscount Lowther*, his Heirs or Assigns, by any Writing under his or their Hand or Hands, to appoint one other Commissioner, not interested in the said Inclosure, in the Room of the said *William Nicholson*, and so from Time to Time as often as any Commissioner so to be appointed by the said *William Viscount Lowther*, his Heirs or Assigns as aforesaid, shall die, or refuse to act, or neglect to attend as aforesaid; and in case the said *John Litt* shall die or refuse to act, or neglect to attend as aforesaid, it shall and may be lawful for the Majority in Value (to be ascertained by the Rate or Assessment made for the Relief of the Poor within the said Parish of *Arledon*), of the Proprietors or Persons interested in the Lands and Grounds directed by this Act to be inclosed, or their Agents, to be appointed by Writing under their respective Hands for such Purpose (except the said *William Viscount Lowther*) who shall be present

present at a publick Meeting to be held for that Purpose, at the Parish Church of *Arlecdon* aforesaid, Notice whereof to be given in Writing, to be affixed upon the most publick outer Door of the said Church, and also in some Newspaper published and circulated in the said County of *Cumberland*, at least Ten Days before such Meeting, by Writing under their Hands, to appoint One other Commissioner, not interested in the said Inclosure, in the Room of the said *John Litt*, and so from Time to Time, as often as any Commissioner, to be appointed by the said Proprietors as aforesaid, shall die or refuse to act, or neglect to attend as aforesaid; and in case the said *Philip Nelson* shall die or refuse to act, or neglect to attend as aforesaid, it shall and may be lawful for the said Lord Bishop of *Chester*, his Successor and Successors, being Rectors of the Parish of *Arlecdon* aforesaid, by any Writing or Writings under his or their Hands, to appoint One other Commissioner, not interested in the said Inclosure, in the Room of the said *Philip Nelson*, and so from Time to Time, as often as any Commissioner so to be appointed by the said Bishop of *Chester*, or his Successor or Successors, Bishops of *Chester* and Rectors of *Arlecdon* aforesaid, shall die or refuse to act, or neglect to attend as aforesaid.

III. And be it further enacted, That out of the Money that shall be raised by Sale of Land as herein-after mentioned, for defraying the Expences of obtaining and executing this Act, there shall be paid to each of the said Commissioners, as a Recompence for his Pains and Trouble, the Sum of One Guinea and a Half, and no more, for each Day he shall be employed in travelling to, returning from, and attending on the Execution of this Act; and that the said Commissioners shall defray their travelling Expences, and also their own Expences, at all Meetings to be held in pursuance of this Act; and every Proprietor or other Person, in any Manner interested in the Commons and Waste Lands to be divided and inclosed by virtue of this Act, shall at all such Meetings pay and discharge their own Expences.

Commissioners Allowance.

IV. And be it further enacted, That all Encroachments which shall have been made upon any of the Commons and Waste Lands intended by this Act to be divided and inclosed, within the Space of Forty Years next before the passing of this Act, without any legal Grant or Authority for that Purpose, shall be deemed Part of the Commons and Waste Lands to be divided and inclosed by virtue of this Act, and the same shall be divided and inclosed accordingly: Provided nevertheless, that all and every such Encroachments shall be allotted to the Person or Persons who shall, at the Time of making the Allotments, be in the Possession of such Encroachments, or in the Receipt of the Rents and Profits thereof, as the Whole or Part of the Share or Portion of the Commons or Waste Lands to which such Person or Persons will be entitled by virtue of this Act, without considering the Value of any Erection thereon, or Improvements made thereto; and if any such Person shall not be entitled to any Allotment, or to an Allotment equal to the Value of such Encroachment, but shall be willing to purchase the same, then the said Commissioners shall ascertain the Price thereof, or of such Part thereof, as shall exceed the Rights of such Possessor or Possessors thereof, in respect of any other Property as aforesaid, on ascertaining of which Price the said Commissioners shall not value the Buildings or other Improvements thereon, but shall

Encroachments.

shall value the Land only, and that at so much *per Acre*, as the same shall in their Estimation be worth, having Reference to the Waste next adjoining; and upon such Person or Persons paying such Price *per Acre*, and in proportion for less than an Acre, to the said Commissioners, at such Time or Times as they shall for that Purpose appoint, and taking their Receipt or Receipts for the same, every such Encroachment, or such Part thereof as shall be so purchased, and also all Buildings and Improvements thereon, shall thereupon become, by virtue of this Act, vested in such Purchaser or Purchasers, and his and their respective Heirs and Assigns, in Fee Simple, without any further or other Conveyance or Assurance, Instrument or Writing whatsoever; and such Commissioners shall apply such Purchase Money as Part of the Monies to be raised for defraying the Expences of obtaining and passing this Act, and of carrying the same into Execution: Provided always, that all Encroachments made upon the said Commons and Waste Lands, within the Space of Twelve Calendar Months immediately preceding the passing of this Act, shall be thrown open, without any Recompence whatsoever to be made to the Possessor or Possessors thereof, for or in respect of the same.

Commissioners to give Notice of their First, Second, and Third Meetings.

V. And be it further enacted, That the said Commissioners shall and they are hereby required to cause publick Notice to be given in some Newspaper, published and usually circulated in the said County of *Cumberland*, and also in the said Parish Church of *Arlecdon*, or by affixing a Notice in Writing upon the principal Door of the said Parish Church, upon some *Sunday* during or immediately before or after Divine Service, of the Time and Place of their holding their First, Second, and Third Meetings, for the Purpose of putting into Execution the several Powers vested in them by this Act; Fourteen Days at least before such Meetings respectively, each of which Meetings shall be held at *Arlecdon*, or within Eight Miles thereof, and that the said Commissioners, any Two or One of them, in the Absence of the other or others, shall have full Power and Authority (if they or he shall think it convenient) to continue any of their Meetings by Adjournment, without giving Notice of any such Meeting by Adjournment, and which said First, Second, and Third Meetings respectively, shall be held Fourteen Days at least one from another.

Notices of other Meetings how to be given.

VI. Provided always, and be it enacted, That all other Notices of Meetings of the said Commissioners, requisite or necessary to be given by them, and not herein otherwise directed, shall be so given by Advertisement in some Newspaper then published and circulated in the said County of *Cumberland*.

Commissioners to determine Differences.

VII. 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 said Division and Inclosure, touching or concerning the respective Rights of Common and other Interests which they or any of them shall have or claim to have in the same, or the Nature, Limits, or Extent of such Rights and Interests, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, it shall and may be lawful for the said Commissioners, and they are hereby authorized and required, with all convenient Speed, to examine into, hear, and determine the same.

VIII. And

Power to allow Costs.

VIII. And be it further enacted, That in case the said Commissioners shall, upon the Hearing or Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this Act, or the said recited Act, see Cause to award any Costs, it shall and may be lawful to and 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 whose Claim or Claims, Objection or Objections, shall be disallowed or over-ruled; and in case the Person or Persons 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 and may be lawful to and for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, 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 so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

IX. Provided always, and be it further enacted, That in case any Person or Persons, Bodies Politick and Corporate, interested or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners, touching or concerning the Boundaries to be ascertained and marked out as hereinbefore mentioned, or touching or concerning any Right of Common, or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided and inclosed, or any Part thereof, or as to the Nature, Limits, and Extent of such Rights and Interests, 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, at the then next or at the following Assizes, to be holden for the said County of *Cumberland*, or for some adjoining County; and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioners shall be made; and the Defendant or Defendants in such Action or Actions shall, and he, she, or 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 shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be binding, final, and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained,

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

[Loc. & Per.]

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tained, and not set aside by the Court, the said Commissioners shall, and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners, touching or concerning any Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting, not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive upon all Parties: Provided also, that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments, whatsoever.

If any of the Parties die, the Proceedings not to abate.

X. 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.

Allotment for Watering Places, Gravel Pits, &c.

XI. And be it further enacted, That the said Commissioners shall, in the first Place, set out and allot unto the Surveyors of the Highways within the said Township of *Frizington*, such Parts and Parcels of the said Lands and Grounds, hereby directed to be divided and inclosed, as the said Commissioners shall think proper and necessary, not exceeding Two Acres, as and for publick Watering Places for Cattle, and for Stone and Gravel Pits; and the same Allotments when so set out shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Lands, Tenements, and Hereditaments, within the said Township and Manor, and their Tenants for the Time being, in such Manner, and under such Rules and Regulations, as the said Commissioners shall by their Award direct or appoint.

Allotment to Lord Lowther for Right of Soil.

XII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, as soon as conveniently may be (after setting out such Part of the said Commons and Waste Lands for the several Purposes herein and in the said recited Act mentioned) to set out and allot to the said Lord Viscount *Lowther* One-twelfth Part in Value of the said Commons and Waste Lands, within the said Township and Manor, in full Compensation and Satisfaction for his Right in and to the Soil of the said Commons and Waste Lands.

Allotment to the Bishop of Chester in lieu of Tythes.

XIII. And be it further enacted, That the said Commissioners shall, and they are hereby also authorized and required (after setting out such Part of the said Commons and Waste Lands for the several Purposes herein-before and in the said recited Act mentioned, save and except the last-mentioned Allotment to the said Lord Viscount *Lowther*) to set out, allot, and appoint to and for the said Right Reverend *Henry William* Lord Bishop of *Chester*, and his Lessee, One Allotment or Share, equal to One-tenth Part in Value of the said Commons and Waste Lands, for and in lieu of all Tythes whatsoever due to him, or to accrue and become due to him as Rector of the said Parish of *Arlecdon*, from and out of the said Commons and Waste Lands hereby intended to be inclosed.

XIV. And

XIV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to fence and inclose, or cause to be fenced and inclosed, the Allotment or Allotments so to be set out as herein-before mentioned to the Bishop of *Chester*, as Rector of the said Parish of *Arlecdon* and his Lessee, for and in lieu of the Tythes to accrue to him upon the Division of the said Commons, with such respective Ring or Out Fences as they shall judge to be substantial and proper, the Charges and Expences whereof shall be collected, raised, borne, and paid in the same Manner as the publick Charges of this Act, and other Expences of the said Division are hereby directed to be raised, borne, and paid; and from and after such Fences shall be made, the same shall for ever thereafter be preserved, maintained, and kept in Repair by and at the Expence of the said Bishop of *Chester* or his Lessees, or such other Person or Persons as the said Commissioners shall by their Award direct.

For fencing
the Rector's
Allotment.

XV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered to sell such Parts and Parcels of the said Commons and Waste Lands within the said Township and Manor, in such Proportions as the said Commissioners shall think just and equitable, for the Purpose of raising so much Money as shall be sufficient to pay and defray the Charges of preparing, obtaining, and passing this Act, and carrying the same into full Execution, agreeable in all Respects to the Rules and Regulations in the said recited Act mentioned.

Commissioners
to sell Part
of the Com-
mon to defray
the Expences.

XVI. And be it further enacted, That after the several Deductions and Allotments herein-before directed shall have been made, the said Commissioners shall and they are hereby empowered to set out, assign, and allot all the Residue of the said Commons and Waste Lands intended to be divided and inclosed, unto and amongst the said Viscount *Lowther*, Sir *Frederick Fletcher Vane* Baronet, *James Steel* and *Miles Ponsonby* Esquires, and all and every other the Owners and Proprietors of the Messuages, Lands, and Tenements, having Right of Common in or upon the said Commons and Waste Lands, in lieu of their respective Rights of Common thereon, as they shall appear to the said Commissioners to be justly entitled unto, according and in Proportion to the yearly Value of their several Messuages, Lands, and Tenements, in respect of which they are entitled to such Right of Common upon the said Commons and Waste Lands, and which said yearly Value shall be fixed and ascertained by the same Proportions which their said several Messuages, Lands, and Tenements, are rated at by the Assessment for the Relief of the Poor of the Parish of *Arlecdon* aforesaid; and to set out, apportion, divide, and allot to every other Person who shall appear to the said Commissioners to have any Right of Common upon the said Commons and Waste Lands, such a Proportion or Share thereof respectively, as shall appear to the said Commissioners to be an adequate Recompence and Compensation for the Loss of their respective Rights of Common upon the said Commons and Waste Lands as aforesaid: Provided always, that it shall be lawful for the said Commissioners, at any Time before executing their final Award, to make any Alterations in the Allotments and Fences which they may have set out and ordered, or in the private Roads laid or to be laid over to such Allotments, that they shall think right and expedient; and in case any Person or Persons be injured by such Alterations on Account of any Expences he, she, or they may have been at, the said Commissioners shall

Allotment of
the Residue.

Commis-
sioners may
make any Al-
terations re-
specting Allot-
ments or pri-
vate Roads
before the
Execution of
their Awards.

shall ascertain and determine what Recompence shall be made to him, her, or them, and shall direct by whom and in what Manner such Recompence shall be made.

For allowing Exchanges to be made.

XVII. 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 whatsoever, within the said Township and Manor of *Frizington* and Parish of *Arlecdon*, in lieu of and in exchange for any other Lands, Tenements, and Hereditaments whatsoever within the said Township, Manor, and Parish; provided that all such Exchanges be ascertained, specified, and declared in the said 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 Politick, Corporate, or Collegiate, 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, Husbards, 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, Femes Covert, Lunaticks, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politick, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments, held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate: Provided always, that all the Costs, Charges, and Expences attending the making any Exchanges and Partitions, shall be paid and borne 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 and direct.

Expences to be borne by the Parties.

No Person shall dig Sods or Turfs.

XVIII. And be it further enacted, That, from and after the passing of this Act, no Person shall pare, dig, or take away any Sods, Turfs, or Soil, in, upon, or from any Part of the said Commons or Waste Lands, until the same shall be set out and allotted as aforesaid, under a Penalty not exceeding Five Pounds nor less than Forty Shillings for every such Offence, the same to be recovered and levied by the said Commissioners, and applied in defraying the Expences of carrying this Act into Execution.

No Sheep or Lambs to be kept on the Allotments for 7 Years after Award executed, except in certain Cases.

XIX. And be it further enacted, That no Sheep or Lambs shall be kept or depastured in any of the said Allotments from the Time such Allotments are staked out, and for the Space of Seven Years after signing the Award of the said Commissioners, unless the Owners or Occupiers thereof shall at their own Expence fence and effectually guard the young
Quickset

Quickset Hedges on every Side of the Allotments where such Sheep and Lambs shall be kept; and if any such Person shall neglect to fence and effectually guard such Quickset Hedges as aforesaid, the Person or Persons who shall sustain any Injury or Damage from such Neglect, may bring his or their Action or Actions at Law for the Damages actually sustained, or may apply to some Justice of the Peace for the said County of *Cumberland*, not interested, who shall examine thereinto in a summary Way, and by his Order in Writing adjudge what Sum of Money shall be paid in Recompence and Satisfaction for such Damage; and in case the same shall not be paid within the Time by such Order to be directed and appointed, the same shall be levied by Distress and Sale of the Defaulter's Goods, for which Purpose the said Justice is hereby authorized and required to grant his Warrant.

XX. Provided always, and be it further enacted, That convenient Gaps or Openings shall (if necessary) be left in the Hedges and Fences of the said Allotments, for such Space of Time next ensuing the Execution of the Award of the said Commissioners, for the Passage of Horses, Cattle, Carts, and Carriages, as the said Commissioners shall in and by their Award direct and appoint.

Gaps to be left
in Fences for
a certain
Time.

XXI. And be it further enacted, That it shall and may be lawful for any Person or Persons interested in the said Commons or Waste Lands to be inclosed by virtue of this Act, who shall have in himself, herself, or themselves respectively, an Estate of Inheritance, in Fee Simple of and in any Freehold Lands, Tenements, or Hereditaments, in respect of which he, she, or they, shall or may be entitled to any Allotment or Allotments by virtue of this Act, or an Estate of Inheritance, according to the Custom of the said Manor of *Frizington*, of or in any Copyhold Tenant Right, or Customary Messuages, Lands, Tenements, or Hereditaments, not being subject to the Payment of an arbitrary Fine or Fines, at any Time or Times before the signing of the Award of the said Commissioners, or at any Time afterwards, to sell and dispose of all such Estate, Right, Title, Interest, and Property, which he, she, or they, now have or hath, or shall or may hereafter have, in, to, or upon the said Commons or Waste Lands, or in or to any Allotment or Allotments to be made in respect thereof by virtue of this Act, separate from such Freehold, Copyhold, Tenant Right, or Customary Estate or Estates, in Right whereof he, she, or they is, are, or shall be so entitled; and that in case of any such Sale or Sales previous to the Execution of such Award, it shall and may be lawful for the said Commissioners, and they are hereby authorized and required, to allot the same to the Purchaser or Purchasers thereof respectively, and in respect of such Purchase specially, who shall and may immediately after the same shall be allotted and marked out as aforesaid, have, hold, use, and enjoy such Allotments so by him, her, or them purchased as aforesaid, and shall and may have, use, and exercise any Act of Ownership in and upon the same, in as full and ample a Manner to all Intents and Purposes whatsoever as the former Proprietor or Vendor, Proprietors or Vendors thereof respectively, might have done in case such Sale or Sales had not been made; but subject nevertheless to the several Rules, Orders, Conditions, and Restrictions mentioned and contained in this and the said recited Act.

Proprietors
may sell their
Interest in
the Lands to
be inclosed
before the
Execution of
the Award.

Money advanced to be repaid with Interest.

XXII. And be it further enacted, That if any Person or Persons shall advance any Sum or Sums of Money for defraying the Expences of obtaining and passing this Act, or of carrying the same into Execution, every such Person shall be repaid the same with Interest, after the Rate of Five Pounds *per Centum per Annum*, out of the first Monies that shall be raised or received by the said Commissioners, or any of them, by virtue of this Act, for defraying such Expences.

Auditor of the Commissioners Accounts.

XXIII. And be it further enacted, That *Cutbberth Atkinson* of *Carleton Hall* in the said County of *Cumberland*, Gentleman, shall be and he is hereby appointed Auditor of the said Commissioners Accounts; and in case of his Death or Refusal to act, then some other fit and proper Person, not interested in the Premises, shall be appointed Auditor for that Purpose by the Majority in Value of the said Proprietors, at a Meeting to be holden in like Manner as is herein-before directed with respect to the Meeting of the said Proprietors, for the Purpose of appointing a Commissioner in the Room of the said *John Litt*; and so from Time to Time as often as Oucasion shall require; and the Accounts of the said Commissioners for the Time being, containing a true Statement of all Sums by them received and expended, or due to them for their own Trouble and Expences, shall at least Once in every Year (such Year to be computed from the passing of this Act) until such Accounts shall be finally allowed, together with the Vouchers relating thereto, be examined and balanced by the said Auditor for the Time being; and such Balance shall be by him stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or be valid in Law, unless the same shall be duly allowed by such Auditor.

Leases at Rack Rent to be void as to the Common.

XXIV. And be it further enacted, That all and every Lease and Leases and other Agreements at Rack Rent, affecting all or any Part of the Commons or Waste Lands by virtue of this Act intended to be divided and inclosed or exchanged, shall cease, determine, and be void, as to such Commons and Waste Lands, on such respective Days and Times as the said Commissioners shall order and appoint, the respective Lessors or Landlords in such Leases or Agreements having first paid or tendered such Satisfaction to the respective Lessee or Lessees, Tenant or Tenants, as the said Commissioners shall ascertain as reasonable to be paid to such Lessee or Lessees, Tenant or Tenants, on account thereof or as an Equivalent for the same: Provided always, that nothing herein contained shall extend or be construed to extend, to avoid any Agreement or Engagement already made between Landlord and Tenant, in contemplation of a Division or Inclosure of the said Commons and Waste Lands, or relating thereto: Provided always, that if there shall be any Lease of Lands, Part of which shall lie in the said Township of *Frizington*, and Part in any adjoining Parish or Township, all and every such Lease or Leases upon Rack Rent now subsisting may be vacated; but where any Land shall have been taken in Exchange, which Land shall be under Lease, and situate in an adjoining Parish, the Lease of such last mentioned Land shall not be vacated.

Saving to Lord Lowther to work Mines.

XXV. Provided always, and be it further enacted, That nothing herein contained shall extend, or be construed or in anywise operate to defeat or prejudice

prejudice the Right or Title of the said *William Viscount Lowther*; or any Person, or Persons in Trust for him, of, in, or to any the Mines of Copper, Lead, Coal, Iron, or any other Minerals or Quarries of Stone, now open or worked, or hereafter to be opened or worked, and all other Royalties whatsoever, within any Part of the said Commons and Waste Lands, to which he is so entitled; but that the said *William Viscount Lowther*, and all and every the Person or Persons claiming, or to claim, under him, shall and may at all Times hereafter have, open, work, and enjoy, all and every such Mines and Minerals, lying within or under any Part of the said Commons and Waste Lands, with Liberty to sink Pits or Shafts, work, win, lay, and deposit such Copper, Lead, Coal, Iron, and other Minerals, when got, and the Earth, Stones, and Rubbish got in raising the same, and all Timber, Wood, Stones, Iron, and other Materials on the Ground near the same, and to erect such Engines and other Buildings and Works near to such Mines, Pits, or Shafts, and to make all such Waggon Ways, and other Ways and Roads, as may be necessary for the carrying and conveying all and every or any Matter and Thing necessary or wanted, to and for the working and winning of such Mines and Minerals, or any of them, and to do all other Things which he or they may think necessary for the opening, working, winning, selling, and carrying away such Mines and Minerals.

XXVI. Provided always, and be it further enacted, That the said *William Viscount Lowther*, and his Heirs, Lords of the said Maner of *Frizington* for the Time being, or his, her, or their Agents, Grantees or Lessees, for the Time being, shall pay or tender full and reasonable Satisfaction to all and every Person and Persons, for any Loss or Damage that may be sustained in his, her, or their respective Allotments in the searching for, sinking, winning, and working the said Mines and Minerals, or by Exercise of all or any of the Liberties and Powers herein-before reserved to the said *William Viscount Lowther*.

Satisfaction
for Damages
in working
Mines.

XXVII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this Act, then and in every such Case (other than and except such Orders and Determinations of the said Commissioners as are by this or the said recited Act directed to be final and conclusive, and except in such Cases wherein an Issue at Law shall be tried as herein-before mentioned) such Person or Persons may appeal to the General Quarter Sessions of the Peace, which shall be held in and for the said County of *Cumberland*, within Six Calendar Months next after the Cause of Complaint shall have arisen; and the Justices of such Sessions are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs as they shall think reasonable, and by their Order or 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) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such Distress and Sale; and such Determination of the said Justices shall be final and conclusive on all Parties concerned, and shall not be removed or removable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

Allowing an
Appeal to the
Quarter Ses-
sions.

XXVIII. Saving

General Saving.

XXVIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Person and Persons, Bodies Politick and Corporate, his, her, and their respective Heirs, Successors, Executors, and Administrators, (other than and except the respective Persons to whom any Allotment or Compensation shall be made by virtue of this Act, in respect of the Interests or Property of or in lieu or respect of which such Allotments or Compensation shall be made, and their respective Heirs, Successors, Executors, and Administrators, and all Persons, Bodies Politick and Corporate, required by this Act to make, but neglecting or omitting to make their respective Claims according to the Provisions thereof) all such Estate, Right, Title, Interest, Claim and Demand, as they, every or any of them had or enjoyed in, to, or out of the said Commons and Waste Lands so directed to be divided, allotted, and inclosed as aforesaid, before the passing of this Act, or could or might have held or enjoyed the same, in case this Act had not been made.

Directing the Act to be printed by the King's Printer.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1805.