



ANNO QUINQUAGESIMO

GEORGI II. III. REGIS.

Cap. 161.

An Act for inclosing Lands in the Parish of *Rothbury*, in the County of *Northumberland*.

[2d June 1810.]

WHEREAS there are within the Barony or Manor of *Rothbury*, and in the Parish of *Rothbury*, in the County of *Northumberland*, a Common Moor or Waste, containing by Estimation One hundred and three Acres and Three Roods or thereabouts, commonly called or known by the Name of *Thropton Outer Hill*; and also, certain Common Fields called *Thropton Inner Hill* and *Thropton Haugh*, containing by Estimation Ninety-seven Acres and Twelve Perches or thereabouts: And whereas the Most Noble *Hugh Duke of Northumberland* is Lord of the said Barony or Manor of *Rothbury*, and as such is seised of or entitled to the Soil and Inheritance, and the Mines, Minerals, Quarries and Royalties of, within and under the said Common Moor or Waste, and as such is also seised of or entitled to the Mines, Minerals, Quarries and Royalties of, within and under the said Common Fields: And whereas the said *Hugh Duke of Northumberland*, *Adam Atkinson of Lorbottle*, in the County of *Northumberland*, Esquire, *Henry Collingwood of Lilburn*, in the said County, Esquire, and several other Persons, are seised or possessed of divers Messuages, Lands, Tenements and Hereditaments, in the Township of *Thropton*, within the said Barony or Manor and Parish; and in respect thereof or as appendant, appurtenant or belonging thereto, they or their Lessees, Farmers or Tenants, are or claim to be entitled to Right of Common in and upon the said Common Moor or Waste: And whereas *Robert Lowther*, Clerk, is Vicar of the Vicarage of *Birtley*, in the said County, and as such is entitled to Right of Common upon the said Common Moor or Waste, for or in re-
[Loc. & Per.] 41 D. spect

spect of certain Messuages, Lands, Tenements and Hereditaments, purchased by the Aid of Queen *Anne's* Bounty for the Augmentation of the said Vicarage of *Birtley*: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said Common Moor or Waste in its present State is of little Use or Advantage, but considerable Parts thereof are capable of Cultivation and Improvement, and the several Persons entitled to such Right of Common as aforesaid are willing and desirous that the said Common Moor or Waste should be divided and allotted amongst the said *Hugh Duke of Northumberland*, and the several other Persons entitled to Right of Common thereon or otherwise interested therein respectively; and the several Proprietors of the said Common Fields called *Tbropton Inner Hill* and *Tbropton Haugh* are also willing and desirous that the same should be divided and allotted amongst them respectively, and such respective Allotments inclosed: But the same cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty, That it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *John Bell*, of the Town and County of *Newcastle-upon-Tyne*, Land Surveyor, and *John Dinning*, of *Newlands* in the said County of *Northumberland*, Gentleman, shall be and they are hereby appointed Commissioners for setting out, dividing and allotting the said Common Moor or Waste and Common Fields, and for putting this Act in Execution, in such Manner and subject to such Regulations as are hereinafter contained; and with such of the Powers and subject to such of the Rules, Orders, Directions, Authorities, Regulations, Restrictions and Provisions contained in the said recited Act, as are not controuled by or repugnant to any of the Clauses, Provisions or Regulations contained in this Act.

Commissioners.

General Act extended to this.

For choosing new Commissioners.

II. Provided always, and be it further enacted, That if the said Commissioners hereby appointed or either of them shall die, or shall neglect to act for the Space of Three Calendar Months, when Occasion shall require their Attendance on the Business hereby committed to their Charge, or shall refuse to act or be rendered incapable of acting by Sickness or by any other Cause whatsoever, before the Powers and Authorities hereby and by the said recited Act vested in them shall be carried into Execution, a new Commissioner or Commissioners shall and may be appointed and nominated in the Place or Places of him or them so dying, neglecting or refusing to act, or rendered incapable as aforesaid, in Manner following; (that is to say), in case the said *John Bell* shall die, neglect or refuse, or become incapable to act as aforesaid, the said *Hugh Duke of Northumberland*, his Heirs or Assigns, or the Lord or Lords, Lady or Ladies for the Time being of the said Barony or Manor, or the Guardian or Guardians of any Lord or Lords, Lady or Ladies for the Time being of the said Barony or Manor, being an Infant or Infants under the Age of Twenty-one Years, or his or their Steward or Stewards, Receiver or Receivers, or Agent or Agents for the Time being, shall and may by any Instrument in Writing under his, her, or their Hand or Hands, nominate and appoint a proper Person, not being beneficially

beneficially interested in the said intended Division and Inclosure, or an Agent to, or Father, Son or Brother of any Person so interested, to be a Commissioner in the Room of the said *John Bell*; and in case the said *John Dinning* shall die, neglect or refuse, or become incapable to act as aforesaid, the major Part in Value, to be ascertained by the Land Tax Assessment, of the Proprietors and Owners of Messuages, Lands, Tenements and Hereditaments, entitled to Right of Common upon the said Common Moor or Waste, and interested in the said Common Fields hereby intended to be divided, or their respective Agents present at a Meeting to be holden for that Purpose, of which Meeting Notice shall be given by any Two or more of such Proprietors and Owners, or their respective Agents, or by the other Commissioner for putting this Act in Execution, by affixing the same on the principal Door of the Parish Church of *Rothbury* aforesaid, and also causing the same to be inserted in the *Newcastle-upon-Tyne Courant* Newspaper, or if that Newspaper shall not then be published, then in some other Newspaper usually circulated in the County of *Northumberland*, Ten Days at least before such Meeting, shall and may by any Instrument in Writing under their Hands nominate a proper Person (not being beneficially interested in the said Division and Inclosure, or an Agent to, or Father, Son or Brother of any Person so interested) to be a Commissioner in the Room of the said *John Dinning*; and in case of the Death of any Person so to be hereafter nominated and appointed a Commissioner as aforesaid, or of his Neglect or Refusal to act, or becoming incapable of acting as aforesaid, the Person or Persons, Body or Bodies Politic or Corporate respectively, by whom such Commissioner was nominated and appointed, (their respective Heirs, Successors, Agents or Assigns) shall in like Manner nominate and appoint another Commissioner in his Room, and so from Time to Time as often as any Vacancy shall happen by such Death, Neglect, Refusal or Incapacity of every such new Commissioner or Commissioners so to be nominated and appointed as aforesaid; and every Person who shall be nominated and appointed as aforesaid shall have such and the like Powers and Authorities for putting this and the said recited Act in Execution, as if he had been nominated and appointed a Commissioner in and by this Act; which said several Instruments of Nomination and Appointment shall be inrolled in the same Place, and Evidence thereof given in the same Manner as in and by the said recited Act or this Act is directed concerning the Award to be made by the said Commissioners.

III. And for the Purpose of settling and determining any Difference or Dispute that may arise between the said Commissioners touching or concerning any of the Matters and Things to be by them done and performed in pursuance of the said recited Act or of this Act; be it further enacted, That the said Commissioners shall and they are hereby required immediately after the taking and subscribing the Oath or Affirmation by the said recited Act directed to be by them taken and subscribed, by Writing under their Hands, to choose, nominate and appoint some fit, proper and skilful Person (not interested in the said Lands and Grounds, and not being an Agent to, or Father, Son or Brother of any Person so interested) who shall be willing and consent to act as Umpire; and such Umpire is hereby authorized and required to hear and determine any such Difference or Dispute as may arise between the said Commissioners touching any Matter or Thing relating to the said Division

Umpire to be appointed.

tion and Inclosure; and the Judgment and Determination of the said Umpire therein shall be deemed and considered to be the Judgment and Determination of the said Commissioners, and shall be final and conclusive upon the said Commissioners and upon all other Persons concerned in the said Division and Inclosure, so far as the Acts of the said Commissioners are by the said recited Act and this Act made final and conclusive.

For appoint-
ing a new
Umpire, &c.

IV. Provided always, and be it further enacted, That in case the Person so nominated and appointed by the said Commissioners as Umpire shall die or refuse to act or become incapable of acting in the Execution of the said recited Act or of this Act, then and in any such Case it shall be lawful for the said Commissioners to nominate and appoint One other fit and proper Person to act as Umpire, in the Room or Stead of the Person so dying, refusing to act or becoming incapable of acting in the Execution of the said recited Act and of this Act, and so from Time to Time as often as any Person so nominated or appointed an Umpire shall die or refuse to act, or become incapable of acting in the Execution of the said Act and of this Act; and in case any such Umpire shall neglect to settle and determine any such Difference or Dispute within Thirty Days after the same shall have been referred to him by the said Commissioners, such Neglect shall be and be deemed and taken to be a Refusal to act within the Intent and Meaning of this Act.

Umpire to be
sworn before
he acts.

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

Oath.

‘ I *A. B.* do swear [*or, being one of the People called Quakers, do solemnly affirm*] That I will faithfully, impartially and honestly, according to the best of my Skill and Ability, execute and perform the Powers and Authorities reposed in me as Umpire by virtue of an Act passed in the Fiftieth Year of the Reign of King *George* the Third, intituled, *An Act* [*here insert the Title of this Act*] according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality to any Person or Persons whomsoever. So help me God.’

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

Surveys to be
made.

VI. And be it further enacted, That true and exact Surveys and Admeasurements shall be taken and fair Plans made of the said Common Moor or Waste, and of the said Common Fields so intended to be divided and allotted, if the said Commissioners for the Time being shall not be satisfied with the Map or Survey made at the Time of passing this Act, some Time before the First Day of *January* in the Year of our Lord One thousand eight hundred and eleven, or as soon after as conveniently may be, by the said *John Bell*; or in case of the Death, Neglect, Refusal or Incapacity by Sickness or any other Cause whatsoever of the said *John Bell*, for the Space of Three Calendar Months

Months, when Occasion shall require his Attendance on the Business of taking and making such Surveys or Admeasurements and Plans, then the same shall be made and taken by such other fit and proper Person, being an experienced Surveyor of Lands (not beneficially interested in the said Division, nor an Agent to any Person so interested) as the Commissioner or Commissioners for the Time being shall by Writing under his or their Hand or Hands from Time to Time nominate and appoint.

VII. Provided always, and be it further enacted, That no Person or Persons shall be capable of acting as Surveyor as aforesaid, until he shall have taken and subscribed, before the said Commissioners or One of them, an Oath in the Form following; (that is to say)

‘ I *A. B.* do swear, That I will faithfully, impartially and honestly act according to the best of my Skill and Judgment in surveying and admeasuring the Common Moor or Waste and Common Fields intended to be divided and inclosed by virtue of an Act passed in the Fiftieth Year of the Reign of His present Majesty King *George* the Third, intituled [*here set forth the Title of this Act*] and in making true Maps or Plans thereof to be laid before the Commissioners for putting the said Act into Execution.

‘ So help me God.’

Which Oath the said Commissioners, or either of them are and is hereby authorized and required to administer, when and as often as Occasion shall require; which Oath, and also the Instrument or Instruments of Appointment of any new Surveyor, shall be respectively inrolled in the same Place, and Evidence thereof given in the same Manner, as by the said recited Act or this Act is directed concerning the Award to be made by the said Commissioners.

VIII. And be it further enacted, That the Surveys and Admeasurements, including all necessary Resurveys and all Plans (except the fair Plan upon Vellum hereinafter particularly mentioned) and also for setting out the Allotments and executing such other Business as shall necessarily have been done by the said Surveyor relative to the said Division when he shall not attend as a Commissioner, shall be paid for at and after the Rate of Two Pounds and Two Shillings for every Day in which he shall have been so employed.

IX. And be it further enacted, That the said Surveyor shall, after the said Division and Allotment of the Lands and Grounds intended to be hereby divided and inclosed shall be completed, make fair Plans upon Vellum of all the said Lands and Grounds intended to be hereby divided and allotted, whereon respectively shall be truly and distinctly delineated, set down, marked and expressed, the several Matters and Things necessary or proper to be inserted therein, for the better explaining the Award of the said Commissioners; and for which fair Plans upon Vellum the Sum of Twenty-one Pounds shall be paid, and no more.

Encroachments, except those made for Thirty Years, to be deemed Part of the Lands to be divided.

X. And be it further enacted, That all Inclosures and Encroachments which shall have been taken from the said Common Moor or Waste (save and except such as have been peaceably and quietly enjoyed for the Space of Thirty Years last past or upwards without any Interruption or Payment of any Acknowledgement) shall be deemed Part and Parcel of the said Common Moor or Waste so to be divided and allotted; and in case any Difference or Dispute shall arise touching any such Inclosures or Encroachments being deemed Part and Parcel of the said Common Moor or Waste, such Differences or Disputes shall be examined and determined by the said Commissioners.

Commissioners to give Notice of their First, Second and Third Meetings, which are to be holden at Rothbury.

Power to adjourn such Meetings.

XI. And be it further enacted, That the said Commissioners shall and they are hereby required to cause a Notice in Writing under their Hands to be affixed upon the principal outer Door of the Parish Church of *Rothbury* aforesaid, and also to be inserted in the *Newcastle-upon-Tyne Courant* Newspaper, of the Time and Place of their First, Second and Third Meetings respectively, which shall be holden at *Thropton* aforesaid for putting this and the said recited Act into Execution, at least Ten Days next before such respective Meeting; and that the said Commissioners shall and may after their said Third Meeting, from Time to Time appoint such Time and Place for every subsequent Meeting as they shall think proper, causing a Notice in Writing under their Hands to be affixed upon the principal outer Door of the Parish Church of *Rothbury* aforesaid, Eight Days at least before every such subsequent Meeting; but the said Commissioners at the First, Second and Third Meetings, or any other subsequent Meeting or Meetings, shall have full Power and Authority from Time to Time as they shall think it convenient, to continue such First, Second or Third Meeting, or any other subsequent Meeting or Meetings by Adjournment from Day to Day, or in case of *Sunday* intervening, then to the *Monday* following, for the due Execution of this and the said recited Act, without giving any Notice whatsoever: Provided always, that if it shall happen that no more than One of the said Commissioners shall attend at any Meeting or Meetings aforesaid to be holden in pursuance of this Act, such Commissioner may, and he is hereby vested with full Power and Authority to adjourn such Meeting or Meetings respectively to such Time, not exceeding Eight Days, as he shall see most convenient, giving due Notice thereof in Writing to the other of the said Commissioners: Provided also, that all the Meetings of the said Commissioners shall be held at some Place within the said Parish or within Eight Miles of the Boundary of the said Parish.

Other Notices how to be given.

XII. Provided always, and be it further enacted, That all other Notices requisite or necessary to be made and given by the said Commissioners, shall be so made and given by Advertisements to be inserted in the Newspaper called *The Newcastle-upon-Tyne Courant*, or in some other Newspaper printed or circulated in the said County of *Northumberland*.

Commissioners to determine Differences.

XIII. And be it further enacted, That in case any Dispute or Difference shall happen to arise between the Parties that now are or shall, before the making the Award hereinafter mentioned, be interested in the said intended Division and Inclosure or any of them, touching or concerning the
 respective

respective Shares and Proportions which they or any of them shall claim in the said Lands and Grounds hereby intended to be divided and inclosed as aforesaid, or touching or concerning the respective Shares and Proportions which they or any of them ought to have of or in the said intended Division and Inclosure, it shall be lawful for the said Commissioners and they are hereby authorized to hear and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Tythes, Lands or Hereditaments whatsoever.

But not in regard to Titles.

XIV. And be it further enacted, That the said Commissioners shall and they are hereby empowered at their Discretion, upon Request made to them by all or any of the Parties in whose Favour they shall make their Award or Determination, to order and adjudge such Costs and Charges as they shall think reasonable for the Use and Benefit of such Party or Parties upon or against the Person or Persons, Body or Bodies Politick, Corporate or Collegiate, whose Claim or Claims, Objection or Objections, Complaint or Complaints shall be thereby disallowed (as the Case shall happen) and by Warrant under the Hands of the said Commissioners to levy such Costs and Charges by Distress and Sale of the Goods and Chattels of such last mentioned Person or Persons, together with the Charges of such Distress and Sale; and in case there shall be no Goods and Chattels whereby to levy the same, or in case a Body Corporate shall be required to pay such Costs, then and in either of such Cases it shall be lawful for the Person or Persons in whose Favour such Costs shall be awarded, to recover the same by Action or Actions of Debt or on the Case; in which it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioners, and in consequence of such Order of Adjudication, without setting forth any other Proceedings therein had.

Commissioners to assess Costs.

XV. Provided always, and be it further enacted, That if any Person or Persons, Body or Bodies Politick, Corporate or Collegiate, making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Rights or Interests therein, or objecting to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioners or Umpire, and shall be desirous of having such Claim or Claims, Rights and Interests respectively tried at Law, and the Person or Persons, Body or Bodies Politick, Corporate or Collegiate, so desirous to have the same tried at Law, shall and do by themselves or their respective Stewards, Receivers, Attornies or Agents, give or cause to be given Notice thereof in Writing to the said Commissioners or either of them, within Two Calendar Months next after such Determination shall have been so made by the said Commissioners or Umpire, of which Notice the said Commissioners are hereby required immediately on Receipt thereof, or as soon afterwards as conveniently may be done, to give Information to the adverse Party or Parties, or his, her or their respective Stewards, Receivers, Attornies or Agents, by Writing under their respective Hands, to be delivered to or left at the usual Place of Abode of such Party or Parties, Stewards, Receivers, Attornies or Agents as aforesaid; then, but not afterwards, it shall be lawful for the Person or Persons,

Power to try disputed Claims at Law.

sons, Body or Bodies Politick or Corporate giving such Notice as aforesaid, or their respective Heirs, Successors or Assigns, and he, she or they is and are hereby required to proceed to a Trial or Trials at Law of the same, at the Assizes to be holden for the County of *Northumberland*, in a feigned Action or Actions for that Purpose to be commenced in His Majesty's Court of King's Bench or Common Pleas at *Westminster*, by the Person or Persons, Body or Bodies Politick or Corporate giving such Notice as aforesaid, against the Lord of the said Barony or Manor of *Rothbury*, or any Person or Persons, Body or Bodies Politick or Corporate interested in the said intended Division, who shall make such Objection or Objections, within Two Calendar Months next after such Notice shall be given to the said Commissioners as aforesaid; and the Defendant or Defendants in such Action or Actions shall forthwith name an Attorney or Attornies, who shall file Common Bail or appear and accept One or more Issue or Issues, whereby all such Claim or Claims and Rights and Interests may be properly tried and determined (such Issue or Issues to be settled by the proper Officer of the Court wherein such Action shall be brought, if the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in the said Action or Actions shall be final and conclusive to all Bodies Politick, Corporate or Collegiate, and all Persons whomsoever; and after any Verdict or Verdicts shall have been obtained, and not set aside by the Court, the said Commissioners or Umpire shall and they are hereby authorized and required to conform thereto: Provided always, that it shall be lawful for the Court in which any Action commenced in pursuance of this Act shall be depending, upon sufficient Cause shown, to put off the Trial of such Action, or to award a new Trial therein, although the Time hereinbefore limited for the Trial of such Action may be thereby exceeded; but if no such Action or Actions at Law shall be brought or commenced by the Person or Persons, Body or Bodies Politick, Corporate or Collegiate giving such Notice within the Time aforesaid, or if such Action or Actions shall not be proceeded in to a Trial or Trials at the first Assizes which shall be holden for the said County of *Northumberland* after the Expiration of Twenty Days from the Day of giving such Notice, by or on account of the Neglect or Default of the Plaintiff or Plaintiffs therein, then and in such Case the Determination of the Commissioners or Umpire shall be final, binding and conclusive unto and upon all Parties whomsoever.

Actions not to abate by the Death of Parties.

XVI. Provided always, and be it further enacted, That if any of the Parties in any Action or Actions to be brought and prosecuted in pursuance of this Act shall die pending the same, such Action or Actions shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

In Cases of Deaths of Parties before Actions brought, the same to be carried on and defended in their Names.

XVII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politick, Corporate or Collegiate, who

who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk to the said Commissioners with Process for commencing such Action or Actions in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead; and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

XVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments); but in case the said Commissioners shall be of opinion against the Right of the Person or Persons so in possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment or other due Course of Law.

Persons in possession not to be molested without due Course of Law.

XIX. And be it further enacted, That from and after the passing of this Act, the said Commissioners shall order, direct and appoint the Course of Husbandry that shall be used in the Tillage Parts of the said Common Fields, until such Time as they shall have staked out the Allotments of the said Common Fields, and shall and may order and direct such Sum or Sums of Money to be paid by any Owner or Owners, Occupier or Occupiers of Lands or Grounds in the said Common Fields to any other such Owner or Owners, Occupier or Occupiers as aforesaid, for or in respect of the ploughing, tilling or sowing such Lands and Grounds or any Part or Parts thereof, as they the said Commissioners shall think reasonable and appoint; and all and every such Owner and Owners, Occupier or Occupiers, is and are hereby respectively declared to be from Time to Time subject to and bound by such Orders and Directions; and in case any such Owner or Owners, Occupier or Occupiers respectively, who shall as aforesaid be directed to pay any other of such Owner or Owners, Occupier or Occupiers, any Sum or Sums of Money by reason or on account of any of the Matters and Things aforesaid, shall neglect or refuse to pay on Demand such Sum or Sums of Money as he, she or they shall be directed to pay as aforesaid, or any Part thereof, then and in every such Case the said Commissioners shall and may, by Warrant under their Hands to be directed to any Person or Persons whomsoever (not being a Party or Parties in such Case) cause such Sum or Sums of Money 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 be) upon Demand, after the reasonable Charges and Expences attending such Distress and Sale are fully paid and satisfied.

Commissioners to direct or appoint the Course of Husbandry for the Common Fields.

XX. Provided always, and be it further enacted, That from and after the passing of this Act, and until the Allotments of the said Common Fields shall have been staked out, no Part or Parts of the Meadow,

Grass Lands not to be broken up.

[Loc. & Per.]

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Pasture

Pasture or Fresh Ground, Part of the said Common Fields, shall be ploughed, broken up or converted into Tillage.

Allotment of One Sixteenth of Conomm to the said Hugh Duke of Northumberland, as Lord of the Manor for the Soil.

XXI. And be it further enacted, That the said Commissioners shall and they are hereby required in the next place to set out, allot and appoint, unto the said *Hugh Duke of Northumberland* (as Lord of the Barony or Manor of *Rotbury* aforesaid), or to such Person or Persons as shall then be entitled to the said Barony or Manor, his, her or their Heirs and Assigns, One full Sixteenth Part in Value (Quantity, Quality and Situation considered) of the said Common Moor or Waste so to be divided and allotted (after deducting the publick Carriage Roads, Drains, Watercourses and Quarries) in lieu of and as a full Compensation and Satisfaction for his, her or their Right and Interest to the Soil of the said Common Moor or Waste so to be divided and allotted, over and above and exclusive of such Share and Allotment, Shares and Allotments of the said Common Moor or Waste, as shall be assigned and allotted to him, her or them, in respect of his, her or their several Messuages, Lands, Tenements and Hereditaments, having Right of Common upon the said Common Moor or Waste.

The Lord's Sixteenth to be in One entire Plot.

XXII. And be it further enacted, That the aforesaid One full Sixteenth Part or Share of the said Common Moore or Waste, when and so soon as the same shall be assigned, set out, allotted, and appointed as aforesaid, shall be deemed to lie within the Barony or Manor of *Rotbury*; and that such One Sixteenth Part or Share of the said Common Moor or Waste intended to be divided by virtue of this Act, shall be assigned, set out, allotted and appointed to lie in One entire Plot or Parcel, and shall be set out in such Manner as to adjoin upon certain Lands called the *Millers Acres*.

Allotments to the other Proprietors.

XXIII. And be it further enacted, That the said Commissioners shall and they are hereby required in the next place to set out, divide, assign, allot and appoint the Residue of the said Common Moor or Waste (after the said several Allotments hereinbefore directed to be made as aforesaid shall have been made and set out accordingly) unto and amongst the several Proprietors of Messuages, Lands, Tenements and Hereditaments in the said Township of *Tbropton*, having Right of Common in and upon the said Common Moor or Waste, in proportion and according to the Number of ancient Farms, and Parts and Shares of ancient Farms (reckoning and accounting the whole Township of *Tbropton* to consist of Eleven Farms and an Half) of which their several and respective Messuages, Lands, Tenements and Hereditaments shall consist; and in case the exact Parts, Shares or Proportions which any of such Messuages, Lands, Tenements or Hereditaments, belonging to any of the said Proprietors, bear to an ancient Farm, cannot by reason of any Subdivision or Subdivisions thereof be correctly ascertained, then and in such Case or Cases the said Commissioners shall and they are hereby required to set out, divide, assign, allot and appoint the Allotment to be made in respect of such Farm, unto and amongst the several Proprietors of such Messuages, Lands, Tenements and Hereditaments constituting such Farm, according to and in proportion to the respective Values of their several Messuages, Lands, Tenements and Hereditaments constituting such Farm; provided always, that the Eleven Cottages which constitute one
Farm

Farm shall be considered as each making an Eleventh Part of a Farm, and have equal Shares in Value of the said Common Moor or Waste allotted to the respective Proprietors thereof; and that the said Commissioners shall and they are hereby required also to set out, divide, assign, allot and appoint the said Common Fields unto and amongst the several Persons, Bodies Politick, Corporate or Collegiate, respectively entitled to the said Common Fields, in proportion and according to the respective Values of their several Common Fields respectively, in respect whereof such several Allotments shall be respectively made.

XXIV. And be it further enacted, That the said Commissioners shall and may and they are hereby authorized and empowered to allot, set out and appoint the whole Share or Allotment, or Shares or Allotments, of any of the Proprietors interested in the said Division and Inclosure, either in the Common Moor or Waste or in the said Common Fields, or Part thereof in each, as to them shall seem meet.

Situation of Allotments.

XXV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered, at such Time or Times as they shall think proper, to take down and remove or cause to be taken down and removed, a certain Fence between the said Common Moor or Waste and the said Common Fields, called *Thropton Inner Hill* (which is at present maintained and kept up at the Expence of the Proprietors of Messuages, Lands, Tenements and Hereditaments in the Township of *Thropton*) or any Part or Parts thereof as the Commissioners for the Time being shall from Time to Time think proper and expedient; provided always, that from and immediately after the several Lands hereby directed to be inclosed shall have been divided, allotted and inclosed, the said Proprietors of Messuages, Lands, Tenements and Hereditaments in the said Township of *Thropton*, shall no longer be subject or liable to keep up or maintain the said Fence or any Part thereof (except so far as may be directed by the said Commissioners in their Award respecting any Part or Parts thereof which may be left as a Fence or Fences to any Allotment or Allotments of the said Lands so directed to be inclosed by this Act, and which shall be maintained and kept up by such Person or Persons as shall be directed by the said Commissioners in or by their said Award).

Power to take down a certain Fence between the said Common Moor and the said Common Fields &c.

XXVI. Provided always, and be it further enacted, That the said Commissioners shall and they are hereby required, in all Cases where the same can be done without Prejudice or Inconvenience to the Occupation of the adjoining Lands, to assign and allot unto such Person or Persons, Body or Bodies Politick, Corporate or Collegiate, entitled to and having Right of Common upon the said Common Moor or Waste, as are in the Possession of any such Encroachment or Encroachments as is or are hereinbefore directed to be deemed Part and Parcel of the said Common Moor or Waste, all and every the Lands and Grounds comprized therein, and all Edifices and Buildings erected thereon, for or in Part of the Allotment or Allotments which shall be made to them respectively by virtue of this Act, unless it shall happen that such respective Encroachments shall be greater or more (Quantity and Quality considered) than the Allotment or Allotments would amount unto which such Person or Persons, Body or Bodies Politick, Corporate or Collegiate, in the Possession of such

Encroachments to be allotted to Persons in possession thereof.

Encroach-

Encroachment or Encroachments respectively would be entitled to, for and in respect of their ancient Estate, in which Case a proportionable Part of such Encroachment or Encroachments shall be deducted from the same respectively; and the said Commissioners are hereby directed and required, in their Valuation of such Encroachments for the Purposes aforesaid, to estimate the same according to their original Value in their open State, without any Regard to the Improvement thereon, or to the Value of the Edifices and Buildings which are erected or built thereupon.

Distinct Allotments to be made for Lands holden by different Titles or for different Estates.

XXVII. And be it further enacted, That in case the Proprietor or Proprietors of any Lands or other Hereditaments by this Act authorized to be divided, allotted or exchanged, shall hold their respective Lands or Hereditaments for different Estates or under different Titles, the said Commissioners shall ascertain and distinguish the Lands or other Hereditaments held for each of such Titles respectively, and shall also set out and distinguish the different Allotments or other Hereditaments to be accepted and taken as an Equivalent in respect of each of them; and the said Commissioners shall and they are hereby authorized and required to set forth and declare, in and by their said Award, in Right of what Estates in particular such Allotments shall have been respectively made, and therein also separately to describe and ascertain the Situation of every such Allotment.

Allotments for Property granted by Leases at Rack Rent to be allotted to the Lessors.

XXVIII. Provided always, and be it further enacted, That all the Allotments of the said Common Moor or Waste to be set out and made by virtue of this Act, in respect of any Property granted or demised, or held by any Leases or Agreements for any Term or Number of Years not exceeding Twenty-one Years at Rack Rent, shall be allotted to the respective Lessors or Owners of such Property, and shall be held and enjoyed by them respectively, free from all Right, Title and Interest of their respective Lessees or Tenants, by virtue of or under such Leases or Agreements; and such respective Lessors or Owners shall make such Abatement in the Rents reserved or made payable by such Leases or Agreements respectively, for and on account of their taking such Allotments, as the said Commissioners shall adjudge and determine to be just and reasonable, and shall in and by their Award or any other Writing under their Hands, ascertain, direct and appoint.

Allotments that may happen to be sold, may on Request be allotted to the Purchasers.

XXIX. And be it further enacted, That if any Person or Persons entitled in Fee Simple to any Allotment or Allotments of the said Common Moor or Waste or Common Fields, shall by Writing under his, her or their Hand or Hands, to be delivered to the said Commissioners at any of their Meetings previously to their preparing a Draft of their Award, signify and declare that he, she or they hath or have sold and disposed of his, her or their Allotment or Allotments to any Person or Persons to be named and described in such Writing, and shall desire the same to be set out, allotted and appointed to the Person or Persons so purchasing the same, the said Commissioners in every such Case shall and they are hereby authorized to set out, allot and appoint the said Allotment or Allotments of the Person or Persons who shall have so given Notice of his, her or their having sold and disposed thereof, to
the

the Person or Persons mentioned in such Notice to be the Purchaser or Purchasers of such Allotment or Allotments; and the said Allotment or Allotments so sold and disposed of, shall in every such Case, from and after the Execution of the Award of the said Commissioners, become and the same is and are hereby declared to be vested in Fee Simple in the Person or Persons to whom the same shall have been by such Notice in Writing as aforesaid, so signified and declared to have been so sold as aforesaid, and his, her or their Heirs, Executors, Administrators and Assigns, to all Intents and Purposes whatsoever.

XXX. And be it further enacted, That it shall be lawful for the said Commissioners to set out, assign or allot any of the Lands or Grounds hereby directed to be divided and allotted, or any Messuages, Buildings, inclosed Lands or Grounds or other Hereditaments in the Parish of *Rothbury* aforesaid, in Lieu of and in Exchange for any other Messuages, Buildings, Lands and Hereditaments whatsoever, in the same Parish or in any adjoining Parish, Hamlet, Township or Place; so that every such Exchange be set forth and ascertained in and by the Award of the said Commissioners, and be made with the Consent of the respective Proprietors or Persons, Body or Bodies Politick, Corporate or Collegiate, seised or entitled in Possession of or to the Hereditaments so to be exchanged for any Life or Lives, or for some Estate of Inheritance, or of the Husbands, Guardians, Trustees, Committees or Attornies of any such Proprietors who shall at the Time of making such Exchanges be Femes Covert, Infants, Lunaticks, Persons beyond the Seas, or under any other legal Disability or Incapacity of acting for themselves, such Consent to be respectively signified by Writing under the Hands and Seals of the consenting Parties, or under the Seals of such of them as are a Corporation Aggregate; and every Exchange so made and declared, shall be for ever good, valid and effectual in Law; and the respective Lands or Hereditaments so to be exchanged, shall go and remain to the same Person or Persons, and to, for and upon the same Uses, Estates, Trusts, Intents and Purposes, and be subject to the same Powers, Conditions, Covenants and Agreements, as the Lands or Hereditaments in respect whereof the same shall be exchanged would have gone and remained and have been subject or liable to, in case the Exchange thereof had not been made: Provided always; 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 Lord Bishop of the Diocese in which such Lands, Tenements or Hereditaments so to be exchanged shall be situate.

XXXI. Provided also, and be it further enacted, That the Costs, Charges and Expences attending the making of any Exchange or Exchanges, Partition or Partitions, Sale or Sales to be made by virtue of this or the said recited Act, shall be borne, paid and defrayed by the several Persons making such Exchanges, Partitions or Purchases, in such Shares and Proportions as the said Commissioners shall by Writing under their Hands order and direct.

XXXII. Provided always, and be it further enacted, That in case it shall happen that any of the Proprietors of ancient Freehold Messuages, Lands, Tenements or Hereditaments, shall exchange any of their ancient
 [Loc. & Per.] 41 G Freehold

Exchanges.

Expence of Exchanges and Partitions shall be borne by the Parties making them.

Owners to enjoy Mines, &c. under their ancient Freehold

Estates, which may be given in Exchange for Allotments of Common; paying Damage for Spoil of Ground.

Freehold Messuages, Lands, Tenements or Hereditaments, for any Allotment or Allotments of the said Common, Moor or Waste or Common Fields, then and in such Cases the Proprietors of such ancient Freehold Messuages, Lands, Tenements or Hereditaments so exchanged as aforesaid, their respective Heirs and Assigns, shall from Time to Time and at all Times for ever thereafter, have, hold and enjoy all and all Manner of Mines, Minerals and Quarries whatsoever, lying, being and remaining within and under the said ancient Messuages, Lands, Tenements or Hereditaments so to be given in Exchange, and all Liberties, Powers, Privileges and Authorities for winning, working, leading and carrying away the same, and the Produce thereof respectively, in as full, ample and beneficial Manner, to all Intents and Purposes, as they and every of them could or might or ought to have had, held or enjoyed such Mines, Minerals or Quarries, and Liberties, Powers, Privileges and Authorities aforesaid respectively, in case this Act had not been made, or in case such ancient Messuages, Lands, Tenements or Hereditaments had not been given in Exchange for such Allotment or Allotments; making reasonable Satisfaction for Damage and Spoil of Ground to be occasioned thereby.

Mines, &c. under Allotments to be given in Exchange to belong to the Lord of the Manor.

XXXIII. Provided also, and be it further enacted, That in all Cases of such Exchanges of ancient Freehold Messuages, Lands, Tenements or Hereditaments, for any Allotment or Allotments as aforesaid, the Mines, Minerals, and Quarries, lying and being within and under the said Allotment or Allotments so to be given in Exchange, shall remain the Property of and be held and enjoyed by the said *Hugh Duke of Northumberland*, and the Lord or Lords, Lady or Ladies of the said Barony or Manor for the Time being, his, her or their Heirs, Successors and Assigns, with all Liberties, Powers, Privileges and Authorities for winning, working, leading, laying Rail or Waggon Ways, and carrying away the same and the Produce thereof respectively, in as full, ample and beneficial Manner, to all Intents and Purposes, as if such Exchange or Exchanges had not been made.

Award to be inrolled at Westminster, and deposited with the Clerk of the Peace for Northumberland.

XXXIV. And be it further enacted, That the general Award to be made by the said Commissioners pursuant to the Directions of the said recited Act and this Act, shall be inrolled in One of His Majesty's Courts of Record at *Westminster*, and the said original general Award, and such Plans or Surveys as may be annexed thereto, shall be lodged and be deposited in the Office of the Clerk of the Peace for the said County of *Northumberland*, to remain with the Records of the Court of General Quarter Sessions of the Peace there, to the end that Recourse may be had thereto by any Person or Persons interested in the said Division; which said Award and Plans, and every other Award and Instrument to be lodged with the said Award, shall and may be inspected at all reasonable Times upon reasonable Notice of the Party requiring such Inspection.

Copies of Plans may be delivered on a reasonable Sum being paid for the

XXXV. And be it further enacted, That in case the Clerk of the Peace for the said County of *Northumberland* shall be required to make and deliver a Copy or Copies of any of the Plans annexed to the said general Award deposited with the Clerk of the Peace as aforesaid, a reasonable Payment shall be made to him (over and above the Charge of Stamp Duties,

Duties, and for the Copy or Copies of the said Award and Instruments or any Parts thereof) for a Copy or Copies of such Plans or any Part thereof respectively. same to the Clerk of the Peace.

XXXVI. And be it further enacted, That the said Commissioners shall at the Request, Costs and Charges of any Person or Persons, Body or Bodies Politick, Corporate or Collegiate, his, her or their Stewards or Agents, having any Allotment or Allotments of the said Lands and Grounds hereby intended to be divided and allotted, or otherwise interested therein, at any Time before the depositing of the said Award, make and execute a Copy or Copies of the said Award, Plans and Surveys, or any of them, for the Use of the Person or Persons requesting the same; and such Copy or Copies shall at all Times be admitted and allowed as legal Evidence in all Courts whatsoever. Commissioners may execute Copies of the Award, for Persons requiring and paying for the same.

XXXVII. And be it further enacted, That all and every Allotment and Allotments of the said Common, Moor or Waste which shall be made, set out or appointed in pursuance of this Act, shall be held by the same Tenure, and shall be subject to the same yearly and other Rents and Payments, Reliefs, Fines, Dues, Duties, Suits and Services, as the several and respective Messuages, Lands, Tenements and Hereditaments, in respect of which the said several Allotments or Parcels of Land shall be so set out or allotted, are and have heretofore been holden respectively; and the Lord or Lords, Lady or Ladies of the said Barony or Manor of *Rothbury*, his, her and their Heirs, Successors and Assigns respectively for the Time being, shall have the same Powers, Liberties and Authorities for recovering and enforcing the same respectively, as they could or might have had in respect of such Messuages, Lands, Tenements and Hereditaments, before the passing of this Act; but the said several and respective Messuages, Lands, Tenements and Hereditaments, in respect of which the said several Allotments or Parcels of Ground shall be so set out or allotted, and the Allotments made in respect thereof shall not nor shall any of them be subject to any new or increased yearly or other Rents, Payments, Reliefs, Fines, Dues, Suits or Services whatsoever, to the Lord of the said Barony or Manor of *Rothbury* for the Time being. Allotments to be of the same Tenure as the ancient Lands.

XXXVIII. Provided always, and be it further enacted and declared, That nothing in this Act contained shall extend, or be construed, deemed or adjudged to revoke, alter, annul or make void any Settlement, Deed, Will or Lease whatsoever, or to prejudice any Person or Persons whomsoever having any Right or Claim of Dower, Jointure, Rent, Service, Debt, Charge or Incumbrance of, in, out of, or upon or affecting any of the ancient Estates entitled to Right of Common upon the said Common Moor or Waste, or in, out of, or upon or affecting the said Common Fields; but that as well the said several ancient Estates as the Allotments to be set out in respect thereof, and all the Allotments of and in the said Common Fields, shall immediately after the Execution of the Award of the said Commissioners be vested in and remain, continue, and enure to, and be held and enjoyed by the several Persons, Bodies Politick, Corporate or Collegiate, to whom the same shall be assigned or allotted respectively; and they shall from thenceforth stand and be seized and possessed thereof respectively, to, for and upon such and the same Uses, Estates, Interests, Trusts, Intents and Purposes, and subject and liable to the same Act not to affect Wills, but Allotments to go to the same Uses.

same Wills, Limitations, Estates, Conditions, Settlements, Provisoes, Remainders, Reversions, Leases, Debts, Charges and Incumbrances of every Kind, as the several ancient Estates and Common Fields, in respect of which such Allotments shall be respectively made, would have stood severally limited or settled to or upon, or have been severally subject and liable to, if such Allotments thereof had not been made or this Act had not been passed; except as to such Leases and Agreements at Rack Rent as shall be determined under this Act.

In Cases where Lands shall be holden by different Titles, &c. and the Commissioners shall not have distinguished such Lands, and awarded distinct Allotments for the same in their general Award, they may on Request do the same by Deed, after the making of the said Award.

XXXIX. And be it further enacted, That where the Proprietor or Proprietors of any Lands or Hereditaments, which shall be divided, allotted or exchanged by virtue of this Act, shall hold their respective Lands or Hereditaments for different Estates or under different Titles, and where from the Want of the necessary Information before the said Commissioners, or from any other Cause, their Award shall have omitted the distinguishing and ascertaining of the Lands or other Hereditaments, holden for each of such Estates and under each of such Titles respectively, and the setting out and awarding of several and distinct Allotments for such respective Lands or other Hereditaments as hereinbefore is required, and within Twelve Calendar Months after the making of the said Award, Request shall be made to the said Commissioners by any Person or Persons interested, by Writing under his or their Hand or Hands, to have such Omission supplied by a separate Instrument; then and in every such Case the said Commissioners are hereby authorized to do every Thing necessary for supplying such Omission, and so far as that Purpose shall require, to examine Witnesses, and in every other respect to proceed and act as if the said Award had not been made; and when they shall have obtained what they shall think sufficient Information, they are hereby also authorized by any Deed under their Hands and Seals to distinguish and ascertain the Difference of Tenure, Estates, and Titles respectively, and accordingly to make distinct and several Allotments, in the same Manner as is hereby required where such Discrimination should be contained in the said Award; and every such separate Instrument shall be inrolled in the same Place, and Evidence thereof shall be given in the same Manner as by the said recited Act and this Act, or either of them respectively, is directed concerning the said Award of the said Commissioners; and all Expences which shall be reasonably incurred in or about any such separate Instrument as aforesaid, shall be payable by the Person or Persons who shall have so requested the said Commissioners to make and execute the same, or by his, her or their Heirs, Executors or Administrators; and every such separate Instrument shall, from and immediately after the due Execution thereof by the said Commissioners, have the same Effect to all Intents and Purposes as if the Contents thereof had been inserted and contained in their said Award; and the same shall (after such Inrolment as aforesaid) be delivered to the Person or Persons upon whose Request any such Omission shall have been so supplied, or to the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title of the Premises in question, shall in the Opinion of the said Commissioners most properly belong.

Allotments to be fenced.

XL. And be it further enacted, That the said several Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched and fenced by and at the Expence of such respective Proprietors, in such Manner and

and within such Time, and shall be from thenceforth kept in Repair in such Proportions as the said Commissioners shall in their Award order and direct, except only such Allotments the inclosing and fencing whereof are otherwise particularly directed and provided for by this Act.

XLI. And be it further enacted, That from and immediately after the said Common Fields shall be so divided and allotted, all former Estate, Right, Title and Interest, and all Right of Intercommon whatsoever, of the several Owners and Proprietors thereto and therein, shall cease and be for ever extinguished; and the several Allotments thereof shall be holden and enjoyed in Severalty by the several Persons to whom the same shall be respectively awarded and allotted, by the same Tenure by which they now hold their respective Estates therein.

Interest in
Common
Fields and
Allotments
thereof to be
holden in
Severalty.

XLII. And be it further enacted, That from and after the passing of this Act, it shall not be lawful for any Person or Persons (other than and except the Lord or Lords, Lady or Ladies of the said Barony or Manor of *Rothbury*, his, her or their Heirs, Successors or Assigns, and the said Commissioners for carrying this Act into Execution,) to cut, dig or carry away any Turves or Sods in, upon or from off the said Common Moor or Waste, or any Part thereof, until the same shall be allotted and set out as aforesaid, upon Pain of forfeiting for every such Offence to the said *Hugh Duke of Northumberland*, or to the Lord or Lords, Lady or Ladies of the said Barony or Manor of *Rothbury*, his, her or their Heirs, Successors or Assigns for the Time being, such Sum not exceeding Thirty-nine Shillings, as shall be assessed in the Nature of an Amerciament at any Court Leet or Court Baron to be holden for the said Barony or Manor of *Rothbury*, the same to be assessed by the Assessors then and there sworn; and which Amerciament or Amerciaments when so assessed, shall be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending, by virtue of a Precept to the Bailiff or Bailiffs of the said Barony or Manor, to be directed for that Purpose by the Steward of the Court of the said Barony or Manor; and the Money arising from all such Amerciaments shall be paid to the said Commissioners, and shall be by them applied towards defraying the Expences of carrying this Act into Execution.

No Turves
or Sods to be
cut.

XLIII. And be it further enacted, That the Charges and Expences of soliciting, obtaining and passing this Act, and of surveying, planning and measuring, dividing and allotting the said Common, Moor or Waste and Common Fields, and of making Highways or Roads, and of all other the Charges and Expences incident to or attending the Execution of this and the said recited Act, as are not herein otherwise directed to be paid, shall be borne, paid and defrayed by the several and respective Persons, Body or Bodies Politick, Corporate or Collegiate, to whom any Allotment or Allotments of the said Common, Moor or Waste and Common Fields shall be respectively made, his, her or their Heirs, Successors, Executors, Administrators and Assigns, (other than and except the Vicar of *Birtley* for the Time being as such) in proportion to the real Value of their respective Allotments, to be settled and ascertained by the said Commissioners; and the several and respective Shares and Proportions of all such Fees, Payments, Charges and Expences as aforesaid, shall be

Expences of
the Division
to be paid by
the Parties.

[*Loc. & Per.*]

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payable

payable and paid by such Owners and Proprietors respectively, to such Person or Persons, at such Time or Times as shall by the said Commissioners, either before or after the Execution of their Award as aforesaid, be ordered, directed and appointed, in Writing under their Hands respectively Twenty Days before the Time appointed for such Payment; and in case such Owners or Proprietors shall neglect or refuse to pay his, her or their Share or Proportion, Shares or Proportions of such Charges and Expences, or any Part thereof, within the Time to be limited by the said Commissioners, then and in such Case the said Commissioners shall cause the same to be levied and recovered in Manner directed by the said recited Act.

Commissioners to pay their own Expences.

XLIV. And be it further enacted, That the said Commissioners and their Successors shall, at all and every of their Attendances or Meetings for putting this Act into Execution, bear and pay their own Expences; and that when and as soon as the said intended Division and other Purposes of this Act shall be finished and completed, and the said Commissioners shall have executed their said Award, they the said Commissioners respectively shall be paid and allowed each of them the Sum of Three Pounds and Three Shillings for each and every Day upon which they respectively shall have attended a Meeting and transacted Business in or for putting this Act into Execution.

Commissioners to account.

XLV. And be it further enacted, That the said Commissioners shall and they are hereby respectively required to keep or cause to be kept, a just and true Statement and Account of all Sums of Money which shall be raised or received and laid out or expended by them, or by their Order or for their Use, under or by virtue or in the Execution of this Act, and of what shall be due and owing to them for their own Trouble or Expences, and shall truly and regularly enter all the Particulars of such Statements and Accounts in a Book to be provided for that Purpose; and such Accounts shall at least once in every Year, from the passing of this Act till such Accounts shall be finally allowed, together with the Vouchers relating to the same, be examined and settled by *Robert Hopper Williamson*, of the Town and County of *Newcastle-upon-Tyne*, Esquire, who is hereby appointed Auditor for that Purpose; and in case of his Death or Refusal to act, then by such other fit and proper Person as shall be appointed Auditor in his Stead, by the Majority in Value of the said Proprietors, at a Meeting to be holden in like Manner as is hereinbefore directed with respect to the Meeting of the said Proprietors for the Purpose of appointing a Commissioner; and such Auditor for the Time being shall, from Time to Time, state in Writing under his Hand, the Balance of the said Accounts in such Book as aforesaid; and that 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; and also that such Book of Accounts shall be kept at the Office of the Clerk to the said Commissioners, and shall be open to the Inspection of any of the said Proprietors or their Agents, at all reasonable Times during the Progress of the said Division and Inclosure, and until the said Accounts shall have been finally settled and allowed; and in case the said Commissioners or their Clerk shall refuse or neglect so to do, the Commissioner or Commissioners or Clerk respectively so refusing or neglecting, shall

shall for every such Refusal or Neglect, forfeit and pay to any Person who shall sue for the same the Sum of Ten Pounds, to be recovered in any of His Majesty's Courts of Record at *Westminster* by Action of Debt or on the Case.

XLVI. And be it further enacted, That if any of the Persons who have Right of Common in or upon the said Common, Moor or Waste, or any other Person or Persons on their Behalf, shall advance, or pay any Sum or Sums of Money for the Purpose of defraying the Expences of applying for and obtaining this Act, and of carrying the same into Execution, all such Persons shall be fully repaid the same, together with Interest thereon after the Rate of Five Pounds for One hundred Pounds for a Year, out of the first Money which shall be raised for the Purposes of this Act; such Interest to be computed from the Time or respective Times of advancing or paying the said Sum or Sums of Money, to the Time or respective Times of the Re-payment thereof.

Money which may be advanced for obtaining or executing this Act, to be repaid in the first place with Interest.

XLVII. And be it further enacted, That if any Person or Persons, Body or Bodies Politick or Corporate, shall think himself, herself or themselves aggrieved by any Thing done in pursuance of the said recited Act or of this Act (other than and except such Claims, Matters and Things, as are hereinbefore directed or authorized to be ascertained, settled, tried or determined by the Verdict of a Jury, or where by any of the Provisions of the said recited Act or of this Act, the Determinations, Acts or Proceedings of the said Commissioners or Umpire for the Time being, are directed to be final or conclusive) he, she or they may appeal to any General Quarter Sessions of the Peace, which shall be holden for the County of *Northumberland*, within Six Calendar Months next after the Cause of Complaint shall have arisen, giving Notice in Writing of every such Appeal, by affixing such Notice, expressing the Cause of Complaint, upon the principal outer Door of the Parish Church of *Rothbury* aforesaid Fourteen Days at least before such General Quarter Sessions; and the Justices of the Peace, assembled at such General Quarter Sessions, or at any subsequent General Quarter Sessions to which the said Justices shall adjourn any such Appeal, either for want of such Notice having been given as aforesaid, or for any other Cause which to the said Justices shall seem a sufficient Cause to adjourn such Appeal, are hereby authorized to hear and determine the same, and to make such Order therein and award such Damages and Costs as to them in their Discretion shall seem reasonable; and by their Order or Warrant, to levy the Damages and Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties awarded to pay the same, rendering the Overplus (if any) upon Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such Distress and Sale; and every Order and Determination of the said Justices upon every such Appeal shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari* or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

Allowing an Appeal.

XLVIII. Provided always, and be it further enacted, That it shall be lawful for the respective Owners and Proprietors for the Time being, of the several Lands to be allotted in pursuance of this Act, to win, get and

Owners of Allotments may get Freestone.

and work therein, Freestones, Limestones and Slates, as well for the Use of the Grounds so to be allotted to them, as for the Use of the Messuages, Lands, Tenements, Walls, Fences and Hereditaments, in respect of which such Allotment shall be made; but for no other Use or Purpose whatsoever.

This Act not to prejudice the Lord of the Manor to the Royal-
ties, &c.

XLIX. Provided also, and be it further enacted, That nothing in this Act contained shall be construed to defeat, lessen or prejudice the Right, Title and Interest of the said *Hugh Duke of Northumberland*, or the Lord or Lords, Lady or Ladies for the Time being of the said Barony or Manor, his, her or their Heirs, Successors and Assigns, of, in and to all Mines, Minerals and Quarries, of what Nature or Kind soever, lying or being within or under the said Common, Moor or Waste and Common Fields hereby intended to be divided and inclosed, and also of, in and to the Seignories and Royalties incident or belonging to the said Barony or Manor; but the Lord or Lords, Lady or Ladies of the said Barony or Manor, his, her or their Heirs, Successors and Assigns, and all and every other Person and Persons claiming by, from, under or in Trust for him, her or them, as Lord of the said Barony or Manor, shall and may from Time to Time, and at all Times for ever hereafter, have, hold and enjoy all Quit Rents, Free Rents and other Rents, Reliefs, Dues, Customs, Suits and Services, and all Fines, Amerciaments, Courts, Courts Leet and Views of Frankpledge, Courts Baron, and all Profits and Perquisites of Courts and Courts Leet, and all Things which to Courts Leet and Views of Frankpledge and Courts Baron do belong or appertain, with free Warren and Liberty of hawking, hunting, fishing and fowling, within and throughout the said Barony or Manor and every Part thereof, and all Goods and Chattels of Felons and Fugitives, and Felons of themselves and put in Exigent, Deodands, Treasure Trove, Waifs, Forfeitures, Estrays, Escheats, Fairs, Markets, Tolls, Customs, Stallages, Dues, Rights, Royalties, Immunities, Jurisdic-tions, Franchises, Privileges, Profits, Commodities, Advantages, Emo-luments, Hereditaments, Matters and Things whatsoever, to the said Barony or Manor, or to the Lord or Lords, Lady or Ladies thereof for the Time being incident, belonging or appertaining (other than and except the Right to the Soil of the said Common, Moor or Waste, and such Common Right thereon respectively, as could or might be claimed by them, for which Compensation is hereinbefore directed to be made) in as full, ample and beneficial Manner, to all Intents and Purposes, as they could or might have held and enjoyed the same if this Act had not been made; and that the said *Hugh Duke of Northumberland*, and all succeeding Lord or Lords, Lady or Ladies of the said Barony or Manor of *Rotbury*, or his, her or their Tenants, Lessees or Assigns, shall and may from Time to Time and at all Times hereafter, have, hold, win, work and enjoy exclusively, all Mines, Minerals and Quarries of what Nature or Kind soever (save and except the said publick Quarries and such other Freestone, Limestone and Slates as aforesaid) within and under the said Common, Moor or Waste and Common Fields hereby directed to be divided, and within and under every Part thereof respectively, and the several Allotments thereof in pursuance so this Act, together with all convenient and necessary Ways and Wayleaves, and also Liberty of laying, making and repairing Waggonways and other Ways, in, through, over and along the same or any Part thereof, and also for searching for, winning

winning and working the said Mines, Minerals and Quarries, and leading and carrying away the Lead Ore, Lead, Coals, Stones, Fossils and other Things, to be gotten thereout or out of any other Mines, Minerals and Quarries or Collieries belonging to the said *Hugh Duke of Northumberland*, his Heirs, Successors or Assigns, and of making Pits, Shafts and Sumps, Pit Rooms and Heap Rooms, Drifts, Levels and Watercourses, and of repairing, amending and upholding the same, and of erecting, building and using Houses, Drawkilns, Erections, Buildings, Fire Engines and other Engines, Mills and other Erections and Buildings, and of altering, changing and pulling down and carrying away the same, or all or any of the Materials thereof, at their free Will and Pleasure; and to do, execute and perform all such other Works, Acts, Deeds, Matters and Things, either now in Use or hereafter to be invented, as shall or may be necessary or convenient for the full and complete working, Use and Enjoyment of such Mines, Minerals and Quarries, hereby reserved, in as full, ample and beneficial a Manner to all Intents and Purposes, as they might or could have done in case this Act had not been made.

L. And be it further enacted, That in case the said *Hugh Duke of Northumberland*, or the Lord or Lords, Lady or Ladies of the said Barony or Manor for the Time being, his, her or their Heirs or Assigns, or any Person or Persons claiming under him, her or them, shall, after such Inclosures or Allotments made as aforesaid, search for, win or work, any Mine or Mines, Minerals or Quarries lying and being within or under any of the Allotments or Inclosures to be made as aforesaid, or lead or carry away the Produce of or from any such Mines, Minerals and Quarries, then and in such Case the said *Hugh Duke of Northumberland*, or the Lord or Lords, Lady or Ladies of the said Barony or Manor, his, her or their Heirs or Assigns, or such Person or Persons so claiming under him, her or them, shall make a reasonable Satisfaction for the Damage and Spoil of Ground occasioned thereby, or by the erecting or building any Houses, Drawkilns, Erections, Buildings, Fire Engines or other Engines, Mills or other Erections, or by the altering, changing, repairing, amending, rebuilding, pulling down or carrying away the same, or any of the Materials thereof as aforesaid, to the Person or Persons who shall be in possession of such Grounds at the Time or Times of such Damage or Spoil.

For making
Compensation for
Damages in
working
Mines.

LI. And be it further enacted, That the said Commissioners shall, before the Execution of their General Award, cause the Allotments to be awarded to the Vicar of *Birtley* aforesaid in respect of the said Vicarage, to be inclosed, hedged, ditched, and fenced with good and sufficient boundary Fences, the Expences whereof, as also of carrying this Act into Execution in respect of such Allotments, shall be paid and defrayed by and out of the Monies hereby directed to be raised for carrying this Act into Execution; and from and after making such Inclosures and Hedges, Ditches and Fences to the said Allotment or Allotments, all such Hedges, Ditches and Fences shall for ever thereafter be kept in Repair by the Vicar of *Birtley* aforesaid and his Successors, and the Owner and Owners of the adjoining Allotment or Allotments, or any of them, in such Shares and Proportions as the said Commissioners shall in and by their said General Award order, direct and appoint.

Allotment to
the Vicar of
Birtley to be
fenced.

Vicar of Birtley may lease his Allotment.

LII. And whereas certain Messuages, Lands, Tenements and Hereditaments, having Right of Common upon the said Common, Moor or Waste, have been purchased by the Aid of Queen *Anne's* Bounty, for the Augmentation of the Vicarage of *Birtley*, and it would tend to the Advantage of the Vicar of such Vicarage for the Time being, for the better enabling him to improve the Allotment or Allotments to be set out in respect of such last-mentioned Premises, if he was empowered to grant Leases thereof; be it further enacted, That it shall be lawful for the Vicar of the said Vicarage of *Birtley* for the Time being, by Indenture or Indentures under his Hand and Seal, with the Consent and Approbation of the Bishop of the Diocese, and of the Patron of the said Vicarage, to lease or demise all or any Part or Parts of the Allotment or Allotments to be set out and allotted to the Vicar of *Birtley* for the Time being by virtue of this Act, to any Person or Persons whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the executing of the said Award, so that the Rent or Rents for the same shall be thereby reserved to the Vicar for the Time being, by Four equal quarterly Payments in every Year, and so that there be thereby also reserved and made payable to such Vicar the best and most improved Rent or Rents that can reasonably be had or gotten for the same, without taking any Fine, Foregift, Premium, Sums of Money, or other Consideration for the making or granting any such Lease or Demise, and so that no such Lessee by any such Lease or Demise be made punishable for Waste by any express Words to be therein contained, and so that there be inserted in every such Lease Power of Re-entry on Non-payment of the Rent or Rents to be thereby reserved within a reasonable Time, to be therein limited, after the same shall become due, and so that a Counterpart of such Lease be duly executed by the Lessee or Lessees to whom such Lease shall be made as aforesaid; and every such Lease shall be valid and effectual, any Law or Usage to the contrary notwithstanding.

General Saving.

LIII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and all and every other Person and Persons, Body and Bodies Politick and Corporate, his, her and their Heirs, Successors, Executors and Administrators (other than and except the said *Hugh Duke of Northumberland*, and the several other Persons, Bodies Politick or Corporate, to whom any Allotment or Allotments of Land shall be made or provided by virtue of this Act, in respect of the Interest or Property for which such Allotment or Allotments shall be made, his, her or their Heirs, Successors, Executors, Administrators and Assigns) all such Estates, Rights, Titles and Interests, as they, every or any of them had or enjoyed, of, in, to or out of the said Common, Moor or Waste, and other Lands and Grounds hereby directed to be divided and allotted, before the passing of this Act, or could or might or ought to have had or enjoyed, in case this Act had not been made.

This Act to be printed and given in Evidence.

LIV. 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. 1810.