



ANNO QUINQUAGESIMO PRIMO

GEORGII III. REGIS.

Cap. 140.

An Act for inclosing Lands in the Township of *Killington*, in the Parish of *Kirkby Lonsdale*, in the County of *Westmorland*. [31st May 1811.]

WHEREAS there are within the Township of *Killington*, in the Parish of *Kirkby Lonsdale*, in the County of *Westmorland*, certain Commons and Waste Grounds, containing by Estimation Two thousand three hundred and forty-nine Acres, or thereabouts: And whereas the Master, Fellows, and Scholars of *Trinity College*, within the Town and University of *Cambridge* of King *Henry the Eighth's* Foundation, are Impropropriators of, and entitled to, Tithes or Moduses, or Compositions for Tithes, arising within the said Township of *Killington*, and are also Patrons of the Vicarage of *Kirkby Lonsdale*; and the Reverend *Joseph Sharpe*, Master of Arts, is the present Vicar of the said Parish of *Kirkby Lonsdale*, and as such is entitled either by Endowment or otherwise, to certain Vicarial Tithes, Moduses, and Compositions for Tithes, arising or payable within the said Township; and *Thomas Everard Upton* Gentleman, is Lessee under the said College, of the said Tithes or Moduses arising within the said Township of *Killington*, except such Parts thereof as the Vicar is entitled to receive as aforesaid: And whereas *John Upton* Esquire, the Reverend *Henry Sill* Clerk, *Daniel Wilson* Esquire, the Reverend *Jeffrey Hornby* Clerk, *John Hunter Cooke* Gentleman, and divers other Persons, are Lords of the Manor of *Killington*, and as such are entitled to all Mines or Minerals within and

[Loc. & Per.] 33 D under,

under the said Commons and Waste Grounds, and to other Rights, Royalties, Liberties and Privileges in and over the same; and the said *John Upton* Esquire, the Reverend *Henry Sill*, *Daniel Wilson* Esquire, the Reverend *Jeffrey Hornby* Clerk, *John Hunter Cooke* Gentleman, and divers other Persons are also the Owners and Proprietors of several ancient Messuages, Lands, Tenements, and other Hereditaments within the said Township, and in respect thereof, or otherwise, are entitled to the Herbage, Pasturage, Royalties, and Soil, over, upon, and within the said Commons and Waste Grounds, and the said several Persons, or some of them, are also in Right of their Messuages or otherwise, entitled to certain Moss Dales or Turf Dales, or Right of digging for Turbary upon certain Parts of the said Commons and Waste Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty King George the Third, intituled, *An Act for consolidating in one Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said Commons and Waste Grounds, in their present State, are of little Use and Advantage, and incapable of any considerable Improvement, and it would be of great Advantage to the Persons interested therein, and of Public Utility, if the said Commons and Waste Grounds were divided and inclosed, and specific Parts and Shares thereof allotted to the Proprietors thereof respectively, according to their respective Rights and Interests therein; but as such Division, Allotment, and Inclosure cannot be effected and carried into Execution 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 *Thomas Wakefield*, of *Yealand*, in the County of *Lancaster*, Gentleman, and *Thomas Buttle*, of *Kirkby Lonsdale*, in the County of *Westmorland*, aforesaid, Gentleman, and their Successors, to be appointed in Manner herein-after mentioned, shall be and are hereby appointed Commissioners for setting out, dividing, and allotting the said Commons and Waste Grounds, in the Manner and according to the Rules, Orders, Provisions, Powers, and Directions contained in this Act and the said recited Act, so far as the Powers, Regulations, Directions, and Provisions in the said recited Act are not altered or controuled by, or repugnant to this present Act; and that the Notices by the said recited Act required to be given in some public Newspaper, and all other Notices by this Act necessary or required to be given by the said Commissioners, shall be given and published in the *Lancaster Gazette*, or if that Newspaper shall not then be published, in some other Newspaper usually circulated in the said County of *Westmorland*.

Commissioners appointed.

New Commissioners to be appointed upon Vacancies.

II. And be it further enacted, That if either of the said Commissioners appointed by this Act, or to be substituted in Manner herein-after mentioned before the finishing and completion of the said Division or Inclosure, shall die, or shall neglect, refuse, or become incapable to act for the Space of Forty Days, when Occasion shall require his or their Attendance for carrying this Act into Execution, then and in every such Case the major Part in Value (such Value to be ascertained according to the Land Tax Assessment) of the Proprietors of Messuages, Lands, and Tenements entitled to Right of Common upon the said Commons and Waste

Grounds intended to be divided and inclosed, who shall be present at a Meeting to be holden for that Purpose within Twenty-one Days next after such Death, Neglect, Refusal, or Incapacity as aforesaid (of which Mortgaging at least Ten Days previous Notice shall be given by Writing to be affixed on the principal Doors of the Parish Church of *Kirkby Lonsdale* and Chapel of *Killington* aforesaid, and by Advertisement as aforesaid) by any Instrument or Instruments in Writing under their respective Hands, to nominate and appoint a new Commissioner (not interested in the said Division or Inclosure) in the Room or Stead of either of them the said *Thomas Wakefield* and *Thomas Buttle*, so dying, refusing to act, or becoming incapable of acting as aforesaid; and in case of the Death of any Person so nominated and appointed a Commissioner in the Room of any Commissioner who shall die, neglect, or refuse to act, or become incapable of acting as aforesaid, the Person or Persons, or Proprietors by whom such Commissioner was appointed, shall in like Manner appoint another Commissioner in his Room, and so as often as any Vacancy shall happen; but in case the said Proprietors shall neglect or refuse to make such Appointment as aforesaid, within the Time aforesaid, then and as often as the Case shall happen, the remaining Commissioner shall, within Twenty-one Days next after the Expiration of the Time herein-before allowed for appointing a Commissioner in the case of any Vacancy, appoint another Commissioner in the Room of such Commissioner so dying, neglecting, refusing, or being incapable to act as aforesaid; and that every such new Commissioner, so to be appointed as above directed, shall, after taking the Oath prescribed in that Behalf, have such and the like Powers and Authorities for carrying the Purposes of this and the said recited Act into Execution, as if he had been originally named and appointed a Commissioner in or by this Act, all which said Appointments shall be annexed to and enrolled with the Award hereafter mentioned.

III. Provided always, and be it further enacted, That in case the Commissioners named and appointed in or by virtue of this Act, shall at any Time or Times disagree in Opinion upon any Matter concerning which it shall be necessary for them to judge and determine in the Execution of this Act, or the said recited Act, then and as often as it shall so happen, the said Commissioners shall and may, and they are hereby authorized and required to refer such Difference to the Judgment and Determination of an Umpire, to be chosen by the said Commissioners; and in case the said Commissioners shall for the Space of Forty Days next after such Difference shall arise, neglect to appoint an Umpire as aforesaid (not interested in the said Division or Inclosure) or if such Umpire shall die, or being appointed shall refuse or become incapable of acting, then, and in every such Case an Umpire shall be nominated and appointed by the major Part in Value (such Value to be ascertained by the Land Tax Assessment) of the said Proprietors of Lands, after the like Notice given in such Manner as is herein-before directed; and so as often as any Umpire shall die or refuse to act, or become incapable of acting; and the Judgment and Determination of the said Umpire so to be chosen, or nominated and appointed, shall be conclusive between the said Commissioners, and shall by all Persons whomsoever be deemed and taken as the Determination of the said Commissioners.

For appointing an Umpire.

IV. Provided

Umpire to
take an Oath.

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

‘ I DO swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the several Powers and Authorities vested and reposed in me as an Umpire, by virtue of an Act passed in the Fifty-first Year of the Reign of King George the Third, intituled, [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.
‘ So help me GOD.’

Which Oath it shall be lawful for the said Commissioners, or either of them, to administer; and the said Oath so taken and subscribed by such Umpire shall be annexed to and enrolled with the Award of the said Commissioners, and a Copy of the Inrollment thereof shall be admitted as legal Evidence.

Allowance to
Commissioners.

V. And be it further enacted, That out of the Monies to be raised for the general Purposes of this Act, there shall be paid to each of the said Commissioners and Umpire, as a Recompence for his Pains and Trouble, the Sum of Two Pounds Two Shillings, and no more, for each Day he shall be employed in travelling to and from, and attending on the Execution of this or the said recited Act; and that as well the said Commissioners and Umpire, and also every Proprietor and every other Person or Persons, shall pay his and their own Expences at all Meetings to be holden under the Authority of this Act.

Notice of
Meetings.

VI. And be it further enacted, That the said Commissioners shall cause Notice in Writing to be given in Manner herein-after mentioned of the Time and Place of holding their First, Second, and Third Meetings, for the Purpose of putting this and the said recited Act into Execution, at least Fourteen Days before such respective Meetings; and the said Commissioners shall and may after the said Third Meeting, from Time to Time appoint such Special, or other subsequent Meetings for carrying into Execution the Trusts, Powers, and Authorities hereby, and by the said recited Act vested in them, as they shall think proper, and shall cause a like Notice or Notices in Writing, of the Time and Place where each such Special or subsequent Meeting is to be holden, to be given in like Manner; but the said Commissioners are hereby authorized and empowered, if they shall see Cause, without giving any public Notice, to adjourn and continue their said First, Second, and Third Meetings, or any of them, or any such Special or other subsequent Meeting or Meetings as aforesaid, from Time to Time as they shall see convenient: Provided always, that all Meetings of the said Commissioners shall be holden within the said Parish of *Kirkby Lonsdale*, or within Eight Miles thereof.

Survey, &c.
to be made
of Commons,
but not of
ancient In-
closures.

VII. And be it further enacted, That the said Commissioners, at their Discretion, shall cause a fair, correct, and particular Plan and Valuation of the said Commons and Waste Grounds, hereby directed to be divided, allotted, and inclosed, to be made and reduced into Writing by them, or such Person

or Persons as they shall direct and appoint, or shall use any such Map or Survey of the said Commons and Waste Grounds, made at or before the passing of this Act, as shall in their Judgment, and to their Satisfaction be a just and true Map or Survey thereof; but that it shall not be necessary or incumbent on the said Commissioners to cause any Admeasurement, Plan, or Valuation to be made of the Messuages, Cottages, Gardens, Homesteads or ancient inclosed Lands or Grounds within the said Township of *Killington*, but only of such Part or Parts thereof (if any) as the said Commissioners shall judge expedient or necessary; any Thing in the said recited Act contained to the contrary notwithstanding.

VIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Proprietors of or Persons interested or claiming to be interested in the said Division and Inclosure, hereby authorized and directed to be made, touching or concerning the respective Rights or Interests, which they or any of them shall have or claim to have in the said Commons and Waste Grounds, or touching or concerning any other Matter or Thing relating to the said Division or Inclosure, then the said Commissioners shall, and they are hereby required and empowered to hear, enquire into, and determine all such Disputes and Differences, and all Claims and Objections which shall be raised and brought forward to the said Commissioners, and to fix and ascertain the Nature and Extent of the several Rights of the Person or Persons making such Claim or Claims as aforesaid: Provided always, that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments, whatsoever.

Commissioners to settle Differences.

IX. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges, as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made by the Person or Persons whose Claim or Claims, Objection or Objections shall be thereby disallowed or over-ruled; and in case the Person or Persons liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required by Warrant under their Hands directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons 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.

Commissioners may award Costs.

X. Provided always, and be it further enacted, That in case any Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, interested or claiming to be interested in the said Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners, touching or concerning any Rights of Common, or other Rights or Interests aforesaid, over,

Allowing Parties to try their Rights by an Issue at Law

or upon the said Commons and Waste Grounds, hereby directed to be divided, allotted, and inclosed, or any Part thereof, then and in every such Case it shall and may be lawful for the Person or Persons, Body or Bodies Politic, Corporate or Collegiate so dissatisfied, to proceed to a Trial at Law of the Matters so determined by the said Commissioners, at the then next Assizes to be holden for the County of *Westmorland*, if such next Assizes be holden within Six Calendar Months after the Determination of the said Commissioners shall be made, but if such next Assizes are not holden within Six Calendar Months after such aforesaid Determination, then such aforesaid Trial at Law shall be proceeded in at the next following Assizes for the County of *Westmorland*, and for that Purpose, the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who shall be so dissatisfied with the Determination of the said Commissioners, shall cause an Action or Actions to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, in whose Favour such Determination shall have been made, or against the Commissioners, or Clerk to the Commissioners, within Two 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 brought, 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, Body or Bodies Politic, Corporate or Collegiate, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial or Trials to be had therein, which it shall be lawful for the Court to do, in case the said Court shall think proper; and after such Verdict or Verdicts shall be obtained, and not set aside by the said 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 in case the Determination of the said Commissioners, touching any such Claim or Claims, or any Rights of Common, or other Interests in, over, or upon the said Commons or Waste Grounds, hereby directed to be inclosed, or any Part thereof, shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action or Actions at Law to be brought and proceeded in within the Time and in the Manner for that Purpose mentioned, such Determination shall be final and conclusive upon all Parties whatsoever.

Death of Parties not to delay Proceedings.

XI. 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 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 Politic, Corporate, or Collegiate, 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

Such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall be thereupon incumbent on the Heir or Heirs of the Person or Persons so dead, 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.

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

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

XIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties, (except in the Cases of Incroachments made within the Period of Twenty Years, as hereafter mentioned); but if 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 or recovered from such Person or Persons, by Ejectment or other due Course of Law.

Commissioners not to determine contrary to Possession.

XIV. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and empowered at any Time or Times before the Execution of the said Award, by Notices in Writing under their Hands, to be affixed upon the principal Doors of the Parish Church of *Kirkby Lonsdale*, and Chapel of *Killington* aforesaid, to order and direct all or any Part of the Rights of Common, Rights of Turbary, Bracken Dales, and all other Rights whatsoever, in, over, or upon the said Commons and Waste Grounds, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Writing; and that all such Rights of Common, Rights of Turbary, Bracken Dales, and all other Rights whatsoever, as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Time of affixing such Writing on the Church and Chapel Doors aforesaid, cease, determine, and be extinguished, or the

Right of Common to be suspended.

Exercise thereof suspended accordingly; any Law, Usage, or Custom, to the contrary notwithstanding.

Penalty on
Persons
getting Flaws,
Turves, &c.

XV. And be it further enacted, That if any Person or Persons whomsoever shall at any Time or Times after the passing of this Act, and before the Execution of the Award of the said Commissioners, without Licence first had and obtained from the said Commissioners by Writing under their Hands, cut, dig, pare, grave, flay, or carryaway any Flaws, Turves, or Peats, or any Sods, Soil, Flags, Whins, or Furze, in, upon, or from the said Commons and Waste Grounds so to be inclosed under or by virtue of this Act, or any Part thereof, (except such Part or Parts as may be allotted or become the Property of him, her, or them respectively under and by virtue of this Act); or if any Person or Persons shall put or turn, or cause to be put and turned, any Horses, Cows, Sheep, or other Cattle, in or upon the said Commons or Waste Grounds, at any Time or Times after Notice given by the said Commissioners for extinguishing the Right of Common as aforesaid, every Person so offending shall for every such Offence, upon being duly convicted thereof before One of His Majesty's Justices of the Peace in and for the said County of *Westmorland*, upon the Information and Complaint of any Person or Persons interested in the said Inclosure hereby intended to be made, by the Oath or solemn Affirmation of One credible Witness, (which Oath or Affirmation the said Justice is hereby authorized and required to administer), forfeit and pay such Penalty or Sum of Money not exceeding the Sum of Ten Pounds, (over and besides the Costs and Charges of such Conviction), as the said Justice so acting in the Premises shall in that Behalf adjudge, order, and direct; which said Penalties and Forfeitures, with the Costs and Charges of recovering the same, shall forthwith, upon every such Conviction as aforesaid, become and be payable and paid to such Person or Persons to be by him or them applied for the Purposes of this Act, in such Manner as the said Justice so as aforesaid acting in the Premises shall in that Behalf appoint; and upon Non-payment of any such Penalty or Forfeiture, the same shall be levied by Distress and Sale of the Goods and Chattels of the Offender or Offenders, by Warrant under the Hand and Seal of such Justice as aforesaid, rendering the Overplus, (if any), upon Demand, after making such Deductions as aforesaid, together with the Costs and Charges of such Warrant and Distress, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold; and for want of sufficient Distress, it shall and may be lawful to and for the said Justice so acting as aforesaid, by Warrant under his Hand and Seal, to commit such Offender or Offenders to His Majesty's Gaol at *Appleby*, or to any House of Correction in and for the said County of *Westmorland*, there to remain without Bail or Mainprize, for any Time not exceeding Three Calendar Months, at the Discretion of such Justice, as the Case may be, unless he, or they shall sooner pay the Penalties or Forfeitures and Costs.

Incroachments to be deemed part of the Common.

XVI. And be it further enacted, That all Encroachments taken or made from or on any Part or Parts of the said Commons and Waste Grounds within Twenty Years before the passing of this Act, shall be deemed Part and Parcel of the said Commons and Waste Grounds respectively, from or on which the same were respectively taken in or made, and shall be divided and enclosed by virtue of this Act: Provided nevertheless, that all such Encroachments shall be allotted to the Person or Persons who shall at the Time

Time of making the Allotments be in Possession of such Encroachments, or in Receipt of the Rents or Profits thereof in lieu of the Whole, (if sufficient for that Purpose), or if not, then in Part of the Share or Allotment of the said Commons or Waste Grounds, to which such Person or Persons shall be entitled by virtue of this Act, and which Encroachments, in making such Allotment, shall be estimated according to the Value of the Land or Ground so taken or encroached upon, and without considering the Value of any Erections or Buildings thereon; and if the Person or Persons who shall be in Possession of such Encroachments respectively, or in the Receipt of the Rents and Profits thereof, shall be entitled to no Allotment, or to an Allotment not equal to the Value of such respective Encroachments, 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 Value of the Allotment to be made to such Possessor or Possessors thereof, in respect of his or their other Property, on ascertaining of which Value the said Commissioners shall not estimate the Buildings or other Improvements thereon; and upon such Person or Persons paying such Price thereof to the said Commissioners at such Time or Times as they shall for that Purpose appoint, the said Commissioners shall give and sign their Receipt or Receipts for the same, and on giving and signing such Receipt or Receipts, every such Encroachment, or such Part thereof as shall be so purchased, shall thereupon be allotted by the said Commissioners to such Purchaser or Purchasers thereof, and his and their respective Heirs and Assigns in Fee Simple, and the said Commissioners shall apply the Purchase Money to arise thereby, as Part of the Monies to be raised for defraying the general Expences of this Act: Provided always, that if the Person or Persons who shall be in the Possession of or entitled to the Rents and Profits of such Encroachment or Encroachments shall not be willing to purchase the same, or so much thereof as shall be offered for Sale as aforesaid on the Terms aforesaid, then the said Commissioners shall allot the Part thereof which was so to be sold to some other Person or Persons as Part of his, her, or their Allotment or Allotments, as to the said Commissioners shall seem proper; or the said Commissioners shall and may sell the same in the same Manner and under the same Regulations, as they are authorized to sell any Part or Parts of the said Commons and Waste Grounds, for defraying such Expences as herein mentioned.

XVII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out, assign and allot such convenient Plot or Plots of Ground, Part of the said Commons and Waste Grounds hereby intended to be divided and allotted, as they shall think fit, for public Stone and Gravel Pits or Quarries, to be used and enjoyed for ever thereafter, by the Proprietors of Estates and their Tenants within the Township of *Killington* aforesaid, for the Purpose of digging for and getting Stone, Gravel, and other Materials, for erecting and repairing of Buildings, Bridges, Walls, Fences, and other Works within the same; and also for making and repairing the public Roads and Ways in and over the Lands and Grounds hereby directed to be divided and allotted, and elsewhere in the said Township; and also for public watering Places for Cattle; which Grounds so to be set out, shall be separated, inclosed, and kept fenced, in such Manner, and by such Person or Persons, and shall be used under such Regulations and Restrictions as the said Commissioners shall by their Award order and direct.

Allotment
for Public
Quarries.

[Loc. & Per.]

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XVIII. And

Setting out
Lands for a
Reservoir for
the Lancaster
Canal Com-
pany.

XVIII. And whereas by an Act passed in the Thirty-second Year of the Reign of His present Majesty, intituled, *An Act for making and maintaining a Navigable Canal from Kirkby Kendal, in the County of Westmorland, to West Houghton, in the County Palatine of Lancaster; and also a Navigable Branch from the said intended Canal at or near Borwick, to or near Warton Cragg; and also another Navigable Branch from, at, or near Gale Moss by Chorley, to or near Duxbury, in the said County Palatine of Lancaster,* certain Persons therein named were incorporated by the Name and Style of 'The Company of Proprietors of the Lancaster Canal Navigation,' and were enabled to make use of Lands and Grounds for the Purposes of the said Canal, Reservoirs, and Works, making Recompence to the Persons interested in such Lands: And whereas the said Company of Proprietors have lately proposed to purchase a certain Plot, Piece, or Parcel of the said Commons and Waste Grounds already set out and ascertained by the said Company of Proprietors on a certain Map or Plan for a Reservoir, and such other Works as may be proper and necessary for making, preserving, improving, completing, maintaining, and freely using the same, containing in the Whole Seventy-five Acres or thereabouts; be it therefore further enacted, That the said Company of Proprietors shall and they are hereby required to pay to the said Commissioners for Inclosure such Sum or Sums of Money as the said Company of Proprietors and the said Commissioners for Inclosure shall mutually agree to be a Recompence for and in respect of such Part of the said Commons and Waste Grounds as shall be so taken and used by the said Company of Proprietors; but if within Thirty Days after being thereunto required by Notice in Writing given to the Clerk or known Agent or Agents of the said Company of Proprietors, signed by the said Commissioners for Inclosure, or by Notice in Writing given within the Time appointed by the Clerk or known Agent or Agents of the said Company of Proprietors to the said Commissioners for Inclosure, the said Company of Proprietors and the said Commissioners for Inclosure shall not so mutually agree, the said Company of Proprietors shall and they are hereby required to pay to the said Commissioners for Inclosure such Sum or Sums of Money as the Commissioners named in or appointed under and by virtue of the said recited Act of the Thirty-second Year of the Reign of His present Majesty, and shall express such Dissatisfaction in Writing signed by their Clerk or known Agent or Agents; or if the said Commissioners for Inclosure shall express such their Dissatisfaction in Writing signed by them, (the Party or Parties so dissatisfied delivering one Copy thereof to the other Party or Parties, and another Copy thereof to the said Commissioners so determining as aforesaid within Thirty Days after such their Determination,) or if the said Company of Proprietors, or the said Commissioners for Inclosure shall refuse to submit such Recompence to the Determination of the said Commissioners, then and in any of the Cases aforesaid, the said Company of Proprietors shall and they are hereby required to pay such Sum or Sums of Money to the said Commissioners for Inclosure as shall be assessed and ascertained by a Jury to be a fair Recompence for the same, such Jury to be empannelled, summoned, and returned in the same Manner and under the same Restrictions, and be guided by the same Rules, Orders, and Regulations as are in that Behalf directed and contained in the said recited Act of the Thirty-second Year of the Reign of His present Majesty; and that when it shall be so agreed, determined, assessed, and ascertained as the Case may be, what Sum or

Sums

Sums of Money is or are such Recompence as aforesaid, the said Company of Proprietors shall within Thirty Days after Notice thereof in Writing under the Hands of the said Commissioners for Inclosure, and if the said Company of Proprietors shall omit to pay or tender or cause to be paid or tendered such Sum or Sums of Money as shall have been so agreed on, determined, or assessed and ascertained as aforesaid, as the Case may be, it shall and may be lawful to and for the said Commissioners for Inclosure in their own Names, to sue for and recover the same from the said Company of Proprietors in any of His Majesty's Courts of Record at *Westminster*, and no such Action or Suit shall abate or discontinue by the Death of any or either of the said Commissioners for Inclosure: Provided always, that such Reservoir shall be made and used in such Manner as not to occasion any Injury or Damage to the Owners or Occupiers of the Lands hereby directed to be divided and inclosed, or any of them: Provided also, that nothing herein contained shall extend or be construed to extend to hinder or prevent the said Owners or Occupiers, or any of them, from using the Water of or flowing into or from the said Reservoir for watering their or any of their Cattle; and also, that the sole Right of fishing in the said Reservoir shall be vested in and be the Property of all the Owners of Lands and Tenements within the said Township of *Killington*, and shall be used and enjoyed in such Manner and under such Regulations as the major Part in Value of the said Land-Owners (such Value to be ascertained by the Land-Tax Assessment) shall agree upon and direct at any Meeting to be held for that Purpose in the said Township, of which Meeting Notice in Writing shall be given on the Door of the Chapel of *Killington* Two *Sundays* preceding such Meeting.

XIX. And be it further enacted, That such Sum and Sums of Money to be received by the said Commissioners for Inclosure from the said Company of Proprietors, shall be applied and disposed of by the said Commissioners for Inclosure in the first Place, so far as the same will extend towards defraying the Charges and Expences of procuring and passing this Act, and carrying the same into Execution.

Application
of Money.

XX. Provided always, and be it further enacted, That from and immediately after Payment of such Sum or Sums of Money as aforesaid by the said Company of Proprietors, and their receiving a Discharge in Writing for the same, and which Discharge the said Commissioners for Inclosure are hereby empowered and required to give, or from and after Tender of such Sum or Sums of Money by the said Company of Proprietors to and Refusal to receive the same, by the said Commissioners for Inclosure, the Fee Simple and Inheritance of and in such Parts of the said Commons and Waste Grounds respectively, as shall be so taken and used by the said Company of Proprietors, shall be and remain absolutely and indefeasibly vested in the said Company of Proprietors, and be freed and discharged of and from all further and other Claims, Demands, and Incumbrances whatsoever, except such Rights and Privileges before mentioned.

On Payment
of Money
Land to vest
in the Com-
pany.

XXI. And be it further enacted, That the said Commissioners shall in the next Place allot and set out, by proper Marks and Bounds, so much and such Part or Parts of the said Commons and Waste Grounds as to them shall seem competent and necessary, and by Sale thereof (in Manner by the said recited Act directed) to raise Money sufficient for paying and discharging

Power to sell
certain Parts
of the Com-
mon to de-
fray the Ex-
pences of the
Inclosure.

discharging the Costs, Charges, and Expences, in, about, and incident to the applying for, obtaining, procuring, and passing this Act; and the Costs and Charges of the said Commissioners, and all other Persons employed by them, in, about, and incident to the surveying, measuring, mapping, planning, dividing, and allotting the said Commons and Waste Grounds, and of, in, or about the setting out and making public Roads and Ways in, through, and over the said Commons and Waste Grounds, and of, in, or about the preparing and carrying into Execution in all other Respects, the Powers and Authorities in this and the said recited Act contained; and the said Commissioners shall and they are hereby required to cause the said Part or Parts of the said Commons and Waste Grounds so to be set out for Sale as aforesaid, to be sold by public Sale or Auction, in the Manner and according to the Directions in the said recited Act contained; and the Purchaser or Purchasers of the Land so to be allotted and sold as aforesaid, his, her, and their Heirs and Assigns, shall be subject and liable to the making, repairing, and keeping in Repair such Part of the Ring or Outer Fences thereof, as shall be directed by the said Commissioners, and also to the due Observance and Performance of all Orders, Matters, Charges, and Directions relative thereto, to be made and directed by the said Commissioners in and by their general Award.

Application
of Surplus.

XXII. Provided always, and be it further enacted, That in case any Surplus Money shall remain after Payment of such Expences as aforesaid, such Surplus shall be divided amongst the several Persons entitled thereto, or interested in the said Commons and Waste Grounds hereby intended to be divided, allotted, and inclosed, in such Shares as shall be in Proportion to their respective Properties and Interests; and the Shares of such of them as shall be Tenants in Fee Simple, shall be paid to them respectively; and the Shares of such other Proprietors of and in such Surplus Money, shall be applied and disposed of in Manner directed by the said recited Act in those Cases where any Money is to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses; but in case the Purchase Monies arising by such Sale shall not be sufficient to defray all the Costs, Charges, and Expences aforesaid, then the Deficiencies thereof shall be made up by the several Persons interested in the said Commons and Waste Grounds, and shall be paid in such Shares and Proportions, within such Time, and to such Person or Persons, as the said Commissioners shall direct, nominate, and appoint; and in case any Person, made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion thereof, within the Time to be appointed as aforesaid, the same shall and may be levied and recovered in the Manner directed by the said recited Act: Provided always, that the said Commissioners shall not set out any Part of the said Commons or Waste Grounds for Sale, which ought on account of Contiguity or Conveniency to be allotted to any of the Parties concerned in the said Division or Inclosure.

Allotment to
Owners of
Turf Dales.

XXIII. And be it further enacted, That the said Commissioners shall in the next Place set out, allot, and appoint unto the said Owners and Proprietors of Moss or Turf Dales, such Part and Parts of the said Commons

and Waste Grounds, as shall in the Judgement of the said Commissioners be a full Equivalent, and equal in Value to the present Interest of such respective Owners or Proprietors in such Moss or Turf-Dales, the same to be set out in such Places and Parts of the said Commons and Waste Grounds as in the Judgement of the said Commissioners will be most convenient for such Owners and Proprietors respectively, and in lieu of all their Rights and Interests of and in such Moss or Turf-Dales.

XXIV. And be it further enacted, That the Person or Persons claiming to be entitled to any Turf-Dale or Turf-Dales upon the said Commons and Waste Grounds, shall particularly set forth and specify the same, and his, her and their Right and Interest therein and thereto, in the Account or Schedule in Writing directed by this and the said recited Act to be delivered to the said Commissioners at their First or Second Meeting for putting this Act into Execution, of the Right or Interest of such Person or Persons in the said Commons or Waste Grounds, or otherwise, in Default of the Delivery to the said Commissioners, a particular Specification of such Turf-Dale or Turf-Dales, the Person or Persons afterwards claiming or pretending to claim any such Right or Interest in the said Commons or Waste Grounds, shall be totally debarred and excluded of and from all Claim, Right and Title thereto, or to any Benefit and Advantage in or to any Share or Allotment in respect thereof.

Claim of
Turf Dales to
be delivered
to the Com-
missioners.

XXV. And be it further enacted, That after the said Allotments shall be so made as aforesaid, the said Commissioners shall, and they are hereby required and empowered, by and with the Consent in Writing, as well of the major Part in Value of the Owners and Proprietors of Messuages, Lands, and Tenements within the said Township, whose Claims shall have been allowed by the said Commissioners, such major Part in Value to be settled and ascertained by and according to the same Rates or Valuations by which the Residue of the said Commons and Waste Grounds are hereinafter directed to be divided and allotted, as of the said Master, Fellows, and Scholars, and their Lessee or Lessees for the Time being entitled to Tythes or Moduses, or Compositions for Tythes arising or growing due, or which hereafter might arise or become due for and in respect of the said Commons and Waste Grounds so to be divided and inclosed as aforesaid, to set out, allot, and assign unto the said Master, Fellows, and Scholars, and their Successors, and to their Lessee or Lessees for the Time being, such Quantity, Part, or Portion of the said Commons and Waste Grounds as the said Commissioners shall adjudge to be a full Equivalent and Compensation for and in lieu of all such Tythes or Moduses and Compositions as aforesaid, which said Quantity, Part, or Portion, shall be accepted by and vested in the said Master, Fellows, and Scholars, and their Successors, and their Lessee or Lessees for the Time being, for and in lieu of and as a full Satisfaction and Compensation for all and all Manner of Tythes or Moduses, or Compositions for Tythes, Payments, Claims, and Demands whatsoever, arising, renewing, or growing due or payable, or which would, could, or might become due or payable, or which they or any of them might, could, or would be entitled to, from and out of, or for or in respect of all and every or any Part of the Commons and Waste Grounds within the said Township of *Killington*; and the said Commissioners shall also, and they are hereby authorized and required in the next Place, having first obtained the like Consent in Writing as herein-before mentioned and specified, to set out,

Allotment to
the Master,
Fellows, and
Scholars, in
lieu of Tythes,
&c.

allot, and assign unto the said Master, Fellows, and Scholars, and their Successors, or to their Lessee or Lessees for the Time being entitled to such Tythes or Moduses or Compositions as aforesaid, such Quantity, Part, or Portion of the said Commons and Waste Grounds as shall in the Judgment of the said Commissioners be a full Equivalent and Compensation for and in lieu of all Tythes or Moduses, or Compositions for Tithes, Claims, and Demands whatsoever, arising, renewing, and growing due from and out of all the ancient inclosed Lands within the said Township of *Killington*; which said Allotment, Part, or Portion so to be made to the said Master, Fellows, and Scholars, and their Successors, Lessee or Lessees, shall be accepted by and vested in the said Master, Fellows, and Scholars, and their Successors, or their Lessee or Lessees for ever, in lieu of and as a full Compensation for all Tithes or Moduses, Payments or Compositions for Tithes, Claims, and Demands whatsoever, arising, renewing, and payable, or which could or might become due or payable, or which they or their Successors may or might or could be entitled to, from, and out of, or for or in respect of all and every or any of the ancient Messuages, Tenements, and inclosed Lands within the said Township of *Killington*, the said Allotment or Allotments being well and sufficiently ring-fenced, according to the usual and accustomed Method of Fencing, by and out of the Money arising by Sale of the said Commons and Waste Grounds as herein-after mentioned.

Allotment for
Vicar.

XXVI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required in the next Place by and with the Consent in Writing as well of the major Part in Value of the Owners and Proprietors of the Messuages, Lands, and Tenements within the said Township, whose Claims shall have been allowed by the said Commissioners, such major Part in Value to be settled and ascertained in Manner aforesaid, as of the said Master, Fellows, and Scholars, and Vicar for the Time being respectively out of the Residue and Remainder of the said Commons and Waste Grounds hereby intended to be divided and inclosed, to set out, allot, and appoint unto and for the Vicar of the Parish and Parish Church of *Kirkby Lonsdale* aforesaid, such Quantity, Part, or Portion of the Residue of the said Commons and Waste Grounds as they the said Commissioners shall adjudge to be a full Equivalent and Compensation for all the Vicarial Tythes of what Nature or Kind whatsoever, and all Moduses, and Compositions for Tithes, Oblations, and Obventions, and other Ecclesiastical Dues (Mortuaries, *Easter Offerings*, and Surplice Fees excepted) whatever, arising, increasing, becoming, or growing due within the Whole of the said Township of *Killington*, which said Allotment so to be made to the said Vicar and his Successors when set out and well and sufficiently ring-fenced, shall be accepted by and vested in him and his Successors for ever as aforesaid, in lieu of and as a full Compensation and Satisfaction for all Manner of vicarial and other Tithes, Moduses, Payments, Claims, and Demands, Oblations, Obventions, and all other Ecclesiastical Dues whatsoever, arising, increasing, becoming, or growing due, or which could or might become due or payable to the said Vicar and his Successors, within and throughout the whole Township of *Killington* aforesaid (except *Easter Offerings*, Mortuaries, and Surplice Fees, which shall not be prejudiced or affected by this Act).

Fencing the
Tithe Allot-
ments.

XXVII. And be it further enacted, That all Tithes, Moduses, or Compositions for Tithes whatsoever, belonging to the said Master, Fellows, and
Scholars,

Scholars, or their Lessee or Lessees, and to the Vicar aforesaid, for which any Allotment or other Compensation shall be made in pursuance of this Act, shall, at the End of Twelve Calendar Months next after such Allotments shall be well and sufficiently ring-fenced in Manner herein-before mentioned, or at such other future Time as the said Commissioners shall by any Writing under their Hands direct or appoint, cease and be for ever extinguished, and be no longer paid or payable.

XXVIII. And be it further enacted, That the said Commissioners shall and they are hereby required to set out, by Marks and Bounds, and assign and allot in Severalty, the Residue and Remainder of the said Commons and Waste Grounds (after the several Allotments and Appropriations herein-before directed shall be made) unto and amongst the said *John Upton, Henry Sill, Daniel Wilson, Jeffrey Hornby, John Hunter Cooke*, and the several other Person and Persons, Body and Bodies Politic, Corporate, and Collegiate, entitled to Right of Common or other Right or Interest in, over or upon the said Commons and Waste Grounds, or any Part or Parts thereof, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportionate to and a full Satisfaction and Compensation to him, her, or them respectively, for his, her, or their respective Rights of Common and other Rights and Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof.

Allotment of the Residue.

XXIX. Provided, always, and be it further enacted, That in case through Necessity of Situation, or any other Circumstance, it shall happen that any One or more of the said Proprietors shall not have an equal Share of Mounds or Fences allotted to him, her, or them, it shall and may be lawful to and for the said Commissioners, when they shall judge it necessary and reasonable, to award, order, ascertain and appoint what Sum or Sums of Money such Proprietor or Proprietors shall pay and contribute towards the making of the Mounds and Fences of the Allotment or Allotments of such Proprietor or Proprietors who shall or may have too great a Share or Proportion of Mounding or Fencing allotted to him, her, or them by virtue of this Act; and the Sum or Sums of Money so ordered, directed, or appointed to be paid, shall be raised, levied and recovered in such and the like Manner as the Costs, Charges and Expences of obtaining and executing this Act, can or may be raised, levied, and recovered in case the Lands hereby directed to be sold shall be insufficient for that Purpose.

Satisfaction for unequal Share of Fencing.

XXX. And be it further enacted, That if any Person or Persons hath or have sold or shall at any Time within Two Calendar Months next after such Notice given by the said Commissioners for extinguishing the Right of Common as aforesaid, sell his, her, or their Right, Interest, and Property in, over, or upon the said Commons and Waste Grounds, to any Person or Persons, then and in every such Case it shall and may be lawful for the said Commissioners, and they are hereby directed, authorized, and required, upon Notice thereof in Writing to be given to them by the Vendor, provided the same be within the Time before mentioned, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may from and after the Execu-

In case any Person sell his Common Right, Allotment to be made to the Purchaser.

tion of the said Award hold and enjoy the Land so to be allotted to him, her, or them as aforesaid, in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Rights, Interests, or Property had been vested in such Vendor at the Time of making such Allotment as aforesaid.

Allotments to follow the Tenures of ancient Estates.

XXXI. And be it further enacted, That all Lands or Grounds or other Hereditaments as shall be allotted to any of the Proprietors under or by virtue of this or the said recited Act shall be held by such Proprietors or other Person or Persons respectively, under the same Tenure, and with the same Immunities, Easements, and Privileges as the Lands, Grounds, or Hereditaments in respect of which such Allotments shall be made were respectively held and enjoyed at or immediately before the making of such Allotments.

This Act not to revoke or alter Wills.

XXXII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to revoke, make void, alter, or annul any Will or Testament, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances upon or affecting any Parts or Parcels of the said Commons or Waste Grounds which shall be respectively allotted or exchanged by virtue of this Act, or any Part or Parts thereof respectively, but the Lands, Grounds, Allotments, Tenements, or Hereditaments which shall be allotted or exchanged under or by virtue of this Act, shall be held to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, Charges, Covenants, and Incumbrances as the Lands and Grounds, Tenements and Hereditaments for or in respect or in lieu of which such Allotments or Exchanges shall be made would have been subject to, charged with, or affected by, in case this Act had not been made (except such Leases or Agreements as shall be determined by this Act).

Power to make Exchanges.

XXXIII. And be it further enacted, That it shall be lawful for the said Commissioners for the Time being respectively, to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever, within the said Township and Parish, in lieu of and in exchange for any other Lands, Tenements, and Hereditaments whatsoever, within the said Township and Parish, or within any adjoining Parish, Hamlet, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the respective Awards of the said Commissioners for the Time being respectively, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments, which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate or Collegiate, as 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 Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid, who at the Time of making any such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself,

self, or herself, such Consent to be testified in Writing, under the Common Seal of the Body Politic, Corporate or Collegiate, or under the Hands of the other consenting Parties respectively; and all and every such Exchange or Exchanges so to be made, shall be good, valid, and effectual in 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 in Writing, testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged, shall lie and be situate:

XXXIV. And be it further enacted, That all Costs, Charges, and Expences, attending the making and completing any Exchanges and Partitions by virtue of or under the said recited Act, shall be paid and borne by the several Persons making such Exchanges and Partitions, or for whole Interest the same shall be made, in such Manner and in such Proportions as the said Commissioners shall by their Award order and direct.

Costs of making Exchanges, &c. to be paid by the Person interested therein.

XXXV. And be it further enacted, That all and every Lease and Leases, or other Agreements at Rack Rent affecting all or any Part of the Commons and Waste Grounds, by virtue of this Act intended to be divided and inclosed or exchanged as in the said Act mentioned, shall cease, determine, and be void, as to such Commons and Waste Grounds, on such Days and Times as the said Commissioners shall, by Writing under their Hands, 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 Grounds, or relating thereto: Provided also, that if there shall be any Lease or Agreement of Lands, Part of which shall be in the said Township, and Part in any adjoining Township or Place, all and every such Lease or Leases, and Agreements at Rack Rents now subsisting, may be vacated; but where any Land shall have been taken in Exchange, which Land shall be holden under any Lease, and situate in an adjoining Manor or Place, the Lease of such last mentioned Land shall not be vacated.

Commissioners authorized to determine Leases of Allotments.

XXXVI. And be it further enacted, That no Lambs or Sheep shall be kept in any of the Allotments, to be made by virtue of this Act, during the Space of Twelve Years next after the Execution of the Award of the said Commissioners, unless the Person or Persons so keeping the same shall first at his, her, or their own Expence, make and maintain a Fence sufficient to guard the young Quickset Fences to be planted or set upon the Allotment or Allotments adjoining thereto, so as to prevent any Damage or Injury from being done to such Fence or Fences, or Quicksets, by any such Lambs or Sheep.

To fence against Sheep.

XXXVII. And whereas some of the Owners and Proprietors of and Persons interested in the Lands and Grounds within the said Township of Killing-

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Power to borrow Money.

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son may have Occasion to borrow Money to defray their respective Shares and Proportions of the Charges and Expences of obtaining and carrying this Act into Execution, be it therefore enacted, That it shall and may be lawful to and for the Proprietors and Owners of and all other Persons whomsoever interested in such Lands and Grounds, being a Tenant or Tenants for Life, with or without Impeachment of Waste, or Tenant or Tenants in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, and also to and for the Husbands, Guardians, Trustees, and Committees of any of the said Owners or Proprietors being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or labouring under any other Disability whatsoever; and also to and for all Persons acting as Guardians, Trustees, or Committees of any Owners or Proprietors being under any Disability or Incapacity whatsoever, whether such Owners or Proprietors respectively be Tenant for Life, with or without Impeachment of Waste, Tenants in Fee Tail, General or Special, or Tenants by the Courtesy of *England*, or for Years determinable on any Life or Lives, by any Deed or Deeds, Writing or Writings, under their respective Hands and Seals, to be duly executed in the Presence of and attested by Two or more credible Witnesses, to charge the Lands and Grounds which shall be allotted to them respectively by virtue or in pursuance of this Act, with any Sum and Sums of Money for defraying their respective Proportions of the said Charges and Expences, and of inclosing and fencing their respective Allotments, as the said Commissioners shall think necessary, not exceeding Five Pounds for every Acre of the Lands and Grounds so to be allotted to them respectively, the same to be paid by such Person or Persons, and applied for the Purposes aforesaid, in such Manner as the said Commissioners shall direct and appoint; and for securing the Repayment of such Sum or Sums of Money, with Interest for the same, to grant, mortgage, lease, demise, or otherwise subject the same Premises, or any Part thereof, unto any Person or Persons who shall advance and lend such Sum or Sums of Money respectively, his, her, or their Executors, Administrators, or Assigns, for any Term or Number of Years, so that every such Grant, Mortgage, Demise, or Security, be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered when such Sum or Sums of Money thereby to be secured, and the Interest thereof, shall be fully paid and satisfied, so that in every such Grant, Mortgage, Demise, or Security, which shall be made by any Person or Persons interested in or entitled to the Premises for the Term of their natural Lives only, or by his, her, or their Guardian or Guardians, Trustee or Trustees, Committee or Committees, there be contained a Proviso or Covenant, that the Owner or Proprietor of the said Premises shall duly pay and keep down the Interest of any Sum or Sums of Money to be thereby secured during their respective Lives; and no Person afterwards becoming seised or possessed of the said Premises, shall be liable to the Payment of any further or larger Arrear of Interest than for One Year preceding the Time that the Title to such Possession shall have commenced; and every such Grant, Mortgage, Lease, or Demise of the said Premises, shall be good, valid, and effectual in the Law, for the Purposes thereby intended; and all and every Person or Persons to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum or Sums of Money, or who shall be entitled to the Money thereby secured, shall and may from Time to Time, by any Deed

or

or Deeds, Writing or Writings, under his, her, or their Hand and Seal, or Hands and Seals, to be executed in the Presence of Two or more credible Witnesses, assign or transfer the same Security or Securities; and the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his, her, and their Right, Title, and Interest in the same, to any Person or Persons whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Mortgagees, Assignee or Assignees, his, her, or their Executors or Administrators, and all Persons claiming under them, or any of them, shall and may use, take, and pursue all such lawful Methods, Courses, and Expedients at Law and in Equity for recovering or obtaining the Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Non-payment of the Principal Money and Interest to be thereby secured, or any Part thereof, as is or are used, taken, or pursued in Cases of Mortgages made by Persons seised of Freehold Lands and Hereditaments in Fee Simple in Possession.

XXXVIII. And be it further enacted, That if any of the Proprietors or Persons interested in the Execution of this Act, or any other Person or Persons on the Behalf of them, or any of them, shall have advanced and paid, or shall advance and pay, any Money in Discharge of the Fees or other Expences preparatory to or of obtaining or executing this Act, or carrying the same into Execution, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said Commissioners, together with lawful Interest for the same, out of the first or any other Monies that shall or may be raised for the Purposes of this Act.

Money advanced to be repaid with Interest.

XXXIX. And be it further enacted, That the Award to be made by the said Commissioners when enrolled in Manner directed by the said recited Act, or a Copy or Counterpart thereof, shall be deposited in the Church of *Kirkby Lonsdale* aforesaid, and one Copy or Counterpart thereof in the Chapel of *Killington* aforesaid.

Award where to be deposited.

XL. And be it further enacted, That Once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of passing thereof) the said Commissioners shall, and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act; and such Statement and Account, when so made, together with the Vouchers relating thereto, shall be by them laid before any Two of His Majesty's Justices of the Peace for the said County of *Westmorland* (not interested in the said Inclosure) to be by them examined and balanced, and such Balance shall be by such Justices 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 valid in Law, unless the same shall have been duly allowed by such Justices.

Commissioners Accounts to be annually passed before Justices.

XLI. 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 or the said recited Act (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

Appeal.

Issue at Law shall be tried as herein mentioned), then and in every such Case he, she, or they may appeal to any General Quarter Sessions of the Peace which shall be holden for the said County of *Westmorland* within Two Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party or Parties concerned Twenty-one Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices (not interested therein) at such General Quarter Sessions are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order and to award such Costs and Damages, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) on Demand to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices in Sessions shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; and in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them shall seem reasonable to be levied in Manner aforesaid.

General
Saving.

XLII. Saving always, to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Person and Persons, Bodies Politic and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Right, Title, and Interest (other than and except such as are hereby meant and intended to be barred, destroyed, and extinguished) as they, every, or any of them could, might, or ought to have had and enjoyed in, to, out of or in respect of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been made.

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

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

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