



and Small Tithes or Prescriptions in Lieu thereof within the same Parish: And whereas Sir *Henry Fletcher*, and Sir *Wastel Briscoe* Barons, and divers other Persons are, or claim to be entitled to Right of Common upon the said Commons and Waste Grounds, in respect of certain Messuages, Tenements, Lands, or other Hereditaments within the said Parish; and the said Commons and Waste Grounds in their present State are of little Use or Advantage, and incapable of any considerable Improvement; and it would be of great Advantage to the Persons interested therein, and of publick 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; and if the said Commons and Waste Grounds, and all other Lands within the said Parish, entitled to Right of Common thereon, were exonerated from the Payment of all Tithes whatsoever; but the said several Purposes cannot be effected without the Authority of Parliament: 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 Acts usually required on the passing of such Acts*: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *John Hudleston* of *Gosforth*, *Richard Atkinson* of *Bassenthwaite*, and *Thomas Hudson* of the City of *Carlisle*, all in the said County of *Cumberland*, Gentlemen, and their Successors to be appointed as hereafter mentioned, shall be and are hereby appointed Commissioners for setting out, dividing, allotting, and inclosing the said Commons and Waste Grounds, in the Manner and according to the Rules, Orders, 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 all Acts, Matters, and Things done by any Two of the Commissioners appointed or to be appointed by virtue of this Act, shall to all Intents and Purposes be as valid and effectual as if the same were done and performed by all the said Commissioners.

Commissioners appointed.

For choosing new Commissioners.

II. And be it further enacted, That if any of the said Commissioners appointed by this Act, or to be substituted in Manner herein-after mentioned, shall before the Completion of the said Division or Inclosure die, or neglect, refuse, decline, or become incapable to act for the Space of Forty Days, when Occasion shall require his or their Attendance for carrying this or the said recited Act into Execution, it shall be lawful from Time to Time to elect and appoint a new Commissioner or Commissioners in the Stead of him or them so dying, neglecting, refusing, declining, or becoming incapable to act as aforesaid, in the Manner following; that is to say, in case the said *John Hudleston*, or any future Commissioner to be appointed in his Stead, shall die or neglect, refuse, decline, or become incapable to act as aforesaid, the said Earl of *Egremont*, his Heirs or Assigns, Lord or Lords of the said Manor, Lordship, or Forest of *Westward* for the Time being, shall and may by Writing under his or their Hand or Hands appoint another Person (not interested in the said Division and Inclosure) to be a new Commissioner in the Stead of the said *John Hudleston* or of any future Commissioner to be appointed in his Stead as aforesaid; and in case

case the said *Richard Atkinson* or any future Commissioner to be appointed in his Stead shall die, or neglect, refuse, decline, or become incapable to act for the Space of Forty Days as aforesaid, then the major Part in Value (according to the Land Tax Assessments) of the several Owners of Messuages, Lands, Tenements, and Hereditaments within the said Manor, Lordship, or Forest of *Westward* for the Time being, entitled to Rights of Common upon the said Commons and Waste Grounds, (other than and except the Lord of the said Manor, Lordship, or Forest for the Time being), shall by Writing under their respective Hands appoint a new Commissioner (not interested in the said Division and Inclosure) in the Stead of the said *Richard Atkinson* and his Successors respectively, from Time to Time as Occasion may require; and in case the said *Thomas Hudson*, or any future Commissioner to be appointed in the Stead of him or any of his Successors, shall die, or shall neglect, refuse, decline, or become incapable to act for the Space of Forty Days as aforesaid, the said Dean and Chapter of *Carlisle* shall and may by any Instrument or Writing under their Common Seal, appoint a new Commissioner (not interested in the said Division and Inclosure) in the Stead of the said *Thomas Hudson* and his Successors respectively, from Time to Time as Occasion may require; and in case such new Commissioner or Commissioners shall not be appointed by the Party or Parties, Body or Bodies Politic or Corporate herein-before respectively authorized to make such Appointment, within Sixty Days after the happening of any such Vacancy as aforesaid, and Notice thereof given by the then surviving and acting Commissioners or Commissioner under their or his Hands or Hand, then and in every such Case a new Commissioner or Commissioners to fill up such Vacancy or Vacancies from Time to Time shall and may be appointed by the other surviving and acting Commissioners or Commissioner for the Time being, by Writing under his or their Hand or Hands, at any Meeting of such surviving or only Commissioners or Commissioner, of the Time and Place whereof Fourteen Days previous Notice shall have been given in Manner herein-after mentioned; and that every such new Commissioner so to be appointed shall have the same Powers and Authorities for carrying the Purposes of this Act and the said recited Act into Execution, as if he had been expressly named and appointed by this Act.

In case the Parties do not nominate, the Commissioners may.

III. And be it further enacted, That the said Commissioners shall have Power and they are hereby authorized to appoint some fit and proper Person to be their Clerk, for assisting them in carrying this and the said recited Act into Execution, and such Clerk from Time to Time to remove, and to nominate and appoint some other fit and proper Person to succeed him in such Office, as to the said Commissioners shall seem meet.

Appointment of Clerk.

IV. 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, when and as to them shall seem meet, to appoint such and so many Persons as they shall think proper or necessary to be Surveyors and Assistants to such Surveyors for the Purposes of the said intended Division and Inclosure, and from Time to Time to displace and remove any such Person or Persons so to be appointed, and to appoint any other Person or Persons in the Room, Place, and Stead of any such Surveyor or Surveyors, Assistant or Assistants, so to be displaced and removed, and to make such Surveyor and Surveyors,

Appointment of Surveyors.

Assistant and Assistants, such Recompence for their respective Labour, Skill, and incidental Expences, as to the said Commissioners shall appear just and reasonable.

Allowance to  
Commission-  
ers and Clerk.

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 their Clerk, the Sum of Two Pounds and 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 their Clerk, as also all and every Proprietor and Proprietors and other Persons whatsoever, shall pay his and their own Expences at all Meetings to be holden under the Authority of this Act.

Appointment  
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 their 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, in like Manner giving Fourteen Days Notice in Writing of the Time and Place where each such special or subsequent Meeting is to be holden; but the said Commissioners are hereby authorized and empowered, if they shall see Cause, without giving any publick 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 *Westward*, or within Eight Miles thereof.

Notices.

VII. And be it further enacted, That in all Cases where Notices are required to be given to any Person or Persons under this Act or the said recited Act, or under the Powers, Authorities and Provisions hereby made for carrying into Effect the several Enfranchisements herein-after mentioned, the Delivery of the same, so far as concerns the said Commissioners, at the usual Place of Abode of each of the said Commissioners, or at the Office or usual Place of Abode of their Clerk, and so far as concerns all other Persons, the Delivery of the same at the usual Places of Abode of such Persons respectively, shall be deemed good Service of the same; and that Notices of the Meetings (except those of Adjournments) of the said Commissioners, and of the Perambulation of the Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed, and all other publick Notices directed by this Act or the said recited Act to be given, shall be in Writing, and shall be so given, by affixing the said Notices respectively on some *Sunday* in the Forenoon, before or during Divine Service, on the Principal Door of the Parish Church of *Westward* aforesaid, and also by causing the same to be inserted in some One or more Newspaper or Newspapers published at *Carlisle* or *Whitehaven*, in the said County of *Cumberland*, or in some other Newspaper or Newspapers usually circulated in the said County.

VIII. And

VIII. And be it further enacted, That the said Commissioners shall at their Discretion, 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 or appoint, or shall use any Map or Survey of the said Commons and Waste Grounds, made at or before the Time of passing this Act, which shall in their Judgement 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 Parish, 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.

Survey to be made of Commons, but not of ancient Inclosures.

IX. And be it further enacted, That if any Dispute or Difference shall, before the making the Award of the said Commissioners, arise between any Person or Persons touching or concerning the Boundaries of the said Manor, Lordship or Forest, or Parish of *Westward*, or any Part thereof; or touching or concerning the respective Shares, Rights, or Proportions which any Person or Persons hath or have, or shall or may claim to have, of, in, or to the said Commons and Waste Grounds, or any Part thereof, or otherwise relating to the Division and Inclosure hereby directed and authorized to be made, then the said Commissioners shall, and they are hereby empowered and required, to hear, enquire into, and determine all such Disputes and Differences, and all Claims and Objections which shall be thereupon 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, Body or Bodies Politick or Corporate making such Claim or Claims, Objection or Objections as aforesaid; provided that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements or Hereditaments whatsoever: Provided also, that in case the said Commissioners shall see Cause, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to award any Costs, it shall be lawful for them, and they are hereby empowered to settle, assess and award such Costs 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 such Costs shall be levied and recovered in the same Manner as by the said recited Act any Penalties or Forfeitures are authorized to be levied or recovered.

Commissioners to settle Disputes.

Power to assess Costs.

X. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politick or Corporate, interested or claiming to be interested in the said intended Division or Inclosure, shall be dissatisfied with any Determination of the said Commissioners touching or concerning the Boundaries of the said Manor, Lordship, or Forest, or Parish of *Westward*, or of any adjoining Forest, Barony, Manor, Parish, Township, Hamlet or Place, or any Right of Common, or other Right or Interest in, over and upon the Commons and Waste Grounds hereby directed to be divided, allotted and inclosed, or any Part or Parts thereof,

Allowing Parties dissatisfied with the Commissioners Determination to try their Rights at Law.

[*Loc. & Per.*]

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and shall by Writing under the Hand of him or them, or of his or their known Agent or Attorney, or under their Common Seal respectively, give Notice of such Dissatisfaction to the said Commissioners or one of them, or their Clerk, within One Calendar Month next after every such Determination shall have been made and signified by Writing under the Hands of the said Commissioners to the Party or Parties against whom such Determination shall have been so made, or to his or their known Agent or Attorney, it shall be lawful for the Person or Persons, Body or Bodies Politick or Corporate so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners at the then next or second Assizes to be holden for the said County of *Cumberland*; and for that Purpose the Person or Persons, Body or Bodies Politick or Corporate, who shall be so dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought upon a feigned Issue against the Party or Parties, in whose Favour such Determination shall have been made, within Two Calendar Months next after such Determination of the said Commissioners having been so signified as aforesaid; and the Defendant or Defendants in such Action, shall and 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, 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 final, binding, and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts and order a new Trial to be had therein, which it shall be lawful for such Court to do, as is usual in other Cases, and also upon sufficient Cause shewn to put off the Trial of such Issue or Issues; and after such Verdict or Verdicts shall be given, and final Judgement obtained thereon, 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; and that the Costs attending such Action or Actions shall abide the Event of the respective Trials of such Issue or Issues: Provided always, that the Determination of the said Commissioners touching such Claim or Claims, Objection or Objections as aforesaid, which shall not be objected to by such Notice to be given to the said Commissioners or their Clerk as aforesaid, or being so objected to, and the Party or Parties objecting not causing such Action or Actions at Law to be brought and proceeded in, shall be final, binding, and conclusive, upon all Persons and Bodies Politick or Corporate; and if any of the Parties, Plaintiffs or Defendants, in any Action to be brought in pursuance of this or the said recited Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Death had happened; and in case any Person or Persons in whose Favour any 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 herein-before limited for bringing such Action or Actions, it shall be lawful for the Party or Parties 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,

Death of Parties not to stay Proceedings.

Provision in case of Parties dying before Actions brought.

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

XI. Provided always, 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 Caſes of Encroachment made within the Period of Forty Years as herein-after 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.

Right of Poſſeſſion not to be determined by the Commiſſioners.

XII. And be it further enacted, That the Coſts and Charges of every Action, whether the ſame ſhall be brought by or againſt the ſaid Earl of Egremont, his Heirs or Aſſigns, or by or againſt any other Perſon or Perſons making any Claim or Objection to or relating to the Boundary or Soil of the ſaid Commons and Waſte Grounds, or any Part thereof, and which in its Conſequence ſhall or may extend, or be likely to extend to the Common and General Interests of the Parties concerned in the Division and Incloſure of the ſaid Commons and Waſte Grounds, or any Part or Parts thereof, ſhall be deemed and conſidered to be Part of, and ſhall be raiſed in the ſame Manner as the general Expences of the Division and Incloſure of the ſaid Commons and Waſte Grounds, and ſhall be repaid and reimbursed by the ſaid Commissioners to the Party or Parties to ſuch Action, from and out of the Money to be raiſed in Manner herein-after mentioned for paying and diſcharging the Coſts, Charges, and Expences of carrying into Execution the Powers and Authorities in this and the ſaid recited Act contained; and the ſaid Commissioners are hereby authorized and required to adjudge and determine whether ſuch Queſtion or Queſtions, although the ſame is or are ſolely confined to Right of Soil, would or would not alſo tend to increaſe the Right of Common or other Interest of the Parties claiming Rights of Common upon the ſaid Commons and Waſte Grounds, or any Part thereof; and if it ſhall appear to the ſaid Commissioners that the ſame would affect only the Party or Parties claiming the Soil or Royalties, and that the Right of Common or Extent of the ſaid Commons and Waſte Grounds, or any Part thereof, could not be increaſed or extended thereby, then the ſaid Coſts ſhall be paid, borne, or reimbursed by the Party or Parties who ſhall appear to the ſaid Commissioners to be abſolutely intereſted therein, or advantaged or benefited thereby, and in ſuch Proportions, Manner and Form as the ſaid Commissioners ſhall by any Writing under their Hands direct or appoint, and ſhall not be deemed or conſidered as Part of the ſaid general Expences; and ſuch of the ſaid Coſts as ſhall be adjudged and determined by the ſaid Commissioners to be paid, borne, or reimbursed by any Perſon or Perſons other than

Coſts in determining Rights of Soil to be paid by the Parties intereſted.

than the Party or Parties to such Action or Actions, or as shall not be recoverable against such Party or Parties by Execution or Attachment, shall be levied or recovered in the same Manner as by the said recited Act any Penalties or Forfeitures are authorized to be levied or recovered.

Encroachments to be deemed Part of the Commons.

XIII. 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 hereby directed to be divided and inclosed, within Forty 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, allotted, and inclosed by virtue of this Act: Provided nevertheless, that all such Encroachments shall be allotted to the Person or Persons who shall at the Time of making the Allotments be in the Possession of such Encroachments, or in the Receipt of the Rents and Profits thereof 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 and Waste Grounds to which such Person or Persons shall be entitled by virtue of this Act; and which Encroachments, in making such Allotment or Allotments, shall be estimated according to the Value of the Land or Ground so taken in 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 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, in 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 direct, the said Commissioners shall give and sign their Receipt or Receipts for the same, and shall thereupon allot to the Purchaser or Purchasers, every such Encroachment, or such Part thereof as shall be so purchased, and the same shall on such Payment be and become vested in 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, and shall divide and apportion the Surplus Money thereof (if any) in Manner herein-after directed concerning the Surplus to arise from Sale of the Allotments for defraying such Expences; provided, that if the Person or Persons who shall be in Possession of, or entitled unto 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 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 the Allotments of the said Commons and Waste Grounds for defraying such

Expences



Expences as herein-after mentioned: Provided also, that all Encroachments made upon the said Commons or Waste Grounds within the Space of Five Years immediately preceding the passing of this Act, shall be thrown open without any Recompence whatsoever, to be made to the Possessor or Possessors thereof; and if any Question or Dispute shall arise touching the said Encroachments, or which of them shall be so deemed to be Part and Parcel of the said Commons or Waste Grounds respectively, such Disputes shall be referred to the Determination of the said Commissioners, but no such Determination shall prevent any of the Parties from trying their Rights at Law in respect to any Matter of Title to the said Encroachments.

XIV. And be it further enacted, That the said Commissioners, after setting out the publick Roads and Highways in Manner directed by the said recited Act, shall assign, set out and allot such Parts of the said Commons and Waste Grounds hereby directed to be divided, allotted and inclosed, as the said Commissioners shall think necessary, as and for publick Quarries and Sand and Clay Pits, and also as and for publick Watering Places for Cattle, and Places for getting Gravel for the Repairs of the Roads to be made over the said Commons and Waste Grounds; and the same Allotments when so set out shall for ever thereafter be used respectively by the Surveyors of the Highways for the Time being of the said Parish, and by the Owners of Lands, Tenements, and Hereditaments within the said Parish, and their Tenants and Lessees for the Time being, and within the said Parish of *Westward*, but not to be elsewhere or otherwise disposed of.

Allotment for public Quarries, Watering Places, Places for getting Gravel, &c.

XV. And be it further enacted, That it shall be lawful for the said Commissioners to stop up any old or accustomed Road or Roads passing or leading through any Part of the Old Inclosures in the said Parish of *Westward*, and to set out and appoint any new or other Road or Roads, in, upon, or over any of the said Old Inclosures, with the Concurrence of Two Justices of the Peace acting in and for the said County of *Cumberland*, and subject to the Rules, Orders, Restrictions, and Right of Appeal, contained in and in the Manner directed by the said recited Act.

Power to stop up old Roads.

XVI. And be it further enacted, That the said Commissioners shall and may, and they are hereby directed, in the next Place, to set out and appoint unto the said Earl of *Egremont*, his Heirs and Assigns, Lord or Lords of the said Manor, Lordship or Forest of *Westward* for the Time being, in some proper and convenient Place within the said Manor, Lordship or Forest, near to the Village of *Rofsley*, a sufficient Quantity of Land (not exceeding Forty Acres) off and from the said Commons and Waste Grounds for the Purpose of keeping and holding Fairs thereon annually, according to ancient Custom, and subject thereto; the Herbage of the said Land so set out shall belong to and be enjoyed by such Person or Persons, and in such Manner and Form, Shares and Proportions, as the said Commissioners shall in and by their General Award direct and appoint; and the said Commissioners shall also set out and appoint as near to each of the Two School Houses in the said Parish of *Westward*, called by the respective Names of *Cragge School* and *Church School*, as conveniently may be, Half an Acre of Land Statute Measure; and which said Two Half Acres of Land shall be awarded and allotted to the perpetual Curate of the said Parish.

Commissioners to set out Land at Rofsley for a Fair.

Allotment to the Schools.

Parish of *Westward* and his Successors, and shall continue vested in the said perpetual Curate for the Time being for ever, for the Use of the said Two Schools respectively.

Land to be  
sold to defray  
the Expences.

XVII. And be it further enacted, That the said Commissioners shall, in the next Place, as soon as conveniently may be, allot and set out, by proper Marks and Bounds, so much and such Part or Parts of the said Commons and Waste Grounds, and in Plots or Parcels not exceeding Fifty Acres in any One Plot or Parcel, as to them shall seem competent and necessary, for raising, by Sale thereof, sufficient Money to pay and discharge 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 and about the surveying, measuring, mapping, planning, dividing and allotting the said Commons and Waste Grounds, and of, in and about the setting out and making publick Roads and Ways, in, through and over the said Old Inclosures and the said Commons and Waste Grounds, and making such Part or Parts of the Ring or outer Fence of the Allotment to be made to the said Dean and Chapter as herein-after mentioned, and of, in, and about the 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 in the Manner and according to the Directions in the said recited Act contained; and the Purchaser and Purchasers of the Land so to be set out and sold as aforesaid, his, her and their Heirs and Assigns, shall be subject and liable to making, repairing and keeping in Repair, such Parts 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; and also to all Rights, Liberties and Privileges herein excepted and reserved to the said Earl of *Egremont*, his Heirs and Assigns, Lord and Lords of the said Manor, Lordship or Forest of *Westward* for the Time being, and to his and their Lessees or Tenants: Provided always, that in case any Surplus shall remain after Payment of such Expences as aforesaid, such Surplus shall be divided amongst the several Persons interested in the Commons and Waste Grounds hereby directed to be divided, allotted and inclosed, in such Shares as shall be in Proportion to their respective Rights 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 or Sales shall not be sufficient to defray all the Costs, Charges, and Expences as aforesaid, then the Deficiency 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

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.

XVII. And be it further enacted, That the said Commissioners shall in the next Place, set out, allot and appoint unto, and for the said Earl of *Egremont* as the Lord of the said Manor, Lordship or Forest of *Westward*, and his Heirs and Assigns, in One Plot or Parcel of Land, such Quantity of the said Commons and Waste Grounds as shall in the Judgement of the said Commissioners, be equal to One Fourteenth Part or Share of the said Commons and Waste Grounds within the said Manor, Lordship or Forest, and remaining after the Allotments and Appropriations herein before mentioned, and directed to be made for publick Highways, Quarries, and Places for watering Cattle, and getting Gravel, Sand and Clay, and other the publick Purposes herein-before mentioned, and the Allotment to the said Dean and Chapter of *Carlisle* herein-after mentioned, in lieu and Satisfaction of the Tythes of the said Commons and Waste Grounds, (but not of the Old Inclosures), shall be set out and ascertained; in lieu of and as a full Compensation for the Right and Interest of the said Earl of *Egremont* as Lord of the said Manor, Lordship or Forest in or to the Residue of the said Commons and Waste Grounds, and his Rights over the same, (save and except as herein-after excepted, and hereby reserved to him or them).

XIX. And be it further enacted, That the said Commissioners shall also set out, allot and appoint, to and for the said Dean and Chapter of *Carlisle* and their Successors, or their Lessee or Lessees for the Time being, so much and such Part or Parts of the said Commons and Waste Grounds as shall, in the Judgement of the said Commissioners, be equal to One-eighth Part of the said Commons and Waste Grounds remaining after the Allotments herein-before or by the said recited Act directed to be made for publick Highways, Quarries, Sand, Clay and Gravel Pits, and watering Places, and for *Roslyn* Fair, as and for a full Recompence and Satisfaction for all the predial, personal and mixed Tithes, great and small, (*Easter* Offerings, Mortuaries, and Surplice Fees only excepted), which could or might thenceforth arise out of or from the several Allotments of the said Commons and Waste Grounds within the said Manor, Lordship, or Forest, and Parish, to be made to the said Earl and the several Proprietors or Persons entitled thereto, and who would have been liable to the Payment of Tithes in respect thereof; and the said Commissioners shall cause the said Allotment to be well and sufficiently cast, banked, and ring-fenced, in such Manner as they shall direct, according to the usual and accustomed Method of fencing, and to their Satisfaction, and also such Parts (if any) to be planted with Thorns or Quicksets as the said Commissioners shall think necessary; and the said Commissioners shall also set out, allot and appoint unto and for the said Dean and Chapter, and their Successors and Lessees for the Time being, so much of the said Commons and Waste Grounds as shall in the Judgement of the said Commissioners be deemed equivalent to, and a full Recompence and Satisfaction for all predial, personal, and mixed Tithes, great and small, payable in kind, within the said Parish of *Westward*, and for all Moduses, Prescriptions and Compositions for Tithes (if any), due and payable to the said Dean

and Chapter or their Lessees for the Time being, (*Easter Offerings, Mortuaries and Surplice Fees only excepted*), for and in respect of the several Old Inclosures, and other the ancient Messuages, Lands and Tenements already inclosed within the said Parish of *Westward*, entitled to Right of Common on the said Commons and Waste Grounds, and now liable or subject to the Payment of such Tithes in kind, or of any such Moduses, Prescriptions, or Compositions as aforesaid; and which said last-mentioned Allotment the said Commissioners shall also in like Manner cause to be well and sufficiently cast, banked, and ring-fenced, and in such Manner as they shall direct, according to the usual and accustomed Method of fencing, and to their Satisfaction; and also such Parts (if any), to be planted with Thorns or Quicksets as the said Commissioners shall think necessary: provided that the said Allotments to be made to the said Dean and Chapter, or their Lessees as aforesaid, on account of the Tythes of the said several Old Inclosures, and other the ancient Messuages, Lands and Tenements already inclosed within the said Parish, or of any Moduses, Prescriptions, or Compositions for Tithes, and the Expences of the first outside or ring-fencing of such Allotments, shall be taken out of and deducted from the several Shares and Allotments which the respective Proprietors of the same Premises would be entitled to in a fair and due Proportion, according to the Value at which the said Tithes, Moduses and Compositions, and other Ecclesiastical Dues and Payments (except as aforesaid), for and in respect of the several Old Inclosures, and the said ancient Messuages, Lands, and Tenements already inclosed of each Person entitled to any Allotment or Allotments in respect thereof, shall be estimated, fixed and ascertained by the said Commissioners; so that each Person's Allotment shall be less, and abate in the Proportion above mentioned, in order to make up the said last-mentioned Allotment, and the Charge and Expence of the first outside or ring-fencing thereof to the said Dean and Chapter, or their Lessees as aforesaid; and that all the Charge and Expence of such the outermost or Ring Fences as shall inclose the said first mentioned Allotment to be set out, unto, and for the said Dean and Chapter and their Successors, Lessee or Lessees, in lieu of the Tithes of the said Commons and Waste Ground hereby authorized and directed to be inclosed, (but not the Allotment or Allotments to be made unto and for the said Dean and Chapter, and their Successors and Lessees in lieu of the said Tithes, Moduses, Prescriptions or Compositions of the said Old Inclosures, Messuages, Lands or Tenements), and as shall not be liable or directed to be repaired by the Owners of the Lands adjoining thereto, shall be collected, raised and paid in the same Manner as the public Charges and Expences of the Division of the said Commons and Waste Grounds are hereby directed to be raised and paid; but that all the said Fences, as well of the said first-mentioned as of the said last-mentioned Allotments to the said Dean and Chapter, or their Lessees, shall after the first making and erecting thereof, and after the Certificate of the Sufficiency thereof under the Hands of the said Commissioners, at all Times for ever be maintained, repaired, preserved, and kept in good and sufficient Repair, by and at the Expence of the said Dean and Chapter, or their Successors, Lessees or Tenants for the Time being.

Allotment to  
the Curate.

XX. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, in the next Place, to set out, allot and appoint, to and for the said *Samuel Halifax* and his Successors, perpetual Curates of the Parish of *Westward* aforesaid, so much of the said Commons

Commons and Waste Grounds hereby directed to be divided and inclosed, as shall, in the Judgement of the said Commissioners, be deemed equivalent to, and a full Compensation for all and all Manner of Tithes, Moduses, Prescriptions, and Compositions for Tithes and other Ecclesiastical Payments, due or payable to the Curate of the said Parish for the Time being, (*Easter Offerings, Mortuaries, and Surplice Fees only excepted*), for and in respect of the said Commons and Waste Grounds, and of the several Old Inclosures and other the antient Messuages, Lands and Tenements within the said Parish of *Westward*, entitled to Right of Common on the said Commons and Waste Grounds, and now liable or subject to the Payment of such Tithes, Moduses, Prescriptions, Compositions or Ecclesiastical Payments as aforesaid to the said Curate; which said Allotment so to be made to the said *Samuel Halifax* and his Successors, Curates of *Westward* aforesaid, shall be accepted by and vested in him and his Successors, Curates as aforesaid, in lieu of and as a full Compensation and Satisfaction for all Tithes, Moduses, Prescriptions, Compositions, and other Ecclesiastical Payments and Dues, (except as aforesaid,) now due or payable, or which could or might hereafter become due or payable to the said Curate and his Successors, within the Parish of *Westward* aforesaid: Provided always, that the said Allotment to be made to the said Curate as aforesaid, shall be ring-fenced in the same Manner as is herein-before provided respecting the Allotments to the said Dean and Chapter of *Carlisle*; and the said Allotment to the said Curate, and the Expences of such Ring-fencing thereof, shall be taken out of and deducted from the several Shares or Allotments of the said Commons and Waste Grounds of the several Proprietors of the said ancient Messuages, Lands and Tenements now subject and liable to the Payment of the said Tithes, Moduses, Prescriptions, Compositions and Payments to the said Curate, in a due and fair Proportion, according to the Value at which the said Tithes, Moduses, Prescriptions, Compositions and other Ecclesiastical Payments, and Dues shall be estimated and ascertained by the said Commissioners, and shall be laid adjoining to the Glebe Land of the said Curate.

XXI. And be it further enacted, That the said Commissioners shall and they are hereby required to set out by Marks and Bounds, and allot in severalty the Residue of the said Commons and Waste Grounds, (after the several Allotments and Appropriations herein-before directed shall be made), unto the said Earl of *Egremont*, for and in respect of his said Messuages, Demesne Lands, and other Lands, Tenements and Hereditaments within the said Manor, Lordship or Forest, and the several other Persons, Bodies Politic and Corporate, entitled to Right of Common or other Right or Interest upon the said Commons and Waste Grounds or any Part thereof, according to the true and actual Value (to be ascertained in such Manner as the said Commissioners shall think just and equitable) of the several Messuages, Lands, Tenements and Hereditaments in respect whereof they are respectively entitled to Right of Common or other Right or Interest as aforesaid; but so as that the Mines of Coal, Lead, Copper, Iron, and all other Mines, Minerals and Metals, and all Stones, Slates and Clay, lying under any of the Allotments of the said Commons and Waste Grounds to be made in pursuance of this Act, shall not be taken into the Valuation of such Allotments, it being intended that all Mines, Veins and Seams of Coal, Lead, Copper and Iron, and all other Mines, Minerals, and Metals, Stones, Slates and Clay whatsoever, within or under the Whole of the said Commons and Waste Grounds, (the Quar-

ries and Pits to be set out for the respective Purposes aforesaid, and the Use thereof only excepted,) shall be and hereby are expressly reserved to the said Earl of *Egremont*, his Heirs and Assigns.

Commissioners to settle within what Townships the Allotments and the Roads are situate.

XXII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, in and by their General Award, to ascertain, set out, order and direct, in what Township or Townships respectively, within the said Parish of *Westward*, the several Allotments to be made of the said Commons and Waste Grounds shall be situate, and the same shall from thenceforth be deemed, adjudged and taken to be Part and Parcel of such Township or Townships respectively; and that the said Commissioners shall and they are hereby further authorized and required to determine and adjudge what Part or Parts of the Highways and Roads to be set out and appointed by them by virtue of the said recited Act and of this Act, shall belong to the said Townships respectively within the said Parish of *Westward*; and the said Commissioners shall, in and by their General Award, order and direct by what Townships respectively, within the said Parish, such Highways and Roads shall be repaired, maintained, amended and kept in Repair; and when and so soon as such Highways and Roads shall be formed and put into complete Repair, and declared so to be, according to the Directions of the said recited Act, all such Highways and Roads shall for ever thereafter be maintained, amended and kept in Repair, by the Inhabitants of such Townships respectively to which such Highways and Roads shall be so determined and adjudged to belong, in such and the like Manner as the ancient and common publick Highways and Roads, situate within the said respective Townships, are by Law to be amended and kept in Repair.

Allotments to be Freehold.

XXIII. And be it further enacted, That all Allotments to be made of the said Commons and Waste Grounds shall be and become Estates of Freehold in the several and respective Persons, Bodies Politic and Corporate, to or for whom the same shall be set out, allotted and assigned respectively as aforesaid, (save and except in the Cases herein-after particularly enacted and provided for, and subject and without Prejudice nevertheless to the Right of the said Earl of *Egremont*, his Heirs and Assigns, to the Mines, Minerals, Stones, Slates, Clay, Royalties, Liberties, Privileges, Powers and Authorities, or any of them hereby reserved to him and them), but so as that the said several Allotments of the said Commons and Waste Grounds shall be, enure and remain, and the several Persons to and for whom the same Allotments shall be made as aforesaid, shall from thenceforth stand and be seized of the said Allotments, to and for such and the same Uses, Trusts, Estates, Intents and Purposes, and subject to such and the same Powers, Provisoes and Agreements, Mortgages, Charges, Debts, Payments and Incumbrances, as the several Estates, Grounds, Lands and Premises in lieu whereof such new Allotments shall be made as aforesaid, now are or are hereby made subject and liable to, and charged with or affected by, or would have been subject and liable to and charged with and affected by, in case this Act had not been made.

Power to Proprietors to borrow Money.

XXIV. And be it further enacted, That it shall and may be lawful to and for the Proprietors and Owners of and Persons interested in any Lands or Hereditaments which shall be divided and allotted by virtue of this Act, being Tenant or Tenants in Fee Tail general or special, or for Life or Lives,

or for Years determinable on any Life or Lives, or for any Estate of Freehold or Inheritance less than an Estate in Fee Simple; and also to and for the Husbands, Guardians, Trustees, Committees and Attornies of any such Owners or Proprietors, or Persons interested as aforesaid, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity whatsoever, 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 Hereditaments which shall be allotted to them respectively by virtue of this Act, with such Sum or Sums of Money for defraying their respective Proportions of the Charges and Expences of carrying into Execution this Act, and of or incident to inclosing, fencing, and draining 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 to 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, demise, surrender; or otherwise assure the Lands and Hereditaments so to be charged, or any Part thereof, unto any Person or Persons who shall advance and lend such Sum or Sums of Money respectively, or unto such other Person or Persons as he or they shall direct or appoint, his, her or their Heirs, Executors, Administrators or Assigns, for any Term or Number of Years, so that every such Grant, Mortgage, Demise, Surrender or Assurance be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when the Sum or Sums of Money thereby secured, and the Interest thereof, shall be fully paid and satisfied; and so that, in every such Assurance which shall be made as aforesaid, there be contained a Proviso or Covenant that such Tenant or Tenants shall duly pay and keep down the Interest of the Sum or Sums of Money thereby secured during their respective Lives; and that no Person afterwards becoming seized 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 when the Title to such Possession shall have commenced.

XXV. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, if they shall think it proper and expedient so to do, at any Time or Times after the passing of this Act, and before all the Allotments to be made by virtue thereof are staked out, and the Rights and Interests of each and every of the Proprietors fully ascertained, to set out and allot to any such Proprietors, upon Application in Writing made to the said Commissioners for that Purpose, any Parcel or Parcels of Land as Part of the Allotments to be made to such Proprietors respectively; and by Writing under their Hands to authorize and empower such Proprietors respectively to fence, occupy and enjoy the same in severalty, paying such annual Rents in respect thereof, until the whole of the Allotments to be made by virtue of this Act shall be ascertained and staked out, as the said Commissioners shall fix and appoint; such Rents to be applied by the said Commissioners towards the Payment of the Expences of obtaining this Act, and carrying the same into Execution; and the said Commissioners shall have all such Remedies for Recovery thereof, as Landlords now have

Proprietors, with the Consent of the Commissioners, may inclose their Allotments before the whole Allotments are staked out, paying a Rent.

or

or shall at any Time hereafter be entitled to for the Recovery of Rent in Arrear.

For extin-  
guishing or  
suspending  
Rights of  
Common.

XXVI. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized, at any Time or Times before the Execution of the said Award, by Notice in Writing to be affixed upon the principal Outer Door of the Parish Church of *Westward* aforesaid, to order and direct all or any Part of the Rights of Common, in, over and upon the said Commons and Waste Grounds hereby directed to be inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Writing; and that all such Rights of Common as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Time of affixing such Writing upon the principal Door of the Parish Church of *Westward* aforesaid, cease, determine and be extinguished, or the Exercise thereof suspended accordingly, any Law, Usage or Custom to the contrary thereof notwithstanding.

Wills, Settle-  
ments, &c.  
not to be  
affected.

XXVII. 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 Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, or Incumbrance out of, upon, or affecting any of the Lands, Tenements or Hereditaments to be divided, allotted or exchanged by virtue of this Act or any Part thereof; but that the respective Parties, to whom any Lands or Hereditaments shall be allotted or awarded in Exchange by virtue of this Act, shall stand and be seized thereof to such and the same Uses, and for such and the same Estates, and subject to such and the same Will, Jointures, Rents and Charges, and no other, as the Lands, Tenements and Hereditaments, whereof such Person or Persons was or were seized or possessed, at or immediately before the Execution of the Award to be made by the said Commissioners, and for which and in respect whereof 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.

For allowing  
Exchanges  
to be made.

XXVIII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to set out, allot, and award any Lands, Tenements or Hereditaments whatsoever within the Parish of *Westward* aforesaid, in lieu of, and in Exchange for any other Lands, Tenements or Hereditaments whatsoever, within the said Parish, or within any adjoining Parish, Township, Hamlet or Place; provided, that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners of the Lands, Tenements or Hereditaments which shall be so exchanged, whether such Owner or Owners shall be a Body or Bodies Politick, Corporate or Collegiate, or a Tenant or Tenants in Fee-Simple or for Life, or in Fee Tail general or special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees or Attornies, of or acting for any such Owners aforesaid, who at the Time of making such Exchange or Exchanges shall respectively be Infants,

Femes



Femes Covèrt, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, (such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively); and all and every such Exchanges so to be made shall be good, valid and effectual in the Law to all Intents and Purposes whatsoever; provided, that no Exchange of any Lands, Tenements or Hereditaments held in Right of any Church, Chapel or other Ecclesiastical Benefice shall be made without the Consent (testified as aforesaid) of the Patron thereof, and of the Ordinary of the Diocese in which such Lands, Tenements or Hereditaments shall lie and be situate: Provided also, that all Costs, Charges, and Expences attending the making and completing any Exchanges and Partitions, shall be paid and borne by the several Persons making such Exchanges and Partitions, in such Manner and in such Proportions as the said Commissioners shall by their said Award order and direct.

XXIX. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, upon the Application in Writing of any Proprietor or Proprietors of Messuages, Lands, Tenements or Hereditaments situate within the said Parish of *Westward*, or to be exchanged by virtue of this Act, now holden and occupied by virtue of any Lease or Agreement at Rack Rent for any Term or Number of Years unexpired, to annul and make void such Lease or Agreement, so far as the same may affect any Allotment to be made of the said Commons and Waste Grounds hereby directed to be inclosed, or any Part thereof, or the Lands, Tenements or Hereditaments to be exchanged by virtue of this Act, or any Part thereof, (but no further or otherwise); and by their Award, to order and direct from what Time the Term or Terms therein shall cease and determine; the respective Proprietors of the said Messuages, Lands, Tenements or Hereditaments making such Satisfaction to their respective Lessees as the said Commissioners shall think just and reasonable, and by their Award direct to be paid to them respectively, as a Compensation for such Leases or Agreements: Provided always, that when any Land to be taken in Exchange, and which shall be under Lease, shall be wholly situate in any adjoining Parish, the Lease of such last-mentioned Land shall not be annulled or made void.

Commis-  
sioners  
authorized to  
determine  
Leases of  
Allotments.

XXX. And whereas there are within and Parcel of the said Manor, Lordship or Forest of *Westward*, divers Customary or Tenant-right Messuages, Lands, Tenements, Hereditaments and Premises, holden of the said Earl of *Egremont*, Lord of the said Manor, Lordship or Forest, as Customary or Tenant-right Estates of Inheritance, under and subject to several yearly customary Rents and reasonable arbitrary Fines at the Will of the Lord of the said Manor, Lordship or Forest, according to the Custom thereof, payable on the Death of the Lord, and Death or Alienation of each Customary Tenant, and under and subject to other Dues, Duties, Customs, Payments and Services; be it therefore further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required, as soon as conveniently may be after the Time herein-after mentioned of Option of purchasing by Money the Enfranchisements hereby authorized shall have expired, but not before, and as to such Customary or Tenant-right Messuages, Lands, Tenements, Here-

Power to  
enfranchise  
Customary  
Tenements.

[*Loc. & Per.*]

11 U

ditaments

ditaments and Premises only, the Option of purchasing whereof by Money shall not have been made by the Owners thereof respectively, at the First or Second Meeting of the said Commissioners, to set out, allot and award to the said Earl of *Egremont*, his Heirs or Assigns, as Lords of the said Manor, Lordship, or Forest of *Westward*, so much of the said Commons and Waste Grounds as shall in the Judgement of the said Commissioners be equal to Eight Years Value of the said Customary Messuages, Lands, Tenements and Hereditaments, with the Rights of Common now appurtenant or appendant thereto respectively; and which said Allotment or Allotments shall be in Lieu of and in Exchange for the Enfranchisement, (except as is herein-after excepted and reserved,) of those of the said Customary or Tenant-right Messuages, Lands, Tenements, Hereditaments and Premises, for enfranchising of which by Money the Owners shall not have made an Election within the Time herein-after limited; and for the releasing and discharging of the same Tenements and Hereditaments, for ever thereafter, from all Fines which would otherwise become due and payable for and in respect of the said Tenements and Hereditaments; so as that the said Premises may for ever thereafter remain and continue enfranchised and Freehold, and may be absolutely freed and discharged of and from all Fines, Customary Tenures and Services whatsoever, (except as aforesaid): Saving always and excepting, and for ever reserving unto the said Earl of *Egremont*, his Heirs and Assigns, Lords of the said Manor, Lordship or Forest of *Westward* for the Time being, the several ancient yearly, customary Rents, to be for ever thereafter paid as free Rents, and to be issuing and payable out of the said Customary Messuages, Lands, Tenements, and Hereditaments respectively, and every Part thereof respectively, at such Times, and in such Manner as the same are now due and accustomed to be paid, and all Powers and Remedies now vested in the said Earl for recovering the same, and compelling the Payment thereof; and also the several ancient and accustomed Payments, called House Dues and Greenhue, and all such ancient, yearly, or other Dues, Duties, Rents and Payments, as have been heretofore paid, or due and payable, for or in respect of the said Customary Messuages, Lands, Tenements, and Hereditaments respectively, at such Times, and in such Manner as the same are now due and accustomed to be paid, (except the said Fines hereby intended to be extinguished); and saving also and excepting, and for ever reserving unto the said Earl of *Egremont*, his Heirs and Assigns, Lords as aforesaid for the Time being, all Mines and Seams of Coal and Lead, and other Mines and Minerals whatsoever, and all Quarries of Marble, Stone and Slate, as well opened as unopened, or which shall or may at any Time or Times hereafter be, or be opened or found in, under, or upon the said Customary Messuages, Lands, Tenements and Hereditaments, or any Part thereof, with full and free Liberty and Power for the said Earl, his Heirs and Assigns, and for his and their Workmen, Servants, Agents, and all others to be appointed by him or them, from Time to Time, and at all Times hereafter at his and their Will and Pleasure, to search and dig for, and win and work the same; and the Coals, Lead, Ore, Minerals, Stones and Slate, found or got in, under, or upon the said Customary Messuages, Lands, Tenements and Hereditaments, or any Part thereof, and also the Earth and Rubbish there dug up or raised, to steath, bank, and keep in and upon the said Customary Messuages, Lands, Tenements and Hereditaments, or any Part thereof, and from thence at his and their Will and Pleasure, and with Horses, Mares, Geldings, Oxen  
 and

and other Cattle, Carts, Waggon, Sledges or other Carriages, to take, lead and carry away the said Coals, Lead, Ore, Minerals, Stones and Slate, and other Produce of such Mines, Minerals and Quarries, in, through and over any convenient and proper Part of the said Customary Messuages, Lands, Tenements and Hereditaments; and for the better working and winning the same, to erect Fire Engines, or other Engines, Steaths, Smelting Houses, or any other Buildings, in or upon the said Customary Messuages, Lands, Tenements or Hereditaments, or any Part thereof, necessary or proper for working the said Mines, or to employ any other Means now in use, or which shall or may at any Time hereafter be in use, for the working or winning, or carrying away the said Coals, Lead or Minerals, Stones or Slate, and to do every other Matter or Thing for the Purposes aforesaid; and also to make or lay down and continue any Waggon-ways, or other Ways, Sides, Bye-ways or Branches, and to make any Drains, Cuts or Sluices, and to make and erect Batteries and Mounts, and to do every other Act that may be proper or necessary for the making or continuing the said Ways, Branches, Mounts and Batteries in, through, over and along any proper and convenient Part of the said Premises, for the more commodious winning, leading and carrying away the said Coals, Lead or Minerals, Stones and Slate, there or elsewhere to be dug, raised or gotten, or any Part thereof; he the said Earl, his Heirs or Assigns, paying a reasonable Compensation for the Damages which may be sustained by the respective Owners, Occupiers or Tenants of the said Premises for the Time being, on account or by reason of exercising all or any of the Liberties or Privileges aforesaid; and saving also and excepting and for ever reserving unto the said Earl of Egremont, his Heirs and Assigns, all Suits of Court to be from Time to Time done and performed for and in respect of the said Customary Messuages, Lands, Tenements and Hereditaments or any Part thereof by the Tenants or Holders thereof for the Time being at the Courts of the said Earl, his Heirs and Assigns, to be holden for the said Manor, Lordship or Forest, and also all Waifs, Estrays, Deodands, Treasure-trove, Goods and Chattels of Felons, Felons of themselves, Fugitives and Persons outlawed and put in exigent, Wrecks of the Sea, Jetfams and Floatfams, of what Nature or Kind soever, which shall hereafter happen or become forfeited, found or taken, in or upon the said Customary Messuages, Lands, Tenements and Hereditaments, or any Part thereof; and all such ancient Piscaries and Fishings, and other Royalties, Liberties, Privileges and Franchises as heretofore or of late have been used, exercised or enjoyed by the former Lords of the said Manor, Lordship or Forest, or any of them; and also free Liberty of hunting, hawking, fishing, and fowling for the said Earl, his Heirs and Assigns, Lords of the said Manor, Lordship or Forest for the Time being; his and their Game-keepers and Servants, and all others to be duly licenced by him or them respectively, in, over, and upon the said Customary Messuages, Lands, Tenements and Hereditaments, and every Part and Parcel thereof; and all other the Manorial Rights of Seigniorie whatsoever, (other than such as are hereby enfranchised or intended so to be,) in as full and ample a Manner as if such Enfranchisement or Enfranchisements or this Act had never been made: And likewise saving, excepting and for ever reserving upon every Death or Alienation of every Tenant of the said Customary Messuages, Lands, Tenements and Hereditaments or any Part thereof, the several Customary Fees herein-after mentioned to be paid to the Steward and Bailiff of the said Manor, Lordship or Forest for the

Time being respectively; (that is to say), the several Sums of One Shilling to the Steward, and Four-pence to the Bailiff of the said Manor, Lordship or Forest for the Time being respectively, for the Inrolment of every new Tenant of the said Customary Messuages, Lands, Tenements, Hereditaments and Premises, or any Part thereof: Provided, that the said Allotment or Allotments to be made to the said Earl of *Egremont*, as Lord of the said Manor, Lordship or Forest as aforesaid, on account of the said Enfranchisements, shall be taken out of and deducted from the several Shares or Allotments which the respective Owners of the said Customary Messuages, Lands, Tenements, Hereditaments, and Premises so to be enfranchised would be entitled to, in a due and fair Proportion, so as that each Person's Allotment shall be less and abate in the Proportion before mentioned, in order to make up the several Allotments to the said Earl of *Egremont*, his Heirs and Assigns as aforesaid; and which said several Allotments to be made to him and them, shall be laid together in One Plot or Parcel of Land, or contiguous to the other Allotments of the said Earl, and shall be allotted accordingly by the General Award of the said Commissioners.

Power to Tenants to enfranchise by Money.

XXXI. Provided also, and it is hereby further enacted, That such of the Owners of the said Customary or Tenant-right Messuages, Lands, Tenements and Hereditaments, as shall by Notice in Writing under their respective Hands, to be delivered to the said Commissioners, at their First or Second Meeting, declare their Election to that Effect, shall be entitled to have their respective Customary Messuages, Lands and Tenements enfranchised, released and discharged as herein-before mentioned, (save and except as is herein-before saved, excepted and reserved,) upon Payment severally and respectively by them or their Heirs of such Sum and Sums in Money, (instead of by Portions of the said Commons or Waste Grounds,) as shall be equal to Eight Years Value of the several and respective Customary or Tenant-right Messuages, Lands, Tenements and Hereditaments of the Owners who shall so elect to purchase the Enfranchisement thereof by Money as aforesaid, and of the Rights of Common which are at the passing of this Act appurtenant or appendant thereto respectively; such Value to be ascertained and fixed by the said Commissioners, and such several and respective Sums of Money to be paid by the said Owners of such Customary or Tenant-right Messuages, Lands, Tenements, Hereditaments and Premises to the said Earl of *Egremont*, his Heirs and Assigns, on the Day to be appointed as herein-after mentioned for that Purpose: Saving nevertheless, unto the said Earl of *Egremont*, his Heirs and Assigns, and the future Lords of the said Manor, Lordship or Forest, all his and their Right and Title to all Fines, Payments and Services, which have already accrued and become due, and which shall or may accrue or become due, for or in respect of the said Customary or Tenant-right Messuages, Lands, Tenements and Hereditaments, or any of them, at any Time or Times before any Allotment or Allotments, in respect of such Enfranchisements, shall be set out by the said Commissioners, or before such Sum or Sums of Money as herein-before mentioned shall have been paid by the several and respective Persons liable to pay the same to the said Earl, his Heirs or Assigns, and such Enfranchisements made: Provided also, that in case any Allotment or Allotments of the said Commons and Waste Grounds to be set out by the said Commissioners, in respect of any such Customary Messuages, Lands, Tenements and Hereditaments,

ditaments, (except as aforesaid), shall not in the Judgement of the said Commissioners be equal in Value to Eight Years Purchase of such Customary Messuages, Lands, Tenements and Hereditaments as aforesaid, and the Rights of Common now appurtenant thereto; or in case any Person or Persons shall refuse or neglect to pay, and shall not tender or offer to pay such Sum or Sums of Money as shall be ascertained by the said Commissioners to be the Price or Prices of his, her or their respective Enfranchisement or Enfranchisements, in the Manner and at the Time herein-after mentioned, then and in every such Case, the several and respective Messuages, Lands, Tenements, Hereditaments and Premises, to which such insufficient Allotment or Allotments shall belong, or for which such Sum or Sums of Money ought to be paid, but shall not be paid as aforesaid, and also all and every Allotment and Allotments of the said Commons and Waste Grounds hereby directed to be divided and inclosed, to be made in respect thereof, shall continue, remain, and be Customary or Tenant-right Estates of Inheritance, to be holden and subject to the same Tenure, Rents, Fines, Payments, Dues, Duties, Suits, Customs, Services, and Burthens of every Description, as the said Customary or Tenant-right Messuages, Lands, Tenements, Hereditaments and Premises were subject to, before the passing of this Act, and in as full and ample Manner as if this Act had not been made: Provided always, that all Costs, Charges and Expences attending the making and completing such Valuations and Enfranchisements as aforesaid, shall be paid and borne by the several Persons to whom such Enfranchisement shall be made and granted, in such Proportions and in such Manner, and at such Time or Times as the said Commissioners shall, by Writing under their Hands, order and direct, and shall be levied or recovered in the same Manner as by the said recited Act any Penalties or Forfeitures are authorized to be levied or recovered.

XXXII. And for better carrying into Execution the said intended Enfranchisements, it is hereby enacted, That the said Commissioners shall, and they are hereby authorized and required, after they shall have valued the said Customary Messuages, Lands and Tenements, for the Purpose of Enfranchisement as aforesaid, and within not less than Four nor longer than Six Calendar Months after such respective Valuations shall have been made, and the Amount thereof shall have been signified in Writing to the respective Owners, who shall have elected to purchase their Enfranchisements in Money as aforesaid, or to their Agents, (by Notice in Writing, to be left at the Dwelling House of each such Customary Tenant or his Agent,) to hold a special Meeting, at which the said Customary Tenants, who shall have so elected to purchase their Enfranchisements by Money, shall and they are hereby required, by themselves or their Agents in that Behalf, to attend, and then and there to pay to the Steward or Commissioner of the said Earl, his Heirs or Assigns, (who is also hereby required to attend,) the several and respective Consideration Monies, to be ascertained as aforesaid, for their respective Enfranchisements; and the said Steward or Commissioner is hereby required at the said Meeting, on Receipt of such Consideration Monies, or within Three Calendar Months thereafter, to deliver to each such Customary Tenant or Owner an Indenture or Deed of Enfranchisement, duly executed by the said Earl of Egremont, his Heirs or Assigns, Lord or Lords of the said Manor, Lordship or Forest, whereby their several Lands, Tenements, Hereditaments and Premises shall from such Time of the actual Payment of the said re-

Special Meeting for completing Enfranchisements.

spective Consideration Monies be severally released from all Fines and Customary Tenures, (save and except as is herein-before particularly mentioned, excepted and reserved); and each such Customary Tenant, before the actual Delivery to him of such original Deed of Enfranchisement, shall seal and deliver to the said Earl, his Heirs and Assigns, a Counterpart of the said Deed of Enfranchisement; which said Deeds and Counterparts shall be prepared and executed at the proper Costs and Charges of the respective Customary Tenants; provided also, that in case the said Steward or Commissioner shall not attend the said Meeting, or being present shall refuse to receive the said Consideration Monies, then and in such Case the said several Customary Tenants, who shall have made their Election to enfranchise by Money as aforesaid, shall pay their said Consideration Monies to the said Commissioners, who are hereby required to receive the same, and pay the same to the said Earl, or his Steward or Commissioner, on receiving such Deeds of Enfranchisement executed as aforesaid; and on such Payment to the said Commissioners as last aforesaid, and on executing by such Customary Tenants respectively of the Counterparts of such Deeds of Enfranchisements, the said Customary Messuages, Lands, Tenements and Hereditaments respectively, for which the said Consideration Money shall have been so paid, shall be enfranchised and converted into Freehold, in Manner and subject to the Exceptions and Reservations herein-before contained.

Power to  
Owners to  
purchase  
Woods on  
their Estates.

XXXIII. And be it further enacted, That such of the Owners of the said Customary Messuages, Lands, Tenements and Hereditaments within the said Manor, Lordship or Forest of *Westward*, as shall within Two Calendar Months next after the passing of this Act, by themselves or their Agents, signify in Writing to the said Commissioners their Intention of purchasing the Timber Trees and other Woods and Underwoods now growing, and which shall hereafter grow upon their respective Customary Messuages, Lands, Tenements and Hereditaments, or any Part thereof, shall have the Option or Privilege of purchasing the said Timber Trees, Woods and Underwoods, at the respective Sums of Money which such One of Three skilful and indifferent Persons (to be nominated in Writing by the said Commissioners, to the said Earl of *Egremont*, his Heirs or Assigns, or his or their Steward or Commissioner) as the said Earl, his Heirs or Assigns, or his or their Steward or Commissioner, shall in Writing within One Calendar Month next after such Nomination appoint, shall by Valuation, under the Hand of such skilful and indifferent Person adjudge the said Timber Trees, Woods and Underwoods to be worth; so as such Valuation be made and delivered (at the Expence of such Owners respectively, having accepted the said Option or Privilege) to the said Earl of *Egremont*, his Heirs or Assigns, or his or their Steward or Commissioner, and to the said Owners respectively, within Three Calendar Months from the passing of this Act; but in case the said Valuation shall not be so made or delivered within the said Three Calendar Months, or in case the Price of the said Timber Trees, Woods and Underwoods, shall not be fully and wholly paid to the said Earl of *Egremont*, his Heirs or Assigns, or his or their Steward or Commissioner, within Six Calendar Months from the Time of such Valuation being made, then, and in such case the said Earl of *Egremont*, his Heirs and Assigns and Vendees, and his and their Servants and Workmen, with Horses, Carts, Waggon, Carriages and Utensils, shall, from Time to Time, and at all Times thereafter, and at his and their Will and Pleasure, have Liberty of Ingress, Egress

and Regress, and Entry into, from, and upon the said Customary Messuages, Lands, Tenements and Hereditaments, and every or any of them, or any Part thereof, where the said Timber Trees, Woods and Underwoods are now or shall, or may be hereafter growing, by the most usual, or such other convenient Roads or Ways as he or they shall or may think proper, and to cut down and convert the said Woods, Underwoods, Timber and Trees, and the Wood, Bark, Charcoal and Produce thereof, and to store, keep and lay up the same, on the said Customary Lands, Tenements and Hereditaments, or any Part thereof, and from thence at his and their Will and Pleasure to take, remove, sell, dispose of, and carry away the same, any Thing herein contained to the contrary notwithstanding: Provided always, that in case the said Earl of *Egremont*, or any future Lord for the Time being of the said Manor, Lordship, or Forest, shall not at the Time of making such Enfranchisements as are herein-before authorized or mentioned, be seised of an Estate of Inheritance in Fee Simple of and in the said Manor, Lordship or Forest, or in case the said Earl, or any future Lord for the Time being of the said Manor, Lordship or Forest, shall not at the Time of Completion of such Sale and Purchase as are herein-before authorized or mentioned, of the said Timber and Woods, be seised of an Estate for Life without Impeachment of Waste, or of some greater Estate of and in the said Manor, Lordship, or Forest; then and in each of the said Cases respectively the Monies to be received for the said Enfranchisements, and for the Price of the said Timber and Woods, shall respectively be laid out and disposed of in Manner as by the said recited Act is directed 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.

XXXIV. And be it further enacted, That all Tithes, Moduses, Prescriptions and Compositions for Tithes, and all other Ecclesiastical Dues and Payments whatsoever, (Mortuaries, *Easter Offerings* and Surplice Fees only excepted,) as well for or in respect of the several old Inclosures, and other the ancient Messuages, Lands and Tenements within the said Parish of *Westward*, as also for or in respect of the said Commons and Waste Grounds hereby directed to be divided and inclosed, shall, at the End of Six Calendar Months next after the several Allotments to be made in Lieu of such Tithes, Moduses, Prescriptions, Compositions and other Ecclesiastical Dues and Payments, shall have been set out and ring-fenced as herein-before directed, cease and be for ever extinguished and be no longer paid and payable.

When Tithes shall cease.

XXXV. And be it further enacted, That the said Commissioners shall and may scour out and widen all such Brooks, Streams, Ditches, Water-courses, Tunnels and Bridges within the said Parish of *Westward*, and also shall and may set out, order and direct such new Ditches, Drains, Water-courses, Tunnels, Watergates, Banks and Bridges to be made, of such Depth and Breadth, and in such Situation and Direction, as they the said Commissioners shall think proper; as well in, through, over and upon the Commons and Waste Grounds hereby directed to be divided and inclosed as aforesaid, as also in, through, and over any ancient Inclosures, or other Lands and Grounds within the said Parish or any Part or Parts thereof, (making such Satisfaction to the Owners, Lessees, or Tenants of such

Commissioners to scour out Brooks, make Ditches, &c.

such ancient Inclosures or other Lands or Grounds for the Damage done thereby, as they shall judge reasonable); and the said Commissioners shall and may, and they are hereby authorized and required, in and by their General Award, to order and direct by whom and at whose Expence, and at what Times and in what Manner the said Brooks, Ditches, Drains, Watercourses, Tunnels, Watergates, Banks and Bridges shall be thereafter repaired, cleansed, scoured, and maintained: Provided always, that no such Brook or Stream shall be diverted or turned without the Consent in Writing of the Owner or Owners of the ancient inclosed Lands and Grounds from which any such Brook or Stream shall be diverted, or into which any such Brook or Stream shall be turned.

Turf not to be dug.

XXXVI. And be it further enacted, That from and immediately after the passing of this Act, no Person or Persons whatsoever shall pare, dig, or take away any Sods, Turves or Flacks, or any Part of the Soil or Surface in, upon, off, or from the said Commons and Waste Grounds or any Part thereof, so long as the same shall lay open and uninclosed, (except the said Earl of *Egremont*, his Heirs and Assigns, or his or their Lessees or Tenants, in the Exercise of the Liberties and Privileges hereinbefore mentioned and reserved, and the several Parties entitled thereto, in the Use and Enjoyment of the public and common Quarries and Places for getting Gravel, to be set out under the Authorities and Directions of this Act,) or make or burn any Mound or Mounds of Earth or Soil, or mix any Earth or Soil with Lime or other Thing upon the said Commons and Waste Grounds, or any Part thereof; until the said Commissioners shall have divided and set out the same, without the Licence of the said Commissioners, in Writing under their Hands first had and obtained, under a Penalty not exceeding Forty Shillings for every such Offence; the same Penalty to be recovered and levied by the said Commissioners in the same Manner as any Assessments, Penalties or Forfeitures are by this Act or the said recited Act directed to be recovered and levied, and the Money arising therefrom to be applied in defraying the Expences of carrying this Act into Execution.

Owners may dispose of their Allotments prior to the Award.

XXXVII. And be it further enacted, That it shall and may be lawful to and for any Person or Persons who shall or may be entitled to any Allotment or Allotments, in or upon the said Commons or Waste Grounds by virtue of this Act; or who shall be Owners or Proprietors of any Common Right or other Right upon the said Commons or Waste Grounds, to give, grant, bargain, sell, demise, mortgage, limit, convey or dispose of the same, for all or any Part of his or their Estate or Interest therein or Right thereto, (but no further or otherwise), either separate and distinct from or along with any Estate, in Right of which he, she, or they is or are, or shall be entitled to the same, at any Time before the Execution of the Award of the said Commissioners; and every such Gift, Grant, Bargain, Sale, Demise, Mortgage, Limitation, Conveyance and Disposition thereof, shall be of the same Force and Validity as if the same were made after the Execution of the said Award; and it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required, to award each such Allotment so sold or disposed of, or set out in lieu of any Common Right or other Right so sold or disposed of, on its being satisfactorily proved to them that such Sale or Disposition shall have been really and *bonâ fide* made, and completed to the Purchaser or Purchasers thereof, or other Person or Persons entitled to the same, by virtue



virtue of any such Sale or Disposition; and if any Person or Persons shall, at any Time before the Execution of the said Award, have sold or agreed to sell his, her or their Right, Interest or Property, in, over, or upon the said Commons and Waste Grounds to any other Person or Persons, the said Commissioners are hereby authorized and required to make an Allotment or Allotments of Land unto the Purchaser, under every such Sale or Agreement, or to his, her, or their Heirs or Assigns, as convenient to any other Allotment or Estate of such Purchaser as reasonably may be, for or in respect of such Right, Interest or Property so sold or agreed to be sold as aforesaid; and every such Purchaser, or his or her Heirs or Assigns, shall and may from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him, her, or them as aforesaid, in the same Manner, and for the same (but for no further or other) Estate or Interest, to all Intents and Purposes, as the Vendor in every such Sale or Agreement might or could have held and enjoyed the same, in case such Sale or Agreement had not been made.

XXXVIII. Provided always, and be it further enacted, That nothing in this Act contained shall be construed or adjudged to defeat, lessen or prejudice the Right, Title, or Interest of the said Earl of *Egremont*, his Heirs and Assigns, Lords of the said Manor, Forest or Lordship for the Time being, of, in, or to the Seigniories or Royalties, Franchises and Liberties of or belonging to the said Manor, Lordship or Forest; but the said Earl, his Heirs and Assigns, shall at all Times for ever hereafter, have, hold, take and enjoy all Rents, Fines, Payments, Suits and Services to or at the Lord's Courts, Perquisites and Profits of Courts, and Suits and Services to the Lord's Mill, Piscaries, Fishings, Huntings, Hawkings and Fowlings, Free Chase and Free Warren, Goods and Chattels of Felons and Fugitives, Felons of themselves and put in exigent, Deodands, Treasure-trove, Waifs, Estrays, Forfeitures, Escheats, Fairs, Markets, Tolls, Customs, Stallages, Dues, Duties and all other Rights, Royalties, Liberties, Privileges, Franchises, Pre-eminences, Jurisdictions and Appurtenances whatsoever, (except such as are expressly taken away by this Act), in the same and as full ample and beneficial Manner to all Intents and Purposes, as they are now held, taken or enjoyed, or have been anciently or heretofore used, exercised or enjoyed, by the present or any former Lord or Lords of the said Manor, Lordship or Forest, or as he, she, or they, or any of them might or could have had, held, used, exercised, received, taken or enjoyed the same, in case this Act or the said recited Act had not been made; and that, notwithstanding the Division and Inclosure hereby authorized to be made, the said Earl of *Egremont*, his Heirs and Assigns, shall for ever hereafter be deemed and taken to be Owner or Owners, and entitled to all the Mines of Coal, Lead, Copper, Tin, Iron and all other Mines, Minerals, Ores, Stones, Clay, Fossils and Quarries, of what Nature or Kind soever, within and under the said Commons and Waste Grounds, and every Part thereof, intended to be divided and inclosed as aforesaid, as well those not opened as those already opened, (except the said Clay, Sand and Gravel, and Stone Quarries to be set out for the Purposes aforesaid); and shall have full Power and Authority to use and exercise all convenient Ways, Way-leaves and Liberties of laying, making and repairing Waggon-ways and other Ways, in, over, and along the said Commons and Waste Grounds, and the several Allotments thereof, and of searching for, winning, and working the said Mines, Minerals and Quarries, and leading and carrying away the Coals, Lead,

Not to prejudice the Lord's Rights

[*Loc. & Per.*]

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Tin,

Tin, Copper, Iron, or other Ore, Metals, Mines, or Minerals, Stones, Slates, Clay, and Fossils to be gotten therein or thereout respectively, and of making Pits, Shafts, Pit Rooms, Heap Rooms, Drifts, Levels and Watercourses, and erecting and using Fire Engines and other Engines, and all other Matters and Things now in use, or hereafter to be invented for the Purposes aforesaid, or any of them, in, upon, through, over or along the said Commons and Waste Grounds, and the respective Allotments thereof, and all other Powers, Privileges, and Authorities to do or execute any necessary Acts or Things for all or any of the Purposes aforesaid, in and over the same, in such and the like Manner as if this Act had not been made.

Satisfaction  
for Damages.

XXXIX. And be it further enacted, That if at any Time after the said Division and Inclosure shall have been made, the said Earl of *Egremont*, his Heirs or Assigns, or his or their Lessees, Farmers or Tenants, Servants or Workmen respectively, shall enter upon or make Use of any Allotment or Allotments of the said Commons and Waste Grounds hereby directed to be divided and inclosed, for the Purposes of winning or getting the said Coal, Lead, Tin, Copper, Metals, Ores, Mines, or Minerals, Stones, Slates, Clay, or Fossils, or other Royalties, or for laying or storing the same when got, or the Rubbish, or other Produce of the said Mines or Works, or for erecting Fire Engines or other Engines and Buildings, or for making, laying, or continuing any Waggon-ways or other Ways or Roads, or any other Works above Ground for the Purposes aforesaid, or for using or exercising any Power or Authority above Ground hereby given, saved, and reserved to him and them, in or about working, winning, digging, raising, or carrying away the said Coal, Lead, Tin, Copper, Metals, Ores, Mines, or Minerals, Stones, Clay, or Fossils, or otherwise relative thereto, the said Earl, his Heirs or Assigns, or his or their Lessees or Tenants respectively, shall make reasonable Satisfaction for any Damage or Injury which shall or may be done in the working, winning, digging, raising, or carrying away the said Coal, Lead, Tin, Copper, Metals, Ores, Mines, or Minerals, Stones, Slates, Clay, or Fossils, to the Person or Persons, Body or Bodies Politick or Corporate, sustaining such Damage or Injury.

Allowing  
Owners of  
Allotments  
to get certain  
Materials for  
their own  
Use.

XL. Provided always, and be it further enacted, That it shall be lawful for the respective Owners of Allotments of the said Commons and Waste Grounds, and of the ancient inclosed Lands, Grounds, and Premises intended to be enfranchised under the Powers and Provisoes herein-before contained, to dig for and get Freestone, Limestone and Clay, in their respective Lands, Grounds, and Allotments, and to apply the same for the Purposes of improving their respective Messuages, Buildings, Walls, Fences, or Lands, within the Parish of *Westward* aforesaid, or of erecting new Buildings, Walls, or Fences thereon, and to make Bricks and Tiles of the said Clay for the Purposes aforesaid, but not to use the said Freestone, Limestone, or Clay elsewhere, or on any other Lands, Tenements, or Hereditaments than within the said Parish, nor to make any Sale, Gift, Exchange, or other Disposition thereof whatsoever than as aforesaid; and so as the taking or raising of such Freestone, Limestone, and Clay for the Purposes aforesaid, do nowise prejudice or hinder the working or carrying on any Coal Mines, Quarries, or other Mines or Works that now are, or hereafter shall be wrought or carried on by the said Earl of *Egremont*, his Heirs or Assigns, Lord or Lords of the said Manor, Lordship, or Forest for the Time being, or his, her, or their Lessees, Servants, or Workmen  
for

for the Time being, in or upon any Lands or Grounds within the said Parish of *Westward*.

XLI. And be it further enacted, That in case any Money shall be advanced or paid by any Person or Persons for defraying any of the Expences of soliciting, applying for, procuring, obtaining, or passing this Act, or in or about the Execution of any of the Powers or Authorities given hereby or by the said recited Act, or the carrying the Division and Inclosure of the said Commons and Waste Grounds into Execution, or in any Manner relative thereto, the said Money shall be repaid, with lawful Interest, out of the first Money to be raised by the said Commissioners in pursuance of this Act.

For paying Interest on Money advanced.

XLII. And be it further enacted, That Once at least in every Year during the Execution of this Act, (such Year to be computed from the Day of the passing thereof,) the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Monies by them received and expended, or due to them for their own Trouble and Expence in the Execution of this or the said recited Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before One of His Majesty's Justices of the Peace for the said County of *Cumberland*, not interested in the said Division and Inclosure, to be by him examined and balanced; and such Balance shall be by such Justice stated in the Book of Accounts to be kept in the Office of the Clerk of 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 Justice.

Commissioners to lay their Accounts before a Justice once every Year.

XLIII. And be it further enacted, That the said Award of the said Commissioners, after the same shall have been inrolled in the Manner in the said recited Act mentioned, shall, together with the Maps and Plans annexed thereto, be deposited at *Cockermouth* Castle, in the said County of *Cumberland*, there to be kept along with the Court Rolls of the said Manor, Lordship, or Forest of *Westward*; and a Copy thereof shall be deposited in the Parish Church of *Westward* aforesaid.

Deposit of Award.

XLIV. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this Act or the said recited Act, (other than and except such Determinations as are by this Act or the said recited Act declared to be final, binding, and conclusive, and except in such Cases where an Issue at Law is herein-before authorized to be tried,) then and in every such Case he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be holden for the said County of *Cumberland*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners, or any One of them, and to the Party or Parties concerned, Fourteen Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices (not interested in the Premises) in such Sessions assembled, are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs and Damages, as to them 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 made liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable

Appeal to the Sessions.

reasonable Charges of such Warrant, Distress, and Sale; and every Order and Determination of the said Justices, upon every such Appeal, shall be final and conclusive to all Parties concerned, and shall not be removed or removable by *Certiorari*; or any 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 or vexatious, or without Foundation, then the said Justices shall and they are hereby required to award such Costs to be paid by the Appellant or Appellants as to them shall seem reasonable, and which Costs shall be levied in Manner aforesaid; provided that the said Justices in their said General Quarter Sessions shall not, by any Order or Orders on any such Appeal, alter, impeach, prejudice, or disturb any Allotment or Allotments which shall have been before sold by the said Commissioners under the Authority of this and the said recited Act, or the Allotment or Allotments of any Person or Persons to whom such Notice of Appeal, as is herein-before mentioned, shall not have been previously given.

General  
Saving.

XLV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Body and Bodies Politick, Corporate or Collegiate, and his, her, and their respective Heirs, Successors, Executors, and Administrators, (other than and except all and every Person and Persons, Bodies Politick, Corporate, or Collegiate, entitled to or claiming Right of Common upon the said Commons and Waste Grounds, or to whom any Allotment or Allotments or other Compensation shall be made by virtue of this Act or the said recited Act, or who shall become entitled to any such Allotments or any Part thereof, or any Estate or Interest therein, or who shall make any Claim or Claims affecting the Boundaries of the said Commons and Waste Grounds, or any Part thereof, or any Claim or Claims of Right of Common, or other Right thereon, which shall be adjudged and determined against him, her, or them as aforesaid, and their respective Heirs, Successors, Executors, Administrators, and Assigns, and all Persons and Bodies Politick, Corporate, or Collegiate, interested in such Property by Way of Reversion, Remainder, or Contingency, and all Persons claiming or to claim by, from, through, or under them, or any of them, their or any of their respective Heirs, Successors, Executors, Administrators, or Assigns, and all Persons, Bodies Politick, Corporate, or Collegiate, required by this Act or the said recited Act to make, but neglecting or omitting to make their respective Claims according to the Provisions thereof,) all such Right, Estate, Title, and Interest, as they, every, or any of them could or ought to have had and enjoyed, of, in, to, or in respect of the Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been passed.

Act to be  
printed by  
the King's  
Printer.

XLVI. 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.