

same, and as such Vicar, is or claims to be entitled to certain Great and Small Tithes, and other Ecclesiastical Dues within the same Parish: And whereas Sir *Wastel Brisco* Baronet, *Richard Matthews* Clerk, *John Westmorland* Esquire, *John Dand* Gentleman, and divers other Persons, also are or claim to be severally entitled to certain Great and Small Tithes, or to certain Moduses or prescriptive Payments in lieu thereof, within the same Parish: And whereas the said Sir *Wastel Brisco*, *Richard Matthews*, *John Westmorland*, *John Dand*, 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 several Proprietors, according to their respective Rights and Interests therein; and if the said Commons and Waste Grounds, and all other Lands within the said several Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton*, were exonerated from the Payment of all Tithes whatsoever; but such 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 Facts usually required on the passing 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 Nicholson* of *Egremant*, *John Norman* of *Kirkandrews upon Eden*, and *Richard Atkinson* of *Bassenthwaite*, 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 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.

Appointment
of Commis-
sioners.

Power of
choosing new
Commis-
sioners.

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 and 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 and 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 Nicholson*, or any future Commissioner to be

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 Barony 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 Nicholson*, or of any future Commissioner to be appointed in his Stead as aforesaid; and in case the said *John Norman*, or any future Commissioner to be appointed in his Stead, shall die, or shall 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 several Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton*, 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 Barony 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 *John Norman* and his Successors respectively, from Time to Time as Occasion may require; and in case the said *Richard Atkinson*, or any future Commissioner to be appointed in his Stead, shall die, or shall neglect, refuse, decline, or become incapable to act for the Space of Forty Days as aforesaid, the said Sir *Frederick Fletcher Vane*, his Heirs and Assigns, shall and may by Writing under his or their Hand or 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 such new Commissioner or Commissioners shall not be appointed by the Party or Parties herein before respectively authorized to make such Appointment, within Sixty Days after the happening of any such Vacancy as aforesaid, and Notice thereof by the then surviving and acting Commissioners or Commissioner, 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 their or his Hands or Hand, at any Meeting of such surviving 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 in Time, 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 the said Commissioners shall have Power, and they are hereby authorized, to appoint some fit and proper Person or Persons to be Surveyors and Assistants to such Surveyors, for the Purposes of the said intended Division and Inclosure, and from Time

Appointment of Surveyors and Assistants

to Time to displace and remove any such Person or Persons so to be appointed, and to appoint any other Person or Persons in his or their Room; and to make such Surveyor or Surveyors, Assistant or Assistants, such Recompence for his and their Labour, Skill, and incidental Expences, as to the said Commissioners shall appear just and reasonable.

Allowance to Commissioners and their 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 the Execution of this or the said recited Act; and that as well the Commissioners and their Clerk, as also all Proprietors and other Persons whosoever, shall pay 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 continuè 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 that all Meetings of the said Commissioners shall be holden within the said Parish of *Wigton*, 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, 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 by Adjournment) of the said Commissioners, and of the Perambulation of the said 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 given by affixing the said Notices respectively, on some *Sunday* in the Forenoon, before or during Divine Service, on the Principal Door of the said Parish Church of *Wigton* 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 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 several Townships, Districts, or Quarters of *Wigton, Woodside, and Waverton*, 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 of the Award of the said Commissioners, arise between any Person or Persons, touching or concerning the Boundaries of the said Townships, Districts, or Quarters of *Wigton, Woodside, and Waverton*, 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 them, 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 any Determination of any Claim or Claims, Objection or Objections, to award any Costs, it shall be lawful for the said Commissioners, 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 such Manner as by the said recited Act any Penalties are authorized to be levied or recovered.

Commissioners to settle Disputes,

and 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 Townships, Districts, or Quarters of *Wigton, Woodside, and Waverton*, in the said Barony of *Wigton*, or of any adjoining Manor, Lordship, Forest, Parish, Barony, Township, District, Quarter, Hamlet, or Place, or touching or concerning any Right of Common, or other Right or Interest in, over, and upon the Commons

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

mons and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any Part or Parts thereof; 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 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 or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept one or more Issue or Issues, whereby such Claim, 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 the 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 being so objected to, and the Party or Parties objecting not causing such Action or Actions at Law to be brought and proceeded in as aforesaid, 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 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

Death of Parties not to stay Proceedings.

Provision in case of Parties

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, and to serve the Clerk of the said Commissioners with Procefs 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 the 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.

dying before
Actions
brought.

XI. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine the Right between any Parties, contrary to the Possession of any such Parties (except in Cases of Encroachments made within Thirty 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 deter-
mined by
Commission-
ers.

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 Consequences shall or may extend to the common and general Interest 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 Right 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, would 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; and in such Proportions, Manner, and Form as they the said Commissioners shall, by Writing under their Hands,

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

direct

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 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.

Power to stop
up old Roads.

XIII. And be it further enacted, That it shall be lawful for the said Commissioners to stop up any old or accustomed Roads passing or leading through any Part of the old Inclosures, in the said several Townships, Districts, or Quarters of *Wigton, Woodside, and Waverton*; 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, and Restrictions contained in, and in the Manner directed by the said recited Act.

Encroach-
ments to be
deemed Part
of the
Common.

XIV. 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 Thirty 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 Possession of such Encroachments, or in Receipt of the Rents or Profits thereof, in lieu of the Whole, if sufficient for that Purpose, or if not, then in Part of the Share or Allotment of the said Commons or Waste Grounds to which such Persons shall be respectively 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, and without considering the Value of any Erections or Buildings thereon; and if the Person or Persons who shall be in Possession of such Encroachments respectively, or in the Receipt of the Rents and Profits thereof, shall be entitled to no Allotment, or to an Allotment not equal to the Value of such respective Encroachments, but shall be willing to purchase the same, then the said Commissioners shall ascertain the Price thereof, or of such Part thereof as shall exceed the Value of the Allotment to be made to such Possessor or Possessors thereof, in respect of his or their other Property; in ascertaining 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 or their respective Heirs and assigns, in Fee Simple; and the said Commissioners shall apply the Purchase Money to and thereby, as Part of the Monies to be raised for
detraying

defraying the general Expences of this Act; and if any Surplus Money shall remain, such Surplus shall be divided and apportioned between the several Proprietors and Persons interested in the said Commons and Waste Grounds, in such Manner and Proportions as is herein-after directed concerning the Surplus to arise from the Sale of such Part of the said Commons and Waste Grounds as shall be sold for the Purposes of this Act; provided that if the Person or Persons who shall be in Possession of or entitled to the Rents and Profits of such Encroachment or Encroachments, shall not be willing to purchase the same, or so much thereof as shall be offered for Sale as aforesaid, on the Terms aforesaid, then the said Commissioners shall allot the Part thereof which was so to be sold to some other Person or Persons, as Part of his, her, or their Allotment or Allotments, as to the said Commissioners shall seem proper; or the said Commissioners shall and may sell the same, in such Manner, and under such Regulations as they are authorized to sell any Part or Parts of the said Commons and Waste Grounds for defraying such 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 before 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 or Parcel of the said Commons or Waste Grounds, 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 of any Matter of Title to the said Encroachments.

XV. And be it further enacted, That the said Commissioners shall, after setting out the publick Roads and Highways in Manner directed by the said recited Act, 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, Clay and Gravel 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 said 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 Townships, Districts, or Quarters of *Wigton, Woodside, and Waverton*, and by the Owners of Lands, Tenements, and Hereditaments within the said Townships, Districts, or Quarters of *Wigton, Woodside, and Waverton*, and their Tenants and Lessees for the Time being, and within the said several Townships, Districts, or Quarters only, but not to be elsewhere or otherwise disposed of.

Allotment for
publick
Quarries, &c.

XVI. 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, not exceeding Twenty Acres in any one Plot, as to them shall seem competent and necessary; and by Sale thereof in Manner by the said recited Act directed, to raise Money sufficient for paying and discharging 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

Land to be
sold to defray
the Expences.

[*Loc. & Per.*]

13 C

employed

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 Fences of the Allotment to be made to the said Sir *Frederick Fletcher Vane* as herein-after mentioned, and of, in, and about the carrying into Execution in all other respects, the Powers and Authorities in this or 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 the 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 Barony of *Wigton* for the Time being, and to his and their Lessees and 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 said 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 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 or appoint; and in case any Person made subject to the Payment of any Money towards such Costs, Charges and Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion thereof, within the Time to be appointed as aforesaid, the same shall and may be levied and recovered in the Manner directed by the said recited Act.

Allotment to
the Lord.

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*, Lord of the said Barony of *Wigton*, 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

Grounds within the said Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton*, and remaining after the Allotments and Appropriations herein-before mentioned, and directed to be made for publick Highways and Quarries, and Places for watering Cattle, and getting Gravel, Sand and Clay, and other the publick Purposes herein-before mentioned, and the Allotment or Allotments to be made to the said *Sir Frederick Fletcher Vane*, or other Persons entitled as herein-after mentioned, in lieu and Satisfaction of all 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 Barony of *Wigton*, in or to the Residue of the said Commons and Waste Grounds, within the said several Townships of *Wigton*, *Woodside*, and *Waverton*, and his Rights over the same, (save and except as herein-after excepted, and hereby reserved to him and them).

XVIII. And be it further enacted, That the said Commissioners shall also set out, allot, and appoint, to and for the said *Frederick Fletcher Vane*, as Impropiator of the said Parish of *Wigton*, and the future Impropiators for the Time being, of the said Parish, in one Plot or Parcel of Land, so much and such Part of the said Commons and Waste Grounds as shall in the Judgement of the said Commissioners be equal to One-tenth Part of the said Commons and Waste Grounds remaining after the setting out of the Publick Highways, Watering-places, Quarries, and Sand, Gravel, and Clay Pits, as and for a full Recompence and Satisfaction for all Tithes, Moduses, Prescriptions, and other Ecclesiastical Dues, which could or might thenceforth arise out of or from the several Allotments of the said Commons and Waste Grounds, within the said several Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton*, to be made to the said Earl of *Egremont*, and the said Proprietors or Persons entitled thereto, and who would have been liable to the Payment of Tithes in respect thereof; provided that all such the Outermost or Ring-fences as shall inclose the said Allotment to be set out unto and for the said *Sir Frederick Fletcher Vane*, and the future Impropiators for the Time being, of the said Parish, in lieu of the Tithes, Prescriptions, Moduses, and Ecclesiastical Dues of the said Commons and Waste Grounds, hereby authorized and directed to be inclosed, (but not of the old Inclosures), and as shall not be liable or directed to be repaired by the Owners of the Lands adjoining thereto, shall by the said Commissioners be first made well and sufficiently, and in such a Manner as the said Commissioners shall direct; the Charges and Expences whereof shall be raised and paid in the same Manner as the Publick Charges and Expences of the said Commons and Waste Grounds are hereby directed to be raised and paid; but that all the said Fences shall, after the first making and erecting thereof, at all Times for ever thereafter, be maintained, repaired, preserved, and kept in good and sufficient Repair, by and at the Expence of the said *Sir Frederick Fletcher Vane*, and the future Impropiators for the Time being, of the said Parish, provided that if any Person or Persons, other than the said *Sir Frederick Fletcher Vane*, shall be lawfully entitled to any Tithes, or Prescriptions in lieu thereof, which do now or might henceforth arise from any Part or Parts of the said Commons and Waste Grounds, then and in such Case the said Commissioners shall allot to such Person or Persons so much of the said Commons and Waste Grounds as they shall deem equivalent to and a full

Allotment to
Sir Frederick
Fletcher
Vane, for
Tithes of the
Commons.

Recompence

Recompence and Satisfaction for all such Tithes and Prescriptions; which Allotment shall be taken and deducted from the aforesaid Tenth Part of the said Commons and Waste Grounds herein-before directed to be allotted to the said Sir *Frederick Fletcher Vane* in Compensation as aforesaid.

Allotment for
Tithes of
ancient Inclo-
sures.

XIX. And be it further enacted, That the said Commissioners shall also set out and allot, unto and for the said Sir *Frederick Fletcher Vane*, Sir *Wastel Brisco*, *John Dodd*, *Richard Matthews*, *John Westmoreland*, *John Dand*, and the several other Persons, Proprietors of Tithes, Moduses, Prescriptions, or other Ecclesiastical Dues, within the several Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton* aforesaid, and their Heirs, Successors, and Assigns respectively, in separate Allotments, proportionate to the respective Interests of the said Proprietors, 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 Satisfaction and Recompence for all Tithes, Moduses, Prescriptions, and other Ecclesiastical Dues (such *Easter Offerings*, *Mortuaries*, and *Surplice Fees*, as are payable to the said *John Dodd*, only excepted) due and payable to the said Sir *Frederick Fletcher Vane*, Sir *Wastel Brisco*, *John Dodd*, *Richard Matthews*, *John Westmoreland*, *John Dand*, and others, the Proprietors of Tithes as aforesaid, for and in respect of the several Old Inclosures and other the ancient Messuages, Lands, and Tenements already inclosed within the said Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton*, and entitled to Right of Common on the said Commons and Waste Grounds, and which are now liable and subject to the Payment of such Tithes in Kind, or of any such Moduses, Prescriptions, or Ecclesiastical Dues as aforesaid; provided that the said several Allotments so to be given in Exchange for the Tithes, Moduses, Prescriptions, and other Ecclesiastical Dues, (except as before excepted) payable in respect of the said ancient Inclosures, Messuages, and Tenements, shall be deducted from the several Shares of Common to which the said Premises respectively would be entitled, in Proportion to the Value of the Tithes, Moduses, Prescriptions, and other Ecclesiastical Dues to which such Premises are respectively liable and subject; provided also, that the several Allotments to be made to the said Sir *Frederick Fletcher Vane*, Sir *Wastel Brisco*, *Richard Matthews*, *John Westmoreland*, *John Dand*, and others, the Proprietors as aforesaid, as a full Recompence and Satisfaction for all the said Tithes, Moduses, Prescriptions, and other Ecclesiastical Dues, due and payable to the said Proprietors, as aforesaid, shall, in case they respectively require the same, be laid contiguous, either to the ancient Inclosures, or to the new Allotments of the said several Proprietors: Provided likewise, that the Allotment to be made to the said *John Dodd*, in Recompence and Satisfaction for all the Tithes, Moduses, and Prescriptions (except as aforesaid), to which he is entitled as Vicar of *Wigton* aforesaid, shall be laid as near as conveniently may be to the Town of *Wigton*, and shall be well and sufficiently ring fenced by the said Commissioners, at the proportionable Expence and Charges of the said respective Proprietors of such Lands and Tenements as are liable to pay the said Tithes, Moduses, or Prescriptions, to the said *John Dodd*; and that such Expence and Charges 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.

Situation of
Allotments in
lieu of Tithes.

XX. And

XX. And be it further enacted, That it shall and may be lawful for the said Commissioners to set out and allot, unto and for the said *John Dodd*, Vicar of *Wigton*, and his Successors, so much of the said Commons and Waste Grounds, as they shall deem equivalent to and a full Recompence and Satisfaction for all Stipends, Augmentations, and other Money Payments, due and payable to the said Vicar by the said *Sir Frederick Fletcher Vane*, as Lay Rector or Impropiator of the Parish of *Wigton* aforesaid; which said Allotment shall be taken out of and deducted from the Allotment or Allotments herein-before directed to be made to the said *Sir Frederick Fletcher Vane* as aforesaid; and the Allotment so to be made to the said Vicar, shall be laid contiguous to the other Allotment or Allotments which shall be made to the said Vicar by virtue of this Act.

Allotment to the Vicar of *Wigton* from the Impropiator's Allotment.

XXI. And be it further enacted, That after the several Allotments herein-before directed shall have been made, the said Commissioners shall and they are hereby empowered to set out, assign and allot all the Residue of the said Commons and Waste Grounds intended to be divided and inclosed, unto and amongst the said Earl of *Egremont*, for and in respect of his said Messuages, Tenements, Demesne Lands and other Hereditaments, and unto and amongst the said *Sir Wastel Brisco*, *Richard Matthews*, *John Westmoreland*, and all and every other the Owners and Proprietors of Messuages, Lands and Tenements, having Right of Common or other Rights in or upon the said Commons and Waste Grounds, in lieu of their respective Rights thereon, according and in Proportion to such Rights and Interests, in such Manner as the said Commissioners shall in their Judgement think just and equitable, but subject to the Exceptions, Rules, Orders and Directions, in this Act contained.

Allotment of the Residue.

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 which of the said Townships, Districts or Quarters of *Wigton*, *Woodside*, and *Waverton* respectively, 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 Townships, Districts, or Quarters 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 the said Commissioners by virtue of the said recited Act and of this Act, shall belong to the said several Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton* respectively; and the said Commissioners shall, in and by their General Award, order and direct by which of the said Townships, Districts, or Quarters respectively, such Highways and Roads shall be 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 the said Townships, Districts, or Quarters 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, Districts, or Quarters, are by Law to be amended and kept in Repair.

Commissioners to settle within what Townships, &c. the Allotments and the new Roads are situate.

Allotments
to be Free-
hold.

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, (subject and without Prejudice nevertheless to the Right of the said Earl of *Egremont*, his Heirs and Assigns, Lord or Lords of the said Barony, 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 so made as aforesaid, shall thenceforth stand and be seised 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, Provisoos, Agreements, Mortgages, Charges, Debts, Payments and Incumbrances, as the several Estates, Lands, Grounds, and Premises in lieu whereof such new Allotments shall be made as aforesaid, now are or would have been subject and liable to or charged with or affected by, in case this Act had not been made.

Allowance to
be made to
the Lord for
Lands subject
to arbitrary
Fines.

XXIV. Provided always, and be it further enacted, That the said Commissioners shall deduct from all and every Allotment and Allotments which shall be made to any Person or Persons for or in respect of any Tenant Right or Customary Messuages, Lands or Hereditaments, subject to the Payment of arbitrary Fines, such Part or Parts of the said Allotment or Allotments as shall in the Judgement of the said Commissioners be a fair and adequate Satisfaction and Equivalent for the Right and Interest to such Customary Fines of the said Earl of *Egremont*, as Lord of the said Barony, or of such other Lord or Lords (if any) as shall be entitled to such arbitrary Fines, and shall allot the Part or Parts so to be deducted to the said Earl of *Egremont*, or such other Lord or Lords accordingly.

Power for the
Vicar to erect
Buildings and
borrow Mo-
ney for de-
fraying the
Expences
thereof, and
making sub-
division
Fences.

XXV. And whereas the Allotments so to be made to the said *John Dodd*, and his Successors, Vicars as aforesaid, or some Part of the same, will be at a considerable Distance from the Buildings belonging to the said Vicarage of *Wigton*, which Buildings are at present insufficient, and too small for the Occupation and Enjoyment of the said Allotments; by reason whereof, and in order to render the same of greater Value to the said Vicar and his Successors, it will be necessary that some convenient Buildings should be erected thereon, and some necessary interior or subdivision Mounds and Fences should be made, planted, and raised, in and upon the said Allotments: And whereas the erecting of such Buildings, and the making, planting, and raising of such interior or subdivision Fences, will be attended with a considerable Expence, and the same will be beneficial as well to the Successors of the said Vicar as to himself; be it therefore further enacted, That it shall and may be lawful to and for the said *John Dodd*, and his Successors, Vicars as aforesaid, by and with the Consent in Writing of the Lord Bishop of *Carlisle*, as Patron of the said Vicarage, and Ordinary of the Diocese for the Time being, to erect, or cause to be erected, such Buildings and Conveniences upon such Part of the Allotments so as aforesaid to be set out unto and for the said *John Dodd*, and his Successors, Vicars as aforesaid, and also to make, plant, and raise such interior or subdivision Mounds and Fences, in and upon the same Allotments, as the said Commissioners shall judge necessary and proper for the Occupation

Occupation of the Lands so to be allotted to the said Vicar and his Successors, and by any Deed or Deeds, Writing or Writings under his or their Hand and Seal, or Hands and Seals, and attested by Two or more credible Witnesses, by and with the Consent in Writing of the Lord Bishop of *Carlisle* for the Time being, to charge such Allotments, so as aforesaid to be set out for the said *John Dodd* and his Successors, Vicars as aforesaid, and the Buildings and Conveniences so to be erected thereon, with such Sum or Sums of Money, not exceeding the Sum of Three Hundred Pounds, as the said Commissioners shall think necessary for the Purposes of, and in order to be applied for paying and defraying the Charges and Expences of erecting the said Buildings and Conveniences, and of making, planting, and raising such interior or subdivision Mounds and Fences, and in the Exercise of the Powers given to and vested in the said *John Dodd* by virtue of this Act and the said recited Act; which Sum or Sums of Money shall be paid to such Person or Persons as the said Commissioners shall nominate or appoint, in order to be applied or disposed of accordingly; and for securing the Repayment of such Sum or Sums of Money, with Interest for the same, to grant, mortgage, lease, or demise the Allotments so as aforesaid to be set out unto and for the said *John Dodd* and his Successors, Vicars as aforesaid, and the Buildings and Conveniences so to be erected thereon, unto such Person or Persons as shall advance and lend the same, his, her, and their Executors, Administrators, and Assigns, for any Term or Number of Years, so as every such Grant, Mortgage, Lease, or Demise, be made with a Proviso to cease and be void, or with an express Trust or Condition to be surrendered, when the Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied; and the Mortgagee or Mortgagees, advancing and lending the Money so to be borrowed, shall not be obliged to see to the Application, or be anyways answerable for the Misapplication of such Monies, or any Part thereof; and the said Vicar and his Successors for the Time being, shall be and are respectively hereby required and made liable, at the End of every Year after the Commencement of the said Term of Years, to pay to the Person or Persons to whom such Grant, Mortgage, Lease, or Demise shall be made, his, her, or their Executors, Administrators, or Assigns, One-twentieth Part of the Principal Money so to be borrowed, until the Whole thereof shall, by such annual Payments, be paid off and discharged; and also to pay and keep down the annual Interest of the said Monies so to be borrowed, so that the future Vicars of the said Parish of *Wigton*, becoming possessed of such respective Lands and Grounds, shall not be subject or liable (and they are hereby respectively discharged from being subject or liable) to pay any further or larger Share of such Monies than his or their Proportion thereof, according to such last-mentioned Condition; or any Interest for the same, save only for One Year previously to the Day of the Death, Resignation, or Cession, of the Predecessor of such future Vicar; but that all Arrears of such Interest beyond One Year before such Death, Resignation; or Cession, shall be paid by such Predecessor, his Executors, or Administrators; and that it shall and may be lawful to and for the Person or Persons who shall advance and lend such Monies, his, her, or their Executors, Administrators, and Assigns, for the more easily recovering the said One-twentieth Part of the said Principal Money, and the Whole of the Interest which is directed annually to be paid, to have, use, exercise, and take such and the same Powers and Remedies, by Entry and Distress upon the Premises so to be charged, mortgaged,

mortgaged, and demised, and by Sale of such Distress, as Landlords now can or hereafter may by Law use and take for the Recovery of Rack Rents in Arrear.

Power to
Proprietors
to borrow
Money.

XXVI. 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.

For allowing
Exchanges
to be made.

XXVII. 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 Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton* aforesaid, in lieu of, and in Exchange for any other Lands, Tenements or Hereditaments whatsoever, within the said Townships, Districts or Quarters, or within the said Parish of *Wigton*, or within any adjoining Parish, Township, Division, Quarter, Hamlet or Place; provided, that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioners,

tioners, 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 of 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 as aforesaid, who at the Time of making such Exchange or Exchanges shall respectively be Infants, Females Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, 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 such Exchanges so to be made shall be good, valid and effectual in the Law to all Intents and Purposes whatever; provided, that no Exchange of any Lands, Tenements or Hereditaments holden 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 or Partitions, shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioners shall by their said Award order and direct.

XXVIII. 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 Owner or Owners of Messuages, Lands, Tenements and Hereditaments, situate within the said Townships, Districts or Quarters of *Wigton, Woodside, and Waverton*, 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 Terms 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 Owners 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.

Commissioners
authorized to
determine
Leases.

XXIX. 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,

Proprietors,
with the Consent of the
Commissioners may inclose their
Allotments

before the whole are staked out.

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

For extinguishing or suspending Rights of Common.

XXX. 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 *Wigton* 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 *Wigton* aforesaid, cease, determine and be extinguished, or the Exercise thereof suspended accordingly, any Law, Usage or Custom to the contrary thereof notwithstanding.

No Sheep to be kept in the Allotments for Seven Years after the Award, except in certain Cases.

XXXI. And be it further enacted, That no Sheep or Lambs shall be kept or depastured in any of the said Allotments from the Time such Allotments are staked out and fenced, within the Space of Seven Years after signing the Award of the said Commissioners, unless the Owners or Occupiers thereof shall at their own Expence fence and effectually guard the young Quickset Hedges on every Side of the Allotments where such Sheep or Lambs shall be kept and depastured; and if any such Person shall neglect to fence and effectually guard such Quickset Hedges as aforesaid, the Person or Persons who shall sustain any Injury or Damage from such Neglect, may bring his or their Action or Actions at Law for the Damages actually sustained, or may distrain for and impound the same; and in case any Dispute shall thereupon arise respecting the Amount of the Damage actually sustained, either of the Parties may apply to some Justice of the Peace for the said County of *Cumberland* (not interested), who shall examine thereinto in a summary Way, and by his Order in Writing adjudge what Sum of Money shall be paid in Recompence and Satisfaction for such Damage, and for the Expences of such Distress and Impounding; and in case such Money shall not be paid within the Time by such Order to be directed and appointed, the same, together with the Expences of subsequently keeping the Distress and of Sale, shall be levied by Sale of the Goods and Chattels so distrained, rendering the Overplus, (if any), to the Owner thereof.

XXXII. Provided

XXXII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend, to revoke, make void, alter, or annul any Will or 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 Wills, 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.

Wills, Settlements, &c. not to be affected.

XXXIII. 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 Towns, Districts or Quarters of *Wigton, Woodside, and Waverton*, 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 or payable.

When Tithes shall cease.

XXXIV. And be it further enacted, That the said Commissioners shall and may scour out and widen all such Brooks, Streams, Ditches, Watercourses, Tunnels and Bridges within the said Townships, Districts or Quarters of *Wigton, Woodside, and Waverton*, and also shall and may set out, order and direct such new Ditches, Drains, Watercourses, Tunnels, Watergates, Banks and Bridges to be made, of such Depth and Breadth, and in such Situations and Directions, 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 Townships, Districts or Quarters of *Wigton, Woodside, and Waverton*, or any Part or Parts thereof, (making such Satisfaction to the Owners, Lessees, or Tenants of such ancient Inclosures or other Lands or Grounds for the Damage, if any 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 of the Owner or Owners of the ancient inclosed Lands and

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

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.

XXXV. 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 lie open and uninclosed, (except the said Earl of *Egremont*, his Heirs or 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 publick and common Quarries and Places for getting Gravel, to be set out under the Authority 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 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.

XXXVI. 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 and dispose of the same, for all or any Part of his, her 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 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 or 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 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 or 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 or her Heirs, or Assigns, as convenient to any other Allotment or Estate of such Purchaser as reasonably may be,
for

for or in respect of such Right, Interest and 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, or her, 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.

XXXVII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed or adjudged to defeat, lessen or prejudice the Right, Title, or Interest of the said Earl of *Egremont*, his Heirs or Assigns, Lord or Lords of the said Barony for the Time being, of, in, or to the Seignories or Royalties, Franchises or Liberties of or belonging to the said Barony; but the said Earl, his Heirs and Assigns, shall and may at all Times for ever hereafter, have, hold, take and enjoy all Rents, 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, Hunting, Hawking and Fowling, 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 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 Barony, or as he or they, or any of them might or could have had, holden, 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, Lord and Lords of the said Barony, for the Time being, 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 or 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 Pits, 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, Tin, Copper, Iron, and other Ore, Metals, Mines, Minerals, Stones, Slates, Clay, and Fossils to be gotten therein or thereout respectively, and of making Pits, Shafts, Pit Rooms, Heap Rooms, Drifts, Levels, Sumps, 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

Not to prejudice the Lord's Rights.

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 or over the same, in such and the like Manner as if this Act had not been made.

Satisfaction
for Damages.

XXXVIII. 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 Coals, Lead, Tin, Copper, Metals, Ores, Mines, 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 or 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 Coals, Lead, Tin, Copper, Metals, Ores, Mines, 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, taking, or carrying away the said Coals, Lead, Tin, Copper, Metals, Ores, Mines, Minerals, Stones, Slates, Clay, or Fossils, to the Person or Persons, Body or Bodies Politick or Corporate, sustaining such Damage or Injury.

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

XXXIX. 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, to dig for and get Freestone, Limestone, Clay, Sand and Gravel, in their respective Allotments, and to apply the same for the Purposes of improving their respective Messuages, Buildings, Walls, Fences, or Lands, within the said several Townships, Districts, or Quarters of *Wigton*, *Woodside*, and *Waverton*, 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 in nowise prejudice or hinder the working or carrying on of 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 Barony, for the Time being, or his, her, or their Lessees, Servants, or Workmen, in or upon any Lands or Grounds within the said Barony of *Wigton*.

For paying
Interest on
Money ad-
vanced.

XL. 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

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.

XLI. 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 Expences 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 in every Year.

XLII. And be it further enacted, That the 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 Barony of *Wigton*; and a Copy thereof shall also be deposited in the Parish Church of *Wigton* aforesaid.

Deposit of Award.

XLIII. 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 the 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 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, vexatious,

Appeal to the Sessions.

atious, 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 or conveyed by the said Commissioners under the Authority of this or 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.

XLIV. 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, and 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.

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

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