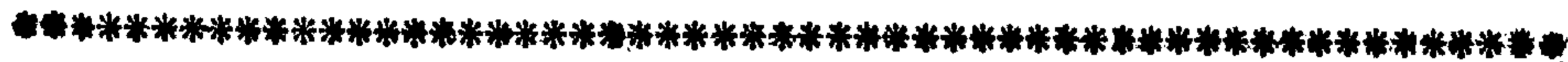




ANNO QUINQUAGESIMO SECUNDO

# GEORGI III. REGIS.



## Cap. 128.

An Act for inclofing Lands in the Manor of *Aspatria*, and in the feveral Parifhes of *Aspatria*, *Brumfield*, and *Allballows*, in the County of *Cumberland*.

[20th May 1812.]

WHEREAS there are within the Manor of *Aspatria*, or in the feveral Parifhes of *Aspatria*, *Brumfield*, and *Allballows*, in the County of *Cumberland*, feveral Commons and Waste Grounds, containing in the whole Four thoufand three hundred Acres, or thereabouts: And whereas the Right Honorable *George O'Brien* Earl of *Egremont* is Lord of the faid Manor of *Aspatria*, and, in Right thereof, claims to be entitled to the Soil and Royalties of the whole of the faid Commons and Waste Grounds; and the faid Earl is alfo Owner of feveral Meffuages, Lands, Tenements, and other Hereditaments within the faid Parifhes of *Aspatria*, *Brumfield*, and *Allballows*, or fome or one of them, and in refpect thereof the faid Earl, his Leffees or Tenants, is or are entitled to Right of Common upon the faid Commons and Waste Grounds: And whereas *Lawfon Dykes Ballantine* Efquire, as Lord of the feperate and feveral Manors of *Crookdake* and *Scales* in the faid Parifh of *Brumfield*, and *Joseph Dykes Ballantine Dykes* Efquire, as Lord of the Manor of *Allerby* otherwife *Alwardby*, in the faid Parifh of *Aspatria*, in Right of their faid feveral Manors, and the Right Reverend *Samuel* Lord Bifhop of *Carliffe*, as Lord of certain customary Tenements within the Manor of *Aspatria*, otherwife *Aspatriuk*, in Right of his See, and divers other Perfons, claim

[Loc. & Per.]



to be entitled to the Soil and Royalties of and in several separate and distinct Parcels of the said Commons and Waste Grounds: And whereas the Right Reverend *Samuel* Lord Bishop of *Carlisle* is, in Right of his See, Rector of the Appropriate Rectory of the Parish of *Aspatria*; and he the said Lord Bishop, also in Right of his said See, or his Lessees, are entitled to the Great Tithes within the said Parish of *Aspatria*, except such Parts thereof as belong to the Vicar of the Vicarage of the said Parish; and the said Lord Bishop is also Patron of the Vicarage of the said Parish of *Aspatria*; and the Reverend *William Fernyhough* Clerk, is Vicar of the same Vicarage, and as such Vicar is entitled to certain great and other Tithes, Moduses, Compensations for Tithes, and other Vicarial and Ecclesiastical Dues arising or becoming due within the said Parish of *Aspatria*; and the said Lord Bishop is also, in Right of his said See, Rector of the appropriate Rectory of the said Parish of *Allhallows*, and as such Rector is entitled to all the Great Tithes arising or becoming due within the said Parish of *Allhallows*, and the Reverend *Thomas Thompson*, as Perpetual Curate of the said Parish of *Allhallows*, is entitled to the Small Tithes within the said Parish of *Allhallows*: And whereas the said Lord Bishop is also, in Right of his said See, Patron of the Vicarage of the said Parish of *Brumfield*; and the Reverend *Walter Fletcher* Clerk, is Vicar of the same Vicarage, and as such Vicar is entitled to certain Tithes, Moduses, Compensations for Tithes, and other Vicarial and Ecclesiastical Dues arising or becoming due within the said Parish of *Brumfield*: And whereas Sir *Henry Fletcher* Baronet, the said *Lawson Dykes Ballantine*, *John Hodgson* Gentleman, and divers other Persons are or claim to be entitled to certain Great and Small Tithes arising and growing due from and out of certain ancient inclosed Lands, Tenements, and Hereditaments, entitled or claiming to be entitled to Right of Common upon the said Commons and Waste Grounds within the said Parish of *Brumfield*, and to arise or grow due from and out of the said Commons and Waste Grounds within the said Parish: And whereas the said *Lawson Dykes Ballantine*, *Joseph Dykes Ballantine Dykes*, *John Hodgson*, 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, Lands, Tenements and Hereditaments belonging to them respectively; and the said Commons and Waste Grounds, in their present State, are of little Value or Advantage, and incapable of any considerable Improvement, and it would be of great Advantage to the Persons interested therein, and of public Utility, if the said Commons and Waste Grounds were divided and inclosed, and specific Parts and Shares thereof allotted to the several Proprietors according to their respective Rights and Interests therein; but the same cannot be effected without the Authority of Parliament: And whereas an Act passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating in one Act certain Provisions usually inserted in Acts of Inclosure; and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: 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.

Appointment  
of Commis-  
sioners.



missioners 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.

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 the carrying of this Act 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 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 of *Aspatria* for the Time being, shall and may by Writing under his or their 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* and of 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, then the major Part in Value (according to the Land Tax Books of Assessments, whether such Land Tax shall have been redeemed or not) of the several Owners of Messuages, Lands, Tenements and Hereditaments for the Time being entitled to Rights of Common upon the said Commons and Waste Grounds, or their Agents to be appointed by Writing under their respective Hands for such Purpose, or their known Agents or Attornies, (other than and except the Lord of the said Manor of *Aspatria* for the Time being,) shall and may 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 his Stead shall die, or shall neglect, refuse, decline or become incapable to act for the Space of Forty Days as aforesaid, the said Lord Bishop of *Carlisle* and his Successors shall and may by any Instrument or Writing under his Hand 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

Appointment  
of new Com-  
missioners.

In case the  
Parties do  
not nominate,  
the Commis-  
sioners may.

Commissioners.



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 their or his Hands or Hand, at any Meeting of such surviving or only Commissioners or Commissioner, of the Time and Place of which Meeting Fourteen Days previous Notice at the least 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.

Appointment  
of Clerk.

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 Surveyors.

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 Surveyor's Assistant or Assistants so to be displaced and removed, and to make such Surveyor and Surveyor's 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 Commis-  
sioners 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 the Sum of Two Pounds and Two Shillings, and no more, and to their Clerk such Sum not exceeding Two Pounds and Two Shillings, as the said Commissioners shall direct, 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.

Appoint-  
ments 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 and other subsequent Meetings, for carrying into Execution the Trusts, Powers and Authorities hereby and by the said



faid 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 public Notice, to adjourn and continue their said First, Second and Third Meetings, or any of them, or any such Special or other subsequent Meeting 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 Parishes, or some or One of them, or within Eight Miles of the respective Boundaries thereof.

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 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 of those by Adjournment) 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 public 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 several Parish Churches of *Aspatria*, *Brumfield*, and *Allballows* 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.

Other Notices.

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 Judgment and to their Satisfaction be a just and true Map or Survey thereof; but that it shall not be necessary or incumbent on the said Commissioners to cause any Admeasurement, Plan or Valuation to be made of the Messuages, Cottages, Gardens, Homesteads or ancient inclosed Lands or Grounds within the said several Parishes, 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 Right to the Soil and Royalties of the said Commons and Waste Grounds, or any Part or Parts thereof, or the Boundaries or Tithes thereof, or touching or concerning the Boundaries of the said Manors or any of them or any adjoining Manor, or otherwise touching or concerning the res-

Commissioners to settle Disputes.

[*Loc. & Per.*]

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pective



Power to  
assess Costs.

pective Rights, Shares or Proportions which any Person or Persons hath or 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 Politic 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.

Allowing  
Parties dis-  
satisfied with  
the Commis-  
sioners De-  
termination,  
to try their  
Rights at  
Law

X. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic 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 of *Aspatria*, or of the said several other Manor herein-before mentioned, or of the said Parishes of *Aspatria*, *Brumfield*, and *Allhallows*, or any of them, or of any adjoining Manor, Parish, Township, Hamlet or Place, or the Right of Soil and Royalties, 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, or as to the Nature, Limit and Extent of such Rights and Interests or otherwise concerning the said Division and Inclosure, and shall by Writing under the Hand of him or them, or 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 Politic 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 Politic 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;



ſaid; and the Defendant or Defendants in ſuch Action or Actions 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 or Claims, Objection or Objections, 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 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 Commiſſioners or their Clerk as aforeſaid; or being ſo objected to, and the Party or Parties objecting nor 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 Politic 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, 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 ſuch 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.

XI. Provided always, 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,

Death of Parties not to ſtay Proceedings.  
Proviſion in caſe of Parties dying before Action brought.

Right of Poſſeſſion not to be determined by the Commiſſioners.



ties, (except in Cases of Encroachments made within the Period of 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.

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

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 Boundaries or Soil of the said Commons and Waste Grounds, or any Part or Parts thereof, and which in its Consequence shall or may extend or may 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 wholly 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 or Waste Grounds, or any Part thereof, would not or 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 the Party or Parties to such Action or Actions, or 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.

For extinguishing or suspending Rights of Common.

XIII. 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 under their Hands, to be affixed upon the principal outer Door of the several Parish Churches of *Aspatria*, *Erumfield*, and *Allhallows* 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



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 Doors of the several Parish Churches of *Aspatria*, *Brumfield*, and *Allballows* aforesaid, cease, determine, and be extinguished, or the Exercise thereof be suspended accordingly, any Law, Usage, or Custom to the contrary thereof notwithstanding.

XIV. And be it further enacted, That from and immediately after the passing of this Act, no Person or Persons whomsoever 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*, or the Person or Persons who shall establish their Claim or Claims to the Soil and Royalties of the said Commons or Waste Grounds, his or their Heirs and Assigns, or his or their Lessees or Tenants, in the Exercise of the Liberties and Privileges herein mentioned and reserved, and the several Persons 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.

No Turf to be dug.

XV. 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 the Possession of such Encroachments or in 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

Encroachments to be deemed Part of the Common.



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 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 the Sales of 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 or shall neglect within the Time or Times to be directed by the said Commissioners 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 the Allotments 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 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 or 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 of any Matter of Title to the said Encroachments.

Power to stop  
up old Roads.

XVI. 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 Parishes of *Aspatria*, *Brumfield*, and *Allhallows*, in respect whereof any Allotment shall be set out upon the said Commons and Waste Grounds, 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 sitting in and for the said County of *Cumberland*, and subject to the Rules, Orders, Restrictions, and Rights of Appeal contained in and in the Manner directed by the said recited Act.

Commission-  
ers to scour  
out Brooks.

XVII. 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 several Parishes of *Aspatria*, *Brumfield*,



*Brumfield*, and *Allballows*, 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 several Parishes 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 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:

XVIII. 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 and in respect of the several old Inclosures and other the ancient Messuages, Lands, and Tenements within the several Parishes of *Aspatria*, *Brumfield*, and *Allballows*, intituled to Right of Common upon the said Commons and Waste Grounds or any Part thereof, and for which Allotments shall be set out as herein mentioned, (except as to the Tithes under Lease to Mrs. *Eleanor Jolliffe*, in case she shall not accept the Allotment or Allotments in lieu thereof as herein-after is mentioned), 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 directed, cease and be for ever extinguished, and be no longer paid and payable; and that the said Tithes under Lease to the said *Eleanor Jolliffe*, in case she shall not accept the said Allotment or Allotments in lieu thereof, shall from and immediately after the Determination of her respective Leases thereof, in like Manner cease and be for ever extinguished, and be no longer paid or payable.

When Tithes shall cease.

XIX. And be it further enacted, That the said Commissioners after setting out the public 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 also for public Quarries, and Gravel, Sand, and Clay Pits, and Places for getting Gravel for the Repair of the Roads to be made over the said Commons and Waste Grounds, and also as and for public Watering Places for Cattle; 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 Townships, Districts, or Quarters entitled to Right of Com-

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

mon



mon upon the said Commons and Waste Grounds, and by the Owners of Lands, Tenements, and Hereditaments within the same, and their Tenants and Lessees for the Time being, and within the said several Townships, Districts, or Quarters, in such Manner and under such Rules and Regulations as the said Commissioners shall by their Award direct, but not to be elsewhere or otherwise disposed of.

Land to be  
sold to defray  
the Expences.

XX. And be it further enacted, That the said Commissioners shall in the next Place, as soon as conveniently may be, allot and let out, by proper Marks and Bounds, so much and such Part or Parts of the said Commons and Waste Grounds as to them shall seem competent and necessary, by Sale thereof in Manner by the said recited Act directed to raise Money sufficient 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 public 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 Allotments to be made to the said Lord Bishop and other Tithe Owners respectively as herein-after mentioned, and of, in, and about, the carrying into Execution generally, and 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 Manner and according to the Directions in the said recited Act contained; and the Purchaser or 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 of such Parts of the Ring or outer Fence 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, or other the Lord or Lords of the Soil thereof respectively for the Time being, or his or their Heirs, Lessees, or Assigns: Provided, 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 Properties and Interests therein; 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 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 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.

XXI. 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*, his Heirs and Assigns, such Quantity of the said Commons and Waste Grounds as shall in the Judgment of the said Commissioners be equal to One Fourteenth Part or Share of the said Commons and Waste Grounds remaining after the Allotments and Appropriations herein-before mentioned directed to be made for the public Highways, and Quarries, and Places for watering Cattle, and getting Gravel, Sand, and Clay, and other the public Purposes aforesaid, and the Allotment or Allotments to be made to the said Bishop of *Carlisle* and other Persons entitled as herein-after mentioned in lieu and Satisfaction of all the Tithes of the said Commons and Waste Grounds, (but not of the old Inclosures,) shall be set out and ascertained, (except those Parts thereof to which the said *Lawson Dykes Ballantine*, and *Joseph Dykes Ballantine Dykes*, or any other Person or Persons, Bodies Politic or Corporate, claiming the Soil or Royalties thereof as aforesaid shall make out his or their respective Titles), in lieu of and full Compensation for the Right and Interest of the said Earl of *Egremont* his Heirs and Assigns, in and to the Soil and Royalties of the said Commons and Waste Grounds, (save and except as herein-after excepted and hereby reserved to him or them), and that in case the said *Lawson Dykes Ballantine*, and *Joseph Dykes Ballantine Dykes*, or any other Person or Persons, Body or Bodies Politic or Corporate, claiming any Right to the Soil and Royalties of any Part or Parts of the said Commons and Waste Grounds or any of them, shall establish his, their, or any of their Claim or Title to the Soil and Royalties of any Part or Parts of the said Commons and Waste Grounds, then the said Commissioners shall set out, allot, and appoint unto the said *Lawson Dykes Ballantine*, and *Joseph Dykes Ballantine Dykes*, and such other Person or Persons, Body or Bodies Politic or Corporate, establishing such Claims or Titles respectively, (after deducting such Parcels as shall have been set out for the several public and other Purposes aforesaid), such Quantity of the said Commons and Waste Grounds as shall in the Judgment of the said Commissioners be equal to One Fourteenth Part or Share of the Part or Parts of the said Commons and Waste Grounds to which the said *Lawson Dykes Ballantine*, and *Joseph Dykes Ballantine Dykes*, or such other Person or Persons, Body or Bodies Politic or Corporate, shall respectively establish their Claims or Titles as aforesaid, in lieu of and as a full Compensation for his and their respective Rights of Soil therein; over and besides any Allotments to be made to them or any of them for Right of Common; and over and besides such Allowance as shall be made to them or any of them from and out of the Commons and Waste Grounds to be allotted to the Proprietors of Messuages, Lands, or Hereditaments held subject to the Payment of arbitrary Fines as herein-after is mentioned in respect of such Messuages, Lands, or Hereditaments.

Allotment to the Earl of Egremont or other Lords.



Allotments to  
the Tithes  
Owners in  
lieu of the  
Tithes of the  
Commons.

XXII. And be it further enacted, That the said Commissioners shall also set out, allot, and appoint to and for the said Lord Bishop of *Carlisle* and his Successors, so much and such Parts of the said Commons and Waste Grounds lying within the said Parishes of *Aspatria* and *Allhallows*, and to the said Sir *Henry Fletcher*, *Lawson Dykes Ballantine*, *John Hodgson*, and other Persons entitled to the Tithes of other Parts of the said Commons and Waste Grounds and to each and every of them, so much and such Parts of the said Commons and Waste Grounds, lying in the said Parish of *Brumfield*, as shall in the Judgment of the said Commissioners be equal to One Eighth Part of the said Commons and Waste Grounds remaining after the setting out of the public 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 would or might thenceforth arise out of or from the several Allotments of the said Commons and Waste Grounds to be made to the said Earl of *Egremont*, and the said Proprietors and Persons entitled thereto, and who would otherwise 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 several Allotments to be set out respectively unto and for the said Lord Bishop and his Successors, and the several other Persons aforesaid, their Heirs and Assigns, 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 made and 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 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 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 Lord Bishop of *Carlisle*, and his Successors, and the several other Persons entitled to the Tithes of the said Commons and Waste Grounds as aforesaid: Provided also, that the said Commissioners shall set out, allot, and appoint, to and for the said *William Fernyhough* and his Successors, Vicars of the Parish of *Aspatria* aforesaid, and the said *Walter Fletcher*, and his Successors, Vicars of the Parish of *Brumfield* aforesaid, and to the said *Thomas Thompson* and his Successors, Perpetual Curates of the said Parish of *Allhallows*, so much and such Parts of the said Eighth Parts of the said Commons and Waste Grounds as they shall deem equivalent to and a full Recompence and Satisfaction for all Manner of Tithes or Prescriptions in lieu thereof, which do now or might henceforth arise out of or from the said Commons and Waste Grounds or any Part thereof and be payable to the said Vicars and Curate, or either of them; which said Allotments to the said Vicars and Curates shall be respectively taken and deducted from the aforesaid Eighth Part of the said Commons and Waste Grounds hereinbefore directed to be allotted to the said Lord Bishop of *Carlisle*, and the several other Persons entitled to the Tithes of the said Commons and Waste Grounds, within the said several Parishes of *Aspatria*, *Brumfield*, and *Allhallows* as aforesaid.

XXIII. And



XXIII. And be it further enacted, That the said Commissioners shall also set out and allot unto and for the said Lord Bishop of *Carlisle*, *William Fernyhough*, *Thomas Thompson*, *Walter Fletcher*, *Sir Henry Fletcher*, *John Hodgson*, and the several other Persons Proprietors of Tithes, Moduses, Prescriptions or other Ecclesiastical Dues within the several Parishes of *Aspatria*, *Brumfield*, and *Allhallows*, aforesaid, and their Heirs, Successors and Assigns, (except to the said Lord Bishop of *Carlisle* in respect of the Tithes herein-after mentioned to be under Lease to *Mrs. Eleanor Jolliffe*, and in Recompense and Satisfaction for which Tithes a separate Allotment is herein-after directed to be set out), and to the said *Lawson Dykes Ballantine*, his Heirs and Assigns, (in case such Consent shall be given as hereafter mentioned), 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 Judgment of the said Commissioners be deemed equivalent to and a full Satisfaction and Recompense for all Tithes, Moduses, Prescriptions and other Ecclesiastical Dues, (*Easter Offerings*, *Mortuaries*, and *Surplice Fees* only excepted) due and payable to the said Lord Bishop of *Carlisle*, *William Fernyhough*, *Thomas Thompson*, *Walter Fletcher*, *Sir Henry Fletcher*, *Lawson Dykes Ballantine*, *John Hodgson*, and others the Proprietors of Tithes as aforesaid, their Heirs and Successors, for and in respect of the several Old Inclosures and other the ancient Messuages, Lands, and Tenements already inclosed 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, Compositions or Ecclesiastical Dues as aforesaid; and which said last mentioned Allotments the said Commissioners shall also in like Manner cause to be well and sufficiently ring-fenced in such Manner as they shall direct, 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, Lands and Tenements, and the Expences of the First outside or Ring-fencing of such Allotments shall be deducted and taken 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 Lord Bishop of *Carlisle*, *William Fernyhough*, *Thomas Thompson*, *Walter Fletcher*, *Sir Henry Fletcher*, *Lawson Dykes Ballantine*, *John Hodgson*, and others the Proprietors as aforesaid, as a full Recompense 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.

Allotments  
for Tithes of  
ancient Inclo-  
sures.

XXIV. And be it further enacted, That the said Commissioners shall also set out, allot, and appoint unto and for the said Lord Bishop and his Successors, so much of the said Commons and Waste Grounds, lying and being within the said Parish of *Aspatria*, as shall in the Judgment of the said Commissioners be deemed equivalent to and a full Recompense and Satisfaction for all Tithes Great and Small payable in Kind, within the several Townships of *Aspatria*, *Oughterside*, *Hayton*, *Melau*, and *Ormsby*, in the said Parish of *Aspatria*, now in Lease to *Eleanor Jolliffe* Widow,

For making  
Allotments  
for Tithes of  
old Inclosures  
in Lease to  
*Mrs. Eleanor  
Jolliffe*.



and for all Moduses, Prescriptions, and Compositions for Tithes (if any) due and payable to the said *Eleanor Jolliffe*, as such Lessee, for and in respect of the several Old Inclosures and other the ancient Messuages, Lands and Tenements already inclosed within the said several Townships of *Aspatia, Oughterside, Hayton, Melau, and Ormsby*, 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 Allotments the said Commissioners shall also in like Manner cause to be well and sufficiently ring-fenced, in such Manner as they shall direct: Provided, that the said several Allotments so to be given in Exchange for the said Tithes, Moduses, Prescriptions, and other Ecclesiastical Dues, payable in respect of the said ancient Inclosure, Messuages, Lands and Tenements within the said several Townships, and the Expences of the first outside or ring-fencing of such Allotments, shall be deducted and taken 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; and in case the said *Eleanor Jolliffe*, her Heirs, Executors, Administrators or Assigns, shall, at any Time before the Execution of the General Award of the said Commissioners, deliver her Consent in Writing to accept the said Allotments in lieu of and as a Compensation for all Tithes, Moduses, Prescriptions, and Compositions payable to her as Lessee as aforesaid; the said Allotments to be made in respect of the same shall be held and enjoyed by her the said *Eleanor Jolliffe*, her Heirs, Executors, Administrators and Assigns, for and during the Residue of the Term or Terms demised by her Lease or Leases, (notwithstanding the same shall be allotted to the said Lord Bishop and his Successors as aforesaid), subject to the same Rents and Covenants respectively as are contained in the said respective Leases of the said Tithes, Moduses, and Prescriptions; and in case the said *Eleanor Jolliffe*, her Heirs, Executors, Administrators, or Assigns shall not before the Time aforesaid, by Consent in Writing, signify her Intention of accepting the said Allotments as aforesaid, then and in such Case the said Allotments shall be held and enjoyed by the several Owners of the ancient Inclosures, Messuages, Lands, Tenements, and Hereditaments within the said several Townships of *Aspatia, Oughterside, Hayton, Melau, and Ormsby*, which are subject to the Payment of such Tithes in Kind, or any such Moduses, Prescriptions, or Compositions as aforesaid, for and during the Residue of the Term or Terms contained in the said Lease or Leases to the said *Eleanor Jolliffe*, in such Parts, Shares and Proportions, and subject to such Conditions for managing the same according to the Rules of good Husbandry, as the said Commissioners shall in and by their said General Award or by any separate Instrument in Writing order and direct; and the Tithes, Moduses, Prescriptions and Compositions now payable to her the said *Eleanor Jolliffe* as such Lessee as aforesaid shall, in such Case as lastly mentioned, continue payable and be paid to and received and taken by her the said *Eleanor Jolliffe*, her Executors, Administrators or Assigns, for and during the Residue of the Time, Term or Terms contained in her respective Lease or Leases thereof.

Allotments  
to Mr. Ballantine for  
Tithes of  
ancient In-  
closures,

XXV. And be it further enacted, That the said Commissioners shall and they are hereby required and empowered, by and with the Consent in Writing of the said *Lawson Dykes Ballantine* and the major Part in Value of the Owners of Messuages, Lands and Tenements within the said Manor  
of



of *Crookdake*, whose Claims to Right of Common in respect of such Messuages, Lands and Tenements shall have been allowed by the said Commissioners, (such major Part in Value to be ascertained by the Land Tax Books of Assessment, whether the said Land Tax shall have been redeemed or not, and which Consent shall be delivered to the said Commissioners within Twelve Calendar Months after the passing of this Act), to set out, allot, and assign unto the said *Lawson Dykes Ballantine*, his Heirs and Assigns, such Quantity, Part or Portion of the said Commons and Waste Grounds as shall in the Judgment of the said Commissioners be a full Equivalent and Compensation for and in lieu of all the Tithes of Corn and Grain arising, renewing and growing due, from and out of all the ancient inclosed Lands within the said Manor of *Crookdake*, in respect whereof the Claims to Right of Common shall have been allowed as aforesaid, and which said Allotment, Part or Portion to be made to the said *Lawson Dykes Ballantine*, his Heirs or Assigns, shall be accepted by and vested in the said *Lawson Dykes Ballantine*, his Heirs and Assigns, in lieu of and as a full Compensation for all Tithes of Corn and Grain whatsoever arising, renewing, due or payable, or which would, could or might become due or payable, or to which he, his Heirs or Assigns, is, are, may, can, might or could be entitled to, from and out of, or for or in respect of all and every or any of the ancient inclosed Lands within the said Manor of *Crookdake*, the same Allotment being well and sufficiently fenced, and the Expences thereof deducted as herein-before mentioned.

XXVI. Provided always, and be it further enacted, That the several and respective Allotments to be made for or in respect of any Tithes, Messuages, Lands, or Hereditaments now held and enjoyed under any Lease or Leases for Lives or Years under the said Lord Bishop of *Carlisle* shall be allotted and made to the said Bishop or his Successors; but the said Commissioners shall specify and ascertain, in and by their general Award, the several and respective Allotments by them to be made for and in respect of each and every such Tithes, Messuages, Lands, or Hereditaments, and the Person or Persons who as Lessee or Lessees, shall severally and respectively hold the same Leasehold Tithes, Messuages, Lands, and Hereditaments; and that the several Allotments to be made in respect of such Leasehold Estates respectively, shall, notwithstanding the same shall be allotted to the said Lord Bishop, be held and enjoyed by each Leasehold Estate for and during the Residue of the Terms for which such Lessees are so entitled to hold the said Leasehold Tithes and Estate under any Lease then in being, for the same Term, and subject to the same Rent, Covenants, Conditions and Agreements respectively as are contained in such respective Leases on the Part of such respective Lessees.

XXVII. 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 by Marks and Bounds, and assign and allot in Severalty, all the Residue of the said Commons and Waste Grounds intended to be divided and inclosed, unto 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 *Lawson Dykes Ballantine*, *Joseph Dykes Ballantine Dykes*, *John Hodgson*, and all and every other the Owners and Proprietors of Messuages, Demesne and other Lands and Tenements entitled to Right of Common or other Rights in or upon the said Commons and Waste Grounds or any Part thereof,

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in lieu of their respective Rights thereon, and 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.

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

XXVIII. 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 Townships, Districts, Quarters or other Places within the said Manor and Parishes, or any of them 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 Parishes, 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 several Parishes, Townships, Districts or Quarters, or Places within the said Manor; and the said Commissioners shall in and by their general Award order and direct by which of the said Parishes, Townships, Districts, Quarters or Places respectively such Highways and Roads shall thereafter 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 Parishes, 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 Public Highways and Roads situate within the said respective Parishes, Townships, Districts or Quarters are by Law to be amended and kept in Repair.

Allotments to be Freehold.

XXIX. 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 Lord or respective Lords of the Soil thereof for the Time being to the Mines, Minerals, Stones, Slates, Clays, Royalties, Liberties, Privileges, Powers and Authorities, or any of them, hereby reserved to him or them as aforesaid); 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, Provisions, and Agreements, Charges, Mortgages, Debts, Payments, and Incumbrances, as the several Lands, Grounds, Estates, and Premises, in respect whereof such new Allotments shall be made as aforesaid, now are or would have been subject and liable to and charged with or affected by in case this Act had not been made.

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

XXX. 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 Copyhold, Tenant-Right or Customary Messuages, Lands or Hereditaments,



ments, subject to the Payment of arbitrary Fines, such Part or Parts of the said Allotment or Allotments, as shall in the Judgment of the said Commissioners be a fair and adequate Satisfaction and Equivalent for the Right and Interest to such arbitrary Fines of the Lord or Lords of whom the Premises subject to the Payment of such arbitrary Fines are holden, and shall allot the Part or Parts so to be deducted to such Lord or Lords respectively.

XXXI. And whereas the Allotments so to be made to the said *William Fernyhough* and *Walter Fletcher*, and their Successors Vicars as aforesaid, and to the said *Thomas Thompson* and his Successors, perpetual Curates of the said Parish of *Allhallows*, or some Part of the same, will be at a considerable Distance from the Buildings belonging to the said Vicarages of *Aspatria* and *Brumfield*, which Buildings are at present insufficient and too small for the Occupation and Enjoyment of the said Allotments: And whereas there are no Buildings belonging to the perpetual Curacy of *Allhallows*, by Reason whereof, and in order to render the same of greater Value to the said Vicars and their Successors, and to the said perpetual Curate and his Successors, it will be necessary that some convenient Buildings should be erected thereon respectively, and some necessary interior or subdivision Mounds and Fences should be made, planted, and raised in and upon the said respective 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 Vicars and perpetual Curate respectively as to themselves; be it therefore further enacted, That it shall and may be lawful to and for the said *William Fernyhough* and *Walter Fletcher*, and their Successors Vicars as aforesaid, and the said *Thomas Thompson* and his Successors, perpetual Curates as aforesaid, by and with the Consent in Writing of the said Lord Bishop of *Carlisle*, as Patron of the said Vicarages and perpetual Curacy 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 each of them the said *William Fernyhough* and *Walter Fletcher*, and their Successors Vicars as aforesaid, and for the said *Thomas Thompson* and his Successors, perpetual Curates as aforesaid, and also to make, plant, and raise such interior or subdivision Mounds and Fences in and upon the same Allotments respectively as the said Commissioners shall judge necessary and proper for the Occupation of the Lands so to be allotted to the said Vicars and their Successors, and to the said perpetual Curate 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 said Lord Bishop of *Carlisle* for the Time being, to charge each of the Allotments so as aforesaid to be set out to the said *William Fernyhough* and *Walter Fletcher*, and their Successors, Vicars as aforesaid, and to the said *Thomas Thompson* and his Successors perpetual Curates 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 for each of the said Vicarages and perpetual Curacy, 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

Power for the Vicars and Curates to erect Buildings, and borrow Money for defraying the Expences thereof, and Subdivision Fences.



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 *William Fernyhough* and *Walter Fletcher* and *Thomas Thompson*, by virtue of this Act and the said recited Act, which respective Sums of Money shall be paid to such Person or Persons as the said Commissioners shall nominate and appoint, in order to be applied or disposed of accordingly; and for securing the Re-payment of such Sums of Money respectively 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 *William Fernyhough* and *Walter Fletcher*, and their Successors Vicars as aforesaid, and the said *Thomas Thompson* and his Successors perpetual Curates 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 anywise answerable for the Misapplication of such Monies or any Part thereof; and the said Vicars and their respective Successors for the Time being, and the said perpetual Curate 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 Parishes of *Aspatria* and *Brumfield*, and the perpetual Curates of the said Parish of *Allhallows*, 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 or perpetual Curate respectively; 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 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, 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.

Proprietors  
with the Con-  
sent of the  
Commission-

XXXII. 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



so to do, immediately or at any Time or Times after the passing of this Act, and before all the Allotments to be made by virtue thereof shall be staked out, and the Rights and Interests of all the Proprietors shall be 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; which Rents shall 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.

ers may in-  
close their Al-  
lotments, &c.

XXXIII. 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 within the said several Parishes of *Aspatria*, *Brunfield*, and *Allallows* afore said, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments within the said several Parishes, 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 Politic, 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 afore said, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, 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 whatsoever: 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 afore said) 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.

For allowing  
Exchanges  
to be made.

XXXIV. And be it further enacted, That the said Commissioners upon the Application in Writing of any Proprietor or Proprietors of

Commission-  
ers authorized  
to determine

[*Loc. & Per.*]

30 U

Messuages,



Leases of  
Allotments.

Messuages, Lands, Tenements or Hereditaments situate within the said several Parishes of *Aspatria*, *Brumfield*, and *Allhallows*, 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 Lands 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.

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

XXXV. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to revoke 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 seised 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 seised 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.

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, 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



position 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 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 to his, her, or their Heirs or Assigns, as conveniently 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 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, and to all Intents and Purposes, as the Vendor in every such Sale might or could have held and enjoyed the same in case such Sale had not been made.

XXXVII. 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 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 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, or 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 Re-payment 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 to 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 or assigned 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

Power to  
Proprietors  
to borrow  
Money.



pay and keep down the Interest or 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 next preceding the Time when the Title to such Possession shall have commenced.

Not to prejudice the Lord's Rights.

XXXVIII. 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, or the said *Lawson Dykes Ballantine*, *Joseph Dykes Ballantine Dykes*, or any other Person or Persons, Body or Bodies Politic or Corporate, or their Heirs, Assigns, or Successors, who shall respectively establish his, their, or any of their Claim or Claims, Title or Titles to the Soil and Royalties of the said Commons and Waste Grounds within the said several Parishes of *Aspatria*, *Brumfield*, and *Allballows*, or any Part or Parts thereof, of, in, or to the Seigniories or Royalties, Franchises, or Liberties incident or belonging to them or any of them; but the said Earl and the said *Lawson Dykes Ballantine*, *Joseph Dykes Ballantine Dykes*, and such other Person or Persons, Body or Bodies Politic or Corporate, their Heirs, Assigns, and Successors, shall and may 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, Hunting, Hawking, and Fowling, Free Chace 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 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 Manors, or as he 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, *Lawson Dykes Ballantine*, *Joseph Dykes Ballantine Dykes*, and such other Person or Persons, Body or Bodies Politic or Corporate respectively, making out and establishing such Claims or Titles to the Soil as herein-before mentioned, their Heirs, Assigns and Successors, shall for ever hereafter be respectively deemed and taken to be Owner or Owners of 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 those Parts of the said Commons and Waste Grounds to the Soil and Royalties of which they shall respectively be entitled, as well those not opened as those already opened, (except the said public Stone Quarries, Clay, Sand and Gravel 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



winning and working the said Mines, Minerals, and Quarries, and leading and carrying away the Coal, Lead, Tin, Copper, Iron or other Ore, Metals, Mines, Minerals, Stones, Slate, Clay, and Fossils to be gotten therein and 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 herein-after 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 several and respective Allotments thereof, and all other Powers, Privileges and Authorities to do or execute any necessary Acts or Things for the Purposes aforesaid, in and over the same, in such and the like Manner as if this Act had not been passed, but so as that nothing herein contained shall authorize the erecting any Brick Kilns on the said Allotments, without the Consent of the Owners of such Allotments respectively.

XXXIX. And be it further enacted, That if at any Time after the said Division and inclosure shall have been made by virtue of this Act, the said Earl of Egremont, *Lawson Dykes Ballantine*, *Joseph Dykes Ballantine Dykes*, or such other Person or Persons, Body or Bodies Politic or Corporate respectively as aforesaid, or their respective Heirs, Assigns, Successors, Lessees, Farmers or Tenants, Servants or Workmen respectively, shall enter upon or make any Use of any Allotment or Allotments of the said Commons and Waste Grounds hereby directed to be divided or inclosed, for the Purposes of winning or getting the said Coal, 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 laying, making 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, or reserved to them or any of them respectively for the Time being, or their respective Lessees, Farmers or Tenants, Servants or Workmen respectively, in or about working, winning, digging, raising, taking or carrying away the said Coal, Lead, Tin, Copper, Metals, Ores, Mines, Minerals, Stones, Slates, Clay, or Fossils, or otherwise relative thereto, the said Earl, and the said *Lawson Dykes Ballantine*, *Joseph Dykes Ballantine Dykes*, and such other Person or Persons, Body and Bodies Politick and Corporate, and his and their Heirs, Assigns or Successors, Lessees, Tenants, Servants or Workmen 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 Coal, Lead, Tin, Copper, Metals, Ores, Mines, or Minerals, Stones, Slates, or Fossils, to the Person or Persons, Body or Bodies Politic or Corporate, sustaining such Damage or Injury.

Satisfaction  
for Damages

XL. Provided always, and be it further enacted, That it shall and may be lawful to and for the respective Owners of Allotments of the said Commons and Waste Grounds to dig for and get Freestone, Limestone and Clay in their respective Allotments, and to use and apply the same for the Purposes of improving their respective Messuages, Buildings, Walls, Fences or Lands within the said several Parishes of *Aspatia*,  
[*Loc. & Per.*] 30 X *Brumfield*,

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



*Brumfield*, and *Allhallows*, 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 than within the said Manor and the said several Parishes, or to make any Sale, Gift, Exchange or other Disposition thereof whatsoever than as aforesaid); so as that the taking or raising of such Freestone, Limestone, and Clay for the Purposes aforesaid do no wise prejudice or hinder the working or carrying on of any Coal Mines, Quarries, or other Mines or Works that now are or shall hereafter be wrought or carried on by the said Earl of *Egremont*, *Lawson Dykes Ballantine*, *Joseph Dykes Ballantine Dykes*, their Heirs or Assigns, or other Person or Persons who shall be entitled to the Soil of the said Commons and Waste Grounds, or any Part or Parts thereof, or their respective Lessees, Servants or Workmen, in or upon any Part or Parts of the said Commons and Waste Grounds to be inclosed by virtue of this Act.

For paying  
Interest on  
Money ad-  
vanced.

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 or incident to the 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.

Commission-  
ers to lay  
their Ac-  
counts before  
a Justice once  
in every  
Year.

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 or Inclosure, to be by him examined and balanced, and such Balance shall by such Justice be 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.

Deposit of  
Award.

XLIII. And be it further enacted, That the said Award of the said Commissioners, after the same shall have been enrolled 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 of *Aspatria*; and a Copy thereof shall be deposited in each of the Parish Churches of *Aspatria*, *Brumfield*, and *Allhallows* aforesaid.

Appeal to the  
Sessions.

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 binding, final and conclusive, and except in those Cases wherein 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 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, or 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 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.

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 Politic, 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 Politic, Corporate or Collegiate, entitled to or claiming Right of Soil or 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 Politic, 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 Politic, Corporate or Collegiate, required by this Act or the said recited Act to make, but neglecting

General Saving.



