



ANNO QUINQUAGESIMO QUARTO

# GEORGI II. REGIS.

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## Cap. 154.

An Act for inclosing Lands within the Township of  
*Preston Patrick*, in the Parish of *Burton*, in the  
County of *Westmorland*. [17th June 1814.]

**W**HEREAS within the Township of *Preston Patrick*, in the Parish of *Burton*, in the County of *Westmorland*, there are certain Commons, Mosses, and Waste Grounds, containing by Estimation Eighteen hundred Acres or thereabouts: And whereas the Right Honourable *William Earl of Lonsdale*, Knight of the Most Noble Order of the Garter, is Lord of the Manor of *Preston Patrick* in the said Parish: And whereas in or about the Year of Our Lord One thousand seven hundred and seventy-three, certain Indentures of Enfranchisement were made and executed by the Honourable *Francis Charteris Esquire*, then Lord of the Manor of *Preston Patrick* aforesaid, unto several of the Tenants of the Customary Tenements within the said Manor, whereby the said *Francis Charteris*, for himself, his Heirs, Executors, and Administrators, did, amongst other Things, covenant, promise, grant, and agree, to and with the same Customary Tenants, and their respective Heirs and Assigns, that if the major Part in Number and Value of the Tenants within the said Manor of *Preston Patrick* should, within Ninety-nine Years next ensuing the Day of the Date of such Indentures of Enfranchisement respectively, be desirous of obtaining an Act of Parliament for dividing, inclosing, and allotting the Commons and Waste Grounds lying within the said Manor, and should signify to him the said *Francis Charteris*, his Heirs or Assigns, such their Desire, in Writing under their Hands, at any Time during

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318

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the said Term of Ninety-nine Years, then and in such Case he the said *Francis Charteris*, his Heirs or Assigns, should and would relinquish and give up all his and their Right to any Allotment or Share of the said Commons and Waste Grounds, which he the said *Francis Charteris*, his Heirs or Assigns, could, should, or might in anywise be entitled to as Lord or Lords of the said Manor of *Preston Patrick*, and which should be made in pursuance of the said Act so to be obtained, to or for the Benefit of himself the said *Francis Charteris*, his Heirs and Assigns, and the Proprietor and Proprietors for the Time being of the Estate called *Preston Hall*, and the Demesne Lands thereunto belonging within the said Manor, and the several Tenants of the said Manor whose Tenements should be enfranchised, and to be allotted to and amongst the said *Francis Charteris*, his Heirs and Assigns as aforesaid, and such Tenants, in Proportion to their several and respective Estates, and should not, nor would claim or insist upon any greater or other Allotment or Share of the same Commons or Waste Grounds, than such as should be made to him the said *Francis Charteris*, his Heirs or Assigns, in respect of the said Estate called *Preston Hall*, and the Demesne and other Lands thereto belonging, lying within the said Manor: And whereas the major Part in Number and Value of the Tenants within the said Manor, to whom such respective Indentures of Enfranchisement were made and executed as aforesaid, have signified in Writing to the said *William Earl of Lonsdale*, their Desire of obtaining such Act of Parliament as is before mentioned: And whereas *Charles Gibson* Esquire is Lay Impropiator of the Great Tithes arising, growing, and renewing within, upon, and from the said Township of *Preston Patrick*, (save and except such Parts thereof as are the Estate of the said *William Earl of Lonsdale*, and appurtenant to the ancient Estate called *Preston Hall*, and the Demesne and other Lands thereto belonging): And whereas the said *William Earl of Lonsdale* is possessed of or entitled to a certain Fee-Farm Rent of Fifteen Shillings and Four-pence, being the Tithe Hay Silver payable for and in respect of the Township of *Preston Patrick* aforesaid: And whereas the said *William Earl of Lonsdale*, *John Wakefield*, *Roger Dickinson*, *John Scott* Esquires, *Thomas Talbot* Gentleman, and several other Persons, are Owners and Proprietors of divers Messuages, Lands, and Hereditaments within the said Township, and in respect thereof, or otherwise, are entitled to Right of Common, in, over, or upon the said Commons, Mosses, and Waste Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating into One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the said Commons, Mosses, and Waste Grounds, in their present State, are of very little Value to the Land Owners having the principal Right thereon, and it would be of the greatest Advantage, not only to them, but to the Public in general, if the said Commons, Mosses, and Waste Grounds were divided, allotted, and inclosed, yet the same cannot be established and carried into Effect without the Authority of Parliament: May it therefore please Your Majesty, that it may be enacted, and be it enacted, by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Thomas Buttle* of *Kirkby Lonsdale*, in the County of *Westmorland*, Gentleman, and his Successor for the Time being,

Commissioner  
appointed.



being, to be appointed in Manner herein-after mentioned, shall be and he is hereby appointed Commissioner for dividing, allotting, and inclosing the said Commons, Mosses, and Waste Grounds, and for carrying this Act and the said recited Act into Execution, subject to such Directions and Provisions as are herein-after contained in that Behalf, and also with and to such of the Powers, Authorities, Directions, Clauses, and Provisions contained in the said Act of the Forty-first Year of the Reign of His present Majesty, herein-before mentioned or referred unto, as are not altered or otherwise provided for in and by this Act.

II. And be it further enacted, That the said Commissioner shall be allowed and paid the Sum of Two Guineas, and no more, for his Trouble and Expences for each Day he shall necessarily attend or travel in the Execution of this Act. Allowance to the Commissioner.

III. And be it further enacted, That if the said *Thomas Buttle*, or any new Commissioner to be elected in the Place or Stead of him, or any other succeeding Commissioner, shall die or refuse or neglect to act, or shall be incapable of acting in the Execution of the Powers aforesaid, that then the said Earl of *Lonsdale*, or the Lord or Lords of the said Manor of *Preston Patrick* for the Time being, shall, within Twenty-one Days after such Refusal, Neglect, or Incapacity shall be known, by Writing under his or their Hand and Seal, or Hands and Seals, elect and appoint a new Commissioner, not interested in the said intended Division, Allotment, and Inclosure, in his Place or Stead. For appointing a new Commissioner.

IV. Provided always, and be it enacted, That if the Lord or Lords of the said Manor of *Preston Patrick* for the Time being, shall make Default in nominating and appointing any new Commissioner, so directed to be nominated and appointed by them as aforesaid, then, and in every such Case, it shall and may be lawful to and for the Majority in Value (to be ascertained by the Land Tax Assessment) of the Proprietors or Persons interested in the Lands and Grounds directed by this Act to be divided, allotted, and inclosed, or their respective Agents (such Agent or Agents to be appointed in Writing) attending at a Meeting or Meetings to be holden for the Election of a new Commissioner, within Thirty Days next after such Default, or as soon as conveniently may be (Public Notice of such intended Meeting or Meetings being first given upon some *Sunday* before Divine Service, by Writing to be affixed on the principal Outer Door of the Chapel of *Preston Patrick* aforesaid, and also by Advertisement to be inserted in the Newspaper called *The Westmorland Advertiser*, if that Paper shall be then published, or otherwise in some other Newspaper circulating in the said County of *Westmorland*; at least Ten Days before every such Meeting), by Writing under their Hands, to appoint a proper Person (not interested in the said intended Division, Allotment, and Inclosure) to be a Commissioner in the Place or Stead of any Commissioner so dying, refusing, neglecting, or becoming incapable to act as aforesaid, which Person so to be appointed a Commissioner in either of the Cases or Modes aforesaid, shall have the same Powers and Authorities for carrying this Act and the said Act of the Forty-first Year of the Reign of His present Majesty into Execution, as if he had been originally named and appointed a Commissioner in and by this Act, and If the Lord of the Manor neglect to appoint a new Commissioner, the Land Owners to appoint.



which said Writing appointing such new Commissioner shall be inrolled in like Manner as the Award of the said Commissioner is to be inrolled.

Commissioner  
may call in  
any indiffer-  
ent Person to  
assist him  
when he sees  
Occasion.

V. And be it further enacted, That the said Commissioner shall have the Power, and he is hereby authorized to call in and procure the Assistance of any indifferent Person, at any Time, or upon any Occasion, when he shall consider such Assistance to be necessary, in and for the Execution of the Powers hereby or by the said recited Act vested in him: Provided always, that no such Person or Persons, so from Time to Time to be called in or procured by the said Commissioner to assist him as aforesaid, shall be capable of acting as aforesaid, until he shall have taken and subscribed the Oath or Affirmation following; that is to say,

‘ I *A. B.* do swear [*or, being one of the Persons called Quakers, do solemnly affirm*], That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the Trusts, Powers, and Authorities vested and reposed in me as an Assistant, by virtue of an Act [*here insert the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.

‘ So help me GOD.’

Which Oath and Affirmation it shall be lawful for the said Commissioner to administer, and he is hereby required to administer the same; and the said Oath or Affirmation so to be taken and subscribed as aforesaid, and also the Instrument of Appointment of any new Commissioner or Commissioners or Assistant, with the like Oath to be subscribed as aforesaid, shall be annexed to and enrolled with the Award of the said Commissioner, and a Copy of the Inrolment thereof shall be admitted as legal Evidence.

Notice of Sit-  
tings.

VI. And be it further enacted, That the said Commissioner shall and may, and he is hereby required, to cause public Notice by Advertisement to be inserted in the *Westmorland Advertiser*, or, if that Newspaper shall not then be published, in some other Newspaper usually circulated in the said County of *Westmorland*, and also by Writing to be fixed on the principal Door of the Chapel of *Preston Patrick* aforesaid, upon some *Sunday* during or immediately before Divine Service, of the Time and Place of his First, Second, and Third Sittings, for the Purpose of putting into Execution the several Powers vested in him by this Act, Fourteen Days at the least before such Meetings respectively, each of which Meetings shall be held in the said Township of *Preston Patrick*, or within Eight Miles of the same; and the said Commissioner shall and may, after the said Third Meeting, from Time to Time appoint such Time and Place for every subsequent Sitting as he shall think proper, causing a Notice in Writing under his Hand to be affixed upon the principal Door of the Chapel of *Preston Patrick* aforesaid, and by Advertisement as aforesaid respectively, Fourteen Days at the least before every subsequent Sitting; and the said Commissioner and Clerk to the Commissioner, or either of them, shall have full Power and Authority from Time to Time, as they shall think it convenient, to continue such First, Second, Third, or any subsequent Sitting or Sittings by Adjournment for the Execution of this Act, without giving any such Notice as aforesaid



faid of any such adjourned Sittings, such adjourned Sittings nevertheless to be held within Twenty-eight Days from the Time of Adjournment.

VII. Provided always, and be it further enacted, That all other Notices requisite or necessary to be given by the said Commissioner, shall be so made and given by Advertisement in *The Westmorland Advertiser*, or if that Newspaper shall not then be published, then in some other Newspaper usually and generally circulated in the said County of *Westmorland*.

Other Notices how to be given.

VIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Division and Inclosure, touching or concerning any Part or Parts of the said Commons and Waste Lands, or touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the same, or touching or concerning any other Matter or Thing relating to the said Division or Inclosure, it shall and may be lawful to and for the said Commissioner, and he is hereby authorized and required, upon proper and sufficient Enquiry and Evidence, to examine into, hear and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioner to determine the Title to any Messuages, Lands, Tenements or Hereditaments whatsoever.

Commissioner to settle Disputes.

Commissioner not to determine Titles.

IX. And be it further enacted, That in case the said Commissioner shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of the said recited Act or of this Act, see Cause to award any Costs, it shall and may be lawful for the said Commissioner, and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess and award such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made, by the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall and may be lawful to and for the said Commissioner, and he is hereby authorized and required by Warrant under his Hand and Seal, directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

May award Costs.

X. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate or Collegiate, shall be dissatisfied with any Determination of the said Commissioner touching or concerning any Claim or Claims of Right in or over the said Commons and Waste Lands, or any Right of Common, or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, then and in every such Case,

Allowing Parties to try their Rights by an Issue at Law.

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it shall and may be lawful to and for any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, to proceed to a Trial at Law, of the Matter so determined by the said Commissioner, at the First Assizes to be holden for the said County of *Westmorland*, or for any adjoining County, next after the Expiration of Three Calendar Months from the Time of such Determination; and for that Purpose the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with the Determination of the said Commissioner, shall cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Two Calendar Months next after such Determination of the said Commissioner, and Notice thereof in Writing given to him, her, or them; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they, is and are hereby required to name an Attorney or Attornies who shall appear thereto, or file Common Bail, and accept one or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which, the said Action or Actions shall be commenced, 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, Body or Bodies Politic, Corporate, or Collegiate, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial or Trials to be had therein, which it shall be lawful for the Court to do, in case the said Court shall think proper; and after such Verdict or Verdicts shall be obtained and not set aside by the said Court, the said Commissioner shall, and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioner touching any Right of Common, or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action or Actions at Law to be brought or proceeded in as aforesaid, shall be final and conclusive upon all Parties whatsoever.

Determination of Commissioner to be final if not objected to, or Action not brought.

If Parties die, Actions not to abate.

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

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

XII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before the Expiration of the Time hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons, as if actually living, and to serve the Clerk of the said Commissioner with Process for commencing such Action or Actions,

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in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions, in the Name or Names of the Person or Persons so dead; and Proceedings shall be had therein, in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

XIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioner to determine any Right between any Parties, contrary to the Possession of any such Parties, except in Cases of Encroachments made within the Period of Twenty Years, as herein mentioned; but in case the said Commissioner shall be of Opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon, until the Possession shall have been given up by or recovered from such Person or Persons, by Ejectment, or other due Course of Law.

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

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

Suits not to impede Execution of the Act.

XV. And be it further enacted, That it shall be lawful for the said Commissioner, and he is hereby authorized and empowered, at any Time or Times after he shall have allotted the said Commons and Waste Lands, or at such other Time or Times as he shall think proper, and before the Execution of his Award, by Notice in Writing under his Hand, to be affixed upon the principal Outer Door of the Chapel of *Preston Patrick* aforesaid, to order or direct all or any Parts of the Rights of Common, or other Rights in, over, or upon the said Commons, Mosses, and Waste Grounds, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, for and during such Time as shall be expressed in such Notice or Writing; and that all such Rights as the said Commissioner shall by such Notice or Writing order and direct to be extinguished, or the Exercise thereof to be suspended, shall, from the Time of affixing such Notice or Writing on the said Chapel Door, at such other Time or Times as the said Commissioner shall order or direct, cease, determine, and be for ever extinguished, or the Exercise thereof be suspended accordingly; any Law, Usage, or Custom to the contrary notwithstanding; and if during such Suspension, or after the Extinguishment of such Right of Common, any of the Owners or Occupiers of Lands within the said Manor shall permit his, her, or their Cattle to go, depasture, or feed on any of the Lands or Grounds so exonerated or discharged from Rights of Common, then it shall and may be lawful for any of the said Owners or

Commissioner empowered to extinguish or suspend Rights of Common at such Times as he shall direct.



or Occupiers to distrain such Cattle being upon such Lands or Grounds contrary to such Order, and to impound the same, until the Person or Persons so offending shall pay to the Person or Persons so distraining such Sum of Money as the said Commissioner shall by Writing under his Hand order and direct, not exceeding the Sum of Forty Shillings for each of the said Cattle so distrained; and in case the same shall not be paid before the next Sitting of the said Commissioner after such distraining or impounding, then the said Commissioner is hereby authorized and empowered, upon Proof of such Offence or Offences having been committed, and of Non-payment of the Penalty hereby imposed, to cause the Cattle so distrained or impounded, or such Part thereof as he shall think necessary, or any other Goods and Chattels of the Person or Persons so offending, to be sold, for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress and Sale, rendering the Surplus (if any) to the Owners of such Cattle.

Turf or Soil not to be cut, digged, or gotten without the Licence of the Commissioner.

XVI. And be it further enacted, That if any Person or Persons shall, after the passing of this Act, cut, dig, pare, grave, plough, get, or carry away any Turf or Turves, or Soil, upon or from the said Commons, Mosses, and Waste Grounds, or any Part thereof, without or contrary to the Licence of the said Commissioner for that Purpose, in Writing, first had and obtained (which Licence the said Commissioner is hereby empowered to grant under such Rules, Orders, Regulations, and Restrictions, as he shall think proper to insert therein), then, and in every such Case, the said Commissioner, upon due Proof thereof made upon Oath (which Oath the said Commissioner is hereby authorized to administer), shall, and he is required, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause any Sum or Sums of Money, not exceeding Five Pounds for each Offence, to be levied by Distress and Sale of the Goods and Chattels of every Person so offending in the Premises, rendering the Surplus (if any) upon Demand to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and that the Money so to be levied as aforesaid shall be applied towards defraying the Costs and Charges of obtaining and executing this Act.

For shortening Boundary Fences.

XVII. And be it further enacted, That in order to shorten the Boundary Fences between the Lands by this Act directed to be divided and allotted, it shall and may be lawful for the said Commissioner, with the Consent in Writing under the Hands of the Lord of the said Manor of *Preston Patrick*, and of the Majority in Value of the Land Owners interested in any Commons or Waste Lands adjoining to the said Commons, Mosses, and Waste Lands, by this Act directed to be divided and allotted, and the Lands and Grounds in any adjoining Township, Manor, Parish or Place, and under the Hand of any Owner of any Land upon which such Fence shall be intended to be made, to set out, ascertain, and determine the Boundary Fence or Fences to be made between the Lands hereby directed to be divided and allotted, and the Lands lying in such adjoining Manor or Manors, Parish or Parishes, as he the said Commissioner shall adjudge proper for the Purpose aforesaid; and after such Boundary Fences shall be so set out, ascertained, and determined, the same shall be made and fenced by such Persons, in such Manner, and at such Times, as the said Commissioner shall direct, and shall for ever thereafter be deemed and taken to be the



Boundary between the said Manor of *Preston Patrick* and such adjoining Districts or Divisions, Parish or Parishes, any Law, Usage, or Custom, to the contrary notwithstanding; and a Description of the Boundaries to be made, set out, and determined as aforesaid, shall be inserted in the Award of the said Commissioner, or a Map or Plan to be thereunto annexed.

XVIII. And be it further enacted, That all Encroachments which shall have been made upon any Part of the Commons and Waste Lands intended by this Act to be divided and inclosed, within the Space of Twenty Years before the passing of this Act, shall be deemed Part of the Commons and Waste Lands to be divided and inclosed by virtue of this Act, and the same shall be divided and inclosed accordingly, except such as may have been made with the Consent of the Lords or Juries of the Customary Courts, held within or for the said Manor: Provided nevertheless, that all and every such Encroachments shall be allotted to the Person or Persons who shall, at the Time of making the Allotments, be in the Possession of such Encroachments, or in the Receipt of the Rents and Profits as the Whole or Part of the Share or Proportion of the Commons or Waste Lands to which such Person or Persons will be entitled by virtue of this Act, without considering the Value of any Erection or other Improvements made thereon; and if any such Person or Persons shall not be entitled to any Allotment equal to the Value of such Encroachment, but shall be willing to purchase the same, then the said Commissioner shall ascertain the Price thereof, or of such Part thereof as shall exceed the Value of the Allotment or Allotments the Possessor or Possessors thereof would be entitled to by virtue of this Act, in respect of any other Property as aforesaid; on ascertaining of which Price the said Commissioner shall not value the Buildings or other Improvements thereon, but shall value the Land only, and that at so much *per Acre* as the same shall in his Estimation be worth, having Reference to the Waste next adjoining; and upon such Person or Persons paying such Price *per Acre*, and so in Proportion for any less Quantity than One Acre, to the said Commissioner at such Time or Times as he shall appoint for that Purpose, and taking his Receipt or Receipts for the same, every such Encroachment, or such Part thereof as shall be so purchased, shall be allotted to such Person or Persons, and shall be holden and enjoyed by him, her, or them accordingly; and the said Commissioner shall and he is hereby required to apply such Purchase Money in such and the like Manner as Monies to be raised by Sale of Lands for defraying the Expences of obtaining and passing this Act, and of carrying the same into Execution, are herein directed to be applied; and in case any Disputes or Differences shall arise touching any such Encroachments, or to the Extent thereof, such Disputes shall be settled by the said Commissioner.

XIX. And be it further enacted, That the said Commissioner shall, and he is hereby empowered and required to set out and appoint and cause to be made and completed, such Public Bridle Roads and Foot Ways and Private Roads and Ways, Common Watering Places for Cattle, Bridges, Ditches, Gates and Stiles, and other Accommodations, in, over, and upon the said Commons, Mosses and Waste Lands by this Act intended to be divided and inclosed as he shall think requisite; and the same shall be made and erected and at all Times thereafter repaired, cleansed and maintained by such Persons, and in such Manner as the said Commissioner shall in his Award direct or appoint.

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XX. And

Encroachments.

For setting out Public Bridle and Foot Ways and Private Ways, &c.



Power to  
turn and stop  
Roads.

XX. And be it further enacted, That the said Commissioner shall and may turn or abate and stop up, or cause or order to be turned or abated and stopped up, any ancient Public Carriage Road, Bridle Way or Foot Path, in, through, upon or over, or between any of the Lands, Grounds, or old Inclosures within the said Township, where he shall judge it requisite or expedient, giving such Notice of a Day to be appointed by him to receive Objections thereto, as in the said recited Act is directed and required in the Case of setting out the Roads and Ways therein mentioned, and observing the Directions of the said recited Act as to obtaining the Concurrence and Order of Two Justices of the Peace previously thereto, and subject to an Appeal to the Quarter Sessions, as in the said recited Act is mentioned; and the Soil of the Roads and Ways so to be stopped up or abated shall be taken as Part of the Lands and Grounds to be divided and allotted by virtue of this Act.

Allotments  
for Water-  
ing Places,  
Gravel, &c.

XXI. And be it further enacted, That the said Commissioner shall in the first place assign, let out and allot unto the Surveyors of the Highways within the said Township of *Preston Patrick*, such Part or Parts of the said Commons and Waste Grounds hereby directed to be divided, allotted and inclosed, as the said Commissioner shall think necessary, as and for Public Quarries, and also as and for Public Watering Places for Cattle, and for getting Gravel for the Repairs of the Roads to be made over the said Commons and Waste Grounds hereby directed to be divided, allotted and inclosed; and the same Allotments when so set out shall for ever thereafter be used by the Surveyors of the Highways for the Time being of the said Township, and by the Proprietors of Lands, Tenements and Hereditaments within the said Township and their Tenants for the Time being, in such Manner and under such Rules, Orders and Regulations as the said Commissioner shall in and by his said Award order and appoint; and that the said Commissioner shall have Power, and he is hereby authorized to order and direct how and in what Manner and by whom the new Roads to be set out by virtue of this Act or of the said recited Act, within the said Township, shall from and after the Execution of his said Award be kept in Repair.

Allotments to  
Moss Owners.

XXII. And be it further enacted, That the said Commissioner shall, in the next place, set out, allot, and appoint unto the Owners and Proprietors of Meered Mosses, Turbary Grounds, and Brackendales, such Parts of the said Commons and Waste Grounds as shall, in the Judgement of the said Commissioner, be a full Equivalent, and equal in Value to the present Interest of such respective Owners and Proprietors in such Meered Mosses, Turbary Grounds, and Brackendales, the same to be set out in such Places and Parts of the said Commons and Waste Grounds as in the Judgement of the said Commissioner may and will be most convenient for such Owners and Proprietors respectively: Provided always, that every such Owner and Proprietor, who shall be desirous to have such Equivalent set out and allotted in Moss or Turbary Ground, shall be entitled, on giving Notice in Writing to the said Commissioner at or before his Second Sitting, to have such Equivalent set out and allotted from his or their own several Meered Mosses or Turbary Grounds, or if in the Judgement of the said Commissioner that cannot be conveniently done, then in such other Place or respective Places as he the said Commissioner shall in his Discretion think fit and deem most convenient; such last-men-

Moss Owners  
may have their  
Allotments  
set out from  
their own  
Moss on giv-  
ing Notice.



tioned Allotments respectively to be and for ever hereafter remain subject to such Lord's Rents as the said several Meered Mosses and Turbary Grounds are now respectively subject.

XXIII. And be it further enacted, That the said Commissioner, after the said several Allotments as aforesaid shall be set out and ascertained, shall and may, and he is hereby authorized and required to set out, allot, and award unto the said *William Earl of Lonsdale* and his Heirs and Assigns, or to such other Person or Persons who for the Time being shall be Lord or Lady, Lords or Ladies of the said Manor of *Preston Patrick*, One full Sixteenth Part (Quantity, Quality, and Situation considered) of all and every the Residue of the Tracts or Parcels of Commons and Waste Grounds within the said Township of *Preston Patrick*, (except as herein-after mentioned), in Compensation and Satisfaction for his and their several Rights (except as herein-after mentioned) to the Soil of the Residue of the Commons and Waste Grounds within the said Township of *Preston Patrick*.

Allotments to the Lord of the Manor in Compensation for Soil.

XXIV. Provided always nevertheless, and be it further enacted, That the said Commissioner shall set out, allot, and award unto the respective Tenants of the said Manor of *Preston Patrick*, whose Customary Tenements were enfranchised by the said *Francis Charteris*, in Manner herein-before recited, their rateable Part and Proportion of the Lord's Sixteenth Part of the said Commons and Waste Grounds, pursuant to the Covenant herein-before recited, and which is contained in their several Indentures of Enfranchisement.

Allotment according to the Covenant with Francis Charteris.

XXV. And be it further enacted, That the said Commissioner shall in the next Place mark and set out such Part or Parts of the said Commons and Waste Grounds, as will, by Sale thereof, be in his Judgement fully sufficient to defray and discharge all the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act, and of surveying, admeasuring, planning, valuing, dividing, and allotting the Lands and Grounds to be divided, allotted, and inclosed by virtue thereof; and all the Charges of the said Commissioner, his Assistants and Servants, and all the other necessary Expences of the several Persons to be employed by the said Commissioner in and about the Premises, and all the Expences of forming, completing, and repairing the Public and Private Carriage Roads and Highways, to be set out and appointed by the said Commissioner, and all other Expences of carrying this Act into Execution.

Commissioner to set out Part of the Commons to defray the Expences of this Act.

XXVI. And be it further enacted, That the said Commissioner shall and he is hereby required, at such convenient Times and Places as to him shall seem meet, to cause the said Part or Parts of the said Commons and Waste Grounds to be set out for Sale by him as aforesaid, to be put up to Public Sale or Auction in Manner by the said recited Act directed, first causing at least Six Weeks previous Notice to be given in *The Westmorland Advertiser*, or such other Newspaper as aforesaid, of the Time and Place to be appointed for that Purpose: Provided always, that the said Commissioner shall not set out any Part of the Commons and Waste Lands to be sold, which ought on account of Contiguity or Conveniency to be allotted to any of the Parties concerned in the said Division and Inclosure.

Lands set out for paying Expences to be sold to the highest Bidder.

XXVII. And



Application  
of Overplus  
Money raised  
by Sale of  
Common for  
Payment of  
Expences.

XXVII. And be it further enacted, That if the Part or Parts of the said Commons or Waste Grounds marked and set out for Sale, and actually sold by the said Commissioner, shall happen to raise more Money than may be requisite for defraying all the Costs, Charges and Expences of or incident to the obtaining of this Act and fully carrying the same into Execution in every respect, the Overplus Money shall be by the said Commissioner paid and divided, and he is hereby directed to pay and divide the same to and among the several Proprietors of Allotments of the said Commons and Waste Grounds allotted by him, under and by virtue of the Powers contained in this Act and the said recited Act, or either of them, if seized thereof in Fee Simple; or otherwise such Overplus shall be paid into the Bank of *England* in the Manner directed by the said recited Act with respect to Money to be paid for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses.

Allotment to  
the Earl of  
Lonsdale for  
Common  
Right.

XXVIII. And be it further enacted, That after the aforesaid Allotments shall have been made and set out according to the Directions herein-before contained, the said Commissioner shall then set out and allot unto the Earl of *Lonsdale*, or other the Person or Persons entitled thereto, so much and such Part or Parts of the said Commons and Waste Grounds by this Act directed to be divided and inclosed, as the said Commissioner shall adjudge and determine to be proportionate to the Value of, and a full Compensation for his Right of Common in, over, and upon the said Commons and Waste Grounds; and also so much and such other Part or Parts of the said Commons and Waste Grounds as the said Commissioner shall adjudge and determine to be proportionate to the Value of, and a full Compensation for the Tithe Hay Silver payable for and in respect of the said Township of *Preston Patrick*.

Allotments  
for Great  
Tithes.

XXIX. And be it further enacted, That the said Commissioner shall and he is hereby required and empowered, at the Request and by and with the Consent in Writing of the said *Charles Gibson*, or other the Lay Impropiator for the Time being of all and every the Great Tithes and Tenths, Predial, Personal, or Mixt, yearly arising, issuing, and payable from and out of all and every the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and from and out of all and every the Messuages, Lands, Tenements, and Old Inclosures, situate, lying, and being within the said Township of *Preston Patrick* aforesaid, as are subject and liable to the Payment of such Great Tithes and Tenths, Predial, Personal, and Mixt as aforesaid, (such Consent to be signified to the said Commissioner within Six Calendar Months next after the passing of this Act), such Part or Portion of the said Commons and Waste Grounds as shall in the Judgment of the said Commissioner be a full Equivalent and Compensation for and in lieu of all such Great Tithes and Tenths, Predial, Personal, and Mixt, and all Moduses and other Compositions due or payable, or to grow due or payable to the said *Charles Gibson*, or other such Impropiator as aforesaid, in respect of such Great Tithes and Tenths, Predial, Personal, or Mixt; and such Allotment or Allotments shall from and after the Execution of the said Award, or at such other Time as the said Commissioner



missioner shall, by any Writing under his Hand appoint, be taken and accepted by the said *Charles Gibson*, or other such Lay Impropiator as aforesaid, and be deemed and taken to be in full Bar, Compensation and Satisfaction for all such Great Tithes and Tenths, Predial, Personal, or Mixt, arising, issuing, and payable from and out of all and every the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and from and out of all and every the Messuages, Lands, Tenements, and Old Inclosures, situate, lying, and being within the said Township of *Preston Patrick* aforesaid.

XXX. And be it further enacted, That the Lands and Grounds so to be assigned, set out, and allotted as a Satisfaction and Compensation for such Great Tithes and Tenths, Predial, Personal, and Mixt, as aforesaid, shall stand limited and settled to, for, and upon such and the same Uses, Estates, Trusts, Intents, and Purposes, as such Great Tithes and Tenths, Predial, Personal, and Mixt, shall stand limited or settled at the Time of making such Allotments respectively.

Lands allotted for Great Tithes to be settled to the same Uses.

XXXI. And be it further enacted, That the said Commissioner shall, and he is hereby authorized and required, to set out and allot Twenty Acres of the said Commons and Waste Grounds to the Churchwardens and Overseers of the Poor of the said Township; and which Land shall be vested in the said Churchwardens and Overseers for the Time being, for ever, for the Use of the School now standing in the said Township, and which shall be ring-fenced at the Expence of the Proprietors of Lands in the said Township.

Allotment for School.

XXXII. And be it further enacted, That after the aforesaid several Allotments shall have been made and set out according to the Directions herein-before contained, the said Commissioner shall then divide, assign, set out, and allot all the Residue and Remainder of the Commons and Waste Grounds intended by this Act to be divided and allotted unto and amongst the several Owners of Messuages and Lands in the said Manor of *Preston Patrick* (excepting the said Earl of *Lonsdale*), according to their several and respective Rights and Interests, and in such Shares and Proportions as the said Commissioner shall adjudge and determine to be proportionate to the Value of and a full Compensation and Satisfaction to him, her, or them respectively, for his, her, or their respective Rights and Interests in, to, over, or upon the said Commons and Waste Grounds respectively by this Act directed or intended to be divided and allotted.

General Allotments.

XXXIII. Provided always, and be it further enacted, That in case, through Necessity of Situation or any other Circumstance, it shall happen that any One or more of the said Proprietors shall not have an equal Share of the Mounds or Fences allotted to him, her, or them, it shall and may be lawful to and for the said Commissioner, when he shall judge it necessary and reasonable, to award, order, ascertain, and appoint, what Sum or Sums of Money such Proprietor or Proprietors shall pay and contribute towards the making of the Mounds and Fences of the Allotment or Allotments of such other Proprietor or Proprietors, who shall or may have

Satisfaction for unequal Share of Fencing.



too great a Share of Mounding or Fencing allotted to him, her, or them, by virtue of this Act; and the Sum and Sums of Money so ordered, directed, or appointed to be paid, shall be raised, levied, and recovered in such and the like Manner as the Costs, Charges, and Expences of obtaining and executing this Act, can or may be raised, levied, and recovered, in case the Lands hereby directed to be sold shall be insufficient for such Purpose.

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

XXXIV. Provided always, That if any Person or Persons hath or have sold or shall at any Time within Six Calendar Months next after such Notice given by the said Commissioner for extinguishing the Right of Common as aforesaid, sell his, her, or their Right, Interest or Property in, over or upon the said Commons and Waste Grounds, or any Part thereof, to any other Person or Persons, then and in every such Case it shall and may be lawful to and for the said Commissioner, and he is hereby directed; authorized and required, upon Notice thereof in Writing to be given to him by the Vendor, (provided the same be within the Time mentioned,) to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns for or in respect of such Right, Interest and Property so sold as aforesaid, and such Vendee or Purchaser or his or her Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him or her or them as aforesaid, in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have, hold and enjoy the same, in case such Sale had not been made, or such Rights, Interests, or Property had vested in such Vendor at the Time of making such Allotment as aforesaid.

Allotments to be Freehold.

XXXV. And be it further enacted, That from and after the Execution of the Award to be made by the said Commissioner, all the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, shall be Freehold Lands and Grounds.

Power to make Exchanges.

XXXVI. And be it further enacted, That it shall and may be lawful for the said Commissioner for the Time being respectively, to assign, set out, and allot any of the Lands or Grounds hereby directed to be divided and allotted, or any Lands, Tenements, or Hereditaments within the Manor of *Preston Patrick* aforesaid, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments in the said Parish of *Burton*, or within any adjoining Parish, Hamlet, Township, or Place, so as every such Exchange be set forth and ascertained by the Award of the said Commissioner; and so also as every such Exchange be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate, or Collegiate, 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 Life or Lives, by and with the Consent of the Lessor or Lessors thereof, but not otherwise, or possessed of any Estate of Inheritance less than an Estate in Fee Simple, or with the Consent of the Guardians, Trustees, Feoffees for



for Charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid, who at the Time of making any such Exchange or Exchanges shall be respectively Infants, Femes 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, or under the Hands of the other consenting Parties respectively; and all and every such Exchange or Exchanges so to be made shall be good, valid, and effectual in the Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent in Writing testified as aforesaid of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

XXXVII. And be it further enacted, That all Costs, Charges, and Expences attending the making any Exchanges and 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 Commissioner shall order and direct.

Costs of Exchanges how to be paid.

XXXVIII. And be it further enacted, That all and every Lease or Leases and other Agreements at Rack Rent, affecting all or any Part of the Commons or Waste Grounds by virtue of this Act intended to be divided and inclosed or exchanged, as in the said Act mentioned, shall cease, determine, and be void, as to such Commons or Waste Grounds, on such respective Days and Times as the said Commissioner shall, by Writing under his Hand, order and appoint, the respective Lessors and Landlords in such Leases or Agreements having first paid or tendered such Satisfaction to the respective Lessee or Lessees, Tenant or Tenants, as the said Commissioner shall ascertain as reasonable to be paid to such Lessee or Lessees, Tenant or Tenants, on account thereof, or as an Equivalent for the same: Provided always, that nothing herein contained shall extend or be construed to extend, to make void any Agreement or Engagement already made between Landlord and Tenant, in contemplation of a Division or Inclosure of the said Commons and Waste Grounds or relating thereto: Provided always, that if there shall be any Lease or Leases of any Land, Part of which shall be within the said Township and Part in any adjoining Township, all and every such Lease or Leases upon Rack Rent now subsisting, may be vacated; but where any Land shall have been taken in Exchange, which Land shall be under Lease, and wholly situate in an adjoining Township, the Lease of such last-mentioned Land shall not be vacated.

Vacating Leases at Rack Rent.

XXXIX. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, so as to revoke, make void, alter or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances, out of, upon, or affecting any of the Messuages, Buildings, Lands, or Grounds, to be divided, allotted, inclosed,

Wills, &c. not to be affected.



inclosed, or exchanged as aforesaid, or any Part or Parts thereof respectively; but the respective Persons to whom any Lands, Tenements, or Hereditaments, shall be allotted or given in Exchange by virtue of this Act, shall be seized thereof, to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, Charges, and Incumbrances, and no other, as the Messuages, Buildings, Lands and Tenements and Hereditaments, whereof such Persons were seized or possessed at or immediately before the Execution of the Award to be made by the said Commissioner, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to, charged with, or affected by, in case this Act had not been made.

For defraying the Deficiency of the Expences of obtaining and executing this Act.

XL. And be it further enacted, That in case the Money arising by Sale of the said Lands and Grounds herein-before authorized and directed to be sold as aforesaid, shall not be sufficient to pay, satisfy, and discharge the whole of the Costs and Charges incident to and attending the obtaining and passing this Act, and of surveying, admeasuring, planning, and valuing the Messuages, Lands, and Tenements within the said Township, and of dividing and allotting the Lands and Grounds hereby authorized or directed to be divided and allotted, and of inclosing and fencing the Allotments herein-before directed or authorized to be made for public Purposes, and of forming and making the public Roads and Ways which shall be set out and appointed to be first formed and made in pursuance of the said recited Act, and of preparing and inrolling the Award of the said Commissioner, and the Copies thereof, and all the Charges and Expences of the said Commissioner, and his Assistants and Servants, and all other necessary Charges and Expences of the several Persons employed by him in and about the Premises, either before or after the Execution of the said Award, and all other Expences of carrying this and the said recited Act into Execution, that then and in such Case the Residue of such Costs, Charges, and Expences, shall be borne and paid by the several Person and Persons, and Body or Bodies Politic, Corporate, or Collegiate, to whom any Allotment or Allotments shall be made by virtue of the said recited Act and this Act, in such Shares and Proportions, and at such Time or Times either before or after the Execution of the said Award, and at such Place, and to such Person or Persons as the said Commissioner shall, in and by his Award, or by any Writing or Writings under his Hand, order, direct, or appoint, (save and except the said Earl of *Lonsdale*, in respect of the Allotment to be made to him as Lord of the said Manor, and except the Surveyors of the Highways within the said Township for the Time being, for or in respect of the Allotment or Allotments hereby directed to be made to them as aforesaid); and in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall refuse or neglect to pay his, her, or their Proportion of such Costs, Charges, and Expences as aforesaid, within the Time, and at the Place, and to such Person or Persons as the said Commissioner shall in Manner aforesaid direct or appoint, then and in such Case the said Commissioner shall cause the same to be levied and recovered in the Manner directed by the said recited Act.

XLI. And



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

[Loc. &amp; Per.]

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XLII. And

Power to  
borrow  
Money.



Land may be deducted from Allotments in lieu of and equivalent to the Expences of inclosing.

XLII. And be it further enacted, That it shall be lawful for the said Commissioner, where he shall deem it expedient, to deduct from any Allotment or Allotments to be set out by virtue of this Act, so much Land as in the Judgment of the said Commissioner shall be equivalent to the Part or Proportion of the Expences of inclosing, hedging, ditching, and fencing such Allotment or Allotments; and the Land so deducted shall be allotted to or amongst the Proprietor or Proprietors who shall pay such Expences, in Proportion to the Sums they shall respectively pay or contribute thereto: Provided always, that no such Deduction shall be made by the said Commissioner without the previous Consent in Writing of the respective Proprietors or Persons seized or entitled in Possession for any Estate of Inheritance less than an Estate in Fee Simple, or for Life or Lives, or as Lessee or Lessees under any beneficial Lease or Leases for any Term of Years, either absolute or determinable on Lives, in or to such Allotment or Allotments, and of the Body or Bodies Politic or Corporate or Collegiate entitled to the Reversion or Remainder of or in any such Allotment or Allotments, to be signified under the Common Seal of such Body or Bodies Politic or Corporate or Collegiate as aforesaid, or of the Husbands, Guardians, Trustees, Committees, or Attornies of any such Proprietors, being Females Covert, Infants, Lunatics, beyond the Seas, or under any other legal Disability or Incapacity of acting for themselves: Provided always, that the Deduction to be made from such Allotment or Allotments as aforesaid, shall not exceed in Value the Sums of Money that the Person or Persons from whose Allotment or Allotments such Deduction shall have been made as aforesaid, would have been empowered or authorized to borrow or charge upon his, her, or their Allotment or Allotments by virtue of the said recited Act or of this Act: Provided also, that in case the Land deducted from such Allotment or Allotments shall not be equal in Amount to the Sum of Money that such Proprietor or Proprietors is or are by the said recited Act or this Act empowered to borrow and charge on his, her, or their Allotment or Allotments, then and in such Cases it shall be lawful for the Proprietor or Person from whose Allotment Land shall be deducted as aforesaid, to charge his, her, or their Lands, Tenements, or Hereditaments, by virtue of the recited Act or this Act, with any Sum of Money not exceeding the Excess or Difference, towards Payment of such Expences.

Proprietors to pay their own Expences.

XLIII. Provided always, and be it further enacted, That the said Proprietors, their Attornies or Agents, shall pay their own Expences when they or any of them shall attend the said Commissioner at any of the Meetings to be holden in pursuance of this Act.

Money advanced for the Purposes of this Act to be repaid with Interest.

XLIV. And be it further enacted, That if any of the Proprietors or Persons interested in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any other Person or Persons, on his, her, or their Behalf, shall advance and pay any Sum of Money for defraying the Expences of obtaining and executing this Act, or of carrying the same into Execution, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said Commissioner, together with lawful Interest for the same.

XLV. And



XLV. 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 passing thereof) the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this Act, and such Statement and Account, when so made, together with the Vouchers relating thereunto, shall be by him laid before any Two of His Majesty's Justices of the Peace for the said County of *Westmorland*, not interested in the said Inclosure, to be by them examined and balanced; and such Justices shall or may disallow or reduce any of the Sums or Items charged in the said Accounts, which they may think unjust or unreasonable; and such Balance shall be by such Justices stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner; and no Charges or Item in such Account shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justices.

Commissioner to lay Accounts before a Justice once a Year.

XLVI. And be it further enacted, That the Award to be made by the said Commissioner shall, after the same shall have been inrolled in Manner directed by the said recited Act, be deposited with the Clerk of the Peace of the County of *Westmorland*, and a true Copy thereof, with a Plan thereunto annexed, attested by the said Commissioner, shall be deposited and kept in the Chapel of *Preston Patrick* aforesaid.

Award where to be deposited.

XLVII. And be it further enacted, That if any Person or Persons shall think himself or herself or themselves aggrieved by any Thing done in pursuance of the said recited Act or of this Act, (other than and except such Determination of the said Commissioner as is by the said recited Act or this Act declared to be final, binding, or conclusive, and except in such Cases where an Issue at Law shall be tried as herein mentioned,) 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 *Westmorland*, within Six Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner, and to the Party or Parties concerned, Thirty Days Notice in Writing of such Appeal and of the Matter thereof; and the Justices (not interested in the Premises) in such Session assembled, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties 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 such Order and Determination of the said Justices, upon every such Appeal, shall be final and conclusive upon 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; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then and in every such

Appeal.



such Case, the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to them in their Discretion shall seem reasonable, and such Costs shall be levied in Manner aforesaid.

Right of the  
Lords of Ma-  
nors to Mine-  
rals not to be  
prejudiced.

XLVIII. Provided always, and be it enacted, That nothing in this Act contained shall be construed or adjudged to defeat, lessen, or prejudice the Right, Title, or Interest of the said Earl of *Lonsdale*, his Heirs or Assigns, Lord or Lords, Lady or Ladies of the said Manor of *Preston Patrick* for the Time being, of, in, and to the Coal, Lead, Tin, Copper, Stone, or Slate, Minerals or Metals, within or under the said Commons and Waste Grounds within the said Commons intended to be inclosed as aforesaid, (save and except the Stones in the public Quarries to be set out as aforesaid) or of, in, or to the Seignories and Royalties, Franchises and Liberties, incident and belonging to the said Manor; but that the said Lord of the said Manor, and all succeeding Lord and Lords, Lady and Ladies, and Owners thereof for the Time being, shall and may at all Times for ever hereafter have, hold, take, and enjoy all Rents, Services, Courts, Perquisites, and Profits of Courts, Hunting, Fishing, Hawking, and Fowling, Goods and Chattels of Felons and Fugitives, Felons of themselves, and those put in Exigent, Deodands, Waifs, Estrays, Forfeitures, Escheats, and other Royalties, Liberties, Franchises, Privileges, Pre-eminences, Jurisdictions, and Appurtenances whatsoever to the said Manor, or to the Lord or Lords, Lady or Ladies thereof for the Time being, incident, appertaining, or belonging, or which have been anciently used, exercised, and enjoyed, by the Lord or Lords, Lady or Ladies, of the same Manor (other than and except such Right of Soil and Right of Common and Pasture, and such other Rights and Interests, as is and are by this Act meant and intended to be barred, destroyed, and extinguished), or could or might be claimed by him, her, or them, as Owner or Owners of the Soil of the said Commons and Waste Grounds, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as he, she, or they could or might have held and enjoyed the same, in case this Act had not been passed; and that the said Lords, Ladies, and Owners of the said Manor for the Time being, shall and may from Time to Time, and at all Times hereafter, have, hold, work, and enjoy all Mines, Minerals, and Quarries, of what Nature or Kind soever, within or under the said Commons and Waste Grounds intended to be divided and inclosed as aforesaid, as well those not opened as those already opened (save and except the said public Quarries of Stone, to be set out as aforesaid), and to have, enjoy, and be vested with all convenient and necessary Ways, Way Leaves, and Liberties of laying, making, and repairing Waggon Ways and other Ways, in, over, and along the same, or any Part thereof, and for searching for, winning, and working the Mines and Quarries, and leading and carrying away the Coals, Lead, Tin, Copper, Stones, Lime, Slates, Metals, and Minerals, to be gotten thereout, or out of any other of his Lands or Grounds, and making Pits, Shafts, Pit Rooms, Heap Rooms, Drifts, Levels, Watercourses, erecting and using Fire Engines and other Engines, and all and every other Matters and Things now in use, or hereafter to be invented for the Purposes aforesaid; or any of them, in, upon, through, over, or along the said Commons and Waste Grounds, or any of them, or any Part or Parts thereof, and all other Powers,  
Privileges,



Privileges, and Authorities, for all or any Part of the Purposes afore-  
said, in the same Manner as if this Act had not been passed.

XLIX. Provided always, and be it enacted, That in case the Lord or Lords, Lady or Ladies of the said Manor for the Time being, or any Person or Persons claiming under him, her or them, shall after such Inclosure be made as aforesaid, search for, win, work or lead away Coal, Lead, Tin, Copper, Stones, Lime, Slate, Metal, or Minerals lying within or under any of the said Allotments or Inclosures so to be made as aforesaid, or Lands or Tenements in respect whereof such Allotment shall be made; then and in every such Case the Lord or Lords, Lady or Ladies of the said Manor for the Time being, or such Person or Persons so searching for, winning, working, or leading away the same, shall make full and reasonable Satisfaction for the Damage and Spoil of Ground occasioned thereby, or in making or using of Waggon Ways or other Ways, or any other Matters and Things according to the Powers herein reserved or granted to the said Earl of *Lonsdale*, and the Lord or Lords, Lady or Ladies of the said Manor for the Time being, to the Person or Persons, Bodies Politic, Corporate, or Collegiate, who shall be in the Possession of such Ground at the Time or Times of such Damage or Spoil.

Satisfaction  
to be made  
by the Lord  
of the Manor  
for working  
Mines.

L. And be it further enacted, That it shall and may be lawful to and for the said several Owners of Messuages, Lands, and Tenements within the said Manor of *Preston Patrick*, to whom such Allotments shall be made as aforesaid, their Heirs and Assigns, to dig for, take, and carry away within, upon, from, and under their respective Allotments, any Quantity of Lime or other Stone, for the Improvement of their respective Lands and Grounds within the said Manor, or for any other Purpose or Purposes for which Lime or Stone is used, so as the same be used by them respectively within the said Manor, and so as the same be not sold or otherwise disposed of, and so as no Damage or Obstruction be thereby done or given to the working of any Mine or Mines, Colliery or Collieries, Pit or Pits, Quarry or Quarries, Delf or Delfs, Work or Works carried on or to be carried on by the said Earl of *Lonsdale*, or the Lord or Lords, Lady or Ladies of the said Manor for the Time being, or his, her, or their Stewards, Agents or Workmen respectively.

Owners of  
Allotments  
may get Lime  
Stone and  
other Stone  
for their own  
Use to be  
used in the  
Manor.

LI. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Body or Bodies Politic, Corporate or Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, (except the Person to whom any Allotment or Allotments shall be made in pursuance of this Act, for and in respect of such Rights and Interests as are hereby meant and intended to be barred, destroyed, and extinguished, and all Persons respectively claiming under them, or in Remainder after them), all such Estate, Right, Title, and Interest, as they, every or any of them, could or ought to have had or enjoyed, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, before the passing of this Act, or could or might have held or enjoyed in case the same had not been made.

General  
Saving.



Act to be  
printed by  
the King's  
Printers.

LII. And be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty duly authorized to print the Statutes of the United Kingdom; and a Copy thereof, so printed by any of them, shall be admitted as Evidence thereof by all Judges, Justices, and others.

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LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1814.