



ANNO QUARTO

GULIELMI IV. REGIS.

Cap. 9.

An Act to commute for a Corn Rent certain Tithes within the Parish of *Kirkby Lonsdale* in the County of *Westmorland*. [16th June 1834.]

WHEREAS the Parish of *Kirkby Lonsdale* in the County of *Westmorland*, comprising Nine several Townships, known by the several Names of *Barbon, Casterton, Firbank, Hutton Roof, Kirkby Lonsdale, Killington, Lupton, Middleton, and Mansergh*, is situate in the Diocese of *Chester*: And whereas the Reverend *John Hutton Fisher* Clerk, Master of Arts, is now Vicar of the said Parish: And whereas the Master, Fellows, and Scholars of the College of the *Holy and Undivided Trinity* within the Town and University of *Cambridge*, of King *Henry* the Eighth's Foundation, are the Impropriators of the Rectory, and are also Patrons of the Parish Church of *Kirkby Lonsdale* aforesaid; and *Thomas Rawsthorne* of *Lancaster* in the County of *Lancaster*, Gentleman, is Lessee under the said Master, Fellows, and Scholars, of the Improprate Rectory of the said Parish, for the Term of Twenty Years, from the Feast of *Saint Michael* the Archangel, old Style, One thousand eight hundred and twenty-eight: And whereas the said Vicar is or claims to be entitled to the Tithes of Hay, or to certain Moduses in lieu thereof, in certain Parts of the said Parish, and to all Small Tithes in Kind, or to certain Moduses or customary Payments in lieu thereof, within the whole of the said Parish, except the Tithes of Wool and Lamb throughout the said Parish, and except the Tithes of Geese, Hemp, and Flax in the

[Private.]

Township of *Middleton* in the said Parish : And whereas the said Master, Fellows, and Scholars, or their Lessee, claim to be entitled to the Tithes of Corn and Grain, Wool and Lamb, throughout the said Parish, and to the Tithes of Hay, or to certain Moduses in lieu thereof, in certain Parts of the said Parish, and to the Tithes of Geese, Hemp, and Flax in the Township of *Middleton*, and to certain other Small Tithes throughout the whole of the said Parish : And whereas Doubts and Differences have arisen between the said Vicar and the Proprietors and Occupiers of Lands in the said Townships, and also between the said Master, Fellows, and Scholars, and their Lessee, and the said Proprietors and Occupiers, whether or not several of the said Tithes are payable in Kind, or whether the same are covered by Moduses, customary or prescriptive Payments : And whereas, for the Purpose of settling such Doubts and Differences, and to prevent Litigation, it is expedient that a Commutation, by way of a Corn Rent, should be made and established of all Tithes and Payments whatsoever throughout the said Parish (except the Tithes of Corn and Grain, Lamb and Wool, and Foals) : And whereas it has been proposed that such Commutation of all Rights and Claims to the Tithes and Payments aforesaid (except as aforesaid) should be made and established on the Terms following ; (that is to say,) first, on all Hay Moduses throughout the Parish, such Moduses to be estimated and made without Consideration of their Validity in point of Law, on the same Condition as they stand at present ; secondly, on all small Money Payments usually paid and enumerated in the Schedule to this Act, on the same Terms ; third, on Calves, Pigs, Geese, and Bees, all of which are paid and payable in Kind, the Custom of Tithing being at Five Half Tithes, at Six Full Tithes, at Fifteen One and a Half, at Sixteen Two, and so on ; fourthly, that a Valuation shall be made throughout the Parish of the Tithes of, first, the Milk of new-calved Cows, when their Number exceeds Four, the Valuation to commence with the Fifth Cow ; second, of Agistment ; third, of Turnips and Potatoes ; and that the Commutation for them shall be fixed at One Half that Valuation : And whereas such Commutation would be advantageous to all Parties interested ; and the said Master, Fellows, and Scholars, and the said *Thomas Rawsthorne* their Lessee, and the said *John Hutton Fisher* as such Vicar as aforesaid, and also the Right Reverend Father in God *John Bird*, by Divine Permission Lord Bishop of the said Diocese of *Chester*, do approve of such Proposal, and are desirous that such a Commutation may be established and confirmed and made perpetual ; but the same cannot be effected 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 *James Birrell* of *Allison Bank, Gretna, near Carlisle*, Yeoman, and *Anthony Reed* of *Bishop Middleham* in the County of *Durham*, Land Surveyor, and their Successors for the Time being, to be appointed in the Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for valuing the aforesaid Tithes intended by this Act to be commuted, and for carrying this Act into execution.

Commis-
sioners.

Commis-
sioners to take
Oath before
acting.

II. Provided always, and be it further enacted, That before the said *James Birrell* and *Anthony Reed*, or any other Person or Persons to be appointed Commissioners under this Act, shall be capable of acting as such

such Commissioners, they shall severally take and subscribe an Oath or Affirmation to the Effect following; (that is to say,)

I do swear, [*or, being one of the People called Quakers or Moravians, do solemnly affirm,*] That I will faithfully, impartially, and honestly, to the best of my Skill and Ability, execute and perform the Powers and Duties vested and reposed in me as a Commissioner for valuing certain Tithes payable in respect of certain Lands in the Parish of *Kirkby Lonsdale*, or the titheable Places thereof, and for carrying into execution an Act passed in the Fourth Year of the Reign of King *William* the Fourth, intituled *An Act to commute for a Corn Rent certain Tithes within the Parish of Kirkby Lonsdale in the County of Westmorland*, and that I will proceed to ascertain and set forth the true Value of such Tithes, for effecting such Commutation, according to the true Intent and Meaning of the said Act. So help me GOD.
[*Or, in the Case of Quakers or Moravians, omit the Words 'So help me God.'*]

Which Oath or Affirmation any Justice of the Peace for the said County is hereby empowered to administer; and such Oath or Affirmation when so taken and subscribed, shall be annexed to and deposited with the Award of the said Commissioners herein-after directed to be made.

III. And be it further enacted, That in case the said *James Birrell*, or any Successor to be appointed in his Place as herein-after is provided, shall die, or neglect or refuse to act, or become incapable of acting in the Execution of this Act, it shall be lawful for the major Part in Value (such Value to be ascertained by the County Rate) of the Proprietors of Messuages, Farms, Lands, or Tenements within the said Parish, who shall attend by themselves, or their Agents or Proxies duly authorized in Writing, at a Meeting to be called by or by the Order of Two or more of the said Proprietors for that Purpose, and to be held at some convenient Place in the said Parish, in pursuance of Notice in Writing to be affixed at least Fourteen Days before such Meeting on the principal outer Door of the Church of the said Parish, and to be published in the said Parish Church on some *Sunday* during or immediately after Divine Service in the Forenoon, and in the Weekly Newspaper called the *Westmorland Gazette*, or in some other public Newspaper usually circulated in the said County of *Westmorland*, at least Ten Days before such Meeting, by Writing under their Hands to elect and appoint from Time to Time some other fit and proper Person, not interested in the said Tithes, to be a Commissioner in the Room of the said *James Birrell*, or of the Commissioner who shall be appointed in his Place, and who shall so die, or shall neglect or refuse to act, or shall become incapable of acting as aforesaid, and so from Time to Time as often as the Case shall happen; but in case a new Commissioner shall not be elected and appointed by the Landowners in manner aforesaid within the Space of Three Calendar Months next after the Death of the said *James Birrell*, or of any Commissioner who shall be appointed in his Place, or after his Neglect or Refusal to act or Incapacity for acting shall be known, then the said Master, Fellows, and Scholars of *Trinity College, Cambridge*, by Writing under their Common Seal, and the Vicar for the Time being of the said Parish, by the same Writing under his Hand, shall nominate and appoint some fit and proper Person to be a Commissioner in the Room of the said *James Birrell*,

or

or of the Commissioner who shall be appointed in his Place, so dying, neglecting, refusing, or becoming incapable to act; and every such Commissioner so to be appointed, either by the said Landowners, or in case of their Default by the said Master, Fellows, and Scholars, and Vicar as aforesaid, shall take and subscribe the Oath or Affirmation herein-before prescribed in that Behalf, and shall have the like Powers and Authorities in all respects as if he had been named a Commissioner in and by this Act.

If Commis-
sioner named
by the Col-
lege, &c. die
or resign,
they may
appoint an-
other.

IV. And be it further enacted, That in case the said *Anthony Reed*, or any Successor to be appointed in his Place as herein-after is provided, shall die, or neglect or refuse to act, or become incapable of acting in the Execution of this Act, it shall be lawful for the said Master, Fellows, and Scholars, by Writing under their Common Seal, and the Vicar for the Time being of the said Parish, by the same Writing under his Hand, to nominate and appoint from Time to Time some other fit and proper Person, not interested in the said Tithes, to be a Commissioner in the Room of the said *Anthony Reed*, or of the Commissioner who shall be appointed in his Place, and who shall so die, or shall neglect or refuse to act, or shall become incapable of acting as aforesaid, and so from Time to Time as often as the Case shall happen; but in case a new Commissioner shall not be nominated and appointed by the said Master, Fellows, and Scholars, and Vicar, in manner aforesaid, within the Space of Three Calendar Months next after the Death of the said *Anthony Reed*, or of any Commissioner who shall be appointed in his Place, or after his Neglect or Refusal to act or Incapacity for acting shall be known, then it shall and may be lawful for the major Part in Value (such Value to be ascertained in the Manner herein-before mentioned) of the Proprietors of Messuages, Farms, Lands, or Tenements within the said Parish, who shall attend by themselves, or their Agents or Proxies duly authorized in Writing, at a Meeting to be called by or by the Order of One or more of the said Proprietors for that Purpose, and to be held at some convenient Place in the said Parish, in pursuance of a Notice in Writing to be affixed at least Fourteen Days before such Meeting on the principal outer Door of the Church of the said Parish, and to be published in the said Parish Church on some *Sunday* during or immediately after Divine Service in the Forenoon, and in the Weekly Newspaper called the *Westmorland Gazette*, or in some other public Newspaper usually circulated in the said County of *Westmorland*, at least Ten Days before such Meeting, by Writing under their Hands to elect and appoint some fit and proper Person to be a Commissioner in the Room of the said *Anthony Reed*, or of the Commissioner who shall be appointed in his Place, so dying, refusing or becoming incapable to act, and so from Time to Time as often as the Case shall happen; and every such Commissioner so to be appointed, either by the said Master, Fellows, and Scholars, and Vicar as aforesaid, or in case of their Default by the said Landowners, shall take and subscribe the Oath or Affirmation herein-before prescribed in that Behalf, and shall have the like Powers and Authorities in all respects as if he had been named and appointed a Commissioner in or by this Act.

Neglect
deemed a
Refusal to
act.

V. And be it further enacted, That in case the said *James Birrell* and *Anthony Reed*, or either of them, or any Commissioner or Commissioners to be appointed by virtue of this Act, shall neglect to act in the Execution of this Act for the Space of Thirty Days after Notice in Writing shall have

have been given to him or them, or left at his or their last or usual Place of Abode, signed by the accredited Agent of the said College, and by the said Vicar, and also by any Five or more of the Owners of Messuages, Farms, Lands, or Tenements in the said Parish, then and in every such Case such Neglect shall be deemed and taken to be an absolute Refusal on the Part of such Commissioner or Commissioners to act within the Intent and Meaning of this Act.

VI. And be it further enacted, That it shall be lawful for the said Commissioners to appoint a Clerk or Clerks to assist them in the Execution of this Act; and from Time to Time to remove such Clerk or Clerks, and to appoint another or others in his or their Stead, and out of the Money to be provided for the Purposes of this Act to pay to such Clerk or Clerks such Salary or Allowance as herein-after mentioned.

Commissioners may appoint a Clerk.

VII. And be it further enacted, That the said Commissioners shall convene a Meeting to be holden at some House or Place within the said Parish for the Purpose of carrying this Act into execution, and shall cause Ten Days public Notice to be given upon some *Sunday* before or during Divine Service, by Writing to be affixed on the principal outer Door of the Parish Church of *Kirkby Lonsdale* aforesaid, and also by Advertisement to be inserted in the *Westmorland Gazette*, or some other Weekly Newspaper, Ten Days at least before such Meeting, of the Time and Place of the first and all other subsequent Meetings for the Execution of this Act (Meetings by Adjournment only excepted), and the said Commissioners may adjourn any such Meetings from Time to Time as they shall see Occasion, not exceeding Thirty Days from the Day of Adjournment; and in case both the said Commissioners shall not be present at the Time and Place appointed for such Meeting. it shall be lawful for the Commissioner present, or in case no Commissioner shall be present, then for the Person or Persons who shall act as Clerk or Clerks to the said Commissioners, to adjourn the same to any future Day, not exceeding Ten Days from the Day of Adjournment: Provided always, that all Meetings of the said Commissioners to be held by virtue of this Act shall be held within the said Parish of *Kirkby Lonsdale*, or within Eight Miles of the Boundaries thereof; and in such Case where the Objection or Approbation of the Persons interested in the said Tithes or Dues, or the Payment thereof, to any Act, Matter, or Thing to be done or proposed to be done in pursuance of this Act, is directed to be made or testified at any Meeting or Meetings, it shall be lawful for the said Proprietors to attend at such Meeting or Meetings in Person, or by their respective Agents or Proxies by Writing duly authorized, whose Acts or Votes shall be as valid and effectual as if such Proprietors were present.

Meetings and Notices of Meetings.

VIII. And for regulating the Duration of Meetings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged as only Half a Day, and the said Commissioners or the said Clerk or Clerks shall be paid accordingly; and a Book shall be

For regulating the Duration of Meetings.

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kept by the said Commissioners or their Clerk or Clerks, in which shall be entered the several Days on which the said Commissioners shall hold their Meetings, and in such Book shall also be entered at what Hour the said Commissioners and their Clerk or Clerks were respectively present at such Meeting, and at what Hour they respectively left the same, and such Book shall be signed by such Commissioners or their Clerk or Clerks at the Termination of each Meeting, and shall be open to the Inspection of any Person or Persons interested, or his, her, or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioners to retain or pay themselves or such Clerk or Clerks, out of any Monies to be received by them or over which they may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-after directed to be made to such Commissioners and Clerk or Clerks respectively, beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Day of the Delivery of the Award to the Clerk of the Peace for the County of *Westmorland* as herein-after mentioned, or in case the Account of the said Commissioners shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioners or either of them, or of the said Clerk or Clerks or either of them, previous to the Execution of the said Award, the Commissioners for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due to them respectively.

Proprietors to pay their own Expences.

IX. And be it further enacted, That the said Proprietors shall pay their own Expences, and those of their Attornies or Agents, when they or any of them shall attend any of the Meetings to be held in pursuance of this Act.

Other Notices, how to be given.

X. And be it further enacted, That all other Notices requisite or necessary to be given by the said Commissioners shall be given by Advertisement to be inserted in the *Westmorland Gazette*, or if the same should not then be published, then in some other Newspaper printed or generally circulated in the said County.

Commissioners may appoint Surveyor for assisting them.

XI. And be it further enacted, That it shall be lawful for the said Commissioners to appoint and employ some Person or Persons, not interested in the said Tithes or Dues, and not being or having been, nor being under any Agreement or Stipulation to become, the Steward or Agent of any Person so interested, to be a Surveyor or Surveyors for the Purpose of carrying into execution this Act, and to assist them the said Commissioners in executing the several Powers and Authorities vested in them, and from Time to Time to remove any such Person or Persons, and to appoint some other Person or Persons, not interested or to become interested as aforesaid, to be such Surveyor or Surveyors in the Room and Stead of him or them, and to pay every such Surveyor and Assistant, out of the Monies to be provided for the Purposes of this Act, all such Remu-

neration for Labour, Recompence, and incidental Expences, as to the said Commissioners shall appear reasonable.

XII. Provided always, and be it further enacted, That every Person so to be appointed Surveyor as aforesaid shall take and subscribe an Oath or Affirmation to the Effect following; (that is to say,) Surveyors to take an Oath.

‘ I A. B. do swear, [*or, being one of the People called Quakers or Moravians,* Oath.
 ‘ I do solemnly affirm,] That I will faithfully, impartially, and honestly,
 ‘ according to the best of my Skill and Knowledge, execute the several
 ‘ Powers and Trusts reposed in me as a Surveyor by virtue of an Act
 ‘ passed in the Fourth Year of the Reign of King *William* the Fourth,
 ‘ intituled [*here insert the Title of this Act*], without Favour or Affection,
 ‘ Prejudice or Malice, to any Person or Persons whomsoever.
 ‘ So help me GOD.’
 [*Or, in the Case of Quakers or Moravians, omit the Words, ‘ So help me
 ‘ God.’*]

Which Oath or Affirmation it shall be lawful for the said Commissioners to administer; and such Oath or Affirmation, so taken and subscribed, shall be annexed to and deposited with the Award of the Commissioners. Commis- sioners may administer Oath.

XIII. And be it further enacted, That out of Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same, the said Commissioners, and the Clerk or Clerks to be appointed by the said Commissioners as herein-before directed, shall respectively be paid for each and every Day they shall travel or be employed in any Business relating to the Execution of this Act, during the first Three Years next after the passing of this Act, the Sum of Two Pounds and Two Shillings, and no more, and after the Expiration of the said Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of One Pound Eleven Shillings and Sixpence, and no more, for each and every Day they shall be respectively employed as aforesaid, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall be put to during their several Journeys and Attendances in the Execution of this Act, other than and except the Expences for the Use of the Room in which the Meetings shall be holden for carrying this Act into execution, and the Costs and Expences of drawing, preparing, copying, ingrossing, and enrolling the Award of the said Commissioners, and of Advertisements. Allowance to Commis- sioners and Clerk.

XIV. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act and executing the same, the Person for the Time being employed as Surveyor for the Purposes of this Act shall be paid and allowed any Sum not exceeding Nine-pence *per* Acre for his Time and Trouble in surveying, measuring, mapping, or planning the Lands and Grounds necessary to be surveyed for the Purposes of this Act or any Sum not exceeding One Pound and One Shilling for each and every Day he shall be actually and wholly employed either in surveying, measuring, mapping, or planning, or otherwise as a Surveyor for the Purposes of this Act, which said Sums of Nine-pence *per* Acre, or One Pound and One Shilling *per* Day, shall be in full Satisfaction for his Time and Trouble, and for all travelling and other Expences of every Description to be incurred by him as such Surveyor in and about the Execution of this Act. Allowance to Surveyor.

XV. And

Proceedings
to be entered
in a Book.

XV. And be it further enacted, That all Orders, Proceedings, and Determinations of the said Commissioners or Commissioner shall be entered in a Book or Books to be provided for that Purpose, and signed by the said Commissioners or Commissioner, and being so signed shall be deemed and taken to be Originals; and all such Books shall and may be read in Evidence in all Cases of Appeal, Suits, Actions, and other Proceedings, and shall be accessible to all Persons interested on all reasonable Occasions.

Survey and
Admeasure-
ment may be
made;

XVI. And be it further enacted, That it shall be lawful for the said Commissioners to cause to be made a Survey and Admeasurement of all the Messuages, Lands, and Tenements within the said Townships or Divisions, and also to cause to be made a Map or Plan thereof, specifying the Quantity in Statute Measure of each Close, Piece, or Parcel of Land within the same Divisions or Townships; and when and as soon as such Admeasurement and Map or Plan shall be made, the same or a Duplicate thereof, or of any Map or Plan, Survey or Surveys already made, which may be used as herein-after mentioned, or a Duplicate or Duplicates thereof, shall be deposited by the said Commissioners at some convenient Place in the said Parish (to be fixed by the said Commissioners) for the Inspection of all Persons interested in the said Messuages, Lands, or Tenements, and Tithes or Dues; and the said Commissioners shall and they are hereby required, within Fifteen Days next after such Map or Plan shall be deposited, to give Notice according to the Directions of this Act that such Map or Plan hath been so deposited, and when and where the same may be inspected, and shall also in such Notice appoint some convenient Place within the said Parish, and a Time not earlier than Twenty-one Days from such Notice, when and where they will attend to hear Objections from any Person or Persons interested in the said Messuages, Lands, Tenements, or Tithes, who may be dissatisfied with such Admeasurement, Map, or Plan, and the said Commissioners are hereby required, unless prevented by Illness or other inevitable Accident, to attend at the Place and Time to be appointed; and at such Meeting, or at some Adjournment thereof, the said Commissioners shall hear and determine any Objections which may be there and then made to the said Admeasurement or Map or Plan; and it shall be lawful for the said Commissioners to examine any Person or Persons on Oath, or, in the Case of a Quaker or Moravian, on solemn Affirmation, touching such Objections, which Oath or Affirmation the said Commissioners or either of them are or is empowered and hereby required to administer; and when the said Commissioners shall have heard and determined all such Objections (if any) as shall be so made, they are hereby required, if they shall see Occasion, to cause such Admeasurement, Map or Plan, or any Statement respecting or accompanying the same, to be altered.

or any exist-
ing Plan or
Survey may
be used.

XVII. Provided always, and be it further enacted, That if any Plan or Plans, Survey or Surveys, already made, of all or any Part of the Messuages, Lands, and Tenements in the said Parish or Townships or Divisions, shall be produced and laid before the said Commissioners, of the Authenticity and Accuracy whereof they shall be satisfied, it shall and may be lawful for the said Commissioners and they are hereby empowered, in case they shall think fit so to do, to make use of the same in lieu of or in aid of the Survey and Admeasurement, Map or Plan, by this Act authorized
or

or directed to be made, without causing a new Survey or Plan to be made thereof: Provided nevertheless, that in all Cases when such new Survey or Plan shall be required by the said Commissioners, the same shall be at the sole Cost of the Owner or Owners of the Estate or Estates so to be surveyed.

XVIII. And be it further enacted, That for the Purpose of enabling the said Commissioners to make a Survey, and to form a correct Judgment as to the Value (according to the Intent and Meaning of this Act) of the Tithes proposed to be commuted, it shall be lawful for them, and their Assistants, Agents, or Servants, at all reasonable Times, and upon giving reasonable Notice to the Tenant or Tenants of the Lands, to enter into and upon all and every or any of the Lands whereof the Tithes shall be proposed to be commuted, without being subject to any Action or Molestation for so doing; and the said Commissioners are hereby authorized and empowered at their Discretion, and as to them may seem fit, by any Writing or Writings under their Hands, to summon and call before them and to examine as well the Parties interested as also all other Persons whomsoever, saving all just Exceptions, touching any Matters relating to the said Tithes or the Valuation thereof, and likewise to demand from the Parties and Witnesses, or any of them; saving all just Exceptions, the Production of all or any Books, Papers, Deeds, Writings, or other Documents in their or his Custody or Power relating to any of the Matters aforesaid, and to cause a Copy of such Writing to be served on such Person or Persons required to attend or to give Evidence, or to produce such Books, Papers, Deeds, Writings, or other Documents, or to be left at his, her, or their usual or last Place of Abode; and every Person or Persons so summoned, who shall not appear before the said Commissioners pursuant to such Summons, or comply with the Directions of such Summons or Writing (without assigning some reasonable Excuse for not appearing), or appearing shall refuse to be sworn or examined on Oath or Affirmation, which Oath or Affirmation the said Commissioners are hereby empowered and required to administer (such Person or Persons having been paid or tendered to him, her, or them the reasonable Charges of his, her, or their Attendance), and being thereof convicted before One or more of His Majesty's Justices of the Peace for the County of *Westmorland*, upon Information thereof upon Oath made before any such Justice or Justices, shall for every such Neglect or Refusal forfeit and pay to the said Commissioners such Sum of Money, not exceeding Twenty Pounds, as such Justice or Justices shall think fit and order, to be recovered, in case of Nonpayment on Demand, by Warrant of Distress and Sale of the Goods and Chattels of the Person or Persons liable to pay the same, by Warrant under the Hand and Seal or Hands and Seals of such Justice or Justices, and which Warrant such Justice or Justices is or are hereby authorized and empowered to grant, rendering the Overplus, if any, after Payment of the reasonable Costs of such Distress and Sale, to be allowed by such Justice or Justices, to the Owner or Owners of such Goods and Chattels.

Commis-
sioners may
enter Lands
to make
Survey.

XIX. And be it further enacted, That the said Commissioners shall and they are hereby required, immediately after the taking and subscribing the said Oath or Affirmation, to choose, nominate, and appoint as an Umpire, some fit and proper Person, not interested in the said Tithes or the Land

Umpire to be
appointed.

[Private.]

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or

or Ground of or within the said Parish, and not being Agent for or usually employed by any Person so interested, who shall be willing and consent to act as Umpire; and such Umpire is hereby authorized to hear and determine any Difference or Dispute that shall or may arise between the said Commissioners touching any Matter or Thing to be done, performed, or decided by the said Commissioners in pursuance of this Act, and the Judgment and Determination of the said Umpire, so far only as immediately relates to the Matter in dispute, shall be deemed and considered to be the Judgment and Determination of the said Commissioners, and shall be final and conclusive upon the said Commissioners, and upon all other Persons concerned in the said Tithes and Payments, so far as the Judgment and Determination of the said Commissioners would in such Case have been final and conclusive: Provided always, that in case the Person so nominated and appointed by the said Commissioners as Umpire shall die, or refuse to act or become incapable of acting in the Execution of this Act, it shall be lawful for the said Commissioners to nominate and appoint some other fit and proper Person, not interested or concerned as Agent as aforesaid, as Umpire in the Room or Stead of the Person so dying, refusing, or becoming incapable of acting in the Execution of this Act, and so from Time to Time as often as the Case shall happen; and in case any such Umpire shall neglect to settle and determine any such Difference within Thirty Days next after the same shall have been referred to him by the said Commissioners, such Neglect shall be deemed and taken as a Refusal to act within the Intent and Meaning of this Act.

Umpire to
take an Oath.

XX. Provided always, and be it further enacted, That every Person who shall be appointed Umpire for the Purposes of this Act as aforesaid shall, before he proceeds to act as such Umpire, take and subscribe an Oath, or, being one of the People called Quakers or Moravians, make and subscribe a solemn Affirmation, to the Purport or Effect following; (that is to say,)

Oath.

‘ I *A. B.* do swear, [*or, being one of the People called Quakers or Moravians,*
‘ do solemnly affirm,] That I will faithfully, impartially, and honestly,
‘ according to the best of my Skill and Ability, execute and perform
‘ the several Trusts, Powers, and Duties vested and reposed in me as
‘ the Umpire by virtue of an Act passed in the Fourth Year of the Reign
‘ of His Majesty King *William* the Fourth, intituled [*here insert the Title of*
‘ *this Act*], according to Equity and good Conscience, and without Favour
‘ or Affection, Prejudice or Malice, to any Person or Persons whom-
‘ soever, and according to the true Intent and Meaning of the said Act.
‘ So help me GOD.’
[*Or, in the Case of Quakers or Moravians, omitting the Words ‘ So help me*
‘ God.’]

Penalty on
Persons act-
ing if not
qualified.

XXI. And be it further enacted, That if any Person shall presume to act as a Commissioner or Valuer of Tithes, or Umpire, in the Execution of this Act, who shall not be duly qualified according to the Provisions or Directions of this Act, every such Person shall for every such Offence forfeit and pay the Sum of One hundred Pounds to any Person or Persons who shall sue for the same, to be recovered by Action of Debt or on the Case, together with full Costs of Suit, in any of His Majesty's Courts of Record at *Westminster* or elsewhere.

XXII. And

XXII. And be it further enacted, That the said Commissioners shall, so soon as the same shall be ascertained or determined upon, enter or cause to be entered in the said Book or Books by this Act directed to be kept the relative Quantities of Arable, Meadow, and Pasture Land comprised in each Estate or Farm, together with the annual Value thereof, and the annual Value of the Produce and Tithe thereof respectively.

Relative Quantities of Land in each Estate with the annual Value to be entered in a Book.

XXIII. And be it further enacted, That if any Dispute shall arise between any of the Proprietors or Owners of or Persons interested or claiming to be interested in the said Lands and Grounds within the said Parish, out of which the said Tithes and Dues are issuing and payable or claimed, and the Person or Persons interested in the said Tithes and Dues, or any of them, concerning the same Tithes and Dues, or the respective Rights or Interests which they or any of them may have or claim therein, or touching or concerning the Extent and Boundaries of such Lands and Hereditaments and Premises, it shall be lawful for the said Commissioners to hear and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Capital or other Messuages, Demesne or other Lands, Tenements, or Hereditaments whatsoever.

Commissioners may settle Disputes.

XXIV. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any such Dispute, see Cause to award any Costs, it shall be lawful for them, having Regard to the Provisions for the Payment of Expences in this Act contained, to award such Costs as they shall think reasonable to be paid by either Party to the other, and in case of Nonpayment, by Warant under their Hands, directed to any Person or Persons whomsoever, to cause such Costs to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic or Corporate, neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to the Person or Persons, Body or Bodies Politic or Corporate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Commissioners may award Costs.

XXV. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall think himself, herself, or themselves aggrieved by any Determination of the said Commissioners, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so aggrieved, to proceed to a Trial at Law of the Matters so determined by the said Commissioners in His Majesty's Court of King's Bench at *Westminster*, and for that Purpose the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so aggrieved, shall cause an Action to be brought upon a feigned Issue against the said Commissioners for the Time being, in case where the Matter of such Claim and Determination shall be exclusively between the Party or Parties claiming and the said Commissioners deciding any such Right or Interest, and in case where the Matter of such Claim and Determination shall be between Party and Parties, then against the Person or Persons, Body or Bodies Politic or Corporate, in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioners shall have been notified or made known in Writing to such dissatisfied Person and Persons,

Persons may try their Rights by Action at Law.

Body

Body or Bodies Politic, Corporate, or Collegiate, at the next or second Assizes to be holden for the said County; and the Defendants or Defendant in such Action or Actions shall, and they, he, or she are and is hereby required to name an Attorney or Attornies, who shall file Common Bail or appear thereto, 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 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, Body or Bodies Politic, Corporate, or Collegiate 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 thereon, which it shall be lawful for the Court to do as is usual in other Cases; and each and every of the Parties in such Action or Actions for whom or in whose Favour the same shall be determined shall be entitled to his, her, or their Costs of Suit against the other or others of them, to be taxed by the proper Officer of the Court in which such Action or Actions shall be brought; and in case the said Commissioners shall be made Defendants in any such Action or Actions, then the said Commissioners shall be entitled to defray their Costs and all incidental Expences by all such Ways and Means as the general Expences of executing this Act are provided to be paid and borne; and after such Verdicts or Verdict shall be obtained, and not set aside by the Court, the said Commissioners shall act in conformity thereto, and allow or disallow the Claim or Claims thereby obtained, according to the Event of such Trial or Trials.

Before Action is commenced Notice (stating Ground of Objection) to be given to adverse Party.

XXVI. Provided always, and be it further enacted, That before any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall institute or commence any Action or Actions at Law under the Provision herein-before contained, such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall give Twenty-one Days previous Notice in Writing to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, against whom such Action or Actions at Law is or are intended to be commenced or instituted, and shall therein state each and every particular Ground of Objection which he, she, or they may rely upon against the Determination of the said Commissioners; and such Ground of Objection or Objections, and no other, shall be put in Issue in the said Action or Trial at Law.

Proceedings not to abate if any of the Parties die.

XXVII. 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 Deaths of Parties before Actions brought, the same to be carried on in their Names.

XXVIII. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such 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 Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who

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 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.

XXIX. And be it further enacted, That the said Commissioners, as soon as conveniently may be after the passing of this Act, shall proceed to ascertain and determine, as near as may be, the fair annual Value of the said Tithes upon the several Messuages, Farms, Lands, Tenements, and Hereditaments within the said Parish, including the said Moduses, prescriptive and customary Payments, and all other Moduses, prescriptive and customary Payments, and Compositions Real; and that the said Commissioners shall ascertain and value the said Tithes in Kind according to the average Rate and Value of the several Articles in respect of which such Tithes are or would have been payable, and according to the usual and ordinary Mode of cultivating Lands in the said Parish during the Seven Years ending at *Michaelmas* next preceding the passing of this Act, Regard being had nevertheless to the Custom of Tithing herein-before stated, and that the Value of the Moduses, prescriptive and customary Payments, shall be valued according to the average Amount of such Moduses, prescriptive and customary Payments, due or payable during such last-mentioned Seven Years: Provided always, that in estimating the Value of the said Tithes, the said Commissioners shall estimate the same as a Sum payable free from all Parochial and County Rates, Charges, and Assessments; and in estimating the Value of the Tithes of Milk, Potatoes, and Turnips, the said Commissioners shall take the Principle of their Valuation to be the Sum which they would be worth to the Vicar, supposing them to be rendered in Kind.

Tithes to be valued according to an Average of Seven Years.

XXX. Provided always, and be it further enacted, That in the Valuation of the Tithe of Milk the said Commissioners shall compute the Value of the Milk of each Milch Cow upon each Farm, commencing with the Fifth Cow, subject to a reasonable Deduction in respect of such Milk as may by Law be exempt from the Payment of Tithe, all Milk consumed in the Family of the Occupier, where such Occupier resides in a House of Husbandry in the same Parish being considered as exempt from the Render of Tithes, a due Proportion of the Milk of the first Four Cows being included in the Calculation; that in the Valuation of the Tithes of Potatoes and Turnips the said Commissioners shall not take into consideration the Value of such titheable Articles and Things when produced in Gardens, or under any other Circumstances which may by Law exempt them from the Render of Tithes, and that Potatoes and Turnips shall be considered as exempt from Tithes when eaten on the Land, but subject to the Tithe of Agistment when eaten on the Land by unprofitable Sheep or unprofitable Cattle; and that in the Valuation of

Commissioners to observe legal Exemptions.

[Private.]

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the Tithes of Agistment the said Commissioners shall compute the Value thereof for the full Term of Twenty Weeks only between the First Day of *May* and the First Day of *October* in each Year, and shall exclude from their Consideration the Value of all such Agistment as shall be consumed by Cattle which may by Law not be deemed barren or unprofitable, and also all such Agistment as may be exempt from the Render of Tithes upon any other legal Grounds; and that all Grass or Herbage produced upon Land which has yielded other tithable Matter to the Parson of the Parish in the same Year, as After-grass, Fog or Stubble-grass, shall be considered as exempt from the Payment of Tithes, and that the Exemption shall apply in this Case although the Herbage be consumed by Cattle which are barren and unprofitable; and that the Herbage consumed by all Cattle which are profitable, directly or indirectly, immediately or remotely, to the Parson of the Parish, as Milch Cows, notwithstanding they may become dry accidentally, or in the ordinary Course before their usual Time of calving, Horses and Cattle used in Husbandry in the same Parish, Bulls and Stallions kept for the Use of the Owner, Brood Mares, young Cattle reared for the Plough or Cart or for the Pail, for the express Use of the Owner in the same Parish, unless their Destination be altered, and they are sold out of the Parish before they become profitable, or unless they are brought from another Parish to be agisted for Hire, shall be considered as exempt from the Payment of Tithes; that Agistment Tithe shall not be considered as payable in respect of Sheep under any Circumstances when fed on Grass or Stubble; that Herbage consumed by Horses kept for the Pleasure or Convenience of the Owner, as Saddle Horses, Coach, Carriage, or Gig Horses, except they are to let out for Hire, or are taken in to agist from another Parish, shall be considered as exempt from the Payment of Tithes; that the Herbage consumed by all barren and unprofitable Cattle, when fed upon Pasture Land, and fattened solely and exclusively for the domestic Consumption of the Occupier in a Farm House within the Parish, be considered as exempt from the Payment of Tithe.

Declaring
what shall be
Equivalent
for Tithes.

XXXI. And be it further enacted, That the Equivalent for the Tithes intended to be commuted by virtue of this Act shall be as follows; (that is to say,) the annual Sums to be ascertained in manner herein-before directed which have been paid or payable in respect of the several Messuages, Farms, Lands, Tenements, and Hereditaments within the said Parish for the Hay Modus, and the small Money Payments or Moduses usually paid and enumerated in the said Schedule, and payable as well to the Rector as to the Vicar of the said Parish, shall be commuted for an annual Sum of Money equal to the annual Amount of such several Moduses and Payments; and that the Tithes of Calves, Bees, Pigs, and Geese, arising and accruing in or upon the said several Messuages, Farms, Lands, Tenements, and Hereditaments, the annual Value whereof is to be ascertained as aforesaid, shall be commuted for an annual Sum of Money equal to the annual Amount of such Valuation; and that the Tithe of Milk of new calved Cows when they exceed Four (such Valuation to commence with the Fifth Cow), and also the Tithes of Agistment, Turnips, and Potatoes, arising and accruing in or upon the said several Messuages, Farms, Lands, Tenements, and Hereditaments, the annual Value whereof is to be ascertained as aforesaid, shall be commuted for

an annual Sum of Money equal in Amount to One Half of such last-mentioned Valuation.

XXXII. And be it further enacted, That the said Commissioners shall apportion, settle, ascertain, and assess the respective annual Sum or Sums of Money which each and every of the Owners and Occupiers of Messuages, Lands, or Tenements within the said several Townships or Divisions in the said Parish, the Tithes whereof are intended to be commuted by virtue of this Act, shall or ought upon such Valuation to be charged and chargeable with for or in respect of their Messuages, Lands, or Tenements within the said Parish, Regard being had to the Description of Tithe payable in respect of such Messuages, Lands, and Tenements, and Regard also being had to the Custom of Tithing as hereinbefore mentioned, for and in lieu and in full Compensation of such Tithes so to be commuted as aforesaid, and of all other Tithes whatsoever, whether predial, personal, or mixed, arising, renewing, or increasing within the said Parish, and payable either to the Rectors or Vicar of the said Parish for the Time being, other than and except the Tithes of Corn and Grain, Lambs, Wool, and Foals.

Commis-
sioners to
ascertain the
particular
Sums to be
payable in
respect of
each Farm.

XXXIII. And whereas Doubts and Differences have arisen between the said Vicar on the one Part, and the said Impropiators and their Lessee on the other Part, as to whether the said Rectors or Vicar of the said Parish are entitled to the Tithes of Turnips and Potatoes, and also to the respective Portions to which they are entitled respectively of and in other of the said Tithes and Money Payments so intended to be commuted as aforesaid: And whereas the said Master, Fellows, and Scholars, being desirous of putting an End to the said Doubts and Differences, and being willing to improve the said Vicarage, have proposed to relinquish and give up to the said Vicar all their Reversionary Interest in the said several Tithes and Money Payments intended to be commuted by this Act, and to which they are entitled in Perpetuity, and have also proposed to pay the said *Thomas Rawsthorne* for the Relinquishment by him of all his Tenant Right and Interest of and in the said Tithes and Money Payments so intended to be commuted, on Condition of being repaid the Money so paid to the said *Thomas Rawsthorne*, and Interest for the same, by an annual Payment of the Sum of Forty Pounds, to be made by the Vicar for the Time being of the said Parish to the said Master, Fellows, and Scholars, and their Successors, for the Term of Twenty Years, and no longer: And whereas the said *John Hutton Fisher* being satisfied that the said Proposal will be beneficial to his said Vicarage, inasmuch as the annual Value of the Portion of the said commuted Tithes and Money Payments to which the said Master, Fellows, and Scholars, or their Lessee, would have been entitled, would have amounted to the Sum of Forty Pounds at the least, and probably to more than that Sum, and also inasmuch as the said Vicarage will be charged only with a temporary in lieu of a perpetual Payment, the said *John Hutton Fisher* hath assented and agreed to such Proposal: And whereas the said *Thomas Rawsthorne* hath also agreed to such Proposal; be it therefore further enacted, That the several and respective Sums of Money or annual Payments by this Act directed to be apportioned, settled, ascertained, assessed, and charged by the said Commissioners, shall exclusively belong to and be received by the said Vicar and his Successors, Vicars for the Time being of the said Parish; and that

The whole
Commutation
vested in the
Vicar; and
Provision
made for the
Payment of
40l. per
Annum for
20 Years to
the College.

in

in consideration thereof, and in order to reimburse the Money so agreed to be paid to the said *Thomas Rawsthorpe* as aforesaid, the said *John Hutton Fisher* and his Successors, Vicars for the Time being of the said Parish, shall, on the Thirtieth Day of *June* yearly and every Year, for the Term of Twenty Years from the passing of this Act, pay to the said Master, Fellows, and Scholars the Sum of Forty Pounds, free and clear of and from all Deductions on account of Parliamentary or Parochial Taxes or Rates, or on any other Account whatsoever, the first of such annual Payments to become due and be made on the Thirtieth Day of *June* next; and in case Default shall be made in Payment of any of the said annual Sums for the Space of Thirty Days after the same shall become due as aforesaid, it shall and may be lawful for the said Master, Fellows, and Scholars, and their Successors, and they are hereby empowered, to recover the same respectively, together with all Costs and Charges occasioned by such Default, from the Person so making such Default, by Distress as in the Case of Rent in arrear, or by Action at Law.

When Payments are to be made.

XXXIV. And be it further enacted, That the several and respective Sums of Money or annual Payments which shall be so apportioned, settled, ascertained, assessed, and charged by the said Commissioners on the Owners and Occupiers of the Messuages, Lands, and Tenements within the several Townships or Divisions in the said Parish, the Tithes whereof are intended to be commuted by virtue of this Act, shall be payable and paid by the Owners and Occupiers for the Time being of such Messuages, Lands, and Tenements to the said Vicar and his Successors, Vicars of the said Parish Church for the Time being, in the Vestry Room of the Parish Church of *Kirkby Lonsdale* aforesaid, by Two equal half-yearly Payments; that is to say, on the Sixth Day of *April* and the Eleventh Day of *October* in each Year for ever, free and clear of and from all Taxes, Rates, Dues, and Assessments whatsoever, the first Payment thereof to commence and be made as on and from the Eleventh Day of *October* in the Year of our Lord One thousand eight hundred and thirty-three, and all such half-yearly Payments shall be taken for and in respect of the Half Year ending with the Day whereon such Payment is hereby directed to be made.

Award.

XXXV. And be it further enacted, That when such Valuation and Apportionment as aforesaid shall have been made and completed as aforesaid, the said Commissioners shall and they are hereby required forthwith to proceed and draw up and make, or cause to be drawn up and made, an Award or Instrument in Writing in which shall be expressed in Words, or by Reference to any Map or Maps, Plan or Plans, to be made by or under the Direction of the said Commissioners; or any Plan or Plans, Survey or Surveys, authorized by this Act to be made use of as herein-before mentioned, or to any Schedule or Schedules which they may think proper to incorporate in or annex to their said Award, the Quantity and Contents in Statute Measure of each and every separate and distinct Estate, Close, Piece or Parcel of Land or Ground within the said Parish, with the Names of the Owners and Occupiers thereof respectively, and distinguished by their Boundaries and Abuttals, of such of the said Messuages, Lands, and Tenements, the Tithes whereof shall be so commuted as aforesaid, and likewise the annual Sum or Sums of
Money

Money to be issuable and payable out of each and every distinct Estate or Farm, and all such other Particulars, Requisites, Matters, and Things, together with all such Orders and Regulations as shall be thought proper and necessary by the said Commissioners for the perfecting, completing, and effectuating the said Commutation as in this Act mentioned, and for rendering every Act, Matter, and Thing relating thereto plain, clear, and intelligible, according to the true Intent and Meaning of this Act; and that such Award or Instrument shall be fairly engrossed or written upon Parchment, and shall be read and executed by the said Commissioners at a Meeting to be held for the Purpose, at which Meeting the said Owners and Occupiers, or such of them who shall think proper to attend, shall be entitled to be present, and of the Time and Place and Purpose of which Meeting Ten Days Notice at least shall be given in the Manner herein-before mentioned with respect to other Notices; and every such Award, when so executed by the said Commissioners, shall, within Fourteen Days after the Execution thereof, be delivered to the Clerk of the Peace for the said County of *Westmorland*, who is hereby required to receive, keep, and deposit the same among the Records of the said County, (for the Reception of which the Sum of Three Pounds and Three Shillings, and no more, shall be demanded and paid,) to the end that Recourse may be had thereto by all Persons interested, for the Inspection of which said Award One Shilling shall be paid, and no more; and a true Copy of the said Award, fairly written on Parchment, shall be deposited in the Parish Church of *Kirkby Lonsdale* aforesaid, there to remain for ever thereafter; and every such Award, and all Orders, Directions, Regulations, and Determinations therein contained and thereby declared, shall be binding and conclusive upon all Persons whomsoever, so far as the same are made and done in pursuance of this Act.

XXXVI. Provided always, and be it further enacted, That the Valuation and Apportionment to be made as by this Act directed, and which shall be set forth and specified by the said Award so to be made as herein-before mentioned, shall be deemed and taken to be made according to the average Price of Corn for the Term of Ten Years next preceding the passing of this Act, as the same shall be ascertained by the said Commissioners by reference to the *London Gazette*, or by such other Ways and Means as the said Commissioners shall think most proper, so that every Tithe Rent awarded to be paid by the said Award shall be deemed at the Time of executing the said Award to be of the Value of such Number of Bushels and decimal Parts of a Bushel of Wheat, Barley, and Oats, as the same would have purchased at the Prices mentioned as aforesaid in case One Third Part of such Tithe Rent had been invested in the Purchase of Wheat, One Third Part thereof in the Purchase of Barley, and the remaining One Third Part thereof in the Purchase of Oats.

Sums fixed by the Award to be deemed as made on the average Price of Corn for the previous Ten Years.

XXXVII. Provided also, and be it further enacted, That after the Expiration of the Term of Ten Years from the Date of the said Award, and also from Time to Time for ever after the Expiration of every succeeding Term of Ten Years, to be computed from the same Period, but at no intermediate Time or Times, it shall and may be lawful to and for the said Vicar and his Successors, or for any One or more of the Person or Persons liable to the Payment of the said Tithe Rents, or any Part thereof, who shall alone or collectively be Owner or Owners of any Messuages, Lands, or Tenements assessed to the Land Tax of Fifty

For re-ascertaining Corn Rent.

[Private.]

Pounds *per Annum*, whether such Land Tax be redeemed or not, within the said several Townships or Divisions, or any of them, within Sixty Days after the Expiration of any such Term of Ten Years, to give Notice, by Writing to be affixed on the principal outer Door of the Parish Church of *Kirkby Lonsdale* aforesaid, of his, her, or their Intention to apply to the Justices of the Peace for the said County of *Westmorland* at the Court of General or Quarter Sessions of the Peace to be held for the said County next after the Expiration of Twenty-one Days from the Publication of such Notice, to ascertain the average Price of Wheat, Barley, and Oats, by reference to the *London Gazette*, for the Ten Years next preceding such Application; and on any and every such Application, and Proof of such Notice, it shall be lawful for the Justices of the Peace for the said County assembled at the General or Quarter Sessions of the Peace, or at some Adjournment thereof, and they are hereby required, to inquire and ascertain by reference to the *London Gazette*, or by such other Ways and Means as they shall think most proper, the average Price of Wheat, Barley, and Oats for the then preceding Term of Ten Years; and according as such average Price or Prices shall be found to be more or less or equal to the average Price or Prices thereof according to which such Tithe Rents shall have been previously regulated, the said several annual Tithe Rents shall be adjusted, and increased, or reduced, or continue unaltered accordingly, as the Case may be, according to the Order of the Justices at such Court of General or Quarter Sessions; and the Sum or Sums which shall be so adjusted, increased, or reduced, or continue unaltered, upon any such periodical Application from Time to Time, shall, from the half-yearly Day of Payment next preceding such Order, remain and continue issuing and payable as aforesaid out of the Messuages, Lands, and Tenements within the said Townships or Divisions, in the several relative Proportions, as between and among the Owners and Occupiers of the said several Messuages, Lands, and Tenements, as shall be originally fixed or ascertained by the Award of the said Commissioners, for ever, or until the said several Tithe Rents shall be again varied or altered by any subsequent Order of the said Court to be again made upon any future Application under the Provisions of this Act; and the Costs, Charges, and Expences of making every such Application to the said Court of General or Quarter Sessions, and of varying and re-ascertaining such several annual Tithe Rents, shall be defrayed by such Person or Persons, and in such Shares or Proportions, as the said Court shall order and direct; and such Court by their Order or Warrant are hereby authorized and directed to levy or cause to be levied the Costs, Charges, and Expences so ordered to be defrayed by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant and Distress and Sale.

For Appor-
tionment of
Tithe Rent.

XXXVIII. And be it further enacted, That it shall and may be lawful to and for the respective Owners for the Time being of any Messuages, Lands, or Tenements within any of the said Townships or Divisions, or Parts of Townships or Divisions, respectively charged with the said annual Sum or Sums of Money, or any Part or Parts thereof respectively, upon any Division of any such Messuages, Lands, or Tenements, either by Sale or otherwise, by any Instrument in Writing to be signed by any such respective Owners, and also by the Purchaser or Purchasers of any such

such Messuages, Lands, or Tenements so to be divided, and the Vicar of the said Parish for the Time being, to divide and apportion the said annual Sum or Sums of Money, and to declare what Part or Proportion thereof respectively such Messuages, Lands, and Tenements so to be divided as aforesaid, shall in future be charged with; and after every such Apportionment, the annual Sum or Sums of Money so apportioned shall be payable in such Shares or Proportions, and chargeable only on such Messuages, Lands, and Tenements, as shall be specified in such Instrument or Apportionment in that Behalf; provided that every such Apportionment be made with a due Regard to the Security of the several Parts or Proportions of the said annual Sum or Sums of Money as ascertained by the said Commissioners in and by their Award; and that every such Instrument shall within Three Calendar Months from the Date thereof be affixed to and for ever thereafter remain with the Award of the said Commissioners, for the Inspection of the several Persons interested therein, who shall be at liberty to inspect and peruse the same, on Application for such Purpose, at all seasonable Times, and to make Copies thereof or Extracts therefrom.

XXXIX. And be it further enacted, That the several annual Sums which shall be ascertained and fixed by virtue or in pursuance of this Act shall, from and after the executing and depositing of the said Award, be and they are hereby declared to be in full Bar, Satisfaction, Discharge, and Extinguishment of and for all and singular the Tithes, whether predial, personal, or mixed, arising, growing, renewing, or increasing within the said Parish or the tithable Places thereof, and payable either to the Rectors or Vicar of the said Parish, other than and except the Tithes of Corn and Grain, Wool, Lambs, and Foals throughout the Parish, for or in respect of which Tithe no Commutation or Agreement is intended to be hereby made: Provided always, that nothing in this Act contained shall prejudice, lessen, or defeat the Right of the said Vicar or his Successors to any Surplice Fees, Mortuaries, Smoke Money, and Oblations, or other personal Payments, arising or becoming due to him or them within the said Parish, or any Stipend, Augmentation Money, annual or other Rents or Profits of Glebe or other Land, or Salary, all which shall continue to be paid and taken in the same Manner as the same might be rightfully paid and taken before the passing of this Act, and free and clear of and from any Contribution towards the said Corn Rent, or any Costs, Charges, or Expences mentioned in this Act.

Tithe Rent to be in satisfaction of all Tithes except those herein mentioned.

Proviso for certain Rights of the Vicar.

XL. And be it further enacted, That in case any of the said annual Sum or Sums of Money so to be apportioned and ascertained as aforesaid, composing the said Tithe Rents or any of them, or any Part or Parts thereof, shall be behind and unpaid for the Space of Thirty Days next after the Day on which the same are herein-before directed to be paid, it shall be lawful for the Person or Body Corporate for the Time being lawfully entitled to receive the same or any Part thereof to have and exercise all such Powers and Remedies of Distress and Sale for recovering the Sum or Sums of Money due to him or them and so unpaid as aforesaid, together with the Costs and Charges occasioned thereby, from and out of all such Messuages, Lands, and Tenements as shall be charged with such annual Sum or Sums so in arrear, as by the Laws and Statutes of this Realm are or is or shall or may be given for Recovery of Rent in arrear upon common Demise, but so that no Messuages, Lands, Tenements, or Hereditaments

Vicar to have Power to distrain.

Hereditaments shall be subject or liable to the Payment of any greater or other Part or Share of the said Tithe Rent, or the Costs and Charges occasioned by the Nonpayment thereof, than the particular annual Sum or Sums of Money which shall for the Time being be charged upon the same Messuages, Farms, Lands, Tenements, and Hereditaments towards the said Tithe Rent, under or by virtue of this Act: Provided always, that it shall be lawful for the Person or Body Corporate for the Time being lawfully entitled to such annual Sum or Sums of Money to sue for and recover the same, together with full Costs of Suit, from the Person or Persons or Parties liable to pay the same, by Action of Debt or on the Case, in any of His Majesty's Courts of Record at *Westminster*, wherein no Essoign, Protection, or Wager of Law, or any Imparlance, shall be allowed.

Declaring what shall be sufficient in Actions of Replevin.

XLI. And be it further enacted, That in case any Action of Replevin or Trespass shall be brought in consequence of any Distress made in pursuance of this Act, it shall be lawful for the Defendant or Defendants in Replevin to avow or make Cognizance generally in the Manner following; (that is to say,) that the Lands and Tenements whereon such Distress was made were situate within the Parish of *Kirkby Lonsdale* in the County of *Westmorland*, and were liable to pay to the Vicar for the Time being such a certain Rent in lieu of the Tithes during the Time wherein the Rent distrained for was incurred, which Rent was then and still remains due, without further setting forth this Act or any other special Matter; and it shall be lawful for the Defendant or Defendants in any Action of Trespass to plead the General Issue and give the special Matter in Evidence.

Tithe Rent to be apportioned between Vicar and his Successors.

XLII. Provided always, and be it further enacted; That upon the Death, Cession, Resignation, or Removal of the present and every future Vicar of the said Parish, such Vicar, his Executors or Administrators, shall be entitled to so much and such Part of the said Corn Rent as shall be in proportion to the Number of Days elapsed from the then last preceding Day of Payment (or from the Time when such Vicar became first lawfully entitled in fact or by relation of Law to receive the Fruits of the said Vicarage) to the Day of such Death, Cession, Resignation, or Removal.

Power for Husbands, &c. to raise Money by way of Mortgage, &c. to pay Expences of Act, &c.

XLIII. Provided always, and be it further enacted, That it shall and may be lawful to and for the Husbands, Guardians, Trustees, Committees, and Attornies of any of the Owners or Proprietors of any Messuages, Lands, and Tenements, the Tithes and Dues whereof are intended to be by this Act commuted, or of any Estate or Interest therein, being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability whatsoever, and likewise to and for any Owners or Proprietors of any Messuages, Lands, or Tenements, the Tithes and Dues whereof are intended to be by this Act commuted, being Tenant or Tenants in Tail, or for Life or Lives, with or without Impeachment of Waste, or Tenant or Tenants by the Courtesy of *England*, or in Dower, or for Years determinable on any Life or Lives, or on any other Contingency, to charge such Messuages, Lands, and Tenements with such Sum or Sums of Money as the said Commissioners shall by their Award or by Writing under their Hands, either before or after the Execution of their Award, adjudge necessary to defray the respective Shares of such Owners or Proprietors of the Charges and Expences incident to and attending the obtaining

obtaining of this Act, and carrying the same into execution, and of charging the said Messuages, Lands, and Tenements as aforesaid, so as the same shall not exceed the Sum of Five Pounds for every Acre of such Lands and Tenements, and for this Purpose to grant, mortgage, surrender, demise, lease, or otherwise subject the said Messuages, Lands, and Tenements unto such Person or Persons who shall advance and lend the same respectively, his, her, or their Executors, Administrators, or Assigns, for any Term or Number of Years; or in case any Person or Persons in Possession who shall or may be liable to and charged with a Share of the Expences as aforesaid, or enabled by this Act to charge such Messuages, Lands, and Tenements with the same, shall choose to advance, pay, and discharge such Sum or Sums of Money, then it shall be lawful for the said Commissioners, by any Deed or Deeds, Writing or Writings, under their Hands and Seals, to be attested by Two or more credible Witnesses, in like Manner to grant, mortgage, surrender, lease, demise, or otherwise subject the said Messuages, Lands, and Tenements to such Person or Persons respectively paying and discharging the same, his, her, or their Executors, Administrators, or Assigns, or any Person or Persons as a Trustee or Trustees for such Person or Persons respectively paying and discharging the same, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money so advanced and discharged by him or them, with Interest for the same, to commence on the Termination of his, her, or their Estate, Right, or Interest in the Premises; so that every such Grant, Mortgage, Surrender, Lease, or Demise respectively be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when such Sum or Sums of Money so to be secured shall be fully paid and satisfied, and also with a Covenant to pay and keep down the Interest, so that no Person or Persons afterwards becoming entitled to or possessed of any such Messuages, Lands, or Tenements shall be liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced; and every such Charge, Grant, Mortgage, Surrender, Lease, or Demise shall be good, valid, and effectual in the Law for the Purposes thereby intended: Provided nevertheless, that the Power or Proviso lastly herein-before contained shall not operate or extend, or be construed to operate or extend, to authorize or empower any Person or Persons whomsoever to charge or make chargeable any Messuages, Lands, or Tenements, with any Sum or Sums of Money, Costs, Charges, or Expences whatsoever, other than such as shall be incurred or occasioned by or be incident to the preparing, soliciting, obtaining, and passing of this Act, the Fees and Payments to the said Commissioners, and to their Clerk or Clerks, Surveyor or Surveyors, Assistant or Assistants, of the Charges and Expences incident to and attending the making, preparing, completing, and depositing the said Award, and of all the Instruments, Papers, Writings, Extracts, Schedules, Maps, and Plans, and Copies of the same respectively, which shall be directed by the said Commissioners to be prepared and made out upon or in relation to their said Award, and of charging the said Messuages, Lands, or Tenements as aforesaid, and no further or other Sum or Sums of Money, Costs, Charges, or Expences, to be in any other Manner incident to or attending the Execution of this Act, or any of the Powers, Provisions, or Authorities therein contained.

Expences
how to be
paid.

XLIV. And be it further enacted, That One Third of the Costs, Charges, and Expences preparatory to and of soliciting and obtaining and passing this Act, and also the Fees and Payments of and to the said *Anthony Reed*, and of and to any other Commissioner and Commissioners to be appointed in the Place and Stead of the said *Anthony Reed*, under the Provisions of this Act, and also One Half of the Fees and Payments of the Umpire so to be nominated as aforesaid, shall be borne and defrayed by the said *John Hutton Fisher*, his Executors or Administrators; and all and singular the Costs, Charges, and Expences of preparing, planning, and making out all and every Plan or Plans, Map or Maps of the said several Messuages, Tenements, and Estates, of which no authentic Map or Maps, or Plan or Plans, shall be supplied to the said Commissioners, shall be borne and defrayed exclusively by the Owners or Occupiers of the several Messuages, Tenements, or Estates for whose Use the same shall be so prepared and made out; and all and singular other the Costs, Charges, and Expences preparatory to, and of soliciting, obtaining, and passing this Act, the Fees and Payments of and to the said Commissioners, and to their Clerk or Clerks; and the Charges and Expences incident to and attending the preparing, making, depositing, and proclaiming the Award of the said Commissioners as in this Act is mentioned, and of all other Instruments, Papers, Writings, Extracts, and Schedules, or any of them, or any Part thereof, directed by the said Commissioners or Umpire to be prepared or made out, and all other Costs, Charges, and Expences whatsoever incurred or to be incurred in or about the preparing, soliciting, or passing this Act, or in anywise attending the Execution of the same, shall be borne and defrayed by such Owners and Occupiers in proportion to the Amount of the said several Sums of Money which shall be payable by them or any of them by the Award of the said Commissioners, the same to be settled and ascertained by the said Commissioners or Umpire; and the respective Shares and Proportions thereof shall be payable and paid to such Person or Persons and at such Times as the said Commissioners or Umpire shall by Writing under their or his Hands or Hand order and direct; and in case either the said *John Hutton Fisher*, his Executors or Administrators, or any other Person or Persons, shall neglect to pay his, her, or their Proportion of the Costs, Charges, and Expences aforesaid, it shall be lawful to and for the said Commissioners, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause the same to be levied and recovered by Distress and Sale of the Goods and Chattels of the said *John Hutton Fisher*, his Executors or Administrators, or other the Person or Persons so making Default in Payment as aforesaid, wheresoever the same shall be found, rendering the Overplus (if any) on Demand, to the Owner or Owners of such Goods and Chattels, the reasonable Charges of such Warrant, and of taking, keeping, and selling such Distress, being first deducted.

Money ad-
vanced to be
repaid with
Interest.

XLV. And be it further enacted, That if any Person or Persons shall advance and pay, or shall have already advanced and paid, any Money in discharge of the Expences of applying for and obtaining this Act, such Person or Persons shall be repaid the same, with lawful Interest, out of the Monies which shall be first raised to defray the Expences of this Act.

Commis-
sioners to lay
Accounts be-

XLVI. And be it further enacted, That once at least in each and every Three Calendar Months during the Execution of this Act (such Three Calendar

Calendar Months to be computed from the passing of this Act) the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences, in the Execution of this Act, and in such Statement or Account shall be particularly specified the several Items or Articles for which each particular Sum has been paid or disbursed; and such Statements or Accounts when so made, together with the Vouchers, shall be by them laid before any Two or more of His Majesty's Justices of the Peace for the said County of *Westmorland* having no Interest therein, to be by them examined and balanced, and such Balance shall be by the said Justices stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioners; and an Abstract of such Account so examined and balanced shall, within Fourteen Days next after the same shall have been so balanced and settled, be published in the *Westmorland Gazette*, or some other Newspaper circulated in the said County of *Westmorland*; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in the Law, unless the same shall have been allowed by such Justices, or until such Account, or the Abstract thereof, shall have been published in such Newspaper as aforesaid (subject nevertheless to the Power of Appeal herein-after contained).

fore Justices
once in every
Three Calen-
dar Months.

XLVII. And be it further enacted, That if any Person or Persons, Body or Bodies Politic, or Corporate, or Collegiate, shall think himself, herself, or themselves aggrieved by any thing done by virtue or in pursuance of this Act, (other than and except as to such Claims, Matters, and Things as are herein-before directed or authorized to be tried, settled, or determined by the Verdict of a Jury or an Issue at Law,) then and in every such Case he, she, or they may appeal to the General or Quarter Sessions of the Peace which shall be held in and for the said County of *Westmorland* within Three Calendar Months next after the Cause of Complaint shall have arisen; and the said Justices shall hear and determine the Matter of every such Appeal, provided that Notice in Writing of every such Appeal, specifying the Cause of Complaint, be given to the said Commissioners, or the Party interested in the Matter of every such Appeal, or their Agent or Agents for the Time being, One Calendar Month at least before such Session (except with respect to the Accounts of the said Commissioners, which, notwithstanding the same shall have been examined and balanced and published as aforesaid, may be appealed against at any Time within Six Calendar Months after the Delivery of the said Award in manner aforesaid to the Clerk of the Peace for the said County of *Westmorland*, on giving to the said Commissioners such Notice as last aforesaid); and the said Justices shall make such Order touching the Matter of such Appeal, and award such Damages and Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant levy the Costs and Charges which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), upon Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such 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.

Allowing an
Appeal to the
Quarter
Sessions.

Actions pending as to Tithes, &c. not to be affected by this Act.

XLVIII. Provided always, and it is hereby enacted, That neither this Act, nor any thing herein contained, shall in any Manner prejudice any Suit or Suits which have or has been already instituted, and is or are now depending, either between the said Rector, the Lessee of the said Rector, or the said Vicar, or the said Parishioners, or between any or either of the said several Parties or any of them, with respect to the Tithes of the said Parish or any Part thereof, or the Renders or Payments in respect of Tithes, claimed to be due or payable by the Person or Persons prosecuting such Suit or Suits; but such Suit or Suits may be prosecuted and defended, and in all respects proceeded with, and the Redress (if any) thereby given, adjudged, and maintained, in the same Manner as if this Act had not passed.

General Saving.

XLIX. Saving always unto the King's most Excellent Majesty, His Heirs and Successors, and to all other Persons, Bodies Politic, Corporate, and Collegiate, their respective Heirs, Successors, Executors, Administrators, and Assigns, (other than and except such Rights and Interests as are absolutely required to be barred, destroyed, or extinguished by virtue of this Act,) all such Estates, Rights, Titles, and Interests as they, every or any of them, had or enjoyed of, in, to, or out of the Messuages, Lands, Tenements, or Hereditaments within the said several Townships or Divisions, before the passing of this Act, or could or might have had if this Act had not been passed.

Act to be printed by the King's Printers.

L. 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.

SCHEDULE to which this Act refers.

For every nuckald or calved Cow (under Five), Two-pence; every strip milch Cow, One Penny; a Garden, One Penny; Hen or Hens, One Penny; for Hemp, One Penny; every Swarm of Bees under Five, One Penny; every Plow, Two-pence; every Foal under Five, Four-pence.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE, Printers to the King's most Excellent Majesty. 1834.