ANNO QUADRAGESIMO SECUNDO

GEORGII III. REGIS

Cap. 42.

An Act for dividing, allotting, incloſing, and appropriating the Commons, Waſte Grounds, and Moſſes, within the Manor or Townſhip of *Egton with Newland* in the Pariſh of *Ulverſton*, in the County Palatine of *Lancaſter*. [30th *April* 1802.]

WHEREAS there are, within the Manor or Townſhip of *Egton with Newland* in the Pariſh of *Ulverſton*, in the County Palatine of *Lancaſter*, ſeveral Commons, Waſte Grounds, and Moſſes, containing by Eſtimation Two thouſand Acres or thereabouts: And whereas the Moſt Noble *Henry* Duke of *Buccleugh*, and the Right Honourable *Edward* Earl *Beaulieu*, are Lords of the ſaid Manor of *Egton with Newland*, and as ſuch entitled to the Soil of the ſaid Commons and Waſte Grounds, and alſo to the Soil under the ſaid Moſſes: And whereas *Wilſon Braddyll* Eſquire is ſeiſed of or entitled to the Fee Simple and Inheritance of, in, and to the Rectory of *Ulverſton* aforeſaid, and in reſpect thereof entitled to certain annual Payments, called *Rectory Rents*, in lieu of Tythes within the Manor or Townſhip of *Egton with Newland* aforeſaid, and claims to be entitled to certain Tythes ariſing in, upon, or out of the ſaid Commons, Waſte Grounds, and Moſſes, or ſome Part thereof: And whereas the Owners of certain Lands and Tenements lying

contiguous or near to the ſaid Manor or Townſhip of *Egton with Newland*, but not within the ſame, claim ſome Right or Intereſt in or upon the ſaid Commons or Waſte Grounds, or ſome Part thereof, by Preſcription or otherwiſe: And whereas there are ſeveral Moſſes or Parcels of Peatmoſs marked and meered out within the ſaid Manor or Townſhip of *Egton with Newland*, the Moſs of which hath for Time immemorial been conveyed from One Perſon to another, and is now held by many different Perſons, for the ſole and excluſive Purpoſe of digging Peats therein; but the Herbage of ſuch Moſſes hath always been enjoyed as Part of the Common of Paſture of and belonging to the ſaid Manor or Townſhip of *Egton with Newland* aforeſaid: And whereas the ſaid Manor or Townſhip of *Egton with Newland* is a diſtinct Diviſion of the ſaid Pariſh of *Ulverſton*, and the Inhabitants thereof maintain the Poor within the ſame ſeparately from any other Part of the ſaid Pariſh: And whereas *John Bacon Sawrey Morritt* and *John Machell* Eſquires, *Robert Town*, *John Noble*, *John Stephenſon*, *Robert Walton*, and ſeveral other Perſons, are Owners and Proprietors of divers Lands and Tenements within the ſaid Manor or Townſhip of *Egton with Newland*, and in reſpect thereof or otherwiſe are entitled to Right of Common in, over, and upon the ſaid Commons, Waſte Grounds, and Moſſes: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled, *An Act for conſolidating in One Act certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*: And whereas the ſaid Commons, Waſte Grounds, and Moſſes, in their preſent Situation are incapable of Improvement, and it would be very advantageous to the ſeveral Perſons intereſted therein if the ſame were divided and incloſed, and ſpecifick Parts thereof allotted to the ſeveral Proprietors, according to their reſpective Rights and Intereſts therein; but ſuch Diviſion, Allotment, and Incloſure cannot be effectually made 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 Goad* of *Beickliffe*, in the Pariſh of *Aldingham* in the County Palatine of *Lancaſter*, Gentleman, *William Kirkby* of *Wateryeat*, in the ſaid Pariſh of *Ulverſton*, Gentleman, and *James Redhead* of *Birkrow*, in the ſaid Pariſh of *Ulverſton*, Gentleman, ſhall be, and they are hereby appointed Commiſſioners for ſetting out, dividing, allotting, and incloſing the ſaid Commons, Waſte Grounds, and Moſſes, and for putting this Act in Execution, in the Manner and ſubject to the Rules, Orders, and Directions herein contained, and alſo ſubject to the Proviſions and Regulations of the ſaid recited Act, except in ſuch Caſes where the ſame are hereby varied or altered; and that all Acts, Matters, and Things by this Act authorized or directed to be done by the ſaid Commiſſioners, may be done and executed by any One or Two of them in the Abſence of the other or others of them, and the ſame, if done by One of them, after being approved by another of ſuch Commiſſioners, in Writing under his Hand, ſhall be as valid and effectual as if all ſuch Commiſſioners had joined therein.

Commiſſioners appointed.

In Caſe of Death, &c. new Commiſſioners may be elected.

II. And be it further enacted, That if any of the ſaid Commiſſioners ſhall die, refuſe, or become incapable to act in the Execution of the Powers hereby and by the ſaid recited Act veſted in him or them, before the Execution of

the Award to be made by the ſaid Commiſſioners, it ſhall be lawful for the remaining or ſurviving Commiſſioner or Commiſſioners, and he and they is and are hereby required, by Writing under his or their Hand or Hands, from Time to Time, within Thirty Days after ſuch Death, Refuſal, or Incapacity of any ſuch Commiſſioner ſhall be known to him or them, to appoint another Perſon (not intereſted in the ſaid intended Diviſion or Incloſure) to be a Commiſſioner in the Room of every ſuch Commiſſioner ſo dying, refuſing, or becoming incapable to act; and in caſe the ſurviving or remaining Commiſſioners or Commiſſioner ſhall neglect ſo to do for the Space of Two Calendar Months next after any ſuch Commiſſioners or Commiſſioner ſhall die, refuſe, or neglect to act, or in caſe there ſhall at any Time be a total Want of Commiſſioners by reaſon of any ſuch Death, Refuſal, or Neglect to act as aforeſaid, then and in every ſuch Caſe the Vacancies thereby occaſioned ſhall be filled up and ſupplied by ſuch Three Perſons as may be for that Purpoſe appointed by a Majority in Value of the ſeveral Proprietors of the ſaid Lands and Tenements in the ſaid Manor or Townſhip of *Egton with Newland*, or their reſpective Attornies, Agents, or Proxies, appointed by Writing for that Purpoſe, aſſembled at any Meeting to be convened as herein-after mentioned, ſuch Majority in Value to be aſcertained by the Land Tax Aſſeſſment of ſuch Proprietors of Lands and Tenements for the Year One thouſand ſeven hundred and ninety-eight; and every ſuch new Commiſſioner or Commiſſioners in either of the above Ways to be appointed or elected ſhall have, and is and are hereby declared to have the ſame Powers and Authorities to put this Act and the ſaid recited Act in Execution, as if he or they had been named and appointed a Commiſſioner or Commiſſioners by this Act; provided that every ſuch new Appointment of a new Commiſſioner or Commiſſioners be reduced into Writing, and ſigned by the Perſon or Perſons appointing ſuch new Commiſſioner or Commiſſioners, which Appointment ſhall be annexed to the Award of the ſaid Commiſſioners, and depoſited therewith.

Commiſſioner may appoint a Clerk.

III. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized to appoint a Clerk, to be aſſiſting in the Execution of this Act, and to allow and pay to him ſuch Salary or Allowance for his Trouble as they ſhall think reaſonable; and from Time to Time to remove ſuch Clerk, and appoint another in his Stead, as to the ſaid Commiſſioners ſhall ſeem meet.

Notice of Meetings.

IV. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, to cauſe Notice in Writing of the Time and Place of their Firſt and every other Meeting for the Execution of this and the ſaid recited Act, to be inſerted in the *Lancaſter Gazetteer*, or in ſome other Newſpaper printed and circulated within the ſaid County of *Lancaſter*, and upon the Market Croſs of *Ulverſton* aforeſaid, Ten Days at leaſt before every ſuch Meeting (Meetings by Adjourment only excepted).

Other Notices how to be given.

V. Provided always, and be it enacted, That all other Notices neceſſary or requiſite to be made and given by the ſaid Commiſſioners ſhall be ſo made and given by Advertiſement in the ſaid *Lancaſter Gazetteer*, or in caſe it ſhall not then be publiſhed, then in ſome other Newſpaper circulated

lated in the ſaid County Palatine of *Lancaſter*, and upon the Market Croſs of *Ulverſton* aforeſaid.

Commiſſioners to ſettle Diſputes.

VI. And be it further enacted, That if any Difference or Diſpute ſhall ariſe between any of the Parties intereſted or claiming to be intereſted in the ſaid Diviſion and Allotments, touching or concerning the Right to the Soil of the ſaid Commons and Waſte Grounds and Moſſes, or any Part or Parts thereof, 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 and Allotments, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized, to examine into, hear, and determine the ſame, and their Determination therein ſhall be binding and concluſive, ſave and except as herein-after mentioned: Provided always, that nothing in this Act contained ſhall authorize the ſaid Commiſſioners to determine the Title to any Meſſuages, Cottages, Lands, or Hereditaments whatſoever.

Power to aſſeſs Coſts.

VII. And be it further enacted, That in caſe the ſaid Commiſſioners ſhall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in purſuance of this Act or the ſaid recited Act, ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby empowered, upon Application made to them for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as they ſhall think reaſonable, to be paid to the Party or Parties in whoſe Favour any Determination of the ſaid Commiſſioners ſhall be made, by the Perſon or Perſons whoſe Claim or Claims, Objection or Objections, ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons 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 be lawful for the ſaid Commiſſioners, and they are hereby authorized and required, by Warrant under their Hands and Seals 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 ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any), upon Demand, to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

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

VIII. Provided always, and be it enacted, That in caſe any Perſon or Perſons intereſted or claiming to be intereſted in the ſaid intended Diviſion or Allotments, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners touching or concerning any Claim or Claims to the Right of the ſaid Commons, Waſte Grounds, and Moſſes hereby directed to be divided, allotted, and incloſed, or any Part or Parts thereof, and ſhall by Writing under his or their Hand or Hands ſignify the ſame to the ſaid Commiſſioners within Fourteen Days after ſuch Determination ſhall be made, it ſhall be lawful for the Perſon or Perſons ſo diſſatisfied with ſuch Determination to have the Matter thereof tried at Law, by One or more Action or Actions, to be brought or commenced within Three Calendar Months next after ſuch Determination ſhall be made, againſt any Perſon or Perſons claiming to be intereſted in the ſaid Commons, Waſte Grounds, and Moſſes, upon a feigned Iſſue or Iſſues, to be ſettled by the proper Officer or Officers of the Court or Courts in which ſuch Action or Actions ſhall be brought,

brought, if the Parties ſhall differ about the ſame, and each Party ſhall ſo proceed therein as to have the ſame tried at the Firſt or Second Aſſizes to be holden at *Lancaſter*, in and for the County Palatine of *Lancaſter*, next after ſuch Determination of the ſaid Commiſſioners; and the Coſts and Charges of defending ſuch Action or Actions ſhall be borne and defrayed, either by the Defendant or Defendants therein reſpectively, or out of the Monies to be raiſed for the Purpoſes of this Act, as to the ſaid Commiſſioners ſhall ſeem juſt and reaſonable, and as they ſhall by Writing under their Hands in that Behalf direct, or by all or ſuch of the Perſons intereſted in the ſaid Commons, Waſte Grounds, and Moſſes, in ſuch Shares and Proportions as the ſaid Commiſſioners ſhall direct and appoint; 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 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 to be had thereon, which it ſhall be lawful for the Court to do, as is uſual in other Caſes; and that after ſuch Verdict or Verdicts ſhall be obtained and not ſet aſide by the Court, the ſaid Commiſſioners ſhall, and they are hereby required, to act in Conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials: Provided always, that all ſuch Determinations of the ſaid Commiſſioners as aforeſaid, which ſhall not be objected to, or being objected to, and the Party or Parties objecting not cauſing ſuch Action at Law to be brought and proceeded in as aforeſaid, ſhall be final, binding, and concluſive upon all Parties.

Diſputes concerning Tythes may be tried at Law.

IX. And whereas Diſputes may ariſe, whether the Commons, Waſte Grounds, and Moſſes hereby intended to be divided, allotted, incloſed, and appropriated, or ſome Part or Parts thereof, or all or any of the Allotments thereof to be made by virtue of this Act, are and ſhall or ſhall not be exempt and held diſcharged from or ſubject to the Payment of Tythes; for the determining thereof, be it enacted, That it ſhall and may be lawful to and for the ſaid *Wilſon Braddyll* and his Heirs, at any Time or Times within the Space of Two Years next after the paſſing of this Act, to bring and proſecute any Action or Actions, Suit or Suits at Law or in Equity, againſt the ſaid *Henry* Duke of *Buccleugh* and *Edward* Earl *Beaulieu*, or the Lord or Lords, Lady or Ladies of the ſaid Manor for the Time being, or againſt all or any of the Owners or Owner, Occupiers or Occupier of Lands lying within the ſaid Manor or Townſhip, or of any Allotment or Allotments of the ſaid Commons, Waſte Grounds, and Moſſes, or any Part or Parts thereof; in which Action or Actions, Suit or Suits, the Defendant or Defendants ſhall, for the Purpoſe of trying the Right to the Tythes in Queſtion, admit that he, ſhe, and they had taken and carried away the different tytheable Matters, whereof ſuch Tythes or the Value of the ſame ſhall or may be demanded or claimed, without ſetting out ſuch Tythes, or any Part thereof, or ſatisfying the ſame; and in caſe the ſaid *Wilſon Braddyll* or his Heirs, ſhall not commence ſuch Action or Actions, Suit or Suits, within the Time aforeſaid, or ſhall not proceed to the Trial or Hearing thereof without Delay, according to the Uſage and Practice of the Court in which ſuch Action or Actions, Suit or Suits, ſhall be commenced or brought, or ſhall proceed therein as aforeſaid, but ſhall not recover all or any of the Tythes in Queſtion, that then and from thenceforth and for ever afterwards, as to all and every Part of the ſaid Commons,

Waſte Grounds, and Moſſes, and the ſeveral Allotments thereof in reſpect of the Tythes whereof no ſuch Action, or Suit at Law or in Equity, ſhall have been commenced or not proceeded in as aforeſaid, or if proceeded in ſo far as any Species of Tythes ſhall not be recovered thereby, the ſame and every Part thereof ſhall be held and enjoyed exempt and diſcharged of and from the Payment of all Manner of Tythes whatſoever, other than ſuch Tythes only (if any) as ſhall or may be recovered in and by any ſuch Action or Suit to be commenced and proceeded in as aforeſaid.

Allotments for Watering Places, *etc.*

X. And be it further enacted, That the ſaid Commiſſioners ſhall (after they ſhall have ſet out and appointed the publick Carriage Roads and Highways through and over the ſaid Commons, Waſte Grounds, and Moſſes intended to be divided, allotted, and incloſed), ſet out ſuch Parts of the ſaid Commons and Waſte Grounds as they ſhall think meet (not exceeding Fifteen Acres in the Whole), to be uſed and enjoyed by the Proprietors of Lands within the ſaid Manor or Townſhip of *Egton with Newland*, for the Purpoſe of common Watering Places for Cattle, getting Stone and other Materials for erecting and repairing of Buildings, Bridges, Walls, Fences, and other Works, and for the Reparation of the publick and private Roads, which now are or hereafter ſhall be made within the ſame Manor or Townſhip.

Commiſſioners empowered to make an Embankment.

XI. And be it further enacted, That the ſaid Commiſſioners may, and they are hereby authorized and empowered, to ſet out, appoint, and cauſe to be made ſuch proper Banks, as in their Judgement ſhall be ſufficient and neceſſary for preventing the Common Waſte Ground and Moſſes, ſituate and laying between *Arrad* and *Plumpton*, called *Newland Moſs*, Part of the ſaid Commons, Waſte Grounds, and Moſſes hereby intended to be divided, allotted, and incloſed, or ſuch Part or Parts thereof as they may think proper and expedient, from being overflowed by the Sea; and alſo to ſet out and cauſe to be made ſuch and ſo many Drains and Watercourſes as to them ſhall ſeem ſufficient and neceſſary, in and through the ſaid Commons, Waſte Grounds, and Moſſes, called *Newland Moſs*, for the collecting the Rivulets, Springs, and Waters running and being in, upon, or over the ſaid Commons, Waſte Grounds, and Moſſes, into the Main Pool or Watercourſe running from *Newland* to *Ulverſton* Sands, and alſo to alter and divert the ſaid Main Pool or Watercourſe, and make the ſame to run in a more direct or ſtraight Line, in ſuch Manner as they ſhall think proper or neceſſary; and the ſaid Commiſſioners may, and they are hereby alſo empowered, to make or cauſe to be made all ſuch other Banks, Cauſeways, Bridges, Sluices, Flood Gates, Tunnels, Drains, Water Gates, and other Works, as ſhall be neceſſary for the embanking, draining, ſecuring, and improving the ſaid Common Waſte Grounds and Moſſes, called *Newland Moſs*, or any Part or Parts thereof, the Coſts and Expences of making, repairing, and ſupporting of all which ſaid Matters and Things hereby directed, ſhall be borne and paid in ſuch Manner as the ſaid Commiſſioners ſhall order and direct in and by their ſaid Award.

Herbage of the Moſs Encroachments, &c. to be ſold by Auction.

XII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and empowered, to ſell the Herbage of the ſeveral Parcels of Peatmoſs marked or meered out as aforeſaid, and the Soil

Soil beneath the ſame, the Encroachments which they ſhall find to have been made on the ſaid Commons, Waſte Grounds, and Moſſes, within Twenty Years laſt paſt (except as herein is excepted); and alſo ſuch Parts and Parcels of the ſaid Commons and Waſte Grounds, as, together with the Herbage of the ſaid Parcels of Peatmoſs, and Soil beneath the ſame, and the ſaid Encroachments, will in their Judgement produce by ſuch Sales Money ſufficient to defray the Charges and Expences incident to and attending the obtaining and paſſing this Act, and of ſurveying, mapping, dividing, and allotting the ſaid Commons, Waſte Grounds, and Moſſes, and of Ring-fencing the ſeveral Allotments which ſhall be ordered to be done by the ſaid Commiſſioners in and by this Act, and of forming and putting into good Repair all ſuch publick Roads as ſhall be ſet out by the ſaid Commiſſioners in purſuance of the ſaid recited Act and this Act, and of making, erecting, widening, and improving all ſuch other Roads, Bridges, Banks, and Ditches, Flood Gates, Drains, and Watercourſes, as the ſaid Commiſſioners are empowered to make, erect, widen, or improve by virtue of this Act and the ſaid recited Act; and the Coſts and Expences of, and which may attend, trying the Right to the Tythes, and otherwiſe in and about the ſame, and of preparing Two Parts of the Award and other Inſtruments of the ſaid Commiſſioners, and all other the neceſſary Charges and Expences in and about the Execution of the ſaid Act or this Act.

Herbage of the Moſs, &c. may be ſold by private Contract;

or ſuch Parts as remain unſold, to be ſold by Auction.

XIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, to offer and to ſell by private Contract unto the reſpective Proprietors of the Moſs of the ſeveral Parcels of Peatmoſs marked and meered out as aforeſaid, the Herbage upon and the Soil beneath ſuch Peatmoſſes reſpectively, and alſo to offer and ſell by private Contract all or any of the ſaid Encroachments ſo made within Twenty Years laſt paſt (except as herein is excepted), to the reſpective Perſons who made or now claim the ſame, at ſuch Prices as the ſaid Commiſſioners ſhall think to be the fair Value thereof reſpectively, ſo far as ſuch Proprietors of the ſaid Moſs and the Perſons who made or now claim the ſaid Encroachments, ſhall be reſpectively willing to purchaſe the ſame at ſuch Prices; and that the ſaid Commiſſioners ſhall make Sale of ſuch Parcels of the ſaid Commons and Waſtes as they are hereby empowered to ſell as aforeſaid, and alſo ſuch Parcels of the ſaid Herbage of the ſaid Peatmoſſes and Soil beneath the ſame as ſhall not be purchaſed by the Proprietors of the Moſs thereof, and alſo ſuch of the ſaid Encroachments as ſhall not be purchaſed by the Perſon who made or now claims the ſame, to the beſt Bidder or Bidders at ſome or One of their Meetings to be held in purſuance of this Act, after giving Notice of the Day appointed for ſuch Sale in Manner herein-before mentioned, Forty-two Days at leaſt before the ſame ſhall take Place; and that the Monies ariſing by all and every the ſaid Sales ſhall be paid to the ſaid Commiſſioners, whoſe Receipt or Receipts ſhall be a ſufficient Diſcharge or ſufficient Diſcharges for the ſame; and that upon receiving ſuch Purchaſe Monies reſpectively, the ſaid Commiſſioners ſhall, and they are hereby empowered, to convey and aſſure the Lands and Grounds ſo ſold, and the Freehold and Inheritance thereof, in Fee Simple, unto the Purchaſers thereof reſpectively, or unto ſuch other Perſon or Perſons as they ſhall reſpectively direct or appoint, by Indentures of Leaſe and Releaſe, or by Indentures of Feoffment, with Livery of Seiſin, which ſhall be valid and effectual in the Law, to veſt the ſame in ſuch reſpective

Purchaſers

Purchaſers, and their Heirs or Appointees, freed and diſcharged from all Rights of Common, but ſubject in all Caſes where the Herbage of ſuch Peatmoſs, and the Soil beneath the ſame, ſhall not be purchaſed by the Proprietors of the ſaid Moſs, to the Rights of ſuch Proprietors to ſuch Moſs as they ſhall reſpectively be entitled to.

Purchaſers of Herbage of the Moſs to have Liberty to fence the ſame.

XIV. And be it further enacted, That in each and every Caſe where the Herbage of the Moſs Ground ordered to be ſold under and by virtue of this Act ſhall not be purchaſed by the Owner of the Moſs Grounds upon which ſuch Herbage may grow, it ſhall be lawful for the Purchaſer or Purchaſers of ſuch Herbage to fence in and incloſe the ſame, upon paying to the Owner or Owners of ſuch Peatmoſs, ſuch Sum or Sums of Money as the ſaid Commiſſioners ſhall think juſt and reaſonable, for the Peatmoſs upon which ſuch Fences ſhall be reſpectively erected and made; and alſo that in each and every Caſe where it ſhall be judged expedient and neceſſary to make any Roads, in Manner directed by the ſaid recited Act, Drains and Watercourſes in, over, upon, or through any of the ſaid Parcels of Peatmoſs, it ſhall be lawful for the ſaid Commiſſioners to make the ſame where they ſhall think proper, upon paying to the Owners of ſuch Parcels of Peatmoſs reſpectively ſuch Sum and Sums of Money as they the ſaid Commiſſioners ſhall think a juſt and fair Price for ſuch Parts of the ſaid Parcels of Peatmoſs as ſhall be taken up in making ſuch Roads, Drains, and Watercourſes reſpectively.

Application of the Money ariſing by the Sales.

XV. And be it further enacted, That the Monies ariſing by the ſeveral Sales aforeſaid, ſhall be applied by the ſaid Commiſſioners for defraying the Charges and Expences herein-before in that Behalf mentioned; and if there ſhall be any Surplus of the ſaid Monies, ſuch Surplus ſhall be applied in the Manner directed by the ſaid recited Act.

Purchaſers to be ſubject to the Conditions of Sale, &c.

XVI. And be it further enacted, That all and every Perſon and Perſons who ſhall become the Purchaſer or Purchaſers of the ſaid Commons, Waſte Grounds, and Herbage upon and Soil under the ſaid Peatmoſs and Encroachments, or any Part thereof, his and their Heirs and Aſſigns, ſhall be ſubject and liable to the Performance of all Orders, Charges, and Directions relating thereto reſpectively, which ſhall be ſtipulated at the Time of ſuch Sale or Sales, or comprized in the Conveyances thereof reſpectively, or which ſhall be contained and ſpecified in and by the General Award of the ſaid Commiſſioners.

Allotment to the Duke of *Buccleugh* and Earl *Beaulieu* for Right of Soil.

XVII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required, as ſoon as conveniently may be after ſetting out ſuch Grounds for Watering Places and Stone Quarries, and ſuch Parcels for Sale as aforeſaid, to ſet out and allot to the ſaid *Henry* Duke of *Buccleugh* and *Edward* Earl *Beaulieu* One Sixteenth Part (Quantity, Quality, and Situation conſidered) of the Reſidue of the ſaid Commons, Waſte Grounds, and Moſſes, in full Compenſation and Satisfaction for their and each of their Rights as Lords of the ſaid Manor of *Egton with Newland*, in and to the Soil of all the Reſidue of the ſaid Commons, Waſte Grounds, and Moſſes, and that the Allotment or Allotments to be made to the ſaid *Henry* Duke of *Buccleugh* and *Edward* Earl *Beaulieu* ſhall, immediately from and after the ſame ſhall be ſo ſet out and allotted, veſt in, and the ſame are hereby veſted in ſuch Perſon and Perſons in ſuch and the

ſame

ſame Manner and Shares, for ſuch Eſtate and Eſtates, upon ſuch Truſts for ſuch Intents and Purpoſes, and with, under, and ſubject to ſuch Charges, Powers, Proviſoes, and Declarations, as the ſaid Manor of *Egton with Newland* ſhall ſtand veſted in, to, for, upon, with, under, or ſubject to, immediately before ſuch Allotment or Allotments ſhall be ſo ſet out and allotted, and ſhall be diſcharged from all Rights of Common whatſoever.

Act not to prejudice their Right to ancient Encroachments.

XVIII. Provided always, and be it further enacted, That nothing herein contained ſhall extend, or be conſtrued to extend, to prejudice the Right or Intereſt of the ſaid *Henry* Duke of *Buccleugh* and *Edward* Earl *Beaulieu*, or either of them, of, in, and to the Quays at *Greenodd*, the Smelting Works upon *Arrad*, the Furnace, Forge, and other Works erected at or near *Newland*, and the Feeder leading to *Ulverſton* Canal, all within the ſaid Manor; and further, that nothing herein contained ſhall extend to affect the Right or Intereſt of the ſaid *Henry* Duke of *Buccleugh* and *Edward* Earl *Beaulieu*, or either of them, or any other Perſon or Perſons, to any Meſſuage, Cottage, Erection, Incloſure, or Encroachment, made from or upon the ſaid Commons, Waſte Grounds, and Moſſes, or any of them, Twenty Years before the paſſing of this Act, nor to the Incloſure lately made upon *Arrad*, for the Uſe of the Curate of *Pennybridge* Chapel, within the ſaid Manor, or any Rent or other Profit iſſuing or payable out of them, or any of them, for or in reſpect of the ſame.

Allotments for the Uſe of the Poor may be let, &c.

XIX. And be it further enacted, That from and after ſuch Allotment or Allotments as laſt aforeſaid ſhall have been ſet out and allotted, it ſhall be lawful for the ſaid Commiſſioners to ſet out and allot ſo much of the Reſidue of the ſaid Commons and Waſte Grounds as will in their Judgement at the Time of making ſuch Allotment be worth to be let for the clear yearly Rent of One hundred Pounds *per Annum*, and to cauſe the ſame to be fenced round and incloſed; and ſhall afterwards let the ſame at ſome Meeting to be held by them for that Purpoſe (of which Meeting Notice ſhall be given as herein-before directed, Twenty Days at leaſt before ſuch Meeting ſhall be held), for any Term or Number of Years, not exceeding Twenty-one Years, at the beſt yearly Rent that can be gotten for the ſame, without any Fine or Foregift for granting of ſuch Leaſes, and under and ſubject to ſuch Covenants, Conditions, and Clauſes for cultivating, tilling, and improving the ſame, as the ſaid Commiſſioners ſhall think proper; and the ſaid Commiſſioners ſhall and may grant Leaſes to the reſpective Farmers of ſuch Lots, for the Terms and upon the Conditions aforeſaid, ſuch Leſſees thereupon executing Counterparts of ſuch Leaſes; and that after ſuch Allotment or Allotments ſhall be ſo fenced out and let to farm as aforeſaid, then the ſaid Commiſſioners ſhall, by Indentures of Leaſe and Releaſe, convey and aſſure the ſame, and the Freehold and Inheritance thereof, ſubject to ſuch Leaſes, unto and to the Uſe of ſuch Seven Perſons, being Land Owners or Inhabitants within the ſaid Manor or Townſhip of *Egton with Newland*, their Heirs and Aſſigns, as the major Part in Value of the Land Owners and Inhabitants of the ſaid Manor or Townſhip, paying to the Poor Rate within the ſame (ſuch Value to be ſettled by their Payments to ſuch Poor Rates), aſſembled perſonally or by Proxy at a Meeting to be convened by the ſaid Commiſſioners for that Purpoſe (whereof Fourteen Days previous Notice ſhall be given as aforeſaid), ſhall nominate or appoint; and the Allotment or Allotments ſo con-

vyed or expreſſed, and intended ſo to be, ſhall immediately thereupon become legally veſted in the ſaid Truſtees, their Heirs and Aſſigns, according to the ſaid Conveyance, upon the Truſts, and to and for the Intents and Purpoſes herein-after expreſſed and directed of and concerning the ſame; that is to ſay, upon Truſt to receive and apply the Rents, Iſſues, and Profits thereof for ever (all their reaſonable and neceſſary Charges in the Execution of the Truſts repoſed in them being firſt deducted), for and towards the Relief of the Poor of the ſaid Manor or Townſhip of *Egton with Newland*, in lieu or Alleviation of the Poor Rates within the ſame Manor or Townſhip, as far as the ſame will from Time to Time extend; and if there ſhall at any Time be a Surplus of ſuch Rents and Profits after relieving the ſaid Poor as aforeſaid, ſo that no Poor Aſſeſſment ſhall be made within the ſaid Manor or Townſhip, then upon Truſt from Time to Time to apply ſuch Surplus in lieu or Alleviation of the Conſtable Rate within the ſame Manor or Townſhip, as far as ſuch Surplus will extend; and if there ſhall at any Time be a Surplus of ſuch Rents and Profits, after ſatisfying ſuch Poor Rates and Conſtable Rate, then upon Truſt to divide ſuch ultimate Surplus amongſt the Proprietors (for the Time being) of Lands and Tenements within the ſaid Manor or Townſhip, in the like Shares and Proportions as ſuch Lands and Tenements were reſpectively rated to the Land Tax, according to the Aſſeſſment made for the Service of the Year One thouſand ſeven hundred and ninety-eight.

Truſtees dying or refuſing to act, others to be appointed.

XX. And be it further enacted, That when and as often as any Three or more of the ſaid Truſtees to be named and appointed as aforeſaid, or to be appointed in Manner herein-after mentioned, ſhall die, refuſe, or neglect to act as Truſtees for the Purpoſes before expreſſed, then and in every ſuch Caſe, from Time to Time for ever, as often as the ſame ſhall happen, it ſhall be lawful for the major Part in Value of the Land Owners and Inhabitants of the ſaid Manor or Townſhip of *Egton with Newland*, paying Poor Rates within the ſame (ſuch Value to be fixed as aforeſaid), aſſembled perſonally or by Proxy at a Meeting to be convened by the ſurviving or continuing Truſtees or Truſtee for the Time being for that Purpoſe (whereof Fourteen Days previous Notice ſhall be given as aforeſaid), to nominate and appoint in Writing ſo many more Perſons, being Land Owners or Inhabitants of the ſame Manor or Townſhip, to be Truſtees in the Place or Stead of the Truſtees ſo dying, refuſing, or neglecting to act as aforeſaid, as, together with the ſurviving or continuing Truſtees or Truſtee, will make up the Number of Seven Truſtees, and ſo that the ſaid Truſtees ſhall be perpetually kept up to the Number of Seven; and immediately after ſuch Nomination and Appointment, the ſurviving Truſtees or Truſtee from Time to Time ſhall, by Indentures of Leaſe and Releaſe, convey and aſſure the ſaid Allotment or Allotments ſo made and incloſed, and let to farm as aforeſaid, in ſuch Manner as that the ſame may become legally veſted in ſuch new and ſurviving Truſtees, upon the Truſts before mentioned; and that all and every Perſon and Perſons ſo appointed a Truſtee or Truſtees, ſhall from thenceforth have the ſame Powers and Authorities in Execution of the Truſts to be repoſed in him or them as if he or they had been originally appointed a Truſtee or Truſtees as aforeſaid;

Truſtees appointed to relet the Lands.

and that it ſhall be lawful for the ſaid Truſtees, at any Time within One Year preceding the Expiration of any Leaſe to be granted of the ſaid Land ſo to be let to farm as aforeſaid, to let the ſame again to farm for any Term or Number of Years, not exceeding Twenty-one Years from the Expiration

of the former Leaſes thereof reſpectively, for the beſt Rent that can be got for the ſame, and to execute Leaſes thereof to the reſpective Farmers, under ſuch Covenants and Conditions as they ſhall think proper, and all and every Act, Matter, and Thing, which ſhall be executed, done, or performed by any Four of the ſaid Truſtees for the Time being in purſuance and Execution of this Act, ſhall be as valid and effectual to all Intents and Purpoſes as if all the ſaid Truſtees for the Time being had been preſent, and had executed, done, and performed the ſame.

General Allotments.

XXI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required, in the next Place to aſſign, ſet out, and allot all the Reſidue of the ſaid Commons, Waſte Grounds, and Moſſes, hereby intended to be divided and incloſed, unto and amongſt the ſaid *John Baton*, *Sawrey Morritt*, *John Machell*, *Robert Town*, *John Noble*, *John Stephenſon*, and *Robert Walton*, and all and every other the Owners and Proprietors of the ſaid Lands and Tenements, having Right of Common in and upon the ſaid Commons, Waſte Grounds, and Moſſes, in lieu of their reſpective Rights of Common thereon, according and in Proportion to their ſeveral Eſtates and Intereſts therein, in ſuch Manner as the ſaid Commiſſioners ſhall in their Judgement think juſt or equitable; and ſuch Commons, Waſte Grounds, and Moſſes, when incloſed, ſhall be veſted in the ſeveral Perſons who ſhall be entitled to the ſame as Freehold Eſtates of Inheritance, in Fee Simple, and to be held and enjoyed by them and every of them reſpectively in the very ſame Manner, and with all and every the ſame Benefits and Privileges, and ſubject only to the ſame Charges and Incumbrances, as the Eſtates and Premiſes for and in lieu whereof the ſaid ſeveral Allotments, and every of them, are to be and ſhall be reſpectively made, and not to be in any Manner further or otherwiſe prejudiced, but ſubject nevertheleſs to the Proviſoes, Rules, Orders, and Directions in this Act contained.

Owners of Eſtates who have already got their full Proportion of Common not to be entitled.

XXII. Provided always, and be it further enacted, That in caſe it can be proved and made appear to the ſaid Commiſſioners, that any preſent or former Owner or Owners of any Meſſuages, Lands, or Tenements within the ſaid Manor or Townſhip of *Egton with Newland*, hath or have at any Time or Times heretofore incloſed his or their Proportion of the Commons which he or they would now have been entitled to in reſpect of ſuch Meſſuages, Lands, or Tenements, if ſuch ancient Incloſures had not been made, and that the Occupiers of ſuch Meſſuages, Lands, or Tenements have not uſually turned out their Cattle upon the Commons, Waſte Grounds, and Moſſes hereby intended to be divided, allotted, and incloſed, then the Owner or Owners of ſuch Meſſuages, Lands, or Tenements, ſhall not be entitled to have or receive any Allotment or Allotments of the ſaid Commons, Waſte Grounds, and Moſſes, in reſpect of ſuch Meſſuages, Lands, or Tenements, which have already gotten and received their Proportion of the ſaid Commons as aforeſaid.

In caſe any Perſon hath ſold his Common Right, the Allotment to be made to the Purchaſer.

XXIII. Provided always, That if any Perſon hath ſold or contracted, or agreed to ſell, or ſhall at any Time before the Execution of the ſaid Award ſell, or contract or agree to ſell, his or her Right, Intereſt, or Property in, over, or upon the ſaid Commons, Waſte Grounds, and Moſſes, or any Part thereof, to any other Perſon, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioners, and they are hereby directed and authorized to make an Allotment of Land or Ground unto the Vendee or Purchaſer

Purchaſer in ſuch Sale, Contract, or Agreement, or to his or her Heirs or Aſſigns, for and in reſpect of ſuch Right, Intereſt, and Property ſo ſold, or contracted or agreed to be ſold as aforeſaid; and every ſuch Vendee or Purchaſer, and his and her Heirs and Aſſigns, ſhall and may, from and after the Execution of the ſaid Award, hold and enjoy the Land or Ground ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner, to all Intents and Purpoſes, as the Vendor in every ſuch Sale, Contract, or Agreement, might, could, or ought to have held and enjoyed the ſame, in caſe ſuch Sale, Contract, or Agreement had not been made, or ſuch Right, Intereſt, or Property had been veſted in ſuch Vendor at the Time of making ſuch Allotment as aforeſaid.

No Perſon to grave Sods after the paſſing of this Act.

XXIV. And be it further enacted, That from and immediately after the paſſing of this Act, until the Execution of the Award of the ſaid Commiſſioners, it ſhall not be lawful for any Perſon or Perſons whomſoever to grave, dig, get, cart, or carry away any Sods or Turves from any Part of the Commons, Waſte Grounds, and Moſſes aforeſaid (except ſuch Parts thereof as have heretofore been held and enjoyed as private Property); and if any Perſon or Perſons ſhall grave, dig, get, cart, or carry away any Sods or Turves, contrary to the true Intent and Meaning of this Act, every ſuch Perſon ſhall for every ſuch Offence forfeit and pay any Sum not exceeding Twenty Shillings nor leſs than Ten Shillings.

Satisfaction to be made to Tenants of Eſtates, *etc.*

XXV. And be it further enacted, That in all Caſes where an Allotment or Allotments of any Part of the ſaid Commons, Waſte Grounds, and Moſſes, ſhall be made for or in reſpect of the Rights of Common belonging to any Meſſuages, Cottages, Lands, or Tenements, which are held by any Tenants or Occupiers for a Term of Years by virtue of any Leaſe or Agreement thereof made, and ſuch Tenants or Occupiers do not or ſhall not come to an Agreement with the Perſon or Perſons to whom ſuch Allotments ſhall be made for the Uſe and Occupation thereof, ſuch Tenants or Occupiers ſhall not be entitled to enter upon, occupy, or hold ſuch Allotment or Allotments, but ſhall nevertheleſs have and receive from the reſpective Owners or Proprietors thereof ſuch an Abatement from the yearly Rent or Rents reſerved and made payable in and by ſuch Leaſe or Leaſes, Agreement or Agreements, for the Remainder of the Term or Terms then to come therein, as the ſaid Commiſſioners ſhall adjudge to be a reaſonable Compenſation to him, her, or them, for the Right of Common which hath been accuſtomed to be uſed and exerciſed by ſuch Tenants or Occupiers, and which ſhall be extinguiſhed by this Act or the ſaid recited Act.

Money advanced to be repaid with Intereſt.

XXVI. And be it further enacted, That the Money which ſhall be advanced or expended by any Perſon or Perſons for the Purpoſe of obtaining and paſſing this Act, ſhall be repaid, with lawful Intereſt, to ſuch Perſon or Perſons who ſhall advance or lend the ſame, his Executors, Adminiſtrators, and Aſſigns, by the ſaid Commiſſioners out of the firſt Monies which they ſhall receive by virtue of this Act.

Commiſſioners to account.

XXVII. And be it further enacted, That Once at leaſt in each and every Year during the Execution of this Act (ſuch Year to be computed from the Day of the paſſing thereof), the ſaid Commiſſioners ſhall, and they are hereby required to make a true and juſt Statement or Account of all Sums

Sums of Money by them received and expended, or due to them for their own Trouble or Expences in the Execution of this Act; and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before any Two or more of His Majeſty's Juſtices of the Peace for the ſaid County of *Lancaſter*, to be by them examined and balanced, 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 Commiſſioners; and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtices.

Proprietors and Agents to pay their own Expences.

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

Award to be depoſited.

XXIX. And be it further enacted, That One Part of the Award to be made by the ſaid Commiſſioners, when inrolled in Manner directed by the ſaid recited Act, ſhall be depoſited in the publick Cheſt of the Pariſh Church of *Ulverſton* aforeſaid, or in ſuch other Place as the ſaid Commiſſioners ſhall appoint.

Appeal to the Quarter Seſſions.

XXX. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance of this Act (other than and except ſuch Orders and Determinations of the ſaid Commiſſioners as are herein directed to be final or concluſive, and except in ſuch Caſes wherein an Iſſue at Law ſhall be tried as hereinbefore 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 at *Lancaſter*, in and for the ſaid County Palatine of *Lancaſter*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners, and to the Party or Parties concerned, Ten Days Notice in Writing of ſuch Appeal, and of the Matter thereof; and the Juſtices (not intereſted in the Premiſes), in their ſaid General Quarter Seſſions, are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order, 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 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 the Determination of the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed 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 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 to be levied in Manner aforeſaid.

Saving Manerial Rights.

XXXI. Provided always, and be it further enacted, That nothing herein-before contained ſhall extend or be conſtrued to extend to defeat, leſſen, or prejudice the Right, Title, or Intereſt of the ſaid *Henry* Duke of *Buccleugh* and *Edward* Earl *Beaulieu*, or any other Perſon or Perſons claiming

claiming or to claim under them or either of them, of, in, or to the Seigniories and Royalties incident or belonging to the ſaid Manor of *Egton with Newland*; and that the ſaid *Henry* Duke of *Buccleugh* and *Edward* Earl *Beaulieu*, and ſuch other Perſon and Perſons as aforeſaid, ſhall and may from Time to Time for ever hereafter hold and enjoy all Rents, Services, Courts, Perquiſites and Profits of Courts, Goods and Chattels of Felons and Fugitives, Felons of themſelves, Perſons outlawed and put in Exigent, Deodands, Waifs, Eſtrays, Forfeitures, and all other Juriſdictions whatſoever, in and upon the ſaid Commons, Waſte Grounds, and Moſſes, hereby directed to be divided and incloſed as aforeſaid, and all Mines and Minerals within or under the ſame (except Quarries of Stone, which ſhall not be allotted to the ſaid *Henry* Duke of *Buccleugh* and *Edward* Earl *Beaulieu*), in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as they could or might reſpectively have held and enjoyed the ſame in caſe this Act had not been made.

General Saving.

XXXII. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politick, Corporate, or Collegiate, his, her, and their Heirs, Succeſſors, Executors, and Adminiſtrators (except the ſeveral Perſons 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, and ſuch other Perſon and Perſons herein mentioned, as far as his, her, or their reſpective Rights and Intereſts ſhall be expreſsly affected hereby), 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 Commons, Waſte Grounds, and Moſſes, hereby directed to be divided, allotted, and incloſed, in caſe this Act had not been made.

Publick Act.

XXXIII. And be it further enacted, That this Act ſhall be allowed in all Courts whatſoever as a publick Act, and all Judges, Juſtices, and other Perſons are hereby required to take Notice of it as ſuch, without ſpecially pleading the ſame.

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