23

ANNO QUADRAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 116.

An Act for dividing, allotting, and incloſing, the Commons, Moſſes, and Waſte Grounds, within the Pariſh of *Heverſham* in the County of *Weſtmorland*. [4th *July* 1803.]

WHEREAS there are within the Pariſh of *Heverſham* in the County of *Weſtmorland*, ſeveral Commons, Moſſes, and Waſte Grounds, containing in the Whole Six thouſand Acres or upwards: And whereas the Maſter, Fellows, and Scholars of *Trinity* College, within the Town and Univerſity of *Cambridge*, of King *Henry* the Eighth's Foundation, are Impropriators of the Corn Tythes of the Pariſh of *Heverſham* (except of the Townſhip of *Croſthwaite* with *Lyth*, the Corn Tythes whereof belong to the Owners of the ſame Townſhip, and except ſuch Part as belongs to the Vicar of the ſaid Pariſh as herein-after mentioned), and *Daniel Wilſon* and *Thomas Strickland* Eſquires, are their Leſſees of the ſeveral Portions of ſuch Corn Tythes in their reſpective Leaſes comprized: And whereas the Reverend *George Lawſon* Maſter of Arts, is Vicar of the ſaid Pariſh of *Heverſham*, and as ſuch entitled to the Corn and Hay Tythes of certain Lands at *Heverſham Hall*, belonging to the ſaid *Daniel Wilſon*, and to a certain annual Payment out of or other Intereſt in *Millthorp* Mills, belonging to *Richard Howard* Eſquire, and

and is or claims to be entitled to ſeveral Small Tythes or Moduſes within the ſame Pariſh: And whereas the King's moſt Excellent Majeſty, in Right of His Crown, together with the ſaid *Richard Howard*, in his own Right, are joint Lords of the ſaid Manor or Townſhip of *Croſthwaite* with *Lyth*, and the Right Honourable *William* Lord Viſcount *Lowther* is Leſſee of His Majeſty's Share thereof, by virtue of a Leaſe granted of the ſame, and the ſaid Lord Viſcount *Lowther*, *Richard Howard*, and *Daniel Wilſon*, in their own Rights, are reſpectively Lords of certain other Manors or Parts of Manors within the ſaid Pariſh: And whereas the ſaid *Richard Howard*, the Honourable Sir *Alan Chambre*, *Daniel Wilſon*, *John Robinſon*, *William Wilſon*, *Carus Wilſon*, *James Wilſon*, *Chriſtopher Wilſon*, *William Atkinſon*, *Robert Johnſon*, *Jackſon Maſon*, *Robert Bradley*, Eſquires, and ſeveral other Perſons, are Owners and Proprietors of divers Meſſuages, Lands, and Hereditaments, within the ſaid Pariſh, and in reſpect thereof or otherwiſe are entitled to Right of Common in, over, or upon all the ſaid Commons and Waſte Grounds within the ſeveral Townſhips or Diſtricts of *Croſthwaite* with *Lyth*, *Levens*, *Heverſham* with *Millthorp*, *Hincaſter*, *Sedgwick*, *Stainton*, and *Preſton Richard*, of which the ſaid Pariſh of *Heverſham* conſiſts, wherein their ſeveral Lands and Tenements are reſpectively ſituated; and are alſo Owners and Proprietors of the Turbary, or Right of digging and getting Turf and Peat, in and upon divers meered Moſſes and Turbary Grounds, Parcel of the ſaid Commons and Waſte Grounds, and to certain Brackendales upon the ſaid Commons: And whereas an Act paſſed in the Forty-firſt Year of His preſent Majeſty's Reign, 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 Commons, Moſſes, and Waſte Grounds, in their preſent State, are of very little Value to the Land Owners having the principal Right thereon, and it would be of the greateſt Advantage, not only to them but to the Publick in general, and the greateſt Encouragement to Agriculture, if the ſaid Commons, Moſſes, and Waſte Grounds were divided, allotted, and incloſed, and all the Lands within the ſaid Pariſh exonerated from the Payment of all Tythes whatſoever; yet the ſame cannot be eſtabliſhed and carried into Effect without the Aid and 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 *Richard Clerk* of *Rothwell Heigh*, in the County of *York*, Gentleman, *Jonathan Teal* of *Leeds*, in the ſaid County of *York*, Gentleman, and *John Tatham* of *Lowfields* in the ſaid County of *York*, Gentleman, and their Succeſſors, to be elected in Manner hereinafter mentioned, ſhall be, and they are hereby appointed Commiſſioners for ſetting out, dividing, allotting, and incloſing the ſaid Commons, Moſſes, and Waſte Grounds, and for carrying this Act into Execution; and that all Acts, Matters, and Things, by this Act authorized or directed to be done by the ſaid Commiſſioners jointly, may be done and executed by any Two of them, in the Abſence of the other of them, ſubject nevertheleſs to the Rules, Orders, and Regulations mentioned and contained in the ſaid recited Act, except in ſuch Caſes where the ſame are hereby varied or altered.

Commiſſioners appointed.

II. And

For appointing new Commissioners in case of Death, &c.

II. And be it further enacted, That when any of the said Commissioners hereby appointed, or to be elected as herein-after mentioned, shall die, or refuse or neglect to act, or become incapable of acting, it shall and may be lawful to and for the Person or Persons by whom such Commissioner or Commissioners was or were originally nominated or proposed, to wit, the said Lord Viscount *Lowther*, *Richard Howard*, and *Daniel Wilson*, Esquires, or a Majority of them, and their Heirs, in case of the Death, Refusal, Neglect or Incapacity, to act, of the said *Richard Clerk*; the Land Owners of the said Parish, or a Majority of them assembled in publick Vestry for that Purpose, in case of the Death, Refusal, Neglect, or Incapacity to act, of the said *John Tatham*; and the said Master, Fellows, and Scholars of *Trinity* College, in case of the Death, Refusal, Neglect, or Incapacity to act, of the said *Jonathan Teal*, from Time to Time, by Writing under their Hands, or in the last Case, by Writing sealed with their private Seal, to elect or appoint One or more Person or Persons not interested in the said Division or Inclosure, to be a Commissioner or Commissioners instead of him or them so dying, or refusing or neglecting to act, or becoming incapable of acting as aforesaid; and in case no such Election or Appointment shall be made within One Month after such Death, Refusal, Neglect, or Incapacity to act, and Notice thereof given to the Party or Parties so entitled to elect or appoint, that then it shall and may be lawful to and for the surviving and acting Commissioner or Commissioners, from Time to Time, by Writing under their Hands, to elect or appoint One or more Person or Persons not interested in the said Division or Inclosure to be a Commissioner or Commissioners, instead of him or them so dying, or refusing or neglecting to act, or becoming incapable of acting as aforesaid; and in case the surviving or remaining Commissioner or Commissioners shall neglect so to do for the Space of Two Months next after any such Commissioners or Commissioner shall die, or refuse or neglect to act, or become incapable of acting, or in case there should at any Time be a want of Commissioners by reason of such Death, Refusal, Neglect, or Incapacity 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 Lands and Tenements within the said Parish of *Heversham*, or their respective Attornies or Proxies assembled at any Vestry 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 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; and that in case of a Commissioner or Commissioners being to be appointed by the said Proprietors of the said Lands and Tenements, Notice in Writing be affixed on the principal Door of the Parish Church of *Heversham* aforesaid, subscribed

ſubſcribed with the Names of Five or more of the Proprietors, of the Time and Place of chuſing ſuch Commiſſioner or Commiſſioners, at leaſt Ten Days before ſuch Meeting; and that the ſaid Commiſſioners ſhall reſpectively bear and pay their own Expences, and that when and as ſoon as the ſaid intended Diviſion and Incloſure ſhall be finiſhed and completed, and the ſaid Commiſſioners ſhall have executed their general Award, they the ſaid Commiſſioners ſhall be paid and allowed the Sum of Two Guineas each, for each and every Day by them ſeverally employed in or about the putting this Act in Execution: Provided always, that it ſhall and may be lawful to and for them the ſaid Commiſſioners, from Time to Time during their acting in Execution of this Act, to raiſe by the Ways and Means hereby directed and appointed, and to receive any Sum or Sums of Money in Part or on Account, and in Advance of ſuch Pay and Allowance, ſo as ſuch Sum and Sums do not exceed One Guinea each for each and every Day by them ſeverally employed at and before the receiving the ſame, in Execution of this Act.

Commiſſioners Allowance.

Notice of Meetings.

III. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to cauſe Notice in Writing to be affixed on the principal Door of the Pariſh Church of *Heverſham* aforeſaid, and on the Market Croſs of *Millthorp* aforeſaid, of the Time and Place of holding their Firſt, Second, and Third Meetings, for the Purpoſe of putting into Execution the ſeveral Powers veſted in them by virtue of this Act, Ten Days at the leaſt before ſuch Meetings reſpectively, each of which Meetings ſhall be held at *Millthorp* aforeſaid, or at ſome other Place within the ſaid Pariſh of *Heverſham*, or at *Kendal* in the ſaid County of *Weſtmorland*, at the Option of the ſaid Commiſſioners; and the ſaid Commiſſioners ſhall have full Power and Authority (if they ſhall think it convenient) to continue any of their Meetings by Adjournment, without giving Notice of any ſuch Meeting by Adjournment.

Other Notices how to be given.

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

Reſpecting Encroachments.

V. And be it further enacted, That all Encroachments which at any Time within Twenty Years before the paſſing of this Act, have been made upon the ſaid Commons and Waſte Grounds, ſhall be deemed Part thereof, and ſhall be divided and allotted accordingly as Part thereof, except ſuch as may have been made with the Conſent of the Lords and Juries of the Cuſtomary Courts held within the different Manors; and in caſe any Diſpute or Difference ſhall ariſe touching any ſuch Encroachments, or the Extent thereof, ſuch Diſpute ſhall be finally determined by the ſaid Commiſſioners.

Power to aſſeſs Coſts.

VI. 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, ſee Cauſe

to

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 overruled; 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 or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons 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.

VII. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division and Inclosure shall be dissatisfied with any Determination of the said Commissioners, touching or concerning any Claim or Claims to the said Lands, or any Part thereof, or any Rights of Common, or other Rights, in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or touching or concerning the respective Rights or Interests which he, she, or they shall or may have, or claim to have, in the said intended Division and Inclosure, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next or at the following Assizes to be holden for the said County of *Westmorland*, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination of the said Commissioners shall have been made within Three Calendar Months next after the Determination of the said Commissioners shall be made; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they, is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined; such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced in case the Parties shall differ about the same; and the Verdict or Verdicts which shall be given in such Action or Actions shall be binding, final, and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the said Court to do, as is usual in other Cases; and 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

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

Trial or Trials: Provided always, that the Determination of the said Commissioners, touching such Claim or Claims of Right to the Soil of the said Commons and Waste Grounds, or of any Rights or Claim to Rights of Common, or such Rights or Interests as aforesaid, in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive upon all Parties.

If any of the Parties die, Proceedings not to abate.

VIII. 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.

Allotment for Watering Places, Gravel, *etc.*

IX. And be it further enacted, That the said Commissioners shall, in the First Place, assign, set out, and allot, unto the Surveyors of the Highways within the several Divisions or Districts of the said Parish of *Heversham*, such Parts of the said Commons and Waste Grounds within the several Divisions or Districts hereby directed to be divided, allotted, and inclosed, as the said Commissioners shall think necessary as and for publick Quarries, and also as and for publick Watering Places for Cattle, and for getting Gravel for the Repairs of the Roads to be made over the said Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed; and the same Allotments, when set out shall for ever thereafter be used by the Surveyors of the Highways for the Time being of the said Parish, and by the Proprietors of Lands, Tenements, and Hereditaments, within the said Parish, and their Tenants for the Time being, in such Manner, and under such Rules, Orders, and Regulations, as the said Commissioners shall, in and by their said Award, order and appoint; and that the said Commissioners have Power, and they are hereby authorized to order and direct how and in what Manner, and by whom, as well all new Roads to be set out by virtue of this Act or of the said recited Act, as all or any ancient publick Roads (not being Turnpike Roads), within the said Parish, shall, from and after the Execution of their said Award, be in future amended and kept in Repair.

Commissioners to make Blanks to secure the Marshes.

X. And be it further enacted, That the said Commissioners may and they are hereby empowered to set out, appoint, and cause to be made, such proper Banks, as in their Judgement will be sufficient and necessary to be made, for preventing the Low Commons or Marshes called *Millthorp Marsh*, *Leasegill Marsh*, *Levens Marsh*, and *Lyth Marsh*, Part of the said Commons and Waste Grounds, or such Part or Parts thereof as they shall 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 proper and necessary, in and through the said Low Commons or Marshes, or in or through any ancient inclosed Lands adjoining the same, (with the Consent of the Proprietors of such inclosed Lands), for the collecting the Rivulets, Springs, and Waters, running or being in, upon, or over the same, so as effectually to convey the same Waters to the River *Kent*, or to the Brook or River

River called *The Pool*; and the ſaid Commiſſioners are alſo hereby empowered to cauſe to be made all ſuch other Banks, Cauſeways, Bridges, Sluices, Floodgates, Tunnels, Drains, Watergates, and other Works, as ſhall be neceſſary for the embanking, draining, ſecuring, and improving, the ſaid Low Commons or Marſhes, or any Part or Parts thereof, and ſhall alſo aſcertain and determine the Amount of the Damages (if any) to be done to the ſaid ancient incloſed Lands, by making ſuch Drains and Watercourſes in and through the ſame, the Coſts and Expences of making, repairing, and ſupporting of all which ſaid Matters and Things hereby directed, ſhall be borne and paid by the Parties intereſted therein, in ſuch Manner as the ſaid Commiſſioners ſhall order and direct, and the ſaid Commiſſioners ſhall make reaſonable Compenſation and Satisfaction, not only for all ſuch Damages (if any) in or upon the ſaid ancient incloſed Lands to the Proprietors thereof reſpectively, but alſo for the future Expence, which may, by the Award of the ſaid Commiſſioners, be directed to be borne by any of the ſaid Lands and Allotments, or the Proprietor or Proprietors thereof, for upholding and ſupporting the ſaid Works, or any of them reſpectively, on ſetting out their reſpective Allotments in the ſaid ſeveral Commons, Waſte Grounds, and Moſſes, by this Act directed to be divided and incloſed, or otherwiſe as the ſaid Commiſſioners ſhall think beſt; and ſhall, if they think fit, award, order, and direct, how, by whom, in what Manner, at whoſe Expence, and how to be from Time to Time raiſed, levied, or paid, the ſaid Banks, Drains, and Watercourſes, ſhall be ſupported, maintained, and kept in Repair for ever thereafter.

Allotment to the Vicar.

XI. And be it further enacted, That the ſaid Commiſſioners ſhall in the next Place ſet out, allot, and appoint unto and for the ſaid *George Lawſon*, Vicar of the ſaid Pariſh and Pariſh Church of *Heverſham*, and his Succeſſors, ſuch and ſo many Parcels of the ſaid Commons and Waſte Grounds, in the ſaid ſeveral Townſhips or Diviſions, and in Proportion to the Value of the Vicarial Tythes ariſing or that may ariſe within ſuch Townſhips or Diviſions reſpectively, as ſhall, in the Judgement of the ſaid Commiſſioners, in caſe ſuch Parcels of the ſaid Commons and Waſte Grounds were incloſed and Ring-fenced, and let on a Leaſe or Leaſes for a Term of Twenty Years, ſubject to the Payment by the Leſſee or Leſſees of all Parochial Rates, Taxes, and Aſſeſſments, be altogether of the full yearly Value of Four hundred and twenty Pounds of lawful Money of *Great Britain*; which ſaid Parcels of the ſaid Commons and Waſte Grounds ſo to be allotted to the ſaid Vicar and his Succeſſors, ſhall be in lieu as well of and a full Compenſation and Extinguiſhment for the ſaid Corn and Hay Tythes of the ſaid Demeſne Lands of *Heverſham Hall*, and of all Right, Share, Intereſt, Claim, and Demand, in, to, or out of the ſaid *Millthorp Mills*, as of all Tythes of Hay, Wool, Lamb, Calves, Agiſtment, and all other Tythes, Payments, Claims, and Demands whatſoever, ariſing, renewing, due or payable, or which would, could, or might become due or payable, or to which he or his Succeſſors are, may, can, might, or could be entitled to from and out of, or for or in reſpect of all and every or any of the Meſſuages, Mills, Tenements, incloſed Lands, Commons, Moſſes, and Waſte Grounds, or otherwiſe howſoever, within the ſaid Pariſh of *Heverſham*, *Eaſter* Offerings, Mortuaries, and Surplice Fees only excepted.

XII. And

Allotment to *Trinity* College for the Tythes of the inclosed Lands.

XII. And be it further enacted, That the said Commissioners shall in the next Place set out, allot, and appoint unto and for the said Master, Fellows, and Scholars of *Trinity* College aforesaid, their Successors and Lessees, such and so many other Parcels of the said Commons and Waste Grounds, in the said several Townships or Divisions within the said Parish of *Heversham*, (except within the said Township or Division of *Crosthwaite* with *Lyth*), and in Proportion to the Value of the Corn Tythes arising or that may arise within such Townships and Divisions respectively, as shall, in the Judgement of the said Commissioners, in case such Parcels of the said Commons and Waste Grounds were inclosed and Ring-fenced, and let on a Lease or Leases for a Term of Twenty Years, subject to the Payment by the Lessee or Lessees of all Parochial Rates, Taxes, and Assessments, be altogether of the full yearly Value of Six hundred Pounds of lawful Money of *Great Britain*; which said Parcels of the said Commons and Waste Grounds so to be allotted to and for the said Master, Fellows, and Scholars, their Successors and Lessees, shall be in lieu of and a full Compensation and Extinguishment for all Manner of Tythes of Corn and Grain, and other Tythes and Payments for Tythes arising, renewing, or payable, or to become due or payable to the said Master, Fellows, and Scholars, their Successors or Lessees, from and out of or for or in respect of the ancient Messuages and inclosed Lands, within the said Parish.

Allotment to *Trinity* College in lieu of the Commons.

XIII. And be it further enacted, That the said Commissioners shall in like Manner set out, allot, and appoint unto and for the said Master, Fellows, and Scholars, and their Successors, such and so many other Parcels of the said Commons and Waste Grounds in the said several Townships or Divisions (except within the said Township of *Crosthwaite* with *Lyth*), and in such Proportion as last above mentioned as shall be in the Judgement of the said Commissioners, in case such Parcels of the said Commons and Waste Grounds were inclosed and Ring-fenced, and let on a Lease or Leases for a Term of Twenty Years, subject to the Payment by the Lessee or Lessees of all Parochial Rates, Taxes, and Assessments, be altogether of the full yearly Value of One hundred and fifty Pounds of like lawful Money; which said last mentioned Parcels of the said Commons and Waste Grounds so to be allotted to the said Master, Fellows, and Scholars, and their Successors, shall be in lieu of and a full Compensation and Extinguishment for all Manner of Tythes of Corn and Grain, and other Tythes whatsoever, arising, renewing, or payable, or which would have become due or payable from and out of, or for or in respect of, all the said Commons and Waste Grounds within the said Parish of *Heversham*.

For making Allotment to *Trinity* College in lieu of their Corn Tythes.

XIV. Provided always, and be it enacted, That the said Commissioners shall and they are hereby required to set out, allot, and assign, unto the said Master, Fellows, and Scholars, such Part and Parts of the several Parcels of Common, called *Rowel Green*, *Ackenthwaite Green*, and *Woodhouse Green*, in the said Township of *Heversham* with *Millthorp*, as shall be equal in Value at least to One Half of the several last mentioned Parcels of Common; and such a Part of a Parcel of Common called *Leasegill Marsh*, in the said Township of *Levens*, as shall be equal in Value to Three Fourth Parts of the said last mentioned Marsh; which said several last mentioned Allotments shall be set out, allotted, and taken, as Part or

Parts

Parts of the ſaid ſeveral Allotments firſt herein-before directed to be ſet out to the ſaid Maſter, Fellows, and Scholars, in lieu of their Corn and Rectorial Tythes, as well of the ſaid Commons and Waſte Grounds, as of the ancient incloſed Lands and Grounds of the ſaid ſeveral Townſhips of *Heverſham* with *Millthorp* and *Levens* reſpectively.

Allotments to Moſs Owners.

XV. And be it further enacted, That the ſaid Commiſſioners ſhall in the next Place ſet out, allot, and appoint, unto the ſaid Owners and Proprietors of meered Moſſes, Turbary Grounds, and Brackendales, within the ſaid Pariſh reſpectively, ſuch Part and Parts of the ſaid Commons and Waſte Grounds, ſituate within ſuch Diviſion, wherein ſuch meered Moſſes, Turbary Grounds, and Brackendales, are reſpectively ſituated, as ſhall, in the Judgement of the ſaid Commiſſioners, be a full Equivalent, and equal in Value to the preſent Intereſt of ſuch reſpective Owners or Proprietors in ſuch meered Moſſes, Turbary Grounds, and Brackendales; the ſame to be ſet out in ſuch Places and Parts of the ſaid Commons and Waſte Grounds as in the Judgement of the ſaid Commiſſioners may and will be moſt convenient for ſuch Owners and Proprietors reſpectively.

Moſs Owners may have their Allotments ſet out from their own Moſs on giving Notice.

XVI. Provided always, That every ſuch Owner and Proprietor who ſhall be deſirous to have ſuch Equivalent ſet out and allotted in Moſs or Turbary Ground ſhall be entitled, on giving Notice in Writing to the ſaid Commiſſioners, at or before their Second Meeting, to have ſuch Equivalent ſet out and allotted from his or their own ſeveral meered Moſſes or Turbary Grounds; or if in the Judgement of the ſaid Commiſſioners that cannot be conveniently done, then in ſuch other Place or reſpective Places as they the ſaid Commiſſioners ſhall in their Diſcretion think fit, and deem moſt convenient; ſuch laſt mentioned Allotments reſpectively to be and for ever hereafter remain ſubject to ſuch Lord's Rents as the ſaid ſeveral meered Moſſes and Turbary Grounds are now reſpectively ſubject.

Allotment to Lords for Right of Soil.

XVII. And be it further enacted, That the ſaid Commiſſioners, after the ſaid ſeveral Allotments as aforeſaid ſhall be ſet out and aſcertained, ſhall and may, and they are hereby authorized and required to ſet out, allot, and award, to the ſaid ſeveral Lords of the ſaid Manors, their Heirs, Leſſees, and Aſſigns, in Severalty, and according to their ſeveral and reſpective Rights, Shares, Eſtate, and Intereſts, in the ſaid Manors, One full Sixteenth Part (Quantity, Quality, and Situation, conſidered) of all and every the Reſidue of the Tracts or Parcels of Commons, Moſſes, and Waſte Grounds, within the ſaid ſeveral Manors, in Compenſation and Satisfaction for their ſeveral Rights (except as herein-after mentioned) to the Soil of the Reſidue of the Commons, Moſſes, and Waſte Grounds, within the ſaid reſpective Manors.

General Allotments.

XVIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and do, in the next Place, aſſign, ſet out, and allot, all the Reſidue of the ſaid Commons, Moſſes, and Waſte Grounds, hereby intended to be divided and incloſed, unto and amongſt all and every the Owners and Proprietors of the ſaid Lands and Tenements having Right of Common in and upon the ſaid ſeveral Commons, Moſſes, and Waſte Grounds, within the ſeveral Townſhips or Diviſions in the ſaid Pariſh, in lieu

of their reſpective Rights of Common, within ſuch Townſhips or Diviſions, only in exact Proportion to the yearly Land Tax, according to the Land Tax Aſſeſſment made for the Service of the Year One thouſand ſeven hundred and ninety-eight, paid or borne by the ſaid ſeveral Owners and Proprietors in the ſaid ſeveral Townſhips or Diviſions within the ſaid Pariſh reſpectively, except there ſhall be ſome manifeſt Inequality in the ſaid Land Tax Aſſeſſment, and then according to ſuch other Rate or Valuation as to them the ſaid Commiſſioners ſhall ſeem moſt juſt and equitable.

Allotments to be held of the Lords of ancient incloſed Lands in Fee Simple.

XIX. And be it further enacted, That all ſuch Lands and Grounds, or other Hereditaments, as ſhall be allotted to any of the ſaid Proprietors, under or by virtue of this Act, ſhall be held in Fee Simple of ſuch Lord or Lords, Lady or Ladies reſpectively, of whom the ſeveral Meſſuages, Lands, or Hereditaments, in reſpect whereof the ſame ſhall be ſo allotted, were reſpectively held at and immediately before the paſſing of this Act.

Where there ſhall not be Commons within any Townſhip ſufficient to anſwer the Allotments to the College and Vicar, Commiſſioners to buy Lands and make a Rate to raiſe the Purchaſe Money.

XX. Provided always, and be it further enacted, That in caſe there ſhall not, in any Townſhip or Townſhips within the ſaid Pariſh of *Heverſham*, be ſufficient Commons, Moſſes, and Waſte Grounds, to anſwer and ſatisfy the Allotments ſo to be ſet out and allotted to the ſaid Maſter, Fellows, and Scholars of *Trinity* College, and to the ſaid Vicar and his Succeſſors, in lieu of the ſaid Corn and Vicarial Tythes, that then it ſhall and may be lawful to and for the ſaid Commiſſioners, and they are hereby authorized and required to purchaſe and buy any Freehold Meſſuages, Tenements, or Lands, within the ſaid Pariſh, or within any adjoining Pariſh or Pariſhes, ſufficient to make up ſuch Deficiency, and to make or procure Conveyances thereof accordingly; any Law or Statute to the contrary thereof notwithſtanding: Provided always, that in ſuch Purchaſe or Purchaſes no more Dwelling Houſes, Outhouſes, or Buildings, be bought or included, than in the Judgement of the ſaid Commiſſioners, may be neceſſary for the Occupation and farming of the Lands tenanted, or meant to be occupied therewith; and the ſaid Commiſſioners ſhall and they are hereby authorized to make a Rate upon the Owners and Proprietors of Lands and Tenements in the ſaid Townſhip or Townſhips, for whom or in whoſe Aid ſuch Purchaſe or Purchaſes ſhall be made; and the ſaid Commiſſioners ſhall order Payment of the ſaid Rate at ſuch Time or Times as may by them be thought neceſſary, in order to complete ſuch Purchaſe or Purchaſes; and ſuch Payment to be enforced by the Ways and Means herein-after appointed for raiſing and compelling Payment of the Expences of obtaining and carrying into Execution this Act.

Expences of the Act.

XXI. And be it further enacted, That as well the Fees and Payments of the ſaid Commiſſioners, as alſo the Charges and Expences incident to and attending the ſoliciting, obtaining, and paſſing this Act, and of the ſurveying, planning, dividing, and allotting the ſaid Commons, Moſſes, and Waſte Grounds, and of preparing, making, and depoſiting the general Award of the ſaid Commiſſioners, and Inſtruments of Election, and other Charges and Expences attending the Execution of this Act, ſhall be borne and defrayed by the ſeveral and reſpective Land Owners and Moſs Owners within the ſaid Pariſh of *Heverſham* (ſave and except

except the ſaid Impropriators of Corn Tythes, and the ſaid Vicar of the ſaid Pariſh, and except the ſaid Lords of the ſaid Manors in reſpect of the Lands to be allotted to them reſpectively, in lieu of their Seigniories, and for which they are to be at no Expence, but that of incloſing their own reſpective Allotments, and ſave ſuch Expences as are herein-before provided for), according and in Proportion to their ſeveral and reſpective Intereſts in the ſaid Commons, Moſſes, and Waſte Grounds, and under this Act, and by a Rate to be aſcertained, ſettled, and made by the ſaid Commiſſioners upon the ſaid Land Owners and Moſs Owners reſpectively for that Purpoſe, and in which Rate the Land Owners of any Diviſion or Townſhip not having as aforeſaid ſufficient Commons to anſwer and ſatisfy the ſaid Allotments, to the ſaid Maſter, Fellows, and Scholars of *Trinity* College, and the ſaid Vicar, ſhall be rated and aſſeſſed as well in a proportionable Part of the Expences of obtaining this Act, as of carrying the ſame into Execution, and to be payable and paid to ſuch Perſon and Perſons, and at ſuch Times as ſhall by the ſaid Commiſſioners be ordered and directed in Writing under their Hands.

Commiſſioners may, with the Conſent of a Majority of Land Owners, ſet out and ſell ſuch Parts of the Commons as will be ſufficient to pay the Expences of this Act.

XXII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and empowered by and with the Conſent and Approbation of a Majority in Value of the Owners and Proprietors of Lands and Tenements within any Townſhip in the ſaid Pariſh of *Heverſham*, charged by the Land Tax Aſſeſſment for the Year One thouſand ſeven hundred and ninety-eight, or by ſuch other Valuation as the ſaid Commiſſioners ſhall think fit, to ſet out ſuch Part or Parts of the ſaid Commons, Moſſes, and Waſte Grounds, within ſuch Townſhip, as the ſaid Majority in Value of ſuch Owners ſhall direct, as, in the Opinion of the ſaid Commiſſioners, will, by Sale raiſe a Sum of Money ſufficient to pay and diſcharge all ſuch Charges and Expences as may be the proportionable Part or Share of ſuch Townſhip, in obtaining this Act and of carrying the ſame into Execution; and the ſaid Commiſſioners are hereby authorized and required to ſell ſuch Part or Parts of the ſaid Lands to any Perſon or Perſons for the beſt Price or Prices that can be gotten for the ſame by publick Auction or Auctions, to be holden for that Purpoſe, of which Six Weeks previous Notice ſhall be given by Advertiſement in *The Lancaſter Gazetteer*, or ſome other Provincial Newſpaper, which in the Opinion of the ſaid Commiſſioners ſhall have the moſt general Circulation within the ſaid Pariſh, and by affixing the like Notice upon the principal Door of *Heverſham* Church, for at leaſt Three *Sundays* next preceding the Day of Sale, and the Perſon or Perſons ſo purchaſing the ſame, ſhall pay the Purchaſe Monies for the ſame into the Hands of the ſaid Commiſſioners on the Thirteenth Day of *February* next after ſuch Sale, or ſooner if ſo ordered or appointed by the ſaid Commiſſioners in the Propoſals of Sale, and the ſaid Purchaſe Money ſhall be applied in defraying the proportionable Part or Share of ſuch Townſhip, of the Charges and Expences of obtaining this Act, and of carrying the ſame into Execution; and on any Queſtion at Law or in Equity afterwards ariſing on the Title or Titles of ſuch Commons, Moſſes, and Waſte Grounds ſo ſold as aforeſaid, no Proof of the actual Conſent of ſuch Majority of the ſaid Owners and Proprietors ſhall be neceſſary or required.

XXIII. Provided

That the Act shall not affect Common Moſſes or Waſte Grounds within *Witherſlack.*

XXIII. Provided always, and be it further enacted, That nothing herein contained ſhall extend, or be conſtrued to extend, to affect any of the Commons, Moſſes, or Waſte Grounds, lying within the Manor of *Witherſlack*, in the ſaid County of *Weſtmorland*, or any Part thereof, but that the ſame ſhall be held and enjoyed by the Perſon or Perſons who is or are entitled thereto as if this Act had not been made, ſubject only to the Determination by the ſaid Act directed to be made, as to the Boundaries of the Commons, Moſſes, and Waſte Grounds, hereby directed to be divided and incloſed, where the ſame or any Part thereof adjoin to that Manor.

Whitbarrow Rock to be allotted for Proprietors to procure Lime Stone, &c.

XXIV. Provided alſo, That the ſaid Commiſſioners ſhall and they are hereby required to ſet out and allot unto the Proprietors of Meſſuages, Lands, and Hereditaments within the ſaid Townſhip of *Croſthwaite* with *Lyth* in Groſs, all ſuch and ſo much of the Rock Hill, or high barren rocky Ground called *Whitbarrow*, as ſhall, in the Judgement of the ſaid Commiſſioners and of a Majority in Value of the ſaid Proprietors, be unfit for the Production or raiſing of Wood or any Purpoſe of Agriculture, and to be for ever thereafter uſed and enjoyed by the ſaid Proprietors for getting Lime Stone and Materials for building, burning into Lime, and other Purpoſes; and that the Eatage and Depaſturage thereof, if any there ſhall be, and alſo the Surplus Rock and Lime Stone there, above what may be deemed by a Majority in Value of the ſaid Proprietors aſſembled at any publick Veſtry for that Purpoſe, ſufficient for the Uſe and Conſumption of the ſaid Proprietors, be at the Diſpoſal from Time to Time of ſuch Majority in Value, at ſuch publick Veſtry aſſembled, and the Profits or Produce, if any ariſing therefrom, be diſpoſed of and applied at their Diſcretion in Eaſe of the publick Rates of the ſaid Townſhip.

For fencing other Allotments ſet out for getting Limeſtone and Materials.

XXV. Provided alſo, and be it further enacted, That before any Horſes, Cattle, or Sheep, ſhall go or depaſture on the Ground ſo to be ſet out for the uſe of the ſaid Proprietors, for getting Limeſtone and Materials for building, burning into Lime, or other Purpoſes as aforeſaid, a good and ſufficient Fence ſhall be erected by the ſaid Proprietors to prevent the Eſcape of ſuch Horſes, Cattle, or Sheep, therefrom, into or upon the Commons, Moſſes, and Waſte Grounds, within the ſaid Manor of *Witherſlack*; which Fence ſhall at all Times afterwards be repaired and ſupported by or at the Expence of the Proprietors for the Time being of the Lands lying within the ſaid Townſhip of *Croſthwaite* with *Lyth*, or ſome of them.

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

XXVI. Provided always, and be it further enacted, 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, her, or their Right, Intereſt, or Property in, over, or upon the ſaid Commons and Waſte Grounds, or any Part thereof, to any other Perſon or Perſons, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required to make an Allotment of Land unto the Vendee or Purchaſer in ſuch Sale, Contract, or Agreement, or to his, her, or their Heirs or Aſſigns, for or in reſpect of ſuch Right, Intereſt, and Property ſo ſold, or contracted or agreed to be

be ſold as aforeſaid; and every ſuch Vendee or Purchaſer, and his, her, or their Heirs and Aſſigns, ſhall and may from and after the Execution of the ſaid Award, hold and enjoy the Land ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner 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 Allotments as aforeſaid.

For extinguiſhing or ſuſpending Rights of Common before the Award.

XXVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required, at any Time or Times before the Execution of the ſaid Award, by Notice in Writing under their Hands to be affixed upon the principal outer Door of the Pariſh Church of *Heverſham* aforeſaid, to order and direct all or any Part of the Rights of Common in, over, or upon the ſaid Commons and Waſte Grounds, or any Part thereof, to be extinguiſhed, or the Exerciſe thereof to be ſuſpended, for and during ſuch Time as the ſaid Commiſſioners ſhall, by ſuch Writing, order and direct to be extinguiſhed, or the Exerciſe thereof to be ſuſpended accordingly; any Law, Uſage, or Cuſtom, to the contrary thereof notwithſtanding.

Leaſes to be void.

XXVIII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners, upon the Application in Writing of any Proprietor or Proprietors of Meſſuages, Lands, Tenements, and Hereditaments, within the ſaid Pariſh, now held and occupied by virtue of any Leaſe or Agreement, for a Leaſe at Rack or extended Rent, for any Term or Number of Years unexpired, to annul and make void ſuch Leaſe or Agreement, ſo far as the ſame may affect any Allotment to be made of the ſaid Commons and Waſte Grounds hereby intended to be incloſed; and by their Award, to order and direct from what Time the Term or Terms therein ſhall ceaſe and determine; the reſpective Proprietors of ſuch Meſſuages, Lands, Tenements, and Hereditaments, making ſuch Satisfaction to their reſpective Leſſee or Leſſees as the ſaid Commiſſioners ſhall think reaſonable, and by their Award direct to be paid to them as a Compenſation for ſuch Leaſe or Agreement.

Coſts of Exchanges and Partitions to be borne by the Parties.

XXIX. And be it further enacted, That the Expences attending any Exchange or Partition of the Lands and Grounds by this Act intended to be divided and allotted, which ſhall be made by virtue of this or the ſaid recited Act, ſhall be borne and defrayed by the reſpective Parties making ſuch Exchange or Partition, diſtinct and apart from the other Expences attending the Execution of this Act, in ſuch Manner as the ſaid Commiſſioners ſhall order and direct.

Money advanced by Proprietors to be repaid with Intereſt.

XXX. And be it further enacted, That if any of the Proprietors or Perſons intereſted in the Lands and Grounds hereby directed to be divided, allotted, and incloſed, or any other Perſon or Perſons on his, her, or their Behalf, ſhall advance and pay any Money in Diſcharge of the Fees or other Expences of obtaining and executing this Act, the Money ſo paid and advanced ſhall be repaid and ſatisfied by the Di-

rection of the ſaid Commiſſioners, together with lawful Intereſt for the ſame.

Wills and Settlements not to be affected.

XXXI. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend, or be conſtrued to extend, to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances, out of, upon, or affecting any of the Meſſuages, Buildings, Lands, or Grounds, to be divided, allotted, incloſed, or exchanged as aforeſaid, or any Part or Parts thereof reſpectively, but that the reſpective Perſons to whom any Lands or Hereditaments ſhall be allotted or given in Exchange, by virtue of this Act, ſhall be ſeiſed thereof to ſuch and the ſame Uſes, and for ſuch and the ſame Eſtates, and ſubject to ſuch and the ſame Wills, Jointures, Rents, Charges, and Incumbrances, and no other, as the Meſſuages, Buildings, Lands, Grounds, and Hereditaments, whereof ſuch Perſon was ſeiſed or poſſeſſed at or immediately before the Execution of the Award to be made by the ſaid Commiſſioners, or for which or in reſpect whereof ſuch Allotments or Exchanges ſhall be made, would have been ſubject to, charged with, or affected by, in caſe this Act had not been made.

Award to be depoſited.

XXXII. And be it further enacted, That the Award to be made by the ſaid Commiſſioners, when inrolled in Manner directed by the ſaid recited Act, ſhall be depoſited in the Pariſh Church of *Heverſham* aforeſaid, or in ſuch other Place as the ſaid Commiſſioners ſhall direct and appoint.

Extract of Award, and a Plan to be tranſmitted to Surveyor General of Land Revenue.

XXXIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to make an Extract on Parchment under their Hands, of ſo much of their Award as ſhall contain an accurate Deſcription of the Allotment or Allotments which ſhall be made to His ſaid Majeſty, or His Leſſee or Leſſees, in reſpect of the ſaid Manor or Townſhip of *Croſthwaite* with *Lyth*, together with all ſuch Regulations or Proviſions relative to ſuch Allotment or Allotments, or to any other Rights or Intereſts of His Majeſty, or His Leſſee or Leſſees, as may be contained in ſuch Award, and alſo a Map or Plan of ſuch Allotment or Allotments, and tranſmit the ſame to the Surveyor General of His Majeſty's Land Revenue for the Time being, within Six Calendar Months after the making and executing the ſaid Award, to be by him filed and kept among the Muniments of his Office.

Commiſſioners to lay their Accounts before Two Juſtices Once in every Year.

XXXIV. 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 paſſing thereof), 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 ſuch Statement or Account when made, together with the Vouchers relating thereto, ſhall be by them laid before Two or more Juſtices of the Peace for the ſaid County of *Weſtmorland*, not intereſted in the ſaid intended Diviſion, Allotment, and Incloſure, to be by them examined and balanced; and ſuch Balance ſhall be by ſuch Juſtices ſtated in the Book of

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.

Perſons aggrieved may appeal to the Quarter Seſſions.

XXXV. 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, (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 where any of the Clauſes or Proviſions of the ſaid recited Act or of this Act, ſhall expreſs that the ſame ſhall be final and concluſive), then and in every ſuch Caſe, he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace, which ſhall be holden for the ſaid County of *Weſtmorland*, within Three Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners, and to the Party or Parties concerned Fourteen Days Notice in Writing of ſuch Appeal, and of the Matter thereof, and the Juſtices (not intereſted in the Premiſes) in 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 or removeable 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 of Manerial Rights.

XXXVI. Provided always, and be it further enacted, That nothing in this Act contained ſhall be conſtrued to defeat, leſſen, or prejudice the Right, Title, and Intereſt of the ſaid Lord Viſcount *Lowther*, *Richard Howard*, or *Daniel Wilſon*, or the Owners for the Time being of any of the Manors or Lordſhips, or reputed Manors or Lordſhips, within the ſaid Pariſh of *Heverſham*, of, in, and to the Seigniories and Royalties incident or belonging to the ſaid ſeveral Manors; and that they the ſaid Lord Viſcount *Lowther*, *Richard Howard*, and *Daniel Wilſon*, their Heirs and Aſſigns, 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 and Waſte Grounds hereby directed to be divided and incloſed as aforeſaid; and all Mines and Minerals within or under the ſame in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as they or any of them could or might reſpectively have held or enjoyed the ſame in caſe this Act had not been made.

XXXVII. Provided

Satisfaction from the Lords for working Mines.

XXXVII. Provided always, That in caſe any Mine or Mines, or other Works, ſhall be at any Time or Times hereafter opened, wrought, or carried on by the Lord or Lords, Lady or Ladies, in any of the ſaid Allotments or Waſte Grounds, or their Leſſee or Leſſees, that then and in every ſuch Caſe, ſuch Lord or Lords, Lady or Ladies, Leſſee or Leſſees, ſhall make reaſonable Satisfaction to the Owner or Owners of ſuch Allotment or Allotments for the Damages to be occaſioned thereby to the Herbage or Soil thereof, ſuch Damages, in caſe the Parties cannot agree as to the Amount thereof, to be enquired into, ſettled, and aſcertained by a Jury of Freeholders of the ſaid County of *Weſtmorland*, and in order thereto the ſaid Lord or Lords, Lady or Ladies, their, his, or her Agent or Agents, or the Owner or Owners of ſuch Allotment or Allotments, are and is hereby empowered and required, from Time to Time as Occaſion ſhall be, to ſummon and call before ſuch Jury, and examine on Oath, any Perſon or Perſons whomſoever, (which Oath the Sheriff of the ſaid County of *Weſtmorland*, or his Deputy is hereby empowered to adminiſter), and ſuch Lord or Lords, Lady or Ladies, their, his, or her, Agent or Agents, Owner or Owners, ſhall, by ordering a View or otherwiſe, uſe all Ways and Means as well for their own as the ſaid Jury's Information in the Premiſes; and after the ſaid Jury ſhall have enquired of and aſſeſſed ſuch Damage and Satisfaction, they the ſaid Lord or Lords, Lady or Ladies, or their Leſſee or Leſſees, ſhall thereupon pay ſuch Damage and Satisfaction to the Owner or Owners of ſuch Allotment or Allotments as the ſaid Jury ſhall by their Verdict or Inquiſition find to be reaſonable; and which ſaid Verdict or Inquiſition and Judgement ſo to be from Time to Time found and taken, ſhall be binding, final, and concluſive to all Intents and Purpoſes, againſt all Parties and Perſons whomſoever; and for ſummoning and returning ſuch Jury, the ſaid Lord or Lords, Lady or Ladies, their, his, or her Agent or Agents, Leſſee or Leſſees, or the ſaid Owner or Owners of the ſaid Allotment or Allotments, are and is hereby empowered to iſſue their, his, or her Warrant or Warrants to the Sheriff for the County of *Weſtmorland*, requiring him to impannel, ſummon, and return Twenty-four Perſons qualified to ſerve on Juries, to appear before the ſaid Sheriff or his Deputy, and the ſaid Lord or Lords, Lady or Ladies, their, his, or her Leſſee or Leſſees, Agent or Agents, and the ſaid Owner or Owners at ſuch Time and Place as in ſuch Warrant or Warrants ſhall be appointed; and ſuch Sheriff or his Deputy, is hereby required to impannel, ſummon, and return ſuch Number of Perſons accordingly, and out of the Perſons ſo ſummoned, impannelled, and returned, or out of ſuch of them as ſhall appear upon ſuch Summons, the ſaid Lord or Lords, Lady or Ladies, their, his, or her Leſſee or Leſſees, Agent or Agents, or the ſaid Owner or Owners, ſhall and they or any of them are and is hereby empowered and required to draw by Ballot, and the ſaid Sheriff or his Deputy is to ſwear or cauſe to be ſworn Twelve Men, who ſhall be the Jury for the Purpoſes aforeſaid; and in Default of a ſufficient Number of Jurymen ſo returned, the ſaid Sheriff or his Deputy ſhall return other honeſt and indifferent Men of the Standers-by, or that can be ſpeedily procured to attend that Service to make up the Number of Twelve; and all Perſons concerned ſhall have their lawful Challenges againſt any of the ſaid Jurymen when they come to be ſworn; and the ſaid Sheriff or his Deputy ſhall have Power, from Time to Time, to impoſe any reaſonable Fine or Fines upon any of the Perſons who ſhall be ſummoned

and

and returned on such Jury, and who shall not appear (except for some reasonable Excuse), or appearing shall refuse to be sworn on the said Jury, or being so sworn shall refuse to give, or shall not give, a Verdict, or shall in any other Manner wilfully neglect their Duty therein contrary to the true Intent and Meaning of this Act; and on any of the Persons, who being required to give Evidence before the said Jury shall refuse or neglect to appear, or appearing shall refuse to be sworn or examined, or give Evidence, so as no such Fine be more than Five Pounds or less than Twenty Shillings, on any Person for One Offence.

How Expences of Jury shall be paid.

XXXVIII. And be it further enacted, That in case any Jury shall give in and deliver a Verdict or Assessment for more Money as a Recompence for such Damage or Damages, than shall have been agreed to and offered to be paid by the said Lord or Lords, Lady or Ladies, his, her, or their Agent or Agents, Lessee or Lessees, before the summoning and returning of the Jury, that then and in such Case, the Costs and Expences of summoning and maintaining the Jury and Witnesses, and the Fee to the Sheriff or his Deputy, shall be borne and paid by the Lord or Lords, Lady or Ladies, his, her, or their Lessee or Lessees; but if such Jury shall give in and deliver a Verdict or Assessment for no more or for less Money than shall have been agreed to and offered by the said Lord or Lords, Lady or Ladies, his, her, or their Agent or Agents, Lessee or Lessees before the summoning and returning the said Jury, as a Recompence or Satisfaction for the Damages aforesaid, that then the full Costs and Expences of summoning and maintaining the said Jury and Witnesses, and the Fee to the said Sheriff or his Deputy, and all other Expences attending the hearing and determining of such Difference, shall be borne and paid by the Person or Persons claiming such Damage or Damages, which Costs and Charges are, in both Cases, to be settled and ascertained by some Justice of the Peace for the said County of *Westmorland*, not interested in the Matter in question (who is hereby required to examine and settle the same at a Time and Place to be by him appointed, after summoning the Parties interested therein to attend him for that Purpose), which Costs shall and may, after the same are so settled and ascertained, be recovered by Action of Debt in any of His Majesty's Courts of Record at *Westminster*.

General Saving.

XXXIX. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Body or Bodies 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), all such Estate, Right, Title, and Interest as they, every, or any of them could or ought to have had and enjoyed, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed before the passing of this Act, or could or might have held or enjoyed in case the same had not been made.

Act to be printed by the King's Printer.

XL. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty; and when so printed, may be given in Evidence in all Courts of Justice, and before all Judges and Justices whomsoever, who shall take judicial Notice thereof in like Manner as if the same had been declared to be a publick Act.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1803.