ANNO QUADRAGESIMO SEXTO

GEORGII III. REGIS.

Cap. 112.

An Act for incloſing Lands in the Manor and Pariſh of *Holme Cultram*, in the County of *Cumberland*. [3d *July* 1806.]

WHEREAS there are within the Manor and Pariſh of *Holme Cultram*, in the County of *Cumberland*, ſeveral Commons, Moors, and Waſtes, containing together by Eſtimation Six thouſand Acres, or thereabouts: And whereas *Rowland Stephenſon* Eſquire is or claims to be ſole Lord of the ſaid Manor of *Holme Cultram*, and as ſuch is ſeiſed of or entitled to the Soil and Royalties of and within or under the ſaid Commons, Moors, and Waſtes; and the ſaid *Rowland Stephenſon*, and the Right Honourable *William* Viſcount *Lowther*, *John Thomlinſon*, and *William Glaiſter*, Eſquires, and ſeveral other Perſons, are or claim to be entitled to have and enjoy Right of Common in, upon, and over the ſaid Commons, Moors, and Waſtes, or ſome of them, in reſpect of, or as appendant, appurtenant, or belonging to their ſeveral Lands and Tenements within the ſaid Manor and Pariſh: And whereas there is alſo within the ſaid Manor and Pariſh of *Holme Cultram* a certain Common Field, called *Colt Park*, containing by Eſtimation One hundred and ſeventy Acres, or thereabouts, which hath been held and enjoyed by the Lord and ſeveral of the Tenants of the ſaid Manor in Manner following; (that is to ſay), for Three ſucceſſive Years the Lord and ſeveral of the Tenants of the ſaid Manor have held and enjoyed the ſaid Common Field in certain ſpecific Parts and Parcels in Severalty, and for Six ſucceſſive Years afterwards the Whole of the ſaid Common Field hath been uſed and enjoyed as a Common or Common Paſture by the Owners of Lands therein,

and by other Tenants of the ſaid Manor, having Right of Common thereon, and on the ſaid Commons, Moors, and Waſtes, and ſo from Time to Time in perpetual Succeſſion: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His 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 *Rowland Stephenſon*, and ſuch ſeveral other Proprietors as aforeſaid, are deſirous that the ſaid Commons, Moors, and Waſtes, Common Field, and other Commonable Lands, ſhall be divided and incloſed, ſo as that ſpecific Shares thereof may be allotted to them in Severalty, according to their reſpective Rights and Intereſts therein; but ſuch Diviſion, Allotment, and Incloſure cannot be effectually completed and eſtabliſhed 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 *Rowland Fawcett*, of *Scaleby Caſtle* in the County of *Cumberland*, Gentleman, *John Norman*, of *Kirkandrews* in the ſaid County, Gentleman, and *Joſeph Studholme*, of *Saint Nicholas* in the ſaid County, Gentleman, ſhall be and they are hereby appointed Commiſſioners for dividing, allotting, and incloſing the ſaid Moors, Commons, and Waſte Lands, and the ſaid Common Field, and all other the Commonable Lands within the ſaid Manor and Pariſh of *Hilme Cultram*, and for carrying the ſeveral Powers of the ſaid recited Act and this Act into Execution (ſave and except ſuch Parts of the ſaid recited Act as are varied or altered by virtue of this Act); and all Acts, Matters, and Things authorized or directed to be done or executed by the ſaid Commiſſioners in purſuance of the ſaid recited Act or of this Act, may be done and executed by any Two of them, and the ſame ſhall be as good, valid, and effectual, and ſhall have the ſame Force and Effect, as if ſuch Acts, Matters, and Things had been done and executed by all the Commiſſioners herein named, or to be appointed in Manner herein mentioned.

Commiſſioners appointed.

For appointing new Commiſſioners.

II. And be it further enacted, That in caſe the ſaid *Rowland Fawcett*, or any Perſon to be nominated or appointed a Commiſſioner in his Room or Stead by virtue of this Act, ſhall die, refuſe to act, or become incapable of acting as ſuch Commiſſioner in the Execution of this Act, then and in every ſuch Caſe it ſhall and may be lawful to and for the ſaid *Rowland Stevenſon*, or the Lord or Lords, Lady or Ladies of the ſaid Manor of *Holme Cultram* for the Time being, by any Writing under his, her, or their Hand and Seal, or Hands and Seals, within Forty Days after ſuch Death, Refuſal, or Incapacity as aforeſaid ſhall be made known to him, her, or them, by Notice in Writing under the Hands or Hand of the ſurviving or remaining Commiſſioners or Commiſſioner, to be left at the uſual Place of Abode of the ſaid *Rowland Stephenſon*, or the Lord or Lords, Lady or Ladies of the ſaid Manor for the Time being, and which Notice ſuch ſurviving or acting Commiſſioners or Commiſſioner are and is hereby required to give or leave, or cauſe to be given or left as aforeſaid, within the Space of Forty Days next after ſuch Death, Refuſal, or Incapacity ſhall be known to ſuch Commiſſioners or Commiſſioner, to nominate and appoint a proper Perſon (not intereſted in the ſaid intended Diviſion and Incloſure) to be a Commiſſioner in the Room or Stead of the ſaid *Rowland Fawcett*,

or

or of ſuch other Perſon nominated or appointed in his Room or Stead, ſo dying, or refuſing or becoming incapable to act as aforeſaid, and ſo from Time to Time, as often as any Commiſſioner to be nominated and appointed by the ſaid *Rowland Stephenſon*, or by the Lord or Lords, Lady or Ladies of the ſaid Manor of *Holme Cultram* for the Time being as aforeſaid, ſhall die, refuſe, or become incapable to act as ſuch Commiſſioner in the Execution of this Act; and in caſe the ſaid *John Norman*, or any Perſon nominated and appointed a Commiſſioner in his Room or Stead, by virtue of this Act, ſhall die, refuſe, or become incapable to act as a Commiſſioner in the Execution of this Act, then and in ſuch Caſe it ſhall and may be lawful to and for the major Part in Value (ſuch Value to be aſcertained according to the Rate or Aſſeſſment made for the Relief of the Poor of the ſaid Pariſh of *Holme Cultram* for that Year) of the Owners and Proprietors of Lands and Hereditaments within the ſaid Pariſh of *Holme Cultram* (except the ſaid *Rowland Stephenſon*, or the Lord or Lords, Lady or Ladies of the ſaid Manor for the Time being) and of their reſpective Agents duly authorized for ſuch Purpoſe, by Writing under the reſpective Hands of ſuch Owners and Proprietors as aforeſaid (except as before excepted) attending at a Meeting to be holden for that Purpoſe, of which Meeting Twenty Days Notice in Writing, ſigned by any Three or more of ſuch Owners or Proprietors (except as aforeſaid) ſhall be given, by affixing the ſame on the Door of the Pariſh Church of *Holme Cultram* aforeſaid, on ſome *Sunday* immediately before Divine Service, by any Writing under the Hands of ſuch major Part in Value of ſuch Owners and Proprietors (except as before excepted) and Agents as aforeſaid, within Forty Days after ſuch Death, Refuſal, or Incapacity as aforeſaid ſhall be made known, by a Notice in Writing under the Hand of the ſurviving or remaining Commiſſioners or Commiſſioner, and be affixed on the Door of the Pariſh Church of *Holme Cultram* aforeſaid on ſome *Sunday* immediately before Divine Service (and which laſt-mentioned Notice ſuch Commiſſioners or Commiſſioner are and is hereby required to give, or cauſe to to be given, within Twenty Days after ſuch Death, Refuſal, or Incapacity ſhall be known to them or him) to nominate and appoint a proper Perſon (not intereſted in the ſaid intended Diviſion and Incloſure) to be a Commiſſioner in the Room or Stead of the ſaid *John Norman*, or of ſuch other Perſon nominated or appointed in his Room or Stead, ſo dying, or refuſing or becoming incapable to act, and ſo from Time to Time, as often as any Commiſſioner to be appointed by ſuch Owners and Proprietors of Lands and Hereditaments within the ſaid Pariſh of *Holme Cultram* (except as aforeſaid) ſhall die, refuſe or become incapable to act in the Execution of this Act; and every Commiſſioner ſo to be nominated and appointed by the ſaid *Rowland Stephenſon*, or the Lord or Lords, Lady or Ladies of the ſaid Manor for the Time being, or by ſuch Owners and Proprietors, or his, her, or their Agent or Agents as aforeſaid, ſhall, after taking the Oath by the ſaid recited Act preſcribed in that Behalf, have the like Power and Authority for carrying the ſaid recited Act and this Act into Execution, and ſhall be ſubject and liable to the like Rules, Regulations, and Reſtrictions, as if he had been originally nominated a Commiſſioner in and by this Act.

If Lord of the Manor or Proprietors, neglect to appoint a new

III. Provided always, and be it enacted, That if the ſaid *Rowland Stephenſon*, or the Lord or Lords, Lady or Ladies of the ſaid Manor for the Time being, or the ſaid Owners and Proprietors of Lands and Hereditaments

Commissioner within the Time prescribed, the acting Commissioner to make such Appointment.

ditaments, or any of them respectively, shall make Default in nominating and appointing any new Commissioner, so directed to be nominated and appointed by him and them respectively as aforesaid, within the respective Times for that Purpose limited, and in Manner aforesaid, then and in every such Case it shall and may lawful to and for the surviving or remaining Commissioners or Commissioner, and they and he is and are hereby required from Time to Time, by Writing under their Hands, or his Hand, within Forty Days next after the Expiration of such respective Times so allowed for nominating and appointing such new and succeeding Commissioner or Commissioners as aforesaid, to nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room or Stead of every such Commissioner so dying, refusing, or becoming incapable to act as aforesaid; and every Commissioner so to be nominated and appointed, shall, after taking the Oath by the said recited Act prescribed in that Behalf, have the like Power and Authority for carrying the said recited Act and this Act into Execution, and shall be subject and liable to the like Rules, Regulations, and Restrictions, as if he had been originally nominated a Commissioner in and by this Act.

In case of Death of Joseph Studholme Commissioners to appoint another.

IV. And be it further enacted, That in case the said *Joseph Studholme*, or any Person nominated and appointed a Commissioner in his Room or Stead, by virtue of this Act, shall die, refuse or become incapable to act as a Commissioner in the Execution of this Act, then and in every such Case it shall and may be lawful to and for the said *Rowland Fawcett* and *John Norman*, or the surviving or remaining Commissioners or Commissioner, and they and he is and are hereby required from Time to Time, by Writing under their Hands, or his Hand, to nominate and appoint a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room or Stead of the said *Joseph Studholme*, or of such other Person nominated or appointed in his Room or Stead, so dying, refusing, or becoming incapable to act as aforesaid, and so from Time to Time as often as any Commissioner to be appointed by the said *Rowland Fawcett* and *John Norman*, or the surviving or remaining Commissioners or Commissioner shall die, refuse, or become incapable to act in the Execution of this Act; and every Commissioner so to be nominated and appointed, shall, after taking the Oath by the said recited Act prescribed in that Behalf, have the like Power and Authority for carrying the said recited Act and this Act into Execution, and shall be subject and liable to the like Rules, Regulations, and Restrictions, as if he had been originally nominated a Commissioner in and by this Act.

Any Commissioner neglecting to attend Meetings, or neglecting to qualify at the First Meeting after his Election, to be deemed a Refusal to act.

V. Provided also, and be it enacted, That if any Commissioner hereby nominated shall refuse or neglect to attend at the First Meeting appointed to be holden for carrying this Act into Execution, and duly qualify himself by taking the Oath by the said recited Act prescribed in that Behalf, or if any such Commissioner shall at any Time after the said First Meeting wilfully absent himself from any of the following successive Meetings appointed to be holden by virtue of this Act, such Meetings being known to him either by his being present at the Appointment thereof, or Notice thereof in Writing having been given to him or left at his last or usual Place of Abode by the Clerk to the said Commissioners, and such Commissioner not being prevented by Sickness, or other reasonable Cause to be

be allowed by the other Commiſſioners, from attending at ſuch Meetings, or if any Commiſſioner to be nominated and appointed in Manner by this Act directed, ſhall not attend and qualify himſelf to act as a Commiſſioner in the Execution of this Act at the Firſt Meeting after his Nomination or Appointment, ſuch Meeting to be appointed by the ſurviving or remaining Commiſſioners for carrying this Act into Execution, or ſhall thereafter wilfully abſent himſelf from any of the following ſucceſſive Meetings to be holden by virtue of this Act, ſuch Meetings being known to him, either by his being preſent at the Appointment thereof, or Notice thereof in Writing having been given to him or left at his laſt or uſual Place of Abode by the Clerk to the ſaid Commiſſioners, and ſuch Commiſſioner not being prevented by Sickneſs, or other reaſonable Cauſe to be allowed by the other Commiſſioners, from attending at ſuch Meetings, then and in every ſuch Caſe ſuch Abſence or Non-attendance ſhall be deemed and taken to be a Refuſal to act within the Intent and Meaning of this Act.

Notice to be given of Meetings.

VI. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to give, or cauſe to be given, publick Notice in the Newſpaper called *The Cumberland Pacquet*, or in the *Carliſle Journal*, if then publiſhed, and if not, then in ſome other Newſpaper or Newſpapers circulated in the County of *Cumberland*, and ſhall alſo give Notice in Writing by affixing the ſame on the Door of the Pariſh Church of *Holme Cultram* on ſome *Sunday* immediately before Divine Service, of the Time and Place of their Firſt and every ſubſequent Meeting for executing the Purpoſes of this and the ſaid recited Act, Twenty Days at leaſt before every ſuch Meeting (Meetings by Adjournment only excepted); and all Meetings of the ſaid Commiſſioners ſhall be holden within the ſaid Pariſh of *Holme Cultram*; and in caſe Two of the ſaid Commiſſioners ſhall not attend at the Time and Place appointed for any ſuch Meeting, or to which any ſuch Meeting ſhall be adjourned as aforeſaid, it ſhall and may be lawful to and for the Commiſſioner who ſhall attend, and to and for the Clerk to the ſaid Commiſſioners, in caſe none of the ſaid Commiſſioners ſhall attend, to adjourn ſuch Meeting to any future Day, not exceeding Ten Days from the Day of ſuch Adjournment, to be holden at the ſame Place, or at ſome other Place within the ſaid Pariſh of *Holme Cultram*, as to the Commiſſioner or Clerk making ſuch Adjournment ſhall ſeem moſt convenient; and the ſaid Commiſſioner or Clerk making ſuch Adjournment, is hereby required to give Notice to the abſent Commiſſioners Five Days at the leaſt before the Day appointed for ſuch Meeting.

Other Notices how to be given.

VII. Provided always, and be it enacted, That all other publick Notices neceſſary or requiſite to be given by the ſaid Commiſſioners in purſuance of this Act, or in purſuance of the ſaid recited Act, and the Manner of giving which is not hereby particularly directed, ſhall be given by Advertiſement in the Newſpaper called *The Cumberland Pacquet*, or in the *Carliſle Journal*, if then publiſhed, and if not, then in ſome other Newſpaper or Newſpapers uſually circulated in the County of *Cumberland*.

Commiſſioners to determine Differences.

VIII. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Perſons, or Bodies Politick, Corporate, or Collegiate, who are or ſhall be Proprietors of or intereſted in any of the Lands,

Lands, Tenements, or Hereditaments to be affected by this Act, touching or concerning the respective Shares, Rights, or Interests which they or any of them have or claim to have in the same, or touching or concerning any Right of Common, Allotment or Compensation to be made in lieu thereof, or touching or concerning any other Matter or Thing relating to the said Division, Inclosure, and Allotments, it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and empowered to examine into, hear, and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

Commissioners not to determine Titles.

Power to assess Costs.

IX. 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 or of the said recited Act, see Cause to award any Costs, it shall and may 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, or Body or Bodies Politick, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, who shall be liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, then and in such Case it shall 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, or Body or Bodies Politick, Corporate, or Collegiate so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

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

X. And be it further enacted, That in case any Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division and Allotments, shall be dissatisfied with any Determination of the said Commissioners, touching or concerning any Claim or Claims of the Right to the Soil of the said Moors, Commons, and Waste Lands, or of any Rights of Common, or other Rights or Interests, in, over, or upon the Lands and Grounds hereby directed to be divided, allowed, and inclosed, or any Part thereof, then, and in every such Case it shall be lawful for the Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next Assizes, or at the Assizes then next following to be holden for the said County of *Cumberland*, and for that Purpose the Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, 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, Body or Bodies Politick, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three

Calendar Months next after ſuch Determination of the ſaid Commiſſioners 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, Body and Bodies Politick, 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 therein, which it ſhall be lawful for the 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 Trial or Trials.

Determination of Commiſſioners to be final.

XI. Provided always, and be it enacted, That the Determination of the ſaid Commiſſioners, touching ſuch Claim or Claims of Right to the Soil of the ſaid Moors, Commons, and Waſte Lands, or of any Rights of Common, or other Rights or Intereſts in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and incloſed, or any Part thereof, and which Determination ſhall not be ſo objected to, or being objected to, ſuch Action or Actions at Law ſhall not be brought and proceeded in within the Time and in the Manner herein-before for that Purpoſe mentioned, ſhall be final and concluſive upon all Parties.

Trial not to ſuſpend the Execution of the Powers of the Act.

XII. Provided always, and be it enacted, That no ſuch Difference, Action, Suit, or Proceeding as aforeſaid, nor any Difference, Diſpute, or Proceeding, touching the Title to any Lands, Tenements, or Hereditaments, ſhall impede or delay the ſaid Commiſſioners in the Execution of this Act, but the Diviſion and Incloſure hereby directed to be made ſhall be proceeded in, notwithſtanding any ſuch Difference, Suit, or Proceeding.

Actions not to abate by Death of Parties.

XIII. Provided alſo, and be it 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.

Encroachment made within Forty Years to be deemed Common.

XIV. And be it further enacted, That all Encroachments which have been made on any Part of the ſaid Commons, Moors, and Waſtes (ſave and except ſuch as have been enjoyed peaceably and quietly for Forty Years laſt paſt or upwards, without any Interruption given, and without any Rent or Acknowledgement having been paid for the ſame) ſhall be deemed Part or Parcel of the Commons, Moors, and Waſtes to be divided, allotted, and incloſed by virtue of this Act.

Commiſſioners to determine to what Townſhips Roads ſhall belong,

XV. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required to determine and adjudge what Part or Parts of the Highways and Roads, to be ſet out and appointed by the ſaid Commiſſioners by virtue of the ſaid recited Act and this Act, ſhall belong

belong to the ſeveral Townſhips or Quarters reſpectively within the ſaid Pariſh of *Holme Cultram*; and the ſaid Commiſſioners ſhall, in and by their General Award, order and direct by what Townſhips or Quarters reſpectively, within the ſaid Pariſh, ſuch Highways and Roads ſhall be maintained, amended, and kept in Repair; and when and as ſoon as ſuch Highways and Roads ſhall be formed and put into complete Repair, and declared ſo to be, according to the Directions of the ſaid Act, all ſuch Highways and Roads ſhall be for ever thereafter maintained, amended, and kept in Repair by the Owners or Occupiers for the Time being of ſuch Townſhips or Quarters reſpectively to which ſuch Highways and Roads ſhall be ſo determined and adjudged to belong, in ſuch and the like Manner as ancient and common publick Highways and Roads are by Law to be amended and kept in Repair.

Commiſſioners may ſcour out Brooks, make Ditches, &c.

XVI. And be it further enacted, That the ſaid Commiſſioners ſhall and may ſcour out and widen all ſuch Brooks, Streams, Ditches, Watercourſes, Tunnels, and Bridges, within the ſaid Manor of *Holme Cultram*; and alſo ſhall and may ſet out, order, and direct ſuch new Ditches, Drains, Watercourſes, Tunnels, Watergates, Banks, and Bridges, to be made of ſuch Depth and Breadth, and in ſuch Situation and Direction as they the ſaid Commiſſioners ſhall think proper, as well in, through, over, and upon the Lands and Grounds hereby intended to be divided and incloſed as aforeſaid, as alſo in, through, and over any ancient Incloſures, or other Lands and Grounds within the ſaid Manor of *Holme Cultram*, or any Part or Parts thereof making ſuch Satisfaction to the Owners and Proprietors of ſuch ancient Incloſures, or other Lands and Grounds not hereby intended to be divided and incloſed, for the Damage done thereby, as they ſhall judge reaſonable; and the ſaid Commiſſioners ſhall and may and they are hereby directed, in and by their Award, to order and direct by whom and at whoſe Expence, and at what Time and in what Manner the ſaid Brooks, Ditches, Drains, Watercourſes, Tunnels, Watergates, Banks, and Bridges, ſhall be thereafter repaired, cleanſed, ſcoured, and maintained: Provided always, that no ſuch Brook or Stream ſhall be diverted or turned without the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands and Grounds from which any ſuch Brook or Stream ſhall be diverted, or into which any ſuch Brook or Stream ſhall be turned.

Allotment of the Common Field.

XVII. And be it further enacted, That the ſaid Commiſſioners ſhall, in the firſt Place, aſcertain what Part or Proportion of the ſaid Common Field, called *Colt Park*, ought to be ſet out and allotted in reſpect of and as a Satisfaction for the Lands belonging to the ſeveral Owners and Proprietors of the ſaid Common Field, and what Part or Proportion thereof ought to be ſet out and allotted in reſpect of and as a Satisfaction for the ſeveral Rights of Common thereon; and after the ſaid Commiſſioners ſhall have aſcertained ſuch Proportions as aforeſaid, the ſaid Commiſſioners ſhall and they are hereby required to ſet out and allot the Whole of the ſaid Common Field, called *Colt Park*, unto and amongſt all the ſeveral the Owners and Proprietors of Lands therein; and after ſuch Common Field ſhall have been ſo ſet out and allotted, the ſaid Commiſſioners ſhall aſcertain and determine how much and what Part or Proportion of the ſeveral Allotments in the ſaid Common Field has been ſet out and allotted to the Owners and Proprietors of the ſaid Common Field entitled to an Allotment out of the ſaid Moors, Commons, and Waſte Lands in lieu or in reſpect of Lands

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in the ſaid Common Field, and what Part or Proportion thereof has been ſet out and allotted in lieu or in reſpect of Common Rights in or upon the ſaid Commons, Moors, and Waſtes and ſuch of the Owners and Proprietors of Lands in the ſaid Common Field, not being entitled to any Allotment out of the ſaid Commons, Moors, or Waſte Lands, ſhall only be entitled to ſuch a Proportion or Allotment of the ſaid Common Field as ſhall be a Satisfaction for their reſpective Lands, and other Rights therein, after the Part or Proportion thereof, ſo aſcertained as a Satisfaction for Common Rights thereupon, ſhall have been deducted from the ſaid Common Field as aforeſaid.

Allotment of 1-16th of the Common to the Lord of the Manor for the Soil.

XVIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to ſet out, allot, and appoint unto the ſaid *Rowland Stephenſon*, or the Lord of the Manor of *Holme Cultram* aforeſaid for the Time being, One full Sixteenth Part in Value (Quantity, Quality, and Situation conſidered) of all the ſaid Commons, Moors, and Waſtes ſo to be divided and allotted as aforeſaid, after deducting the publick Carriage Roads, Drains, Watercourſes, and Quarries in lieu of and as a full Compenſation and Satisfaction for his Right and Intereſt to the Soil of the ſaid Commons, Moors, or Waſtes, in Addition to ſuch Share and Allotment, Shares and Allotments of the ſaid Commons, Moors, and Waſtes as ſhall be aſſigned and allotted to him for any Right or Rights of Common, in or over the ſaid Commons, Moors, and Waſtes, in reſpect of any Meſſuages, Lands, and Tenements.

The Lord's 16th to be awarded to be in the ſeveral Townſhips or Quarters in Proportion and according to the Value of his Eſtates therein which have Right of Common.

XIX. And be it further enacted, That ſuch One full Sixteenth Part or Share of the ſaid Commons, Moors and Waſtes, ſo ſet out, allotted, and appointed as aforeſaid, to the Lord of the ſaid Manor, ſhall be and be deemed Part and Parcel of the ſaid Manor of *Holme Cultram*, and ſuch One Sixteenth Part or Share ſhall be ſubdivided into ſeveral diſtinct Plots or Parcels, in Proportion and according to the Value of the ſeveral Meſſuages, Lands, Tenements, and Hereditaments of the Lord of the ſaid Manor, in the ſeveral Townſhips, Quarters, or Places within the ſaid Pariſh, having Right of Common upon the ſaid Commons, Moors, and Waſtes, and ſhall be allotted and awarded to be in ſuch Townſhips, Quarters, or Places reſpectively accordingly; and ſuch Plots or Parcels reſpectively ſo allotted and awarded, ſhall be and the ſame is and are hereby declared to be Part and Parcel of ſuch Townſhips, Quarters, or Places reſpectively, to which ſuch Plots or Parcels reſpectively ſhall have been ſo allotted or awarded.

Commiſſioners to ſet out any Quantity not exceeding 20 Acres for a Fair.

XX. And be it further enacted, That the ſaid Commiſſioners ſhall and may, and they are hereby directed, in the next Place, to ſet out and appoint unto the ſaid *Rowland Stephenſon*, his Heirs and Aſſigns, Lords of the Manor of *Holme Cultram* for the Time being, in ſome convenient Part or Place within the ſaid Manor of *Holme Cultram*, a ſufficient Quantity of Land (not exceeding Twenty Acres) of and from the ſaid Commons, Moors, and Waſtes, for the Purpoſe of keeping a Fair thereon annually, according to ancient Cuſtom, and ſubject thereto the Herbage of the ſaid Land ſhall belong to, and be enjoyed by ſuch Perſon or Perſons, and in ſuch Manner as the ſaid Commiſſioners ſhall in and by their Award direct or appoint.

Directions respecting Peat Moſſes.

XXI. And whereas the Lord and ſeveral of the Tenants of the ſaid Manor of *Holme Cultram* are entitled unto and have enjoyed the ſole Right of digging Peat upon certain Peat Moſſes within the ſaid Manor particularly appropriated for that Purpoſe, and it would be beneficial to the Lord of the ſaid Manor, and the Proprietors of Lands within the ſame, if the ſaid Peat Moſſes, and the Herbage thereof, were to be allotted to the Perſons in Poſſeſſion thereof; be it therefore further enacted, That in caſe it ſhall appear to the ſaid Commiſſioners that the Lord of the ſaid Manor, or any of the Tenants thereof, are entitled to the excluſive Property in any ſuch Peat Moſſes, the ſaid Commiſſioners ſhall and are hereby required to ſet out and allot the ſame to ſuch Perſon or Perſons accordingly: Provided always, that in the Admeaſurement of the ſaid Commons, Moors, and Waſte Grounds, for the Purpoſe of aſcertaining the Proportions thereof to be allotted to the reſpective Proprietors, the ſaid Peat Moſſes, ſo to be ſet out to the Perſons entitled to the excluſive Property therein, ſhall be included; and the Herbage of the ſaid Peat Moſſes, when ſo allotted (taking into Conſideration ſuch excluſive Rights of digging Peat, as aforeſaid) ſhall be conſidered and taken as Part of the Allotment or Allotments to be made and ſet out to the ſeveral Proprietors of Meſſuages, Lands, and Tenements, having Right of Common in and upon the Commons, Moors, and Waſtes intended to be divided and allotted under or by virtue of this Act.

A certain Part of the Commons, called The Marſhes, to be converted into Stinted Paſture.

XXII. And whereas there is a certain Part of the ſaid Commons, Moors, or Waſtes, called *The Marſhes*, which by reaſon of the ſame being ſubject to be overflowed by the Sea cannot conveniently be ſubdivided by Hedges or Fences, but it would be of Advantage to all Parties concerned that the ſame ſhould be converted into a Stinted Paſture, in the Manner and under the Regulations herein-after mentioned; be it therefore enacted, That the ſaid Commiſſioners ſhall and may, and they are hereby directed, in the next Place, to ſet out and allot, unto and for ſuch of the Proprietors or Perſons intereſted in the ſaid Marſhes, having Meſſuages, Lands, or Tenements lying near or contiguous thereto, ſo much and ſuch Part of the ſaid Marſhes as cannot by reaſon of the ſame being ſubject to be overflowed by the Sea, or otherwiſe, be conveniently ſubdivided by Hedges or Fences as aforeſaid, and the ſame ſhall be uſed and enjoyed by ſuch Proprietors and Perſons as a Stinted Common Paſture; and the ſaid Commiſſioners ſhall in and by their Award aſcertain, ſpecify, and declare what Number of Cattlegates, and Shares of Cattlegates, ſuch Proprietors and Perſons intereſted reſpectively ſhall be entitled to have and enjoy thereon; and the ſaid Cattlegates and Shares of Cattlegates, when ſo ſet out and allotted, ſhall be conſidered and taken as, or as Part of the Allotment or Allotments to be made and ſet out to ſuch Proprietors and Perſons intereſted, in reſpect of their Meſſuages, Lands, and Tenements having Right of Common in and upon the Commons, Moors, and Waſtes intended to be divided and allotted under this Act; and the ſaid Commiſſioners ſhall alſo cauſe ſuch Allotment, ſo to be ſet out as a Stinted Common Paſture, to be well and ſufficiently fenced.

Regulations for occupying the Stinted Paſture.

XXIII. And be it further enacted, That it ſhall and may be lawful to and for the Proprietors of Cattlegates, or Perſons intereſted in the ſaid Stinted

Stinted Paſture for the Time being, or the major Part in Value thereof, or their reſpective Agents, from Time to Time after the Execution of the ſaid Award of the ſaid Commiſſioners, to make ſuch Rules and Orders in Writing under their Hands, for regulating the Manner of uſing and occupying ſuch Stinted Paſture at all Times of the Year, and of ſtocking the ſame with Cattle, Sheep, Horſes, or other Stock, and for limiting and ſtinting the Number and Kinds of the ſaid Stock, and for limiting the Times and Seaſons for ſtocking, and ſuch other Rules, Orders, and Regulations for the better Management and more convenient Enjoyment thereof reſpectively, as they reſpectively ſhall from Time to Time think proper, and for the Benefit of all Perſons intereſted therein reſpectively, according to their reſpective Rights and Intereſts; and alſo from Time to Time in like Manner to annul, repeal, and alter all or any of ſuch Rules, Orders, and Regulations, and make ſuch others as they ſhall reſpectively deem expedient, and for the Benefit of all Perſons intereſted therein, according to their reſpective Rights and Intereſts therein reſpectively; and ſuch Rules, Orders, and Regulations ſhall from Time to Time be binding upon and obſerved by all Perſons intereſted in the ſaid Stinted Paſture: Provided always, that nothing herein contained ſhall extend, or be conſtrued to extend, to prejudice, leſſen, or affect the Right of any of the Copyhold Tenants of the ſaid Manor, or any other Perſon or Perſons whomſoever, to get Sods, Earth, and Flacks upon the ſaid Marſhes, for the Reparation of the Sea-banks or Dykes, in, upon, or adjoining the ſame, but it ſhall and may be lawful to and for the ſaid Copyhold Tenants, and other Perſon or Perſons aforeſaid, at all Times hereafter to get Sods, Earth, and Flacks, for the Purpoſes aforeſaid, in like Manner as they might have done if this Act had not been made.

Allotment of the Reſidue.

XXIV. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required, in the next Place, to ſet out and allot in Severalty the Reſidue of the ſaid Moors, Commons, and Waſte Grounds, unto and amongſt all and every Perſon and Perſons, Bodies Politick, Corporate, and Collegiate, having any Right or Rights of Common, or other Rights or Intereſts, in, over, or upon the ſaid Moors, Commons, and Waſte Grounds, or any of them, for and on account of their reſpective Meſſuages, Lands, and Tenements within the ſaid Manor, in ſuch Shares and Proportions as the ſaid Commiſſioners ſhall adjudge and determine to be proportionate to the Value of his, her, and their ſeveral and reſpective Rights and Intereſts in ſuch Moors, Commons, and Waſte Grounds; and ſuch Value ſhall be ſettled and aſcertained by the ſaid Commiſſioners by the Addition of Half the actual Value of ſuch reſpective Meſſuages, Lands, Tenements, and Hereditaments, to Half the Value or Rate of the ſame, as the ſame reſpectively are valued or rated by and according to the Rule or Rate known within the ſaid Manor by the Name of Purvey, by which the Land Tax and County Rates are generally collected in the ſaid Manor: Provided always, that in caſe no Purvey is now made for any particular Meſſuages, Lands, or Tenements within the ſaid Manor, and it ſhall appear to the ſaid Commiſſioners that a Purvey or Purveys hath or have been formerly made for the ſaid Meſſuages, Lands, or Tenements, in conjunction with any other Meſſuages, Lands, or Tenements, then and in every ſuch Caſe the ſaid Commiſſioners ſhall and they are hereby authorized

In caſe no Purvey ſhall have been made.

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rized and required to divide and apportion such Parts of the Allotments in respect of the said Purvey, between the Proprietors of such Messuages, Lands, or Tenements for which the whole Purvey, and of the other Messuages, Lands, or Tenements, for which no Purvey is now made, according to the best of their Judgement; and in case there are any Messuages, Lands, or Tenements entitled to Right of Common, for which a Purvey is not now nor ever has been made, along with other Messuages, Lands, and Tenements, or otherwise, then and in every such Case the said Commissioners shall and they are hereby authorized and required to allot unto the respective Owners of such Messuages, Lands, or Tenements for which no Purvey is or has been made, such Share and Proportion of the said Moors, Commons, and Wastes, as in their Judgement shall be reasonable for his, her, or their Rights and Interests.

Lands to be allotted to Cottagers.

XXV. And whereas certain Owners of ancient Cottages, and Scites of ancient Cottages, within the said Manor are entitled to a Right of Common upon the said Moors, Commons, and Waste Grounds, but in respect of the Smallness of their respective Properties do not contribute to the said Rate or Assessment called the Purvey; be it therefore enacted by the Authority aforesaid, That in order to make the Owners of such ancient Cottages, and Scites of ancient Cottages, a full and ample Satisfaction and Compensation for their several and respective Rights and Interests, in, over, and upon the said Moors, Commons, and Waste Grounds, the said Commissioners shall and they are hereby required to assign, award, and allot unto each of such Owners respectively, such Quantity of Land as they may think proper, not less than One average Acre of Land, Parcel of the said Moors, Commons, and Waste Grounds, and such Allotment and Allotments shall be made contiguous or as near to their respective ancient Cottages, or Scites of ancient Cottages, as conveniently can be done; provided that no such Allotment shall be made to the Owner of any Cottage that has been erected within the Space of Sixty Years now last past, nor to any Owner of the Scite of any Cottage on which there has been no Building standing within Twenty Years now last past, nor in case it shall appear to the said Commissioners that such Cottage hath heretofore been Parcel of a larger Tenement or Estate exempt from any Payment to the said Rate or Assessment called the Purvey.

Allotments to be in the same Townships, &c. as the ancient Lands.

XXVI. Provided always, and be it further enacted, That the several Allotments to be made of the said Commons, Moors, and Wastes to be assigned, set out, allotted, and appointed by the said Commissioners as aforesaid, in respect of any Messuages, Lands, Tenements, or Hereditaments, having a Right of Common thereon as aforesaid, shall be deemed or adjudged and taken, and the same is and are hereby declared to be Part and Parcel of and within the Township, Quarter, or Place, Townships, Quarters, or Places respectively, wherein the Messuages, Lands, Tenements, or Hereditaments do lie or are situate, for or in respect of which such Allotments shall be made respectively.

To set out publick Watering Places.

XXVII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, or any Two of them, to set out and appoint any Springs, Ponds, Streams, or Pools of Water, in or upon any of the said Commons, Moors, and Wastes, hereby intended to be divided

and inclosed, as publick Watering Places, to be used by all or any of the Persons entitled to any Allotment of the said Commons, Moors, and Wastes, and to divert and alter so much of the Course of any Springs, Streams, or Currents of Water in or upon the said Commons, Moors, and Wastes, as they shall think proper (except Mill Races and Water, conveyed or running to any Engines or other Works within any Part of the said Commons, Moors, and Waste Grounds) for the conveying of Water to and for the Benefit of the Owners and Proprietors of the several Allotments to be made as aforesaid, and also for the Benefit of the Owners of any ancient Messuages, Lands, or Tenements within the said Manor and Parish of *Holme Cultram*.

No Sheep or Asses to be kept in the Inclosures for 10 Years.

XXVIII. And be it further enacted, That if any Person shall, during the Space of Ten Years from the Execution of the said Award, keep or depasture, or permit to be kept or depastured, any Sheep, Lambs, or Asses in the Allotments to be made in pursuance of this Act, unless he, she, or they shall first effectually fence and guard the adjoining Allotment or Allotments belonging to any other Proprietor or Proprietors from any Injury or Damage to their Quicksets or new planted Fences, every Person so offending, upon Conviction thereof before One or more of His Majesty's Justices of the Peace for the said County of *Cumberland*, on the Oath or Oaths of One or more credible Witness or Witnesses (which Oath such Justice or Justices is and are hereby empowered to administer) shall forfeit and pay for every such Offence any Sum not exceeding the Sum of Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending, by virtue of a Warrant under the Hand and Seal or the Hands and Seals of such Justice or Justices, at any Time within Three Calendar Months next after such Offence shall be committed, rendering the Overplus (if any) upon Demand, after deducting the reasonable Costs and Charges of such Warrant, Distress, and Sale, to the Person or Persons whose Goods and Chattels shall be so distrained and sold as aforesaid; and every such Penalty so to be levied shall be paid to the Person or Persons injured.

No Turf to be dug after passing this Act.

XXIX. And be it further enacted, by the Authority aforesaid, That no Person or Persons whosoever shall, from and after the passing of this Act, cut, dig, grave, flay, pare, subvert, or carry away any Turfs, Flacks, or Sods, or any Part of the Soil or Surface, in, upon, or from the said Commons, Moors, and Wastes, or any Part thereof (other than and except the said *Rowland Stephenson*, his Heirs and Assigns, or his or their Lessees or Tenants, in the Exercise of the Liberties and Privileges, and in such Manner, and in such Place or Places as is or are herein mentioned), nor make or burn any Mound or Mounds, or Earth or Soil, nor use any Earth or Soil, nor mix any Earth or Soil with Lime or other Thing upon the said Common and Waste Grounds, or any Part thereof, without the Leave or Licence of the said Commissioners, or any Two of them, in Writing under their Hands first had and obtained for that Purpose.

Power to sell before Award.

XXX. And be it further enacted, That if any Person or Persons hath or have sold, or contracted or agreed to sell, or shall at any Time before the

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 Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, to any other Person or Persons, then and in every such Case it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required to make the Partition or Allotments of Land and the Vendee or Purchaser, in every such Sale, Contract, or Agreement, or to his or her Heirs or Assigns, for or 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, 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 the Vendor at the Time of making such Allotment or Allotments as aforesaid.

The Allotments to be Freehold.

XXXI. And be it further enacted, That from and after the Execution of the Award to be made by the said Commissioners, all Lands and Grounds by this Act divided, and allotted, shall be and are hereby declared to be Freehold Lands and Grounds.

Allotments for Property under Lease to be set out to the Owners who shall make Compensation to their Tenants.

XXXII. Provided always, and be it enacted, That the Allotments to be made and set out by virtue of this Act, in Right of any Property under Lease at Rack Rent, for any Term of Years not exceeding Twenty-one Years, shall be allotted and set out to the respective Lessors or Landlords, and shall be held and enjoyed by them, free from all Right and Interest of their respective Lessees or Tenants; and such respective Lessors or Landlords, their Heirs and Assigns for the Time being shall make such Abatement out of the Rents reserved by such Leases respectively, on account of the Determination of the Common Rights comprized therein, as the said Commissioners shall judge reasonable, and shall in and by their Award, or any other Writing under their Hands, ascertain, direct, or appoint.

Allotments to be fenced.

XXXIII. And be it further enacted, That the several Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched, and fenced, at the Expence of the respective Proprietors to whom Fences shall be allotted or directed to belong, with Quicksets, or in such other Manner, and within such Time or Times as the said Commissioners shall by their Award, or by any other Writing under their Hands, direct or appoint.

Proprietors may fence off their respective Allotments before the Award is signed, with the Consent of the Commissioners.

XXXIV. Provided always, and be it enacted, That it shall and may be lawful to and for the Person or Persons to whom any Plot or Parcel of Ground upon the said Commons, Moors, or Wastes shall be allotted, staked, or set out by virtue of this Act, at any Time after the Expiration of Three Calendar Months from the Time that the said Commissioners shall have staked or set out all the Plots or Parcels of Ground intended to be

be allotted or awarded in pursuance of this Act, without waiting until the General Award of the said Commissioners shall be executed as aforesaid, to inclose, hedge, or fence his and their several Allotments, Plots, or Parcels of Ground so staked and set out as aforesaid, by and with the Consent and Approbation of the said Commissioners: Provided always, that convenient Gaps and Openings shall (if necessary) be left in the Hedges and Fences of the said Allotments, for the Space of Eighteen Calendar Months next after the said Commissioners shall have staked or set out the same by virtue of this Act, for the Passage of Horses, Cattle, Carts, and Carriages, in, by, and through such Gaps and Openings, unless the said Commissioners shall order that the same shall be sooner fenced, made up, and inclosed.

Gaps to be left in the Fences.

XXXV. Provided always, and be it further enacted, That where the Proprietor or Proprietors of any Lands or other Hereditaments which shall be allotted or exchanged by virtue of this Act, shall hold his, her, or their respective Lands or Hereditaments by different Tenures, or for different Estates, or under different Titles, the said Commissioners shall ascertain and distinguish the Lands or other Hereditaments held by or under such respective Tenures, Estates, or Titles, and shall accordingly in their said Award set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments.

Separate Allotments to be made for Estates held by different Titles.

XXXVI. And be it further enacted, That where the Proprietor or Proprietors of any Lands or other Hereditaments, which shall be divided, allotted, or exchanged by virtue of this Act, shall hold his, her, or their respective Lands and Hereditaments, for different Estates, or under different Titles, and where, from the want of the necessary Information before the said Commissioners, or from any other Cause, their Award shall have omitted the distinguishing and ascertaining of the Lands or other Hereditaments holden for each of such Estates, and under each of such Titles respectively, and the setting out and awarding of several and distinct Allotments for such respective Lands or other Hereditaments as herein-before is required, then and in every Case the said Commissioners, upon Request made to them by any Person or Persons interested, by Writing under his, her, or their Hand or Hands, to have such Omission supplied by a separate Deed or Instrument, are hereby authorized to do every Thing necessary for supplying such Omission, and so far as that Purpose shall require, to examine Witnesses, and in every other Respect to proceed and act as if the Award had not been made; and after such Enquiry made, the said Commissioners are hereby also authorized, by any Deed or Instrument, under their Hands and Seals, to distinguish and ascertain the Difference of Tenure, Estates, and Titles respectively, and to make distinct and several Allotments in respect of the same; and such separate Deed or Instrument shall be inrolled in the same Place, and Evidence thereof shall be given in the same Manner as by the said Act of the Forty-first Year of His present Majesty, and this Act, or either of them respectively is directed concerning the said General Award of the said Commissioners; and all Expences which shall be reasonably incurred in or about any such separate Instrument as aforesaid shall be payable by the Person or Persons who shall have so requested the said Commissioners to make and execute the same; or

In case where Lands should be holden by different Titles, &c. and the Commissioners shall not have distinguished such Lands, and awarded distinct Allotments for the same in their General Award, they may on request do the same by Deed, after the making of the same Award.

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By his or their Heirs, Executors, or Administrators, and every such separate Deed or Instrument shall, from and immediately after the due Execution thereof by the said Commissioners, have the same Effect, to all Intents and Purposes, as if the Contents thereof had been inserted and contained in their said General Award; and the same shall, after such Enrolment as aforesaid, be delivered to the Person or Persons upon whose Request every such Omission shall have been so supplied, or to the Person or Persons to whom the Custody of the Deeds and Writings concerning the Title to the Premises in Question shall, in the Opinion of the said Commissioners, most properly belong.

For allowing Exchanges to be made.

XXXVII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever within the said Parish of *Holme Cultram*, in lieu of and in exchange for any other Lands, Tenements, or Hereditaments whatsoever, within the said Parish, or within any adjoining Parish, Hamlet, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politick, Corporate, or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courtesy of *England* or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for Charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunaticks, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politick, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so made shall be good, valid, and effectual in the Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent testified as aforesaid of the Lord Bishop of the Diocese, and the Patron of the Living in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie or be situate: Provided also, that all Costs, Charges, and Expences attending the making of any Exchanges and Partitions shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportion as the said Commissioners shall by their said Award order and direct.

Wills and Settlements not to be affected.

XXXVIII. Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, so as to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion,

Portion, Debt, or Incumbrance, in, out of, upon, or affecting any of the Meſſuages, Buildings, Lands, and Grounds, to be divided, allotted, or exchanged by virtue of this Act, or any Part thereof, but that all and every Perſon and Perſons ſhall ſtand and be ſeiſed and poſſeſſed of the ſeveral Meſſuages, Buildings, Lands, and Grounds, to be allotted to or exchanged with him, her, or them as aforeſaid, to ſuch and the ſame Uſes, and for ſuch and the ſame Eſtates, and ſubject to ſuch and the ſame Wills, Jointures, Rents, and Charges, and no other, as the Meſſuages, Buildings, Lands, and Grounds, whereof ſuch Perſon or Perſons was or were ſeiſed or poſſeſſed at or immediately before the Execution of the Award to be made by the ſaid Commiſſioners, or for which, or in reſpect whereof ſuch Allotments or Exchanges ſhall be made, would have been ſubject to be charged with, or affected by, in caſe this Act had not been made.

Proprietors of Allotments empowered to get Stones, &c. under the ſame for their Allotments.

XXXIX. Provided always, and be it further enacted, That it ſhall and may be lawful to and for all and every Perſon and Perſons to whom any Allotment or Allotments ſhall be made in purſuance of this Act, and his, her, and their Heirs and Aſſigns reſpectively, to get and win, uſe and employ ſuch Stone as may be found under their reſpective Allotments, for the Purpoſe of fencing ſuch Allotments reſpectively, and erecting Buildings thereon, but for no other Uſe, Application, or Purpoſe whatſoever; and it ſhall and may be lawful to and for ſuch Perſon or Perſons as aforeſaid, Owners and Proprietors of the ſaid ſeveral allotted Lands, to dig, get, and cure therein Peats for Fuel, or any other Uſe or Purpoſe whatſoever; and it ſhall and may be lawful to and for the ſaid Owners and Proprietors of the ſaid ſeveral allotted Lands to dig and get therein Clay for Bricks or for Tiles, or any other Uſe or Purpoſe whatſoever.

This Act not to prejudice the Right of the Lord of the Manor to the Royalties, &c.

XL. Provided always, and be it enacted, That nothing in this Act contained ſhall extend, or be conſtrued to extend, ſo as to defeat, leſſen, or prejudice the Right, Title, or Intereſt of the ſaid *Rowland Stephenſon*, his Heirs or Aſſigns, as Lord of the ſaid Manor of *Holme Cultram*, of, in, or to all Mines, Minerals, and Quarries, of what Nature or Kind ſoever, lying or being within or under the ſaid Commons, Moors, or Waſtes, hereby intended to be divided and incloſed, and alſo of, in, and to the Seigniories and Royalties incident or belonging to the ſaid Manor, but that the ſaid *Rowland Stephenſon*, his Heirs and Aſſigns, and all and every other Perſon and Perſons claiming by, under, or in Truſt for him or them, as Lord of the ſaid Manor, and all ſucceeding Lords of the ſaid Manor for the Time being, ſhall and may from Time to Time, and at all Times for ever hereafter, have, hold, and enjoy all Quit Rents, Free Rents, Acredale, and other Rents, Reliefs, Dues, Cuſtoms, Suits and Services, and all Fines, Amerciaments, Courts, Courts Leet, and Views of Frankpledge, Courts Baron, and all Profits and Perquiſites of Courts and Leets, and all Things which to Courts Leet and a View of Frankpledge and Courts Baron do belong or appertain, with Free Warren and Liberty of Hawking, Hunting, Fiſhing, and Fowling, within and throughout the ſaid Manor, and every Part thereof, and all Goods and Chattels of Felons and Fugitives, Felons of themſelves and put in Exigent, Deodands, Treaſure Trove, Waifs, Eſtrays, Forfeitures, Eſcheats, Fairs, Markets, Tolls,

Tolls, Cuſtoms, Stallages, Dues, Rights, Royalties, Immunities, Juriſdictions, Franchiſes, Privileges, Profits, Commodities, Advantanges, Emoluments, Hereditaments, Matters and Things whatſoever to the ſaid Manor, or to the Lord thereof for the Time being incident, belonging, or appertaining (other than and except the Right to the Soil of the ſaid Commons, Moors, or Waſtes, and ſuch Common Right thereon reſpectively as could or might be claimed by him or them, for which Compenſation is herein-before directed to be made) in as full, ample, and beneficial Manner, to all Intents and Purpoſes, as he or they could or might have held and enjoyed the ſame if this Act had not been made; and that the ſaid *Rowland Stephenſon* and the Lord and Lords of the ſaid Manor of *Holme Cultram* for the Time being, or his, her, or their Tenants, Leſſees, or Aſſigns, ſhall and may from Time to Time, and at all Times hereafter, have, hold, uſe, work, and enjoy all Mines, Minerals, and Quarries of what Nature or Kind ſoever, ſave and except publick Quarries, and ſuch Stone as aforeſaid, within and under the ſaid Commons, Moors, and Waſtes hereby directed to be divided, and within and under every Part thereof reſpectively, and the ſeveral Allotments thereof in purſuance of this Act, together with all convenient and neceſſary Ways and Wayleaves, and alſo Liberty of laying, making, and repairing Waggon Ways and other Ways, in, through, over, and along the ſame or any Part thereof, and alſo for ſearching for, winning, and working the ſaid Mines, Minerals, and Quarries, and leading and carrying away the Lead Ore, Lead, Coals, Stones, Foſſils, and other Things to be gotten thereout, or out of any other Mines, Minerals, and Quarries, or Collieries belonging to the ſaid *Rowland Stephenſon*, his Heirs or Aſſigns, and of making Pits, Shafts, and Sumps, Pit Rooms and Heap Rooms, Drifts, Levels, and Watercourſes, and of repairing, amending, and upholding the ſame, and of erecting, building, and uſing Houſes, Draw Kilns, Erections, Buildings, Fire Engines and other Engines, Mills, and other Erections and Buildings, and of altering, changing, and pulling down and carrying away the ſame, or all or any of the Materials thereof at their free Will and Pleaſure, and to do, execute, and perform all ſuch other Works, Acts, Deeds, Matters, and Things, either now in uſe or hereafter to be invented, as ſhall or may be neceſſary or convenient for the full and complete Working, Uſe, and Enjoyment of ſuch Mines, Minerals, and Quarries hereby reſerved, in as full, ample, and beneficial Manner, to all Intents and Purpoſes, as they might or could have done in caſe this Act had not been made.

Lord of the Manor to work Mines, lay Waggon ways, &c.

For making Compenſation for Damages in working the Mines.

XLI. And be it further enacted, That in caſe the ſaid *Rowland Stephenſon*, his Heirs or Aſſigns, or the Lord or Lords of the ſaid Manor for the Time being, or any Perſon or Perſons claiming under him or them, ſhall, after ſuch Incloſures or Allotments made as aforeſaid, ſearch for, win or work any Mine or Mines, Minerals, or Quarries, lying and being within or under any of the Allotments or Incloſures to be made as aforeſaid, or lead or carry away the Produce of or from any ſuch Mines, Minerals, or Quarries, then and in ſuch Caſe the ſaid *Rowland Stephenſon*, his Heirs or Aſſigns, or ſuch Lord or Lords of the ſaid Manor for the Time being, or ſuch Perſon or Perſons ſo claiming under him or them ſhall make reaſonable Satisfaction for the Damages and Spoil of Ground occaſioned thereby,

thereby, or by the erecting or building any Houſes, Draw Kilns, Erections, Buildings, Fire Engines or other Engines, Mills or other Erections, or by the altering, changing, repairing, amending, rebuilding, pulling down, or carrying away the ſame, or any of the Materials thereof as aforeſaid, to the Perſon or Perſons who ſhall be in Poſſeſſion of ſuch Ground at the Time or Times of ſuch Damage or Spoil.

Directions for defraying the Expences of this Act.

XLII. And be it further enacted, That all the Coſts, Charges, and Expences of incloſing and fencing any Allotment to be made to the Rector in reſpect of the Rectory of *Holme Cultram*, and of incloſing and fencing the reſpective Allotments hereby directed to be made to the Lord of the ſaid Manor for the Time being, for the Purpoſe of holding a Fair, and all the Coſts, Charges, and Expences incident to and attending the obtaining and paſſing of this Act, and of ſurveying, admeaſuring, planning, valuing, dividing, and allotting the Lands and Premiſes hereby directed to be divided and allotted, and of preparing and inrolling the ſaid Award and the Copies thereof, and all the Charges and Expences of the ſaid Commiſſioners, their Aſſiſtants and Servants, and all other neceſſary Expences of the ſeveral Perſons to be employed by the ſaid Commiſſioners in and about the Premiſes, either before or after the Execution of the ſaid Award, and all the Expences of forming, completing, and repairing the publick Carriage Roads and Highways to be ſet out and appointed by the ſaid Commiſſioners within the ſaid Pariſh of *Holme Cultram*, and all other Expences of carrying the ſaid recited Act and this Act into Execution, ſhall be borne, defrayed, and paid by the ſeveral Perſons and Body or Bodies Politick, Corporate, or Collegiate, to whom any Allotment or Allotments ſhall be made by virtue of this Act (ſave and except the Rector of the ſaid Rectory for the Time being, for or in reſpect of any Allotment or Allotments which ſhall be made to him in Right of the ſaid Rectory, and alſo ſave and except the Lord of the ſaid Manor for the Time being, for or in reſpect of the Allotment to be made to him for the Purpoſe of holding a Fair) in ſuch Shares and Proportions, at ſuch Time or Times, and to ſuch Perſon or Perſons, as the ſaid Commiſſioners ſhall direct or appoint according to the Value of their ſeveral and reſpective Allotments; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay his, her, or their Proportion of ſuch Coſts, Charges, and Expences, according to ſuch Direction or Appointment as aforeſaid, then and in ſuch Caſe the ſame ſhall and may be recovered in the Manner directed in and by the ſaid recited Act.

Power to borrow Money.

XLIII. And whereas ſome of the Owners and Proprietors of and Perſons intereſted in the Lands and Grounds within the ſaid Pariſh of *Holme Cultram*, may have Occaſion to borrow Money to defray their reſpective Shares and Proportions of the Charges and Expences of obtaining and carrying this Act into Execution; be it therefore enacted, That it ſhall and may be lawful to and for the Proprietors and Owners of and all other Perſons whomſoever intereſted in ſuch Lands and Grounds, being a Tenant or Tenants, for Life with or without Impeachment of Waſte, Tenant or Tenants in Fee Tail General or Special, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, and alſo to and for the Huſbands, Guardians, Truſtees, and Committees of any of the ſaid Owners or Proprietors, being under Coverture, Minors, Idiots, Lunaticks, or

beyond

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

Award to be deposited.

XLIV. And be it further enacted, That the Award to be made by the said Commissioners, when inrolled in Manner by the said recited Act directed, shall be deposited and kept in the Parish Church of *Holme Cultram* aforesaid, for the Inspection and Perusal of all Persons interested in such Award.

Money which may be advanced for obtaining or executing this Act to be re-

XLV. And be it further enacted, That if any of the Persons who have Right of Common in or upon the said Commons, Moors, and Wastes, or any other Person or Persons on their Behalf, shall advance or lend any Sum or Sums of Money for the Purpose of defraying the Expences of applying

plying for and obtaining this Act, and of carrying the ſame into Execution, all ſuch Perſons ſhall be fully repaid the ſame, together with lawful Intereſt thereon from the Time or reſpective Times of advancing or lending the ſaid Sum or Sums of Money to the Time or reſpective Times of the Repayment thereof, out of the firſt Monies that ſhall be raiſed for the defraying of ſuch Expences under and by virtue of this Act.

paid, in the firſt Place, with Intereſt.

XLVI. And be it further enacted, That the ſaid Commiſſioners ſhall, at all and every of their Meetings for putting this Act into Execution, bear and pay their own Expences; and that when and ſo ſoon as the ſaid intended Diviſion ſhall be finiſhed and completed, and the ſaid Commiſſioners ſhall have executed their ſaid General Award, each of the ſaid Commiſſioners ſhall be paid and allowed the Sum of One Pound Eleven Shillings and Sixpence, for each and every Day he ſhall have travelled, or attended and tranſacted Buſineſs in or for putting this Act into Execution.

Commiſſioners to pay their own Expences.

XLVII. 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 of Money by them received and expended, and 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 of His Majeſty's Juſtices of the Peace for the ſaid County of *Cumberland*, 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 the ſaid Juſtices.

Commiſſioners to lay their Accounts before Two Juſtices every Year.

XLVIII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing to be done in purſuance of this Act (other than and except ſuch Orders and Determinations of the ſaid Commiſſioners as are by the ſaid recited Act or this Act directed to be final and concluſive, and excepting ſuch Caſes wherein an Iſſue at Law ſhall be tried as herein-before mentioned) then and in every ſuch Caſe, he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace which ſhall be holden for the County of *Cumberland* within Six Calendar Months next after the Grounds of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners and to the Party concerned Fourteen Days Notice in Writing of ſuch Appeal, in which Notice ſhall be ſtated and ſpecified the Ground or Grounds, Cauſe or Cauſes of ſuch Appeal; and the Juſtices (not intereſted therein) at ſuch 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 ſhall ſeem reaſonable, and by their Order and Warrant to levy the Coſts and Damages which ſhall be ſo awarded, by Diſtreſs and Sale of the Goods and Chattels of the Party and 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 ſuch Juſtices ſhall be final and concluſive to all Parties, and ſhall not be removed by *Certiorari*.

Appeal to the Quarter Seſſions.

tiorari, or any other Writ or proceſs into any of His Majeſty's Courts of Record at *Weſtminſter*, or elſewhere; but in caſe ſuch Appeal ſhall appear to the 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 ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

General Saving.

XLIX. 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, and Collegiate, his, her, and their Heirs, Succeſſors, Executors, and Adminiſtrators, all ſuch Right, Title, and Intereſt (other than and except ſuch as is and are hereby expreſſed, meant, and intended to be barred, deſtroyed, and extinguiſhed) as they, every, or any of them could, might, or ought to have had or enjoyed, into or out of the Lands and Grounds hereby directed to be divided, allotted, and incloſed as aforeſaid, in caſe this Act had not been made.

Publick Act.

L. And be it further enacted, That this Act ſhall be printed by the Printer to the King's moſt Excellent Majeſty; and a Copy thereof, ſo printed, ſhall be admitted as Evidence thereof by all Judges, Juſtices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty, 1806.