ANNO PRIMO

# VICTORIÆ REGINÆ.

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## *Cap.* xxxvii.

**An Act for inclosing Lands within the Townships or Divisions of *Strickland Roger, Whinfell,* and *Helsington* in the Parish of *Kirkby in Kendal* in the County of *Westmorland;* and for draining and improving certain Lands in the said Township of *Helsington,* and in the Townships of *Underbarrow* and *Bradley Field* and *Levens,* in the Parishes of *Kirkby in Kendal* and *Heversham,* in the same County. [11th *June* 1838.]**

WHEREAS there are in the several Townships or Divisions of *Strickland Roger, Whinfell,* and *Helsington* in the Parish of *Kirkby in Kendal* in the County of *Westmorland* several Commons, Mosses, and Waste Lands or Grounds, containing in the whole by Estimation Six thousand Acres or thereabouts: And whereas the Right Honourable *William* Earl of *Lonsdale,* Knight of the Most Noble Order of the Garter, claims to be Lord of the Manor of *Strickland Roger,* and by virtue thereof claims to be Owner and Proprietor of the Soil of the Commons, Mosses, and Waste Lands or Grounds in the said

Township or Division of *Strickland Roger*, and the Honourable *Fulk Greville Howard* claims to be Lord of the Manor of *Skelsmergh* with its Members, and by virtue thereof also claims to be Owner and Proprietor of the Soil of the Commons, Mosses, and Waste Lands or Grounds in the said last-mentioned Township or Division of *Strickland Roger*: And whereas the said Honourable *Fulk Greville Howard* claims to be Lord of the Manor of *Helsington*, and by virtue thereof to be Owner and Proprietor of the Soil of the Commons, Mosses, and Waste Lands or Grounds in the said Township of *Helsington*; and *Charles Standish*, *Charles Townley*, and *Henry Petre*, Esquires, as Trustees for *Walter Strickland* Esquire, a Minor, claim to be Lords of the Manor of *Sizergh* within the said Township or Division of *Helsington*, and by virtue thereof also claim to be Owners and Proprietors of the Soil of the Commons, Mosses, and Waste Lands or Grounds in the said last-mentioned Township or Division, or of some Part thereof: And whereas the Land Owners in the said Township or Division of *Whinfell* claim to be entitled to the Soil of the Commons and Waste Lands or Grounds within such last-mentioned Township or Division: And whereas the said *Fulk Greville Howard*, *Christopher Wilson*, *George Wilson*, *Arthur Shepherd*, *Richard Burn*, and *Thomas Holme Maude*, Esquires, and several other Persons, are Owners and Proprietors of divers Messuages, Lands, and Tenements within the said several Townships or Divisions of *Strickland Roger*, *Whinfell*, and *Helsington*, or some or one of them, and in respect thereof or otherwise are or claim to be severally entitled to Right of Common of Pasturage and Turbary in, over, and upon the said Commons, Mosses, and Waste Lands or Grounds, or some or one of them, and are also Owners and Proprietors of the Turbary or Right of getting Turf and Peats in and upon divers meered Mosses and Turbary Grounds Parcel of the said Commons and Waste Grounds: And whereas an Act was passed in the Forty-first Year of the Reign of
41G.3.c.109. King *George* the Third, 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 another Act was passed in the First and Second Years of
1&2G.3.c.23. the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: And whereas the said Commons, Mosses, and Waste Lands or Grounds in the said Townships or Divisions of *Strickland Roger*, *Whinfell*, and *Helsington* are in their present State of very little Value to the Land Owners or Persons interested therein, and it would be a great Advantage to them if the said Commons, Mosses, and Waste Lands or Grounds were divided, allotted, and inclosed: And whereas there are within the Township or Division of *Levens* in the Parish of *Heversham* in the said County certain Marsh or Low Lands or Grounds situate on the North Side of the River *Kent* called *Levens Marsh*, and there are also in the Township of *Underbarrow* and *Bradley Field* in the Parish of *Kirkby in Kendal* in the said County certain Marsh or Moss Lands or Grounds called *Underbarrow Mosses*, and there are also within the said Township of *Helsington* certain Marsh or Low Lands or Grounds called *Helsington Low Common*, which are in their present State of little Value to the Land Owners or Persons interested therein, and it would be a great Advantage to them if the same were effectually drained, and Precautions taken to prevent the Overflow of Water thereupon; but the several Purposes aforesaid cannot be effected

without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen'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 *Anthony Battersby Tomlinson* of *Biggins*, near *Kirkby Lonsdale* in the County of *Westmorland*, Gentleman, shall be and he is hereby appointed Commissioner for dividing, allotting, and inclosing all the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger*, and for carrying this Act and the said recited Acts into execution for effecting such Division, Allotment, and Inclosure, subject to such of the Regulations and Restrictions contained in the said recited Acts, or either of them, as are not controlled by or repugnant to the Powers and Provisions of this Act; and that *John Watson* the younger, of *Kendal* in the said County of *Westmorland*, Gentleman, shall be and he is hereby appointed Commissioner for dividing, allotting, and inclosing all the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Whinfell*, and for carrying this Act and the said recited Acts into execution for effecting such Division, Allotment, and Inclosure, subject to such of the Regulations and Restrictions contained in the said recited Acts, or either of them, as are not repugnant to or controlled by the Powers or Provisions of this Act; and that *John Watson* of *Snow Hill* near *Wigton* in the County of *Cumberland*, Gentleman, and *William Turner* of *Lyth* in the County of *Westmorland*, Gentleman, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing all the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, and also for draining the said Marsh or Low Lands or Grounds on the North Side of the River *Kent* called *Levens Marsh* and *Helsington Low Common*, and the said Marsh or Moss Lands called *Underbarrow Mosses*, and for carrying this Act and the said recited Acts into execution for effecting such Division, Allotment, Inclosure, and Drainage, subject to such of the Regulations and Restrictions contained in the said recited Acts, or either of them, as are not controlled by or repugnant to the Powers and Provisions of this Act.

Commissioners appointed.

II. Provided also, and be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act until he shall have made and subscribed the following Declaration; (that is to say,)

Commissioners to make a Declaration.

'I *A.B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the First Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.'

Form of Declaration.

And such Declaration shall be in lieu of the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of an Act for dividing, allotting, and inclosing any Lands or Grounds; and such Declaration shall be to all Intents

Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall be so made and subscribed.

Appointment of new Commissioner in case of Decease of the one named in this Act for Division of Strickland Roger.

III. And be it further enacted, That if the said *Anthony Battersby Tomlinson*, or any Person to be elected and appointed Commissioner in the Place of the said *Anthony Battersby Tomlinson*, or of any of his Successors as herein-after is provided, shall die, or neglect or refuse to act, or become incapable of acting in the Execution of this Act, it shall be lawful for the major Part in Value (such Value to be ascertained by the Poor's Rate Assessment) of the Proprietors of Messuages, Farms, Lands, or Tenements within the said Township or Division of *Strickland Roger*, who shall attend by themselves, or their Agents or Proxies duly authorized in Writing, at a Meeting to be called by or by the Order of One or more of the said Proprietors, or by or by the Order of the Lord or Lords of the said Manor or Manors within which the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger* are situate, for that Purpose, and to be held at some convenient Place in the said Township or Division in pursuance of Notice in Writing to be affixed at least Fifteen Days before such Meeting on the principal outer Door of the Parish Church of *Kirkby in Kendal* aforesaid, and to be published in some public Newspaper usually circulated in the said County of *Westmorland* at least Fifteen Days before such Meeting, by Writing under their Hands to elect and appoint from Time to Time some other Person, not interested in the said intended Division and Inclosure, in the Place or Stead of the said *Anthony Battersby Tomlinson*, or of any of his Successors so dying, or neglecting or refusing to act, or becoming incapable of acting as aforesaid, so often as any such Commissioner shall die, neglect or refuse to act, or become incapable of acting as aforesaid: Provided that before any such Person so to be elected and appointed Commissioner as aforesaid shall act the Lord or Lords of the Manor or Manors within which the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger* are situate for the Time being, his or their Attorney or Agent, shall, by Writing under his or their Hand or Hands, signify his or their Approbation of such Appointment; and in default of such Approbation, then such Election shall be void, and some other Person shall in like Manner be elected and appointed, and so *toties quoties* until some Person shall be elected and appointed Commissioner who shall be approved of by or on behalf of such Lord or Lords as aforesaid; and every Person so elected and appointed and approved of shall be Commissioner for dividing, allotting, and inclosing all the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger*, and shall be invested with such and the like Powers and Authorities for executing this Act, as if he had been originally named such Commissioner in this Act for dividing, allotting, and inclosing the said Commons, Mosses, and Waste Lands or Grounds in the Township or Division of *Strickland Roger* aforesaid.

In case of Decease of the one named for Whinfell.

IV. And be it further enacted, That if the said *John Watson* the younger, or any Person to be elected and appointed Commissioner in the Place of the said *John Watson* the younger, or any of his Successors as herein-after is provided, shall die, or neglect or refuse to act, or become incapable of acting in the Execution of this Act, it shall be lawful for the major Part in

in Value (such Value to be ascertained by the Poor's Rate Assessment) of the Proprietors of Messuages, Farms, Lands, and Tenements within the said Township or Division of *Whinfell*, who shall attend by themselves, or their Agents or Proxies duly authorized in Writing, at a Meeting to be called by or by the Order of One or more of the said Proprietors for that Purpose, and to be held at some convenient Place within the said Township or Division, in pursuance of Notice in Writing to be affixed at least Fifteen Days before such Meeting on the principal outer Door of the Parish Church of *Kirkby in Kendal* aforesaid, and to be published in some public Newspaper usually circulated in the said County of *Westmorland* at least Fifteen Days before such Meeting, by Writing under their Hands to elect and appoint from Time to Time some other Person, not interested in the said intended Division and Inclosure, in the Place or Stead of the said *John Watson* the younger, or of any of his Successors so dying, or neglecting or refusing to act, or becoming incapable of acting as aforesaid, so often as such Commissioner shall die, neglect or refuse to act, or become incapable of acting as aforesaid.

In case of Decease of the one named for Helsington.

V. And be it further enacted, That if the said *John Watson* and *William Turner*, or either of them, or their or either of their Successors as hereinafter is provided, shall die, or neglect or refuse to act, or become incapable of acting in the Execution of this Act, it shall be lawful for the major Part in Value (such Value to be ascertained by the Poor's Rate Assessment) of the Proprietors of Messuages, Farms, Lands, and Tenements within the said Township or Division of *Helsington*, and of the Proprietors of Messuages, Farms, Lands, and Tenements within the said Townships or Divisions of *Underbarrow* and *Bradley Field* and *Levens* to be benefited by the intended Works of Drainage, who shall attend by themselves, or their Agents or Proxies duly authorized in Writing, at a Meeting to be called by or by the Order of One or more of the said Proprietors, or by or by the Order of the Lord or Lords of the Manor of *Helsington* for the Time being, for that Purpose, and to be held at some convenient Place within One of the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field* and *Levens*, in pursuance of Notice in Writing to be affixed at least Fifteen Days before such Meeting on the principal outer Door of each of the Parish Churches of *Kirkby in Kendal* and *Heversham*, and to be published in some public Newspaper usually circulated in the said County of *Westmorland* at least Fifteen Days before such Meeting, by Writing under their Hands to elect and appoint from Time to Time some other Person or Persons, not interested in the said intended Division and Inclosure and Drainage, in the Place or Stead of the Commissioners or Commissioner so dying, or neglecting or refusing to act, or becoming incapable of acting as aforesaid, so often as such Commissioners or either or any of them shall die, neglect or refuse to act, or become incapable of acting as aforesaid: Provided that before any such Persons or Person so to be elected a new Commissioner or new Commissioners as last aforesaid shall act the Lord or Lords of the said Manor of *Helsington* for the Time being, his or their Attorney or Agent, shall, by Writing under his or their Hand or Hands, signify his or their Approbation of such Appointment; and in default of such Approbation, then such Election shall be void, and some other Persons or Person shall in like Manner be elected and appointed, and so *toties quoties* until some Person shall be elected and appointed Commissioners or a Commissioner who shall be approved of

by or on behalf of such Lord or Lords as aforesaid; and all and every Persons and Person so elected, appointed, and approved of shall be Commissioners or a Commissioner for dividing, allotting, and inclosing all the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, and also for draining the said Marsh or Low Lands or Grounds called *Levens Marsh* and *Helsington Low Common*, and the said Marsh or Moss Lands or Grounds called *Underbarrow Mosses*.

Commissioners may call in Assistants.

VI. And be it further enacted, That it shall be lawful for the said *John Watson* and *William Turner*, or the Commissioners for the Time being acting within the Limits of the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field* and *Levens*, under this Act, as Commissioners for the Drainage of the Marsh or Low Lands or Grounds within such last-mentioned Townships or Divisions, and they are hereby authorized and empowered, to call in and procure the Assistance of any Person or Persons whom they may think proper to aid and assist them in executing the Powers of this Act, so far as the same relate to the intended Works of Drainage of such Marsh or Low Lands or Grounds, and to allow such Person or Persons such Compensation in Money for his or their Services as to them may seem reasonable.

Umpire to be appointed for Helsington, Underbarrow, and Bradley Field and Levens.

VII. And be it further enacted, That the said *John Watson* and *William Turner* shall immediately after making and subscribing the said Declaration choose, nominate, and appoint as an Umpire some fit and proper Person, not interested in the said intended Division and Allotment of the Commons, Mosses, and Waste Lands or Grounds within the said Township or Division of *Helsington*, or in the Marsh or Low Lands or Grounds within the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field* and *Levens*, intended to be benefited by the said intended Works of Drainage, who shall be willing and consent to act as Umpire, and such Umpire is hereby authorized to hear and determine any Difference or Dispute that shall or may arise between the Two Commissioners for the Time being as Commissioners for dividing, allotting, and inclosing the Commons, Mosses, and Waste Lands or Grounds in the said ship or Division of *Helsington*, and for the Drainage of the Marsh or Low Lands or Grounds within the said Townships or Divisions of *Levens*, *Underbarrow* and *Bradley Field* and *Helsington*, touching or concerning any Matter or Thing to be done, performed, or decided by such Two Commissioners in pursuance of this Act, so far only as the same shall relate to the said intended Division and Allotment of the Commons, Mosses, and Waste Lands or Grounds within the said Township or Division of *Helsington*, or the said intended Works of Drainage; and the Judgment and Determination of the said Umpire, so far only as relates to the Matter in dispute, shall be deemed and taken to be the Judgment and Determination of the said Two last-named Commissioners, and shall be final and conclusive upon the said Two last-named Commissioners, and upon all other Persons concerned, so far as the Judgment and Determination of the said Two Commissioners would in such Case have been final and conclusive: Provided always, that in case the Person so nominated and appointed Umpire shall die, or refuse to act, or become incapable of acting in the Execution of this Act as such Umpire, it shall be lawful for the said Two last-named Commissioners or their Successors

cessors to nominate and appoint some other fit and proper Person, not interested as aforesaid, as the Umpire in the Room or Stead of the Person so dying, refusing or becoming incapable of acting, and so from Time to Time as often as the Case shall happen; and in case any such Umpire shall neglect to settle and determine any such Difference within Thirty Days next after the same shall have been referred to him in Writing by the said Commissioners, such Neglect shall be deemed and taken to be a Refusal to act within the Intent and Meaning of this Act.

Umpire to make a Declaration.

VIII. Provided always, and be it further enacted, That every Person who shall be appointed Umpire for the Purposes of this Act as aforesaid shall, before he proceeds to act as such Umpire, make and subscribe the following Declaration; (that is to say,)

Form of Declaration.

'I *A.B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the Power and Authority vested and reposed in me as the Umpire by virtue of an Act passed in the First Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.'

And such Declaration shall be in lieu of the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of an Act for dividing, allotting, or inclosing any Lands or Grounds, and such Declaration shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed; which Declaration it shall be lawful for the said Commissioners so appointing such Umpire, or either of them, to administer; and such Declaration, so made and subscribed, shall be annexed to and deposited with the Award of the Commissioners appointing such Umpire.

Land-Owners to appoint Surveyors for the Township of Strickland Roger.

IX. And be it further enacted, That the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as hereinbefore is mentioned, shall, within Three Calendar Months after the passing of this Act, call a Meeting of the Proprietors of Messuages, Lands, and Tenements in the said Township or Division of *Strickland Roger*, of which Ten Days previous Notice, specifying the Purpose of and the Time and Place of Meeting, shall have been given, at which Meeting the Majority in Value of the Proprietors then and there present, and the Agent or Agents of any absent Proprietor or Proprietors who shall attend any such Meeting in pursuance of a written Authority for that Purpose given to him or them, such Value to be ascertained by the Poor's Rate Assessment in such Township or Division, shall then and there nominate and appoint some fit and proper Person or Persons, not interested in the said intended Division and Inclosure, and not being the Agent or Steward of any Person so interested, to be a Surveyor or Surveyors, for the Purposes of this Act and the said recited Acts, of the Commons, Mosses, and Waste Lands or Grounds by this Act intended to be divided, allotted, and inclosed in such Township or Division; and

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at any Meeting or Meetings to be held from Time to Time for the Purpose of nominating and appointing a Surveyor or Surveyors the major Part in Value of the Proprietors present, and the Agent or Agents of such of the Proprietors who shall be absent, and who shall attend such Meeting or Meetings in pursuance of a written Authority or Authorities to him or them for that Purpose given, shall determine and fix the Allowance to be made to such Surveyor or Surveyors, whether the same shall be a Payment by the Acre, by the Day, or by a Sum in gross, and also the Terms upon which such Allowance shall be made, and any other Matter or Matters connected with such Appointment or Appointments, and shall also determine the Period within which the Duty or Duties undertaken by such Surveyor or Surveyors shall be completed; and every such Determination of any such Meeting shall be reduced into Writing, and signed by the Chairman of such Meeting, and by the Person or Persons to be appointed Surveyor or Surveyors, and shall be binding upon the said Commissioners and upon such Surveyor or Surveyors: Provided always, that in case all or any of the Persons or Person to be nominated and appointed Surveyors or a Surveyor shall die, or refuse to act, or become incapable of acting in the Execution of this Act, it shall be lawful for such Majority in Value of the Proprietors of Messuages, Lands, and Tenements in the Township or Division of *Strickland Roger*, and the Agent or Agents of such Proprietor or Proprietors who shall attend in pursuance of an Authority in Writing from such Proprietor or Proprietors for that Purpose given, present at a Meeting to be called by the said Commissioner in the Manner hereinbefore directed within One Calendar Month after such Vacancy shall become known to them, to appoint some other fit and proper Person or Persons, not interested or concerned as Agent or Steward as aforesaid, as Surveyor or Surveyors in the Room or Stead of the Person or Persons so dying, refusing to act, or becoming incapable of acting in the Execution of this Act, and so from Time to Time as often as the Case shall happen.

If Proprietors in Strickland Roger neglect to appoint a Surveyor, the Commissioner may appoint one.

X. And be it further enacted, That in case the Proprietors of Messuages, Lands, and Tenements in the said Township or Division of *Strickland Roger* shall neglect to appoint a Surveyor or Surveyors at any such Meeting or Meetings to be held from Time to Time, then and in that Case it shall be lawful for the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before is mentioned, and he is hereby authorized, to appoint some fit and proper Person or Persons, not interested as aforesaid, to be a Surveyor or Surveyors, for the Purposes of this Act and the said recited Acts, of the Commons, Mosses, and Waste Lands or Grounds within the said Township or Division of *Strickland Roger*, and from Time to Time to displace and remove any such Person or Persons so to be appointed, and to appoint any other Person or Persons, not interested as aforesaid, in his or their Room.

Appointment of Surveyor for Whinfell.

XI. And be it further enacted, That the said *John Watson* the younger shall be and he is hereby appointed the Surveyor, for the Purposes of this Act and the said recited Acts, of the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Whinfell*; and in case of the Death, Refusal or Neglect to act, or Incapacity of acting of

the said *John Watson* the younger, some other fit and proper Person or Persons, not interested in the said Division, Allotment, and Inclosure, shall be appointed by the Commissioner for the Time being acting under this Act as Commissioner for dividing, allotting, and inclosing the Commons, Mosses, and Waste Lands or Grounds within the said Township or Division of *Whinfell*, to act as such Surveyor or Surveyors in the Room or Stead of the said *John Watson* the younger.

Commissioners to appoint Surveyor for Helsington.

XII. And be it further enacted, That the said *John Watson* and *William Turner*, or their Successors, Commissioners under this Act for dividing, allotting, and inclosing the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, shall and they are hereby authorized to appoint some fit and proper Person or Persons, not interested in such Division, Allotment, and Inclosure of the same Commons, Mosses, and Waste Lands or Grounds, and not being the Agent or Steward of any Person so interested, to be a Surveyor or Surveyors, for the Purposes of this Act and the said recited Acts, for surveying the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, and from Time to Time to displace and remove any such Person or Persons so to be appointed, and to appoint any other Person or Persons, not interested as aforesaid, in his or their Room.

Each Surveyor to make a Declaration.

XIII. Provided always, and be it further enacted, That no Person appointed or to be appointed in any of the Cases aforesaid shall be capable of acting as Surveyor until he shall have made and subscribed a Declaration to the Effect following; (that is to say,)

Form of Declaration.

'I *A.B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly do, execute, and perform the several Duties and Trusts reposed in me as a Surveyor under and by virtue of an Act passed in the First Year of the Reign of Queen *Victoria*, intituled [*here set forth the Title of this Act*], according to the best of my Skill and Judgment, and according to Equity and good Conscience, and without Partiality, Favour or Affection, Prejudice or Malice, to any Person or Persons whomsoever.'

And it shall be lawful for any Justice of the Peace for the County of *Westmorland* to administer any such Declaration; and any such Justice who shall be applied to for the Purpose is hereby required to administer the same; and each Declaration so made shall be written upon Parchment, and subscribed by the Person making the same, and shall be annexed to the Award of the Commissioner acting under this Act as Commissioner for dividing and allotting the Commons, Mosses, and Waste Lands or Grounds within the Township or Division in or for which any such Person shall have been appointed Surveyor as herein-before authorized.

Penalty on making a false Declaration.

XIV. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, knowing the Allegations thereof, or any of them, to be untrue, shall be subject to the like Pains and Penalties to which Persons guilty of a Misdemeanor are or may be liable.

Neglect deemed to be a Refusal to act.

XV. And be it further enacted, That in case any Commissioner appointed or to be appointed by virtue of this Act shall neglect to act in the Execution of this Act for the Space of Thirty Days after Notice in Writing shall have been given to him or them, or left at his or their last or usual Place of Abode, signed by any Two or more of the Owners of Messuages, Farms, Lands, or Tenements in the Township or Division in or for which he shall so have been appointed Commissioner, then and in every such Case such Neglect shall be deemed and taken to be an absolute Refusal on the Part of such Commissioner or Commissioners to act within the Intent and Meaning of this Act.

Appointment of Clerk.

XVI. And be it further enacted, That it shall be lawful for the said *Anthony Battersby Tomlinson*, or any Commissioner to be appointed in his Place as herein-before is mentioned, to appoint some fit and proper Person to be his Clerk to assist him in the Execution of the Powers of this Act; and it shall be lawful for the said *John Watson* the younger, or any Commissioner to be appointed in his Place as herein-before is mentioned, to appoint some fit and proper Person to be his Clerk to assist him in the Execution of the Powers of this Act; and it shall be lawful for the said *John Watson* and *William Turner*, or the Commissioners for the Time being acting under this Act as Commissioners for dividing, allotting, and inclosing the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, and for executing the said intended Works of Drainage in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field* and *Levens*, to appoint some fit and proper Person to be the Clerk to assist them in the Execution of the Powers of this Act; and it shall be lawful for the Commissioner or Commissioners who shall so appoint such Clerk from Time to Time to remove any Clerk so by him or them to be appointed, and to appoint some other fit and proper Person to be Clerk in the Stead of the Person so removed, as to such Commissioner or Commissioners shall seem meet.

Allowance to Surveyor not to exceed 8*d.* per Acre.

XVII. And be it further enacted, That out of such of the Monies which shall be raised for defraying the Expences of obtaining and passing and executing this Act it shall be lawful for the said Commissioners respectively to allow the Surveyors respectively to be appointed by him or them as herein-before directed any Sum not exceeding the Sum of Eight-pence *per* Acre for the Time and Trouble of any such Surveyor in surveying, measuring, mapping, or planning the Lands and Grounds necessary to be surveyed for the Purposes of this Act, including qualifying the Commons, and the Sum of One Guinea each *per* Day for every Day each of such Surveyors shall be really and wholly employed in attending upon the Commissioner or Commissioners acting for the Township or Division for which he shall have been so appointed Surveyor upon all reasonable Occasions; which said Sums of Eight-pence *per* Acre and One Guinea *per* Day shall be in full Satisfaction for the Time and Trouble of any One Surveyor so employed, and for his travelling and other Expences of every Description to be incurred by such Surveyor for the Purposes of this Act and the said recited Acts.

Allowance to Commissioners and Clerk.

XVIII. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act,

and executing the same and the said recited Acts, the said Commissioners and their Clerks shall each of them severally be paid, for each and every Day any such Commissioner or Clerk shall be employed in any Business relating to the Execution of this Act or the said recited Acts, the following Sums; that is to say, the said *Anthony Battersby Tomlinson* and his Successors, and his and their Clerk, shall be each of them entitled to receive the Sum of Two Pounds Two Shillings each such Day during the first Three Years next after the passing of this Act; and the said *John Watson* the younger and his Successors shall be each of them entitled to receive the Sum of One Pound Eleven Shillings and Sixpence each such Day during the first Two Years next after the passing of this Act; and the said *John Watson* and *William Turner* and their respective Successors shall be each of them entitled to receive the Sum of Two Pounds Two Shillings each such Day during the first Two Years after the passing of this Act; and the respective Clerks of the said several Commissioners last named shall each be entitled to receive the Sum of Two Pounds Two Shillings each such Day during the first Two Years next after the passing of this Act; and from and after the Expiration of the said respective Periods of Three Years and Two Years, until the respective Periods of the Execution of the final Award of the said Commissioners respectively, each Commissioner and Clerk shall be entitled to receive the Sum of One Pound and One Shilling each, and no more, for each and every Day any such Commissioner or Clerk shall be so employed as aforesaid, in full Satisfaction for Time and Trouble and Expences during Journeys and Attendances in the Execution of this Act and the said recited Acts, other than and except the Expences for the Use of the Room in which the Meetings shall be holden for carrying this Act and the said recited Acts into execution, and except the Costs and Expences of drawing, preparing, copying, ingrossing, and enrolling the respective Awards of the said respective Commissioners, and of Advertisements.

Proprietors to pay their own Expences at Meetings.

XIX. And be it further enacted, That the said Proprietors, their Attornies or Agents, shall pay their own Expences when they or any of them shall attend the said Commissioners at any of the Sittings to be holden in pursuance of this Act.

Regulating the Duration of Meetings or Sittings.

XX. And for regulating the Duration of all Meetings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March* in each Year; and that any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged as only Half a Day, and the said Commissioners respectively and the said Clerks respectively shall be paid accordingly; and a Book shall be kept by each such Commissioner, or his or their Clerk, in which shall be entered the several Days on which such Commissioner or Commissioners shall hold his or their Meetings, and in such Books respectively shall also be entered at what Hour such Commissioner or Commissioners and Clerk respectively were present at such Meeting, and at what Hour they respectively left the same; and such Book shall be signed by such Commissioner and Clerk as shall be present

present at such Meeting at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the Lands or Grounds to be inclosed or drained by such respective Commissioners, or of the Agent or Attorney of any Person so interested, during all the Meetings to be held in pursuance of this Act; and all such Persons shall and may take Copies of or Extracts therefrom without pying any thing for the same: Provided also, that it shall not be lawful for any One or more of the said Commissioners to retain or pay himself or themselves, or to his or their Clerk, out of any Monies to be received by him or them, or over which he or they may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance by this Act directed to be made to such Commissioner or Commissioners and Clerk respectively beyond One Third of such Allowance as they respectively shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Day of the depositing of the Award of such Commissioner herein-after directed to be deposited with the Clerk of the Peace of the County of *Westmorland*, or in case the Accounts of such Commissioner or Commissioners shall be appealed against, then the Residue of the Allowance of the Commissioner whose Accounts shall be so appealed against shall not be paid until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of any of the said Commissioners or of the said Clerks previous to the Execution of the Award, the Commissioner for the Time being acting for the Township or Division for which such deceased Commissioner or Clerk shall have been appointed shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due to such Commissioner or Clerk.

Commissioners to give Notice of Meetings.

XXI. And be it further enacted, That the said respective Commissioners shall and he and they is and are hereby severally required to cause public Notice to be given by Advertisement to be inserted in the *Westmorland Gazette*, or in some Newspaper usually circulated in the County of *Westmorland*, and also by Writing signed by the Commissioner or Commissioners giving such Notice to be affixed on the principal Door of the Parish Church of *Kirkby in Kendal* upon some *Sunday* during or immediately before Divine Service, of the Time and Place of holding the First, Second, and Third Sittings of such Commissioners severally, for the Purpose of putting into execution the several Powers for dividing, allotting, and inclosing the said Commons, Mosses, and Waste Lands or Grounds vested in such Commissioners respectively by this Act, Ten Days at the least before such Sittings respectively; and the said Commissioners respectively, after he and they shall have so held his and their Third Sitting, shall and may from Time to Time appoint such Time and Place for every subsequent Sitting as he or they shall think proper, the Commissioner or Commissioners so appointing any subsequent Sitting causing a Notice in Writing under his or their Hand or Hands to be affixed upon the principal Door of the Parish Church of *Kirkby in Kendal* on some *Sunday* during or immediately before Divine Service, and by Advertisement to be inserted in some Newspaper as aforesaid, Ten Days at the least before any such subsequent Sitting; and the said Commissioners

missioners respectively shall have full Power and Authority from Time to Time, as he or they shall think it convenient, to continue such his or their First, Second, Third, or any subsequent Sitting or Sittings by Adjournment, for the Execution of this Act, without giving any such Notice as aforesaid of any such adjourned Sittings, provided such adjourned Sittings be held within Twenty-one Days from the Time of Adjournment: Provided always, that all Sittings of the said Commissioners in the Execution of this Act shall be held in one of the said Townships, or within Eight Miles of one of such Townships.

Other Notices how to be given.

XXII. Provided always, and be it further enacted, That all other Notices required or necessary to be given by any of the said Commissioners shall be so made and given by Advertisement in the *Westmorland Gazette*, or in some other Newspaper usually circulated in the said County of *Westmorland*.

Commissioners to settle Disputes;

XXIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger*, or touching or concerning any Rights or Interests which they or any or either of them have or claim therein, or touching or concerning any other Matter or Thing relating to the Division, Allotment, or Inclosure thereof under this Act, it shall be lawful for the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, and he is hereby authorized and required, to examine into, hear, and determine the same; and if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Whinfell*, or touching or concerning any Rights or Interests which they or any or either of them have or claim therein, or touching or concerning any other Matter or Thing relating to the Division, Allotment, or Inclosure thereof under this Act, it shall be lawful for the said *John Watson* the younger, or the Commissioner to be appointed in his Place as herein-before mentioned, and he is hereby authorized and required, to examine into, hear, and determine the same; and if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, or touching or concerning any Rights or Interests which they or any or either of them have or claim therein, or touching or concerning any other Matter or Thing relating to the Division, Allotment, or Inclosure thereof under this Act, it shall be lawful for the Commissioners for the Time being acting within the Limits of the said Township or Division of *Helsington*, and they are hereby authorized and required, to examine into, hear, and determine the same; and every such Determination of the said respective Commissioners shall be final and conclusive upon all Persons and Parties concerned in the Dispute or Difference, subject nevertheless to the Event of any Action at Law which may be brought as herein-after authorized.

but not to determine Titles.

XXIV. Provided always, and be it further enacted, That nothing in this Act contained shall authorize or empower any of the said Commissioners

missioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any such Parties (except in respect of Encroachments made within Twenty Years as herein-after mentioned); but in case any such Commissioner or Commissioners shall be of opinion against the Right of the Person or Persons so in Possession, such Commissioner or Commissioners shall forbear to make any Determination thereon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law.

Commissioners may award Costs.

XXV. And be it further enacted, That in case the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, upon the hearing or determining of any Claim or Claims, Objection or Objections, to be delivered to him in the Execution of this Act, or in case the said *John Watson* the younger, or the Commissioner to be appointed in his Place as herein-before mentioned, upon the hearing or determining of any Claim or Claims, Objection or Objections, to be delivered to him in the Execution of this Act, or in case the Commissioners for the Time being acting within the Limits of the said Township or Division of *Helsington*, upon the hearing or determining of any Claim or Claims, Objection or Objections, to be delivered to them in the Execution of this Act, see Cause to award any Costs, it shall and may be lawful for such Commissioner or Commissioners, and he and they is and are hereby empowered, upon Application made to him or them for that Purpose, to settle, assess, and award such Costs and Charges as he or they shall think reasonable to be paid to the Party or Parties in whose Favour any such Determination shall be made by the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall and may be lawful to and for such Commissioner or Commissioners and he and they is and are hereby authorized and required, by Warrant under his or their Hand and Seal or 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, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus, if any, on Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Persons dissatisfied may try their Rights by an Action at Law.

XXVI. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the Division, Allotment, or Inclosure of the Commons, Mosses, and Waste Lands or Grounds in the said Townships or Divisions of *Strickland Roger* and *Whinfell*, or either of them, or in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the Division, Allotment, or Inclosure of the Commons, Mosses, and Waste Lands

Lands or Grounds in the said Township or Division of *Helsington*, shall be dissatisfied with any Determination of any of the Commissioners for executing this Act touching or concerning any Claim or Claims of Right in or over such Commons, Mosses, and Waste Lands or Grounds, or any Right of Common thereon, or other Rights or Interests in the same or any Part thereof, or in the said intended Division, Allotment, or Inclosure, then and in every such Case it shall and may be lawful to and for any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with such Determination, to cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination shall have been notified in Writing to the Party or Parties against whom such Determination shall have been so made, or to his, her, or their known Agent or Attorney, and the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, so dissatisfied as aforesaid, shall proceed to a Trial at Law of the Matter of such Determination at the then next or at the Second Assizes to be holden for the said County of *Westmorland* after such Action or Actions shall have been commenced; 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, Objection or Objections, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, Body or Bodies Politic, Corporate, or Collegiate, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial or new Trials to be had therein, which it shall be lawful for the Court to do, in case the said Court shall think proper; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the Commissioner or Commissioners for executing this Act shall in every such Case, and he and they is and are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims, Objection or Objections thereby determined, according to the Event of such Trial or Trials: Provided always, that if no such Action at Law shall be commenced within such Three Calendar Months as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then such Determination of the Commissioner or Commissioners as aforesaid shall be final and conclusive upon all Parties and to all Intents and Purposes whatsoever.

Death of Parties not to abate Actions.

XXVII. Provided also, 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 Death had happened.

In case of the Death of Parties be-

XXVIII. Provided also, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have

fore Actions brought, the same to be carried on and defended in their Names.

have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Commissioner or Commissioners, or his or their Clerk, with Process for commencing such Action or Actions in the same Manner as the Party or Parties so dying might have been served therewith if living; and the said Commissioners or Commissioner, or their or his Clerk, shall serve the Heir or Heirs or other Person or Persons who shall claim the Benefit of such Determination with Notice of such Process having been so served, and it shall thereupon be incumbent on the Heir or Heirs or other Person or Persons who shall claim the Benefit of such Determination as aforesaid to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead; and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Suits respecting Titles not to delay the Execution of the Act.

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

Commissioners may extinguish or suspend Rights of Common.

XXX. And be it further enacted, That it shall and may be lawful for the said Commissioners respectively and they or he are or is hereby authorized and empowered at any Time or Times, either before or after any Allotment of the said Commons, Mosses, and Waste Lands or Grounds shall have been made by virtue of this Act, and before the Execution of their respective Awards, by Notice in Writing under the Hands or Hand of the Commissioners or Commissioner giving such Notice to be affixed on the principal outer Door of the Parish Church of the Parish in which such Commons, Mosses, and Waste Lands or Grounds shall lie or be, Six Calendar Months previously to the Date of such Order as herein-after mentioned, to order and direct all or any Part of the Rights of Common of Pasture or Turbary or other Rights in, over, or upon such Commons, Mosses, and Waste Lands or Grounds, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in any such Notice in Writing; and that all such Rights as shall by any such Notice in Writing be ordered or directed to be extinguished, or the Exercise thereof to be suspended, shall, after the Expiration of Six Calendar Months from the

Time or Times of affixing such Notice or Notices in Writing on the Door of such Parish Church or Churches, or at such other future Time or Times as shall be specified in any such Notice, cease, determine, and be for ever extinguished, or the Exercise thereof suspended accordingly, any Law, Usage, or Custom to the contrary notwithstanding; and if, during such Suspension, or after the Extinguishment of such Right of Common, any of the Owners or Occupiers of Land within the said Townships or Divisions, or any of them, shall permit his, her, or their Cattle to go, depasture, or feed on any of the Lands or Grounds so exonerated or discharged from Rights of Common, then it shall and may be lawful for any of the Owners or Occupiers of Lands within the said Townships or Divisions, or any of them, to distrain such Cattle being on such Lands or Grounds contrary to such Order, and to impound the same, until the Person or Persons so offending shall pay to the Person or Persons so distraining such Sum of Money as the Commissioner or Commissioners giving such Notice and making such Order of Suspension or Extinguishment, or his or their Successor or Successors, shall by Writing under his or their Hand or Hands order and direct, not exceeding the Sum of Forty Shillings for each of the Cattle so distrained; and in case the same shall not be paid before the next Sitting of such Commissioner or Commissioners after such distraining and impounding, then such Commissioner or Commissioners is and are hereby authorized and empowered, upon Proof of such Offence or Offences having been committed, and of Non-payment of the Penalty so imposed, to cause the Cattle so distrained or impounded, or such Part thereof as he or they shall think necessary, or any other Goods and Chattels of the Person or Persons so offending, to be sold for paying and raising the Penalty aforesaid, together with the Costs and Charges attending such impounding, Distress, and Sale, rendering the Surplus (if any) to the Owners of such Cattle.

If Cattle are afterwards depastured they may be distrained.

XXXI. And be it further enacted, That it shall not be lawful for any Person or Persons after the passing of this Act to cut, dig, grave, pare, plough, get, or carry away any Turf or Turves or Soil upon or from any of the said Commons, Mosses, and Waste Lands or Grounds, or any Part thereof, without or contrary to the Licence of the Commissioner or Commissioners for the Time being under this Act for dividing, allotting, and inclosing the same in Writing first had and obtained for that Purpose (which Licence such Commissioner or Commissioners is and are hereby empowered to grant under such Rules, Orders, Regulations, and Restrictions as he or they shall think proper to insert therein); and in case any Person or Persons shall cut, dig, pare, grave, plough, get, or carry away such Turf or Soil, then and in every such Case any Justice of the Peace of the said County, upon due Proof thereof made upon Oath, (which Oath such Justice is hereby authorized to administer,) shall and he is hereby required, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause any Sum or Sums of Money, not exceeding Ten Pounds for such Offence, to be levied by Distress and Sale of the Goods and Chattels of every Person so offending in the Premises, 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; and the Money so to be levied as aforesaid shall be paid to the Commissioner or Commissioners for the Time being under this Act for

Turf not to be cut without Leave of Commissioner.

dividing, allotting, and inclosing the Commons, Mosses, and Waste Lands or Grounds where the Offence shall have been committed, and shall be by him or them applied towards defraying the Proportion of the Costs and Charges of obtaining and passing this Act, and the Expences of executing this Act, chargeable upon such Commons, Mosses, and Waste Lands and Grounds, or the Proprietors of the Allotments thereof; and for Want of such Distress it shall and may be lawful to and for such Justice, by Warrant under his Hand and Seal, to commit such Offender or Offenders to the Common Gaol for the County of *Westmorland*, or to any House of Correction in and for the said County, there to remain without Bail or Mainprize for any Time not exceeding Three Calendar Months, at the Discretion of such Justice, as the Case may be, unless such Offender or Offenders shall sooner pay the Penalties and Forfeitures and Costs.

Power to straighten and shorten Boundary Fences.

XXXII. And be it further enacted, That in order to shorten the Boundary Fences between the Lands and Grounds by this Act directed to be divided and allotted and any adjoining Lands and Grounds it shall and may be lawful for the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, with the Consent in Writing nevertheless of the Lord or Lords of the Manor or Manors within which the said Township or Division of *Strickland Roger* is situate, and for the said *John Watson* the younger, or the Commissioner to be appointed in his Place as herein-before mentioned, and for the Commissioners for the Time being for the Division, Allotment, and Inclosure of the Commons, Mosses, and Waste Lands or Grounds within the said Township or Division of *Helsington*, with the Consent in Writing nevertheless of the Lord or Lords of the Manor in which the said Township of *Helsington* is situate, and of the Lord or Lords of any Manor or Manors in which any such adjoining Lands shall be situate, and of the Land Owners interested in any such adjoining Lands and Grounds, and also under the Hand of the Owner or Proprietor of any Land upon which any Fence shall be intended to be made, to set out, ascertain, and determine the Boundary Fence or Fences to be made between the Lands hereby directed to be divided and allotted by the said respective Commissioners and any adjoining Lands or Grounds lying in such Manors or any of them, or lying in any adjoining Manor or Manors, as such Commissioners respectively shall judge proper for the Purposes aforesaid; and after such Boundary Fences shall be so set out, ascertained, and determined as aforesaid the same shall be made and fenced by such Persons, in such Manner, and at such Time as such Commissioners respectively shall direct, and shall for ever thereafter be deemed and taken to be the Boundary between such respective Townships and Divisions and such adjoining Manor or Manors, any Law, Usage, or Custom to the contrary notwithstanding; and a Description of the Boundaries to be made, set out, and determined as aforesaid shall be inserted in the Award of the Commissioner or Commissioners so setting out any such Boundary in pursuance of this Act, or a Map or Plan to be thereunto annexed.

For ascertaining Boundaries without fencing.

XXXIII. Provided always, and be it further enacted, That in case any Commissioner or Commissioners under this Act for dividing, allotting, and inclosing any of the Commons, Mosses, and Waste Lands or Grounds by this Act authorized to be divided, allotted, and inclosed by him or them as such Commissioner or Commissioners, shall be of opinion that although it

it may be of Advantage that the exterior Boundaries of the whole thereof as against adjoining Manors, and some interior Boundaries of the Allotments thereof, should be ascertained and fixed, yet that it would not be of Advantage to the Proprietors of certain Parts or Allotments thereof to be obliged to inclose and ring-fence the same, and that the Boundaries of such certain Parts or Allotments might be sufficiently marked and ascertained by Stones or other Marks, then and in any such Case it shall not be imperative upon such Commissioner or Commissioners to require such Parts or Allotments thereof to be inclosed or ring-fenced, but it shall be lawful for any such Commissioner or Commissioners to order or cause any such Boundaries to be marked and ascertained by Boundary Stones or other Marks of Partition to be placed or erected, instead of any Inclosure or Fence.

Encroachments.

XXXIV. And be it further enacted, That all Encroachments which shall have been made on any Part of the Commons, Mosses, and Waste Lands or Grounds intended by this Act to be divided and inclosed within the Space of Twenty Years before the passing of this Act shall be deemed Part of the Commons, Mosses, and Waste Lands or Grounds within the Township or Division where the same respectively lie to be inclosed by virtue of this Act, and the same shall be divided and inclosed accordingly, except such as may have been made with the Consent of the Lord or Lords and Juries of the Customary Courts held within or for the Manor within which such Commons, Mosses, and Waste Lands or Grounds of which such Encroachments were Part shall lie: Provided nevertheless, that all and every such Encroachments shall be allotted to the Person or Persons who shall at the Time of making the Allotments be in the Possession of such Encroachments, or in Receipt of the Rents and Profits, as the Whole or Part of the Share or Proportion of the Commons, Mosses, or Waste Lands or Grounds to which such Person or Persons will be entitled by virtue of this Act, without considering the Value of any Erection or other Improvements made thereon; and if any such Person or Persons shall not be entitled to any Allotment equal to the Value of such Encroachment, but shall be willing to purchase the same, then the Commissioner or Commissioners under this Act for dividing, allotting, and inclosing the Lands in the Township or Division in which such Encroachment shall have been made shall ascertain the Price thereof, or of such Part thereof as shall exceed the Value of the Allotment or Allotments the Possessor or Possessors whereof would be entitled to by virtue of this Act in respect of any other Property as aforesaid, on ascertaining of which Price such Commissioner or Commissioners shall not value the Buildings or other Improvements thereon, but shall value the Land only, and that at so much *per* Acre as the same shall in his or their Estimation be worth, having Reference to the Common or Waste next adjoining; and upon such Person or Persons paying such Price *per* Acre, and so in proportion for any less Quantity than an Acre, to such Commissioner or Commissioners at such Time or Times as he or they shall appoint for that Purpose, and taking his or their Receipt or Receipts for the same, every such Encroachment, or such Part thereof as shall be so purchased, shall be allotted to such Person or Persons, and shall be holden and enjoyed by him, her, or them accordingly; and such Commissioner or Commissioners shall and he and they is and are hereby required to apply such Purchase Money in such and the like Manner as Monies to be raised by Sale of Lands for

defraying

defraying the Proportion of the Expences of obtaining and passing this Act, and the Expences of carrying the same into execution, chargeable upon the Commons, Mosses, and Waste Lands or Grounds in the Township or Division within which such Encroachment shall lie, or upon the Proprietors of the Allotments of such Lands or Grounds, are herein directed to be applied; and in case any Dispute or Difference shall arise touching any such Encroachments, or the Extent thereof, such Dispute shall be settled by such Commissioner or Commissioners.

Commissioners may continue or stop up Roads over the Inclosures.

XXXV. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footways in pursuance of this Act or of the said first-recited Act the said Commissioners shall and they are hereby severally authorized and empowered, within the Limits of their respective Commissions for dividing, allotting, and inclosing Lands under this Act, if they shall deem it necessary or proper, to continue such public Carriage Roads, Highways, Bridle Roads, and Footways, or any of them, through and over any of the old inclosed Lands or Grounds within such several Limits respectively, and also, with the Consent and under the Order in Writing of Two Justices of the Peace for the County of *Westmorland*, to divert, turn, or stop up any of the old public Carriage Roads, Highways, Bridle Roads, and Footways passing or leading through or over any of such old inclosed Lands or Grounds; and the Soil of the Roads and Ways so to be stopped up shall be deemed and taken to be Part of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act within the Township or Division in which the Road so diverted, turned, or stopped up shall be situate.

Proceedings previous to diverting and stopping up Roads.

XXXVI. Provided always, and be it further enacted, That before any such Order as is herein-before mentioned shall be made, or any public Carriage Road, Highway, Bridle Road, or Footway shall be so discontinued, stopped up, diverted, or altered, the Commissioner or Commissioners intending to discontinue, stop up, divert, or alter any such Road shall cause to be affixed at each End of the public Carriage Road, Highway, Bridle Road, or Footway so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footway is intended to be discontinued, diverted, or altered (as the Case may be) by such Commissioner or Commissioners; and such Commissioner or Commissioners shall also cause the same Notice to be inserted in some Newspaper usually circulated in the said County of *Westmorland* for Four successive Weeks, and shall also cause a like Notice to be affixed on the Door of the Parish Church of the Parish in which such Road shall lie on the Four *Sundays* of the said Four successive Weeks, and shall cause a like Notice to be lodged with the Clerk of the Peace for the County of *Westmorland* within Ten Days after the Date of such Notice; and the said Clerk of the Peace shall, at the General or Quarter Sessions which shall be holden for the said County of *Westmorland* next after such Notice shall be lodged with him as aforesaid, file and enrol the same amongst the Records or Proceedings of the said Court of General or Quarter Sessions; and after the said several Notices shall have been so affixed, published, filed, and enrolled as aforesaid, and such Order as is herein-before mentioned shall have been made, the said public Carriage Road, Highway, Bridle Road, or Footway shall be deemed to be discontinued, stopped up, diverted, or altered (as the

Case may be), subject, however, to such Appeal to the Court of General or Quarter Sessions for the County of *Westmorland* as is herein-after mentioned.

Persons who may think themselves aggrieved if such Highway should be ordered to be stopped up or diverted may appeal.

XXXVII. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such public Carriage Road, Highway, Bridle Road, or Footway should be discontinued, stopped up, diverted, or altered, within Four Calendar Months after the Date of the said Order, to make his Complaint thereof by Appeal to the Justices at any General or Quarter Sessions of the Peace to be holden for the said County of *Westmorland*, giving to the Commissioner or Commissioners who shall have ordered such public Carriage Road, Highway, Bridle Road, or Footway to be discontinued, stopped up, diverted, or altered, or to his or their Clerk, Twenty-one Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any Hearing of Appeal to go into or to give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of Appeal, Jury at Sessions to determine whether old Highway may be discontinued.

XXXVIII. And be it further enacted, That in case of such Appeal the Justices at the said General or Quarter Sessions shall, for the Purpose of determining whether the public Carriage Road, Highway, Bridle Road, or Footway so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may be diverted or altered without Inconvenience to the Public, or whether the said Party appealing would be injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such General or Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footway so discontinued, stopped up, diverted, or altered is wholly unnecessary, or may beneficially to the Public be discontinued, altered, or diverted, and that the Party appealing would not be injured or aggrieved, then the said Court of General or Quarter Sessions shall dismiss such Appeal; and in that Case the said Court of General or Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid to the Commissioner or Commissioners making such Order by the Party appealing, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures for Offences against this Act are recoverable; but if the said Jury shall return that the Highway so discontinued or stopped up is not unnecessary, or that the public Carriage Road, Highway, Bridle Road, or Footway so diverted or altered could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved by the said public Carriage Road, Highway, Bridle Road, or Footway being discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of General or Quarter Sessions shall allow such Appeal, and shall make an Order for restoring the said public Carriage Road, Highway, Bridle Road, or Footway so discontinued, stopped up, diverted, or altered to its original State; and in that Case the said Court of General or Quarter Sessions is

hereby authorized and required to award to the Party or Parties giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by such Commissioner or Commissioners out of any Monies to come to his or their Hands by virtue of this Act.

If Appeal dismissed, Order of Commissioners to be final.

XXXIX. Provided always, and be it further enacted, That from and after the Dismissal of any such Appeal as aforesaid the Order or Award of the Commissioner or Commissioners so ordering any public Carriage Road, Highway, Bridle Road, or Footway to be discontinued, stopped up, diverted, or altered shall be final and conclusive, and be of full Force and Effect, any thing in this Act or the said recited Acts contained to the contrary notwithstanding.

For setting out public Bridle and Foot Ways, and private Ways, &c.

XL. And be it further enacted, That the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, shall and he is hereby empowered and required to set out and appoint and cause to be made and completed within the Township or Division of *Strickland Roger*, and the said *John Watson* the younger, or the Commissioner to be appointed in his Place as herein-before mentioned, shall and he is hereby empowered and required to set out and appoint and cause to be made and completed within the Township or Division of *Whinfell*, and the said *John Watson* and *William Turner*, or other the Commissioners for the Time being acting under this Act as Commissioners for dividing, allotting, and inclosing the Commons, Mosses, and Waste Lands or Grounds within the said Township or Division of *Helsington*, shall and they are hereby empowered and required to set out and appoint and cause to be made and completed within the said Township or Division of *Helsington*, such public Bridle Roads and Footways, and private Roads and Ways, Bridges, Ditches, Fences, Gates, and Stiles, and other Accommodations in, over, and upon the Commons, Mosses, and Waste Lands or Grounds by this Act intended to be divided and inclosed by such Commissioner or Commissioners, as such Commissioners respectively shall think requisite; and such Bridges, Ditches, Fences, Gates, and Stiles shall be made and erected and at all Times thereafter repaired, cleansed, and maintained by such Persons and in such Manner as shall be directed and appointed by the said Commissioners respectively in their respective Awards; and it shall be lawful for such Commissioners and they are hereby respectively authorized to order and direct how, in what Manner, and by whom the new Roads to be set out by them respectively by virtue of this Act or of the said first-recited Act shall, from and after the Execution of their said respective Awards, be kept in repair.

Allotments for Watering Places, Gravel, &c.

XLI. And be it further enacted, That the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, shall, before setting out the Allotments to be set out by him as herein-after mentioned, assign, set out, and allot unto the Surveyors of the Highways within the said Township or Division of *Strickland Roger*, and the said *John Watson* the younger, or the Commissioner to be appointed in his Place as herein-before mentioned, shall, before setting out the Allotments to be set out by him as herein-after mentioned, assign, set out, and allot unto the Surveyor of the Highways in the Township or Division of *Whinfell*, and the said *John Watson* and *William*

*William Turner*, or other the Commissioners for the Time being acting within the Limits of the said Township or Division of *Helsington*, shall, before setting out the Allotments to be set out by them as herein-after mentioned, assign, set out, and allot unto the Surveyor of the Highways in the Township or Division of *Helsington*, such Part or Parts of the said Commons, Mosses, and Waste Lands or Grounds hereby directed to be divided, allotted, and inclosed in such several Townships or Divisions respectively as such Commissioners respectively shall think necessary, as and for public Watering Places for Cattle, and for getting Gravel for the Repairs of the Roads to be made over such Commons, Mosses, and Waste Lands or Grounds; and such Allotments respectively, when so set out, shall for ever thereafter be used by the Surveyors of the Highways for the Time being of the said respective Townships or Divisions, and by the Proprietors of Lands, Tenements, and Hereditaments within the said respective Townships or Divisions, and their Tenants for the Time being, in such Manner and under such Rules, Orders, and Regulations as such several Commissioners respectively shall in and by their respective Awards order and direct.

Allotment of One Sixteenth to the Lords of the Manor or Manors within which the Commons in Strickland Roger are situate.

XLII. And be it further enacted, That the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, shall and he is hereby authorized and required in the next place, to set out, allot, and award unto the Lord or Lords for the Time being of the Manor or respective Manors within which the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger*, or any Part thereof, are situate, for the Time being, according to his or their several or respective Rights, Shares, Estates, and Interests in the Soil of such Commons, Mosses, and Waste Lands or Grounds, 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 Lands or Grounds within the said Township or Division of *Strickland Roger*, in compensation and satisfaction for the Rights and Interests of such Lord or Lords in and to the Soil of the said Commons, Mosses, and Waste Lands or Grounds, but without Prejudice to any other Right or Interest which such Lord or Lords may have or claim in or upon the said Commons, Mosses, and Waste Lands or Grounds.

Allotment of One Sixteenth to the Lords of the Manor or Manors within which the Commons in Helsington are situate.

XLIII. And be it further enacted, That the said *John Watson* and *William Turner*, or other the Commissioners for the Time being acting under this Act as Commissioners for dividing, allotting, and inclosing the Commons, Mosses, and Waste Lands or Grounds within the said Township or Division of *Helsington*, shall and they are hereby authorized and required in the next place, to set out, allot, and award unto the Lord or Lords for the Time being of the Manor or respective Manors within which the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, or any Part thereof, are situate for the Time being, according to his or their several or respective Rights, Shares, Estates, and Interests in the Soil of such Commons, Mosses, and Waste Lands or Grounds, 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 Lands or Grounds within the said Township or Division of *Helsington*, in compensation and satisfaction

faction for the Rights and Interests of such Lord or Lords in and to the Soil of the said Commons, Mosses, and Waste Lands or Grounds, but without Prejudice to any other Right or Interest which such Lord or Lords may have or claim in or upon the said Commons, Mosses, and Waste Lands or Grounds.

Commissioners to set out Part of the Commons for Sale to defray the Expences of this Act.

XLIV. And be it further enacted, That in the next place, after the setting out of Lands for the Roads and Ways, and the Allotments for Gravel Pits and Watering Places for Cattle, and the Allotments to the Lords of the Manors as herein-before mentioned, the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, shall mark and set out such Part and Parts of the Commons, Mosses, and Waste Lands in the said Township or Division of *Strickland Roger* as will by Sale thereof be fully sufficient in the Judgment of such Commissioner to defray and discharge the Proportion chargeable upon such Commons, Mosses, and Waste Lands or Grounds of the Costs, Charges, and Expences preparatory to and of soliciting, preparing, settling, and passing of this Act herein-after mentioned, and also all the Costs, Charges, and Expences of surveying, admeasuring, planning, valuing, dividing, and allotting the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger*, and all Charges of such Commissioner, his Assistants and Servants, and all other necessary Expences of the several Persons to be employed by such Commissioner in and about the Premises, and all the Expences of forming, completing, and repairing the public and private Carriage Roads and Highways to be set out and appointed by such Commissioner, and all other Expences of carrying this Act into execution for the Division, Allotment, and Inclosure of such Commons, Mosses, and Waste Lands or Grounds; and the said *John Watson* the younger, or the Commissioner to be appointed in his Place as herein-before mentioned, shall mark and set out such Part or Parts of the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Whinfell* as will by Sale thereof be fully sufficient in the Judgment of such Commissioner to defray and discharge the Proportion chargeable upon such Commons, Mosses, and Waste Lands or Grounds of the Costs, Charges, and Expences preparatory to and of soliciting, preparing, settling, and passing of this Act herein-after mentioned, and also all the Costs, Charges, and Expences of surveying, admeasuring, planning, valuing, dividing, and allotting the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Whinfell*, and all Charges of such Commissioner, his Assistants and Servants, and all other necessary Expences of the several Persons to be employed by such Commissioner in and about the Premises, and all the Expences of forming, completing, and repairing the public and private Carriage Roads and Highways to be set out and appointed by such Commissioner, and all other Expences of carrying this Act into execution for the Division, Allotment, and Inclosure of such Commons, Mosses, and Waste Lands or Grounds; and the said *John Watson* and *William Turner*, or other the Commissioners for the Time being acting within the Limits of the said Township or Division of *Helsington*, shall mark and set out such Part and Parts of the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington* as will by the Sale thereof be fully sufficient in the Judgment of such Commissioners

to defray and discharge the Proportion chargeable upon such Commons, Mosses, and Waste Lands or Grounds of the Costs, Charges, and Expences preparatory to and of soliciting, preparing, settling, and passing of this Act, and also all the Costs, Charges, and Expences of surveying, admeasuring, planning, valuing, dividing, and allotting the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, and all Charges of such Commissioners, their Assistants and Servants, and all other necessary Expences of the several Persons to be employed by such Commissioners in and about the Premises, and all the Expences of forming, completing, and repairing the public and private Carriage Roads and Highways to be set out and appointed by such Commissioners, and all other Expences of carrying this Act into execution for the dividing, allotting, and inclosing of such Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*; nevertheless no Part of the said Commons, Mosses, and Waste Lands or Grounds shall be set out to be sold as aforesaid which ought on account of Contiguity or Convenience to be allotted to any of the Parties concerned in the said Division or Inclosure; and in estimating the respective Amounts of the respective Proportions of such Costs, Charges, and Expences to be so raised by such respective Sales each Township or Division shall be charged with or bear and pay all such Costs, Charges, and Expences as shall apply to such Township or Division separately; and such Proportion of such Costs, Charges, and Expences as shall apply to the Townships or Divisions of *Strickland Roger*, *Whinfell*, and *Helsington*, jointly and in conjunction with the said Townships or Divisions of *Underbarrow* and *Bradley Field*, *Levens*, and *Helsington*, so far as the Works of Drainage herein-after mentioned are concerned, shall be charged, borne, and paid as is next herein-after mentioned; that is to say, each of the said Townships or Divisions of *Strickland Roger*, *Whinfell*, and *Helsington* shall bear and pay Two Ninth Parts, the whole into Nine equal Parts being considered as divided, of such Costs, Charges, and Expences; and such Commissioner or Commissioners shall and he and they is and are severally hereby required, at such convenient Times and Places as to him or them shall seem meet, to cause the Part or Parts of the said Commons, Mosses, and Waste Lands or Grounds to be set out for Sale by him or them as aforesaid to be put up to public Sale or Auction in manner by the said first-recited Act directed, first causing at least Three Weeks previous Notice to be given in some Newspaper usually circulated in the said County of *Westmorland* of the Time and Place to be appointed for that Purpose: Provided always, that in case the Part or Parts of the said Commons, Mosses, and Waste Lands or Grounds marked or set out for Sale, and actually sold by any of such Commissioners, shall happen to raise more Money than, together with the Money to be paid for Encroachments as herein-before mentioned, may be requisite for defraying the Proportion of all the Costs, Charges, and Expences of or incident to the obtaining and passing this Act and fully carrying the same into execution in every respect for the Division, Allotment, and Inclosure of the Commons, Mosses, and Waste Lands or Grounds in the Township or Division Part of which shall be so sold, then the overplus Money shall be paid and divided, and such Commissioner or Commissioners, as the Case shall be, is and are hereby directed to pay and divide the same, to and amongst the several Proprietors of Allotments of such Commons, Mosses, and Waste Lands or Grounds, if seised

thereof in Fee Simple, or if any such Proprietor or Proprietors shall not be seised thereof in Fee Simple, then his, her, or their Proportion of such overplus Money shall be paid into the Bank of *England* in the Manner herein-after directed with respect to Money to be paid for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses.

Open Spaces to be left for Recreation.

XLV. Provided always, and be it further enacted, That the said Commissioners shall and they are hereby respectively required to set out a Portion of the Lands or Grounds within each of the said Townships or Divisions of *Helsington*, *Strickland Roger*, and *Whinfell* hereby directed to be inclosed to be for ever left open for the Purpose of Exercise and Recreation of the Inhabitants of the Township or Division within which the same shall be so set out, and the neighbouring Population; and such Portion of Land shall be vested in the Overseers of the Poor of the Township or Division in which the same shall be so set out for the Time being; and the Land so set out shall not be less than Four Acres in each such Township or Division, nor less in the whole than Twelve Acres of Land; and each such Portion of Land or Ground shall be so vested in the Overseers of the Poor of the Township or Division within which the same shall be so set out for the Exercise and Recreation of the Inhabitants and neighbouring Population whereof such particular Portion or Portions shall be so set out.

Allotments to Moss Owners.

XLVI. And be it further enacted, That the said respective Commissioners severally 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 several Townships or Divisions of *Strickland Roger* and *Whinfell*, or within the said Township or Division of *Helsington*, such Part and Parts of the Commons, Mosses, and Waste Lands or Grounds situate within the Townships or Divisions respectively wherein such meered Mosses, Turbary Grounds, and Brackendales are situate, as shall, in the Judgment of the Commissioner or Commissioners setting out the same, be a full Equivalent and equal in Value to the present Interest of such respective Owners or Proprietors in such meered Mosses, Turbary Grounds, or Brackendales, the same to be set out in such Places and Parts of the said Commons and Waste Lands or Grounds as, in the Judgment of the Commissioner or Commissioners setting out the same, may and will be most convenient for such Owners and Proprietors respectively.

Genera Allotments of Residue.

XLVII. And be it further enacted, That after the aforesaid several Allotments shall have been made and set out in the said Townships or Divisions of *Strickland Roger*, *Whinfell*, and *Helsington* the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, shall then divide, assign, set out, and allot all the Residue and Remainder of the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger* intended by this Act to be divided and allotted unto and amongst the several Owners of Lands and Tenements having Right of Common of Pasturage or Turbary in and upon the same, according to their several and respective

tive Rights and Interests, and in such Shares and Proportions as the said Commissioner shall adjudge and determine to be proportionate to the Value of and a full Compensation and Satisfaction to him, her, or them respectively for his, her, or their respective Rights and Interests in, to, over, or upon the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Strickland Roger* by this Act directed or intended to be divided and allotted; and the said *John Watson* the younger, or the Commissioner to be appointed in his Place as hereinbefore mentioned, shall then also divide, assign, set out, and allot all the Residue and Remainder of the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Whinfell* intended by this Act to be divided and allotted unto and amongst the several Owners of Lands and Tenements having Right of Common of Pasturage or Turbary in and upon the same, according to their several and respective Rights and Interests, and in such Shares and Proportions as the said *John Watson* the younger, or the Commissioner to be appointed in his Place as hereinbefore mentioned, shall adjudge and determine to be proportionate to the Value and a full Compensation and Satisfaction to him, her, or them respectively for his, her, or their respective Rights and Interests in, to, over, or upon the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Whinfell* by this Act directed or intended to be divided and allotted; and the said *John Watson* and *William Turner*, or their Successors, the Commissioners for the Time being acting under this Act as Commissioners for the Division, Allotment, and Inclosure of the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington*, shall then also divide, assign, set out, and allot all the Residue and Remainder of the Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington* intended by this Act to be divided and allotted unto and amongst the several Owners of Lands and Tenements having Right of Common of Pasturage or Turbary in and upon the same, according to their several and respective Rights and Interests, and in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportionate to the Value of and a full Compensation and Satisfaction to him, her, or them respectively for his, her, or their respective Rights and Interests in, to, over, or upon the said Commons, Mosses, and Waste Lands or Grounds in the said Township or Division of *Helsington* by this Act directed or intended to be divided and allotted; nevertheless any thing herein contained shall not be construed so as to give the Land Owners any Right upon the Commons, Mosses, or Waste Lands or Grounds in those Townships or Divisions in which their Lands or Tenements are not situated, unless they shall have lawfully acquired the same at the Time of the passing of this Act.

In case any Person sell his Common Right or his Allotment before Execution of the Commissioners Award, the same to be awarded

XLVIII. Provided always, and be it further enacted, That if any Person or Persons hath or have sold, or shall, at any Time before the Meeting which shall be appointed by any of the said Commissioners for reading over the Draft of his or their Award or Awards, sell, his, her, or their Right, Interest, or Property in, over, and upon the Commons, Mosses, and Waste Lands or Grounds by this Act directed or intended to be divided, allotted, or inclosed by the Commissioner or Commissioners appointing such Meeting, or any Part thereof, to any other Person or Persons, or of or in any Allotment or Allotments which may have been set

to the Purchaser.

set out and allotted to such Person or Persons in lieu of any such Right, Interest, or Property, or which he, she, or they may have bought and purchased from any other Person or Persons to whom the same may have been so set out and allotted, or from any such Commissioner or Commissioners under the Provisions herein-before contained, then and in every such Case it shall and may be lawful to and for such Commissioner or Commissioners and he and they is and are hereby directed, authorized, and required, upon Notice thereof in Writing to be given to him or them by the Vendor (provided the same be within the Time mentioned), to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his, her, or their Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold as aforesaid; and such Vendee or Purchaser, or his, her, or their Heirs and Assigns, shall and may, from and after the Execution of the Award of such Commissioner or Commissioners, 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 might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Rights, Interests, or Property had vested in the Vendor at the Time of making such Allotment as aforesaid; and in case of the Sale or Sales of any such Allotment or Allotments as shall have been first set out and allotted to the Person or Persons making such Sale or Sales, or shall have been purchased by the Person or Persons making such Sale or Sales from such Commissioner or Commissioners in pursuance of the Provisions herein-before contained, such Commissioner or Commissioners is and are hereby authorized and required, in and by such his or their Award, to award the same Allotment or Allotments to the Purchaser or Purchasers in such last-mentioned Sale or Sales.

Tenure of Allotments.

XLIX. And be it further enacted, That all and every the Allotments of the said Commons to be set out and allotted by virtue of this Act, from and immediately after the same shall be so set out and allotted, shall be and be deemed and taken to be of the Tenure of Free and Common Socage, and shall be so held and enjoyed accordingly.

Power to make Exchanges.

L. And be it further enacted, That it shall and may be lawful for any Commissioner or Commissioners acting under this Act for any such Division, Allotment, and Inclosure, to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever within the Townships or Divisions of *Strickland Roger*, *Whinfell*, and *Helsington* respectively in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the same Townships or Divisions, or within any adjoining Township or Place, so as every such Exchange be set forth and ascertained by the Award of such Commissioner or 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 Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or 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, (by and with the Consent of the Lessor or Lessors thereof, but not otherwise,) or possessed of any Estate of Inheritance less than an Estate in Fee Simple, or with the Consent of the Guardians, Trustees, Feoffees for charitable

charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid who at the Time of making any such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange or Exchanges so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church, Chapel, or other Ecclesiastical Benefice without the Consent in Writing, testified as aforesaid, of the mesne or immediate Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

Costs of Exchanges how to be paid.

LI. And be it further enacted, That all Costs, Charges, and Expences attending the making any Exchanges or Partitions under the Authority of this Act or the said first-recited Act shall be paid and borne by the several Persons making such Exchanges and Partitions in such Manner and in such Proportions as the Commissioner or Commissioners acting in the Premises shall order and direct.

Vacating Leases at Rack Rent.

LII. And be it further enacted, That all and every Lease or Leases, and other Agreements at Rack Rent, affecting all or any Part of the Commons, Mosses, and Waste Lands or Grounds by virtue of this Act intended to be divided, allotted, and inclosed, or exchanged, shall cease, determine, and be void as to such Commons, Mosses, or Waste Lands or Grounds, on such Days and Times as the Commissioner or Commissioners for dividing, allotting, and inclosing the same shall, by Writing under his or their Hand or Hands, order and appoint, the respective Lessors and Landlords in such Leases and Agreements having first paid or tendered such Satisfaction to the respective Lessee or Lessees, Tenant or Tenants, as such Commissioner or Commissioners shall ascertain as reasonable to be paid to such Lessee or Lessees, Tenant or Tenants, on account thereof, or as an Equivalent for the same: Provided always, that nothing herein contained shall extend or be construed to extend to make void any Agreement or Engagement already made between Landlord and Tenant in contemplation of a Division or Inclosure of the said Commons, Mosses, and Waste Lands or Grounds, or relating thereto.

Wills, &c. not to be affected.

LIII. 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 the respective Persons to whom any Lands, Tenements, 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, Tene-

ments, and Hereditaments whereof such Persons were seised or possessed at or immediately before the Execution of the Award to be made by virtue of this Act, 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 passed.

Allotments to Proprietors having Lands under different Titles to be distinguished.

LIV. And be it further enacted, That in case any Proprietor or Proprietors of any Messuages, Lands, or Tenements in respect whereof any Allotment shall be made of any Lands or Grounds by this Act authorized to be divided, allotted, or inclosed, shall hold the same by different Tenures, or for different Estates, or in different Rights, or subject to different Trusts, Charges, or Incumbrances, the Commissioner or Commissioners making such Allotment shall, upon the Request in Writing of any such Proprietor or Proprietors, ascertain and distinguish the Messuages, Lands, and Tenements so held, and shall accordingly by his or their Award set out and make distinct and several Allotments by distinct and several Descriptions for such respective Messuages, Lands, and Tenements, and shall in such Award also declare in right of what Estate or Estates such Allotments respectively shall have been made; and in case any such Commissioner or Commissioners, for Want of necessary Information, or from any other Cause, shall not discriminate and distinguish such different Rights or Titles, different Estates, and different Tenures in such Award, and within Twelve Calendar Months after the Execution of such Award Request shall be made to any such Commissioner or Commissioners by any Person or Persons interested, by Writing under his, her, or their Hand or Hands, to have such Omission supplied, then and in every such Case it shall be lawful for such Commissioner or Commissioners and he and they is and are hereby authorized and empowered to do or cause to be done all proper and necessary Acts for the Purpose of enabling him or them to make such Discrimination and Distinction as aforesaid in the same Manner as he or they might or could have done by his or their Award if the same had not been executed; and when and so soon as such Commissioner or Commissioners shall have obtained sufficient Information in his or their Judgment for the Purpose, he and they is and are hereby authorized and required, by any Deed or Instrument in Writing under his or their Hand or Hands and Seal or Seals, to ascertain and distinguish the Difference of such Tenures, Estates, Rights, and Titles respectively, and to make distinct and several Allotments, in the same Manner as he and they is and are authorized to do by his or their said Award; and every such Deed or Instrument shall have the same Force and Effect as if the same were contained in the said Award, and shall be delivered 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 such Commissioner or Commissioners, properly belong for the Time being; and all the Costs and Charges which shall be occasioned by the Proceeding of the Commissioner or Commissioners in making such Discrimination, Distinction, and Allotment or Allotments, and of preparing and executing any such Deed or Instrument, or in anywise relating thereto, shall be ascertained and settled by such Commissioner or Commissioners, and shall be paid by the Person or Persons who shall make such Request as aforesaid, or by his, her, or their Heirs, Executors, or Administrators, to such Persons and at such Time and Place as such Commissioner or Commissioners shall by Writing under his

or their Hand or Hands appoint; and in case such Costs, Charges, and Expences shall not be so paid, it shall be lawful for such Commissioner or Commissioners and he and they is and are hereby required to raise and levy the same by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act can and may be raised and levied.

For defraying the Deficiency of the Expences of obtaining and executing this Act for the Allotment, Division, and Inclosure.

LV. And be it further enacted, That in case the Money arising by any such Sale of the Lands and Grounds herein-before authorized and directed to be sold within such several Townships or Divisions as aforesaid, or any or either of them, shall not be sufficient to pay, satisfy, and discharge the whole of the Costs and Charges herein-before directed or intended to be defrayed by or charged upon the Commons, Mosses, and Waste Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Strickland Roger*, and *Whinfell* severally, or upon the Persons to whom any Allotments of such Commons, Mosses, and Waste Lands or Grounds shall be allotted, then and in such Case the Residue of such Costs, Charges, and Expences shall be borne and paid by the Person or Persons, and Body or Bodies Politic, Corporate, or Collegiate, to whom any Allotment or Allotments shall be made by virtue of this Act or the said recited Acts, in proportion to the Value of the Allotment or Allotments so to be set out and allotted to such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in such Manner and at such Time or Times, either before or after the Execution of the Award of the Commissioner or Commissioners, and at such Place and to such Person and Persons as the Commissioner or Commissioners by this Act respectively authorized to make such Allotments shall, in and by his or their Award, or by any Writing or Writings under his or their Hand or Hands, order, direct, or appoint (save and except the said Lord or Lords for the Time being in respect of the Allotments to be made to him or them within the said Townships or Divisions of *Strickland Roger* and *Helsington* as Lord or Lords of the Manors respectively within which the Commons, Mosses, and Waste Lands or Grounds in such Townships or Divisions are situate, and except the Surveyors of the Highways, and the Overseers of the Poor within the said Townships or Divisions for the Time being, for or in respect of the Allotment or Allotments hereby directed to be made to them as aforesaid); and in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, shall refuse or neglect to pay his, her, or their Proportion or Proportions of such Costs, Charges, and Expences as aforesaid within the Time and at the Place and to such Person or Persons as any such Commissioner or Commissioners shall in manner aforesaid direct or appoint, then and in such Case such Commissioner or Commissioners shall cause the same to be levied and recovered in the Manner directed by the said first-recited Act.

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

LVI. And be it further enacted, That it shall be lawful for any Commissioner or Commissioners acting under this Act for any such Division, Allotment, and Inclosure, when any such Commissioner or Commissioners shall deem it expedient, to deduct from any Allotment or Allotments to be set out by virtue of this Act so much Land as in the Judgment of such Commissioner or Commissioners shall be equivalent to the Part or Proportion chargeable on the Person or Party to whom the Allotment or Allotments shall be made of the Expences of inclosing, hedging, ditching, and fencing such Allotment or Allotments; and the Land so deducted shall be allotted to or amongst the other Proprietor or Proprietors who shall pay such Expences in proportion to the Sums they shall respectively pay

pay or contribute thereto: Provided always, that no such Deduction shall be made by any such Commissioner or Commissioners without the previous Consent in Writing of the respective Proprietors or Persons seised or entitled to the first Estate of Freehold in possession less than an Estate in Fee Simple, or the Husbands, Guardians, Trustees, Committees, or Attorneys of any such Proprietors being Femes Covert, Infants, Lunatics, beyond the Seas, or under any other legal Disability or Incapacity of acting for themselves: Provided always, that the Deduction to be made from such Allotments as aforesaid shall not exceed in Value the Sums of Money that the Person or Persons from whose Allotment or Allotments such Deductions shall have been made as aforesaid would have been empowered or authorized to borrow or charge upon his, her, or their Allotment or Allotments, reckoning Five Pounds for each and every Acre thereof: Provided also, that in case the Land deducted from such Allotment or Allotments shall not be equal in Amount to the Sum of Money that such Proprietor or Proprietors is or are by the said recited Act or this Act empowered to borrow or charge upon his, her, or their Allotment or Allotments, then and in every such Case it shall be lawful for the Proprietor or Person from whose Allotment Land shall be deducted as aforesaid to charge his, her, or their Allotment or Allotments with any Sum of Money, not exceeding the Excess or Difference, towards Payment of such Expences.

**Works of Drainage to be erected and made in Helsington, Underbarrow and Bradley Field, and Levens.**

LVII. And be it further enacted, That it shall be lawful for the said *John Watson* and *William Turner*, or other the Commissioners for the Time being for the Drainage of the said Marsh or Low Lands or Grounds within the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* as herein-before mentioned, and they are hereby authorized and empowered, to set out, appoint, and cause to be made such proper Banks as in their Judgment will be sufficient for preventing the said Low or Marsh Lands or Grounds situate within the said Townships or Divisions of *Underbarrow* and *Bradley Field*, *Helsington*, and *Levens* from being overflowed by the Sea or by other Water, and also to continue, open, enlarge, scour out, widen, divert, or deepen the present or to set out such other or additional Drains and Watercourses, Sluices or Flood Gates, and Water Gates, as to them shall seem proper and necessary, in, upon, or through the said Low or Marsh Lands or Grounds, and also in and through any ancient Lands adjoining the said Low or Marsh Lands or Grounds, or any of them, for collecting the Springs and Waters running or being in, upon, or over the same, so as effectually to convey the same Waters from the said Lands or Grounds in *Underbarrow* and *Bradley Field*, *Helsington*, and *Levens* to the River *Kent*, or to the Brook or River called the *Pool*, with full Power also to straighten, alter, or vary the present Course of the said River or Rivulet or Watercourse called the *Pool*, but so nevertheless that the said Commissioners shall have no Power to turn any Water into the present Catchwater Drain, except such Portion of the Water as shall flow from the said Springs called respectively *Chistwell* and *Simswell* Springs; and it shall also be lawful for the said Commissioners for the Drainage of the said Low or Marsh Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, and they are hereby also authorized and empowered, to erect and build, or cause to be erected and built, in or upon such last-mentioned Lands or Grounds, or upon any Lands or Grounds adjoining the same, such Engines,

Engines, Windmills, Tunnels, and other Works, and to be worked by Steam, Wind, Horses, or any other Power, with all proper Machinery, Houses, Sluices, Pits, and other necessary Works, as shall in the Judgment of such Commissioners be necessary for effectually draining and securing from Flood or Water the said Low or Marsh Lands or Grounds, and cultivating and improving the same, or any Part or Parts thereof; and the said Works shall be made of such Dimensions and in such Courses and Directions as the said Commissioners for the Drainage of the said Low or Marsh Lands in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* shall think proper and expedient for effecting the Purposes aforesaid.

Purchase of Land, &c.

LVIII. And be it further enacted, That it shall be lawful for the said Commissioners for the Drainage of the said Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, and they are hereby authorized, to purchase any Land or Ground for accomplishing any of the Purposes of this Act, and also to dig, throw up, take, and carry away any Earth, Clay, Soil, Stone, Gravel, or other Materials for the making, deepening, widening, carrying on, ordering, repairing, and perfecting any of the Works by this Act directed or intended in, upon, from, or out of any of the Lands or Grounds of any Person or Persons, Body Corporate or Collegiate, within the Limits of this Act, or in any adjoining Parish, Township, or Place, with the Consent in Writing of the Owners or Proprietors of such Land or Ground in such adjoining Parish, Township, or Place, and also to carry and convey the said Materials in, over, and upon all such Lands and Grounds, and to place and lay any such Materials or Things on the Lands and Grounds near to the Place or Places where such Works or any of them shall be making; and it shall be lawful for the said Commissioners to make such Orders and give such Directions and do such Acts for carrying on or effecting and preserving the said Works, and for executing the Purposes of this Act, as the said Commissioners shall think proper, making such reasonable Satisfaction and Recompence to the Person or Persons, Body Corporate or Collegiate, entitled to or interested in the Lands and Grounds through or upon which any such Works, Matters, or Things shall be done, or who may be prejudiced thereby or by means or in consequence thereof, for the Damages which shall be thereby sustained, as shall be settled and ascertained by a Jury in the Manner herein-after mentioned, in case the said Commissioners shall not be able to come to any Agreement for the same with such Person or Persons, Body Corporate or Collegiate.

Power to make Contracts.

LIX. And be it further enacted, That it shall and may be lawful to and for the said Commissioners for the Drainage of the said Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, and they are hereby empowered, at any Meeting to be held for that Purpose, whereof Fourteen Days previous Notice in Writing shall have been given by affixing the same to the principal Door of the Parish Church of *Heversham* and the principal Door of each of the Chapels of *Helsington* and *Underbarrow*, and by Advertisement in the *Westmorland Gazette*, or in some other Newspaper usually circulated in the said County of *Westmorland*, to receive Proposals from, and to enter into, make, and execute Contracts

with, any Engineer or Engineers, Workmen, or other Persons for the making or completing the Works by this Act authorized to be made or done, or any Part or Parts thereof, and for providing proper Engines, Utensils, and Materials for that Purpose, and convenient Matters, Articles, and Things concerning the same; and such Proposals shall be submitted to the Inspection and Perusal of any Proprietor or Proprietors of the said Lands and Grounds present at any such Meeting to be held for the Purpose aforesaid; and all such Contracts so to be made shall be entered in a Book to be kept by the Commissioners, and signed by the said Commissioners and the Parties contracting with them.

Power for incapacitated Persons to sell Lands for Purposes of the Act.

LX. And be it further enacted, That it shall be lawful for all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Tenants in Tail or for Life, or for any other partial or qualified Estate or Interest, Husbands, Guardians, Trustees, and Feoffees in Trust for charitable or other Purposes, Committees, Executors, and Administrators, and all Trustees and Persons whomsoever, not only for and on behalf of themselves, their Heirs and Successors, but also for and on behalf of the Person or Persons entitled in Reversion, Remainder, or Expectancy after them, if incapacitated, and for and on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Idiots, Femes Covert, or other Person or Persons, and to and for all Femes Covert who are or shall be seised, possessed of, or interested in their own Right, or entitled to Dower or other Interest, and for all and every other Person or Persons whomsoever who is or are or shall be seised, possessed of, or interested in any Lands, Grounds, or Hereditaments, whether situate within the Limits of this Act, or within any adjoining Parish, Township, or Place, which shall be required to be taken or used for the Purposes of this Act, to sell and convey the same and every Part thereof unto the Commissioners for the Time being for the Drainage of the Low or Marsh Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow*, and *Bradley Field*, and *Levens*, for the Purposes aforesaid; and all such Contracts, Agreements, Sales, Conveyances, and Assurances shall be paid for by the said Commissioners out of the Monies to be raised by virtue of this Act as herein-after mentioned, and shall be made according to the following Form, or as near thereto as the Number of the Parties and the Circumstances of the Case will admit; namely,

Form of Conveyance.

'I of in consideration of the Sum
'of to me paid by the Commissioners for the
'Time being for the Drainage of the Low or Marsh Lands or Grounds
'in the several Townships or Divisions of *Helsington*, *Underbarrow* and
'*Bradley Field*, and *Levens*, acting under the Authority of an Act of
'Parliament passed in the First Year of the Reign of Her Majesty
'Queen *Victoria*, intituled [*here set forth the Title of this Act*], do hereby
'grant and release unto the said Commissioners all [*describing the Pre-*
'*mises to be conveyed*], together with all Ways, Rights, and Appur-
'tenances thereunto belonging, and all my Estate, Right, Title, and
'Interest in and to the same and every Part thereof, to hold to the
'said Commissioners and their Successors for the Purposes of the said
'Act, and subject to the Provisions of the said Act. In witness whereof
'I have hereunto set my Hand and Seal the Day of
'in the Year of our Lord One thousand eight hundred and .'

And

And all such Conveyances and Assurances as aforesaid shall be good, valid, and effectual in the Law, and shall operate and be as a Merger of all outstanding Terms of Years, and be a complete and effectual Bar to all Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever thereby conveyed.

In case the Parties refuse or are incapable to treat, the Value to be settled by a Jury.

LXI. And for settling all Differences which may arise between the said Commissioners for the Time being for the Drainage of the Low or Marsh Lands in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, and the several Owners of or Persons interested in any Lands or Grounds and Hereditaments situate within the Limits of this Act which shall or may be so taken or used, or which shall be damaged, affected, or injuriously prejudiced by the Execution of any of the Powers hereby granted; be it further enacted, That if any Body Politic, Corporate, or Collegiate, Trustee, or any other Person so interested, entitled or capable to sell as aforesaid for and on behalf of himself or herself, or for or on behalf of his or her Cestuique Trusts, or of the Person or Persons entitled in Remainder or Reversion after him or her as aforesaid, or of any other incapacitated Person as aforesaid, or of any other Person or Persons whomsoever, shall differ or shall not agree with the said last-named Commissioners as to the Amount of such Purchase Money, or the Amount of the Recompence or other Compensation for any such Damage or Injury, and such Amount cannot be adjusted, settled, and agreed for by and between such Parties and the said Commissioners; or if any such Parties shall refuse to accept such Purchase Money, Recompence, or other Compensation as shall be offered by the said Commissioners, and shall give Notice thereof in Writing to the said Commissioners within One Calendar Month next after such Offer shall have been made, and the Party or Parties giving such Notice shall therein request that the Matter or Matters in dispute may be submitted to the Determination of a Jury; or if any Body Politic, Corporate, or Collegiate, Trustee, or other Person or Persons interested, entitled or capacitated to sell as aforesaid, shall, for the Space of One Calendar Month next after Notice in Writing shall have been given to the principal Officer of any such Body Politic, Corporate, or Collegiate, or to such Trustee or Person respectively, neglect or refuse to treat or shall not agree with the said last-mentioned Commissioners for the Sale and Conveyance of their respective Estates and Interests therein, or shall by reason of Absence be prevented from treating, or shall, by reason of Marriage or any other Impediment or Disability not provided for by this Act, be incapable of treating or making such Agreement as shall be expedient for enabling the said last-mentioned Commissioners to proceed in making the said Works of Drainage, or shall not produce and fully disclose the State of the Title to the Premises they may be in possession of or to the Interest they shall claim therein; then and in every such Case the said Commissioners may and shall and they are hereby empowered and required from Time to Time to issue a Warrant under their Hands to the Sheriff of the County in which the Lands and Hereditaments in question shall be situate or the Matter in question or in dispute shall arise, or in case such Sheriff or his Under Sheriff shall be in anywise interested in the Matters in question, then to any of the Coroners of such County not interested as aforesaid, or if all the Coroners shall be so interested, then to the Person

then

then in being who last filled the Office of Coroner of the said County, not interested as aforesaid, commanding such Sheriff or Coroner or other Person to impannel, summon, and return, and the said Sheriff, Coroner, or other Person is hereby accordingly authorized, empowered, and required to summon, a Jury of at least Eighteen sufficient and indifferent Men qualified according to the Laws of this Realm to be returned for the Trial of Issues in Her Majesty's Courts of Record at *Westminster*; and the Persons so to be impannelled, summoned, and returned are hereby required to appear before the said Sheriff, Under Sheriff, Coroner, or other Person at such Time and Place as in such Warrant shall be directed or appointed, and to attend from Day to Day until discharged; and out of such Persons so to be impannelled, summoned, and returned a Jury of Twelve Men shall be drawn by the said Sheriff, Under Sheriff, or Coroner, or some other Person to be by him appointed, in such Manner as Juries for Trials of Issues joined in Her Majesty's Courts at *Westminster* are by Law directed to be drawn; and in case a sufficient Number of Jurymen shall not appear at the Time and Place so to be appointed such Sheriff, Under Sheriff, Coroner, or other Person shall return other honest and indifferent Men of the Standers-by, or of others that can be speedily procured to attend that Service (being so qualified as aforesaid), to make up the said Jury to the Number of Twelve; and all Parties concerned may have their lawful Challenges against any of the said Jurymen, but shall not challenge the Array; and the said Sheriff, Under Sheriff, Coroner, or other Person is hereby required and empowered to summon before him all and every Person or Persons who shall be thought necessary to be examined as a Witness or Witnesses touching the Matters in question or dispute, and may order and authorize the said Jury or any Six or more of them to view the Place or Places or Matter or Matters in controversy; and such Jury shall upon their Oaths, or being of the Society of Persons called *Quakers* upon their solemn Affirmations (which Oaths and solemn Affirmations, as well as the Oaths and solemn Affirmations of such Person or Persons as shall be called upon to give Evidence, the said Sheriff, Under Sheriff, Coroner, or other Person is hereby empowered and required to administer,) inquire of, assess, and ascertain and give a Verdict for the Sum or Sums of Money to be paid for the Purchase of such Lands and Hereditaments, and also the separate and distinct Sum or Sums of Money to be paid by way of Recompence or Compensation either for the Damages which shall or may before that Time have been done or sustained as aforesaid, or for the future temporary or perpetual or any recurring Damages which shall have been so occasioned as aforesaid, and the Cause or Occasion of which shall have been in part only removed by the said Commissioners for the Drainage of the Low or Marsh Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley*, *Field* and *Levens*, and which cannot or will not be further obviated or remedied or repaired by them; and the said Sheriff, Under Sheriff, Coroner, or other Person shall accordingly give Judgment for such Purchase Money, Recompence, or Compensation as shall be assessed by such Jury: Provided always, that no less than Seven Days Notice in Writing of the Time and Place at which such Jury are so required to be returned shall be given by the said last-mentioned Commissioners to the Party or Parties with whom any such Controversy shall arise, by leaving such Notice at the Dwelling House of any such Person or Persons, or of the Clerk or Agent or head Officer of

any such Body Politic, Corporate, or Collegiate, or with some Tenant or Occupier of the Premises intended to be valued or respecting which any such Question shall arise.

Lands bought of any Corporation or Person under Disability to be valued by Two Surveyors or their Umpire.

LXII. Provided always, and be it further enacted, That the Consideration Money to be paid for any Lands by virtue of this Act to be purchased from or conveyed by any Person or Corporation under any Disability or Incapacity, or not having Power to sell except under the Provisions in this Act contained, and the Compensation Money to be paid for any permanent Damage or Injury to such Lands, shall not be less than shall be determined by the Verdict of a Jury, or by Arbitration, as in this Act mentioned; and for the Purposes of such Arbitration there shall be appointed Two able practical Surveyors, one of whom shall be nominated by the Commissioners or Persons requiring such Land for the Purposes of this Act, and the other by the Person or Corporation contracting or agreeing to sell the same; and if such Two Surveyors shall not agree in the Valuation thereof, then by such Third Surveyor as any Two Justices acting for the said County shall for that Purpose nominate; and each of the said Two Surveyors, if they shall agree in and make their Valuation, or if not, then the Surveyor so to be nominated by the Justices as aforesaid, shall annex to their or his Survey, Estimate, or Valuation, when complete, a Declaration of the Correctness thereof in the Form (or as near thereto as the Circumstances of the Case will admit) prescribed in the Schedule of an Act passed in the Sixth Year of the Reign of His late Majesty King *William* the Fourth, for the Suppression of voluntary and extra-judicial Oaths and Affidavits: Provided also, that in case any Person from whom any Land is by this Act authorized to be purchased or taken shall be absent from *England*, or shall not be found, the Surveyor to be appointed by or on the behalf of such Person may be appointed by any Two such Justices as aforesaid; and the Costs and Expences of such Valuation as aforesaid shall be borne and paid by the said Commissioners or Persons as aforesaid: Provided also, that in case the Person shall be absent from *England*, or not to be found, and a Jury shall be summoned to assess the Purchase Money or Compensation as aforesaid, the said Jury shall not give a Verdict for a less Sum of Money than shall be determined by a Surveyor appointed by Two Justices of the Peace as herein-before mentioned.

Expences of Jury how to be paid.

LXIII. And be it further enacted, That in every Case where the Verdict of a Jury shall be given for the same or for a greater Sum than shall have been previously offered or tendered by the Commissioners for the Time being for the Drainage of the Low or Marsh Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, for the Purchase of any Lands or Hereditaments to be used or taken by them for the Purposes of this Act, or the Estate or Interest of any Person therein, or as Compensation or Recompence for any Damage, Loss, or Injury which may happen or arise in the Execution of any of the Powers hereby granted, all the Costs of summoning and impannelling such Jury and taking such Inquisition, and the Expence of Witnesses, and recording such Verdict and Judgment, shall be defrayed by such Commissioners as last aforesaid, and such Costs and Expences shall be settled and determined by the said Sheriff, Under Sheriff, Coroner, or other Person; and in case such Costs and Expences shall not be paid to the Party entitled to receive the same within Ten Days after the same

shall have been demanded, then the same shall and may be levied and recovered by Distress and Sale of any Goods and Chattels of the said last-mentioned Commissioners vested in them or either of them by virtue of this Act, under a Warrant to be issued for that Purpose by any Justice of the Peace for the County of *Westmorland*, and who is not interested in the Matter in question, which Warrant any such Justice is hereby authorized and required to issue under his Hand and Seal on Application made to him for that Purpose by the Party entitled to receive such Costs and Expences; but if the Verdict of the Jury be given for a less Sum than shall have been previously offered or tendered by or on behalf of such last-mentioned Commissioners, then and in every such Case One Half Part of such Costs and Expences shall be defrayed by the Person or Persons with whom such Commissioners shall have such Controversy or Dispute, and the Remainder shall be paid by the said Commissioners; and such One Half Part of such Costs and Expences, having been ascertained and settled in manner herein-before described, shall and may be deducted out of the Money so to be determined or adjudged to be paid to such Person or Persons as aforesaid as so much Money advanced to and for his, her, or their Use, and the Payment or Tender of the Remainder of the Money so to be determined or adjudged shall be deemed and taken, to all Intents and Purposes whatsoever, to be a good Payment or Tender in satisfaction of the whole thereof: Provided always, that in all Cases where by reason of Absence in Foreign Parts, or from any other Cause or Disability not herein-before provided for, any Person shall have been prevented from treating and agreeing as aforesaid, the whole of such Charges and Expences shall be borne and paid by the said Commissioners out of the Monies aforesaid.

Persons requesting Juries to enter into Bonds to prosecute and pay Expences.

LXIV. And be it further enacted, That all and every Person and Persons with whom the Commissioners for the Time being for the Drainage of the Low or Marsh Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* shall have any such Controversy or Dispute, shall, before such Commissioners shall be obliged to issue out their Warrant or Warrants for the summoning of such Jury, enter into a Bond, with Two sufficient Sureties, to the said last-mentioned Commissioners, in a Penalty of One hundred Pounds, to prosecute his, her, or their Complaint, and to bear and pay the Costs and Expences of summoning and returning such Jury and taking such Verdict, and of the summoning and of the Attendance of Witnesses, in case such Costs and Expences shall fall upon him, her, or them, to be paid according to the true Intent and Meaning of this Act.

Lands to vest in Commissioners on Payment or Tender of Purchase Money.

LXV. And be it further enacted, That upon Payment or legal Tender, or upon Payment into the Bank of *England* as herein-after mentioned, of such Sum or Sums of Money as shall have been contracted or agreed for between the Parties, or assessed by any Jury in manner aforesaid, for the Purchase of any such Lands or other Hereditaments, to the Proprietor or Proprietors of any such Lands or other Hereditaments, or to such other Person or Persons as shall be interested therein or entitled to receive such Money, such Payments being made respectively within One Calendar Month after the same shall be so agreed for or determined as aforesaid, it shall be lawful for the Commissioners for the Time being for the Drainage of the Low or Marsh Lands or Grounds in the said several Townships or

or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, and their Agents, Workmen, and Servants, immediately to enter upon such Lands and Hereditaments respectively purchased by such Payment as aforesaid, and then and thereupon the yearly Profits thereof, and all the Estate, Use, Trust, and Interest of any Person or Persons therein, shall thenceforth be vested in the said Commissioners, to and for the Purposes of this Act, until the Power of such last-mentioned Commissioners shall, as herein-after mentioned, cease, and then and from thenceforth the same shall be vested in the Superintendent or Superintendents to be appointed as herein-after mentioned.

If Amount of Compensation for Damage done to Lands be alleged to be under 20*l.* a Justice may settle the same.

LXVI. Provided always, and be it further enacted, That in any Case where the Amount of the Compensation for any Damage done or occasioned by the Commissioners for the Time being for the Drainage of the Low or Marsh Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, in the Exercise of any of the Powers for making or repairing the said Works, shall be disputed, and be alleged to amount to any Sum under Twenty Pounds, then the Amount of the Compensation for such Damage shall and may be ascertained and settled by any Justice of the Peace for the said County, and shall and may be levied and recovered by Warrant under the Hand and Seal of any such Justice, together with such reasonable Costs and Charges as shall be awarded and allowed by such Justice, by Distress and Sale of the Goods and Chattels of the said last-mentioned Commissioners, unless such Commissioners shall pay and discharge the same, which they are hereby authorized an dempowered to do, out of any Monies received or to be received by them as such Commissioners as aforesaid by virtue of this Act.

Application of Compensation Money when exceeding 200*l.*

LXVII. And be it further enacted, That if any Money shall be paid or agreed to be paid or awarded for the Purchase of any Lands, Tenements, or Hereditaments, or for Satisfaction for any Damage to be done to any Lands, Tenements, or Hereditaments in the Execution of the Powers of this Act, for the Purposes of this Act, which shall belong to any Corporation, Feme Covert, Infant, Lunatic, or Person or Persons under any Disability or Incapacity as herein-before mentioned, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of Her Majesty's Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Commissioner or Commissioners acting in the Execution of this Act for the Division, Allotment, or Inclosure of any Commons, Mosses, or Waste Lands or Grounds, or for the Drainage of the Low or Marsh Lands or Grounds, within the Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, to the Intent that such Money shall be applied, under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, in the Purchase of the Land Tax, or towards the Discharge of any Debt or Debts, or such other Incumbrances, or any Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands,

Tenements,

Tenements, or Hereditaments standing settled therewith to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed or settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the Lands and Hereditaments which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime, and until such Purchase shall be made, the said Money shall, by Order of the Court of Exchequer upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities; and in the meantime, and until the said Consolidated or Reduced Bank Annuities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so hereby directed to be purchased, in case such Purchase or Settlement were made.

When less than 200*l.* and amounting to 20*l.*

LXVIII. And be it further enacted, That if any Money so paid or agreed or awarded to be paid as aforesaid, and belonging to any Corporation, or to any Person or Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall amount to or exceed the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased, taken, or used, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in the Manner herein-before directed; or otherwise the same shall be paid, at the like Option, to Two Trustees to be nominated by the Person or Persons making such Option, and approved of by the Commissioner or Commissioners for the Time being for such Division, Allotment, or Inclosure, or Drainage, as the Case may require, such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties, in order that such Principal Money, and the Dividends arising thereon, may be applied in manner herein-before directed, so far as the Case is applicable, without obtaining or being required to obtain the Direction or Approbation of the said Court of Exchequer.

When less than 20*l.*

LXIX. Provided always, and be it further enacted, That where such Money so to be paid as aforesaid shall be less than Twenty Pounds, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so purchased, taken, or used for the Purposes of this Act, as the Commis-

sioner or Commissioners for the Time being for such Division, Allotment, or Inclosure, or Drainage, as the Case may be, shall think fit; or in case of Infancy or Lunacy, then to his, her, or their Guardian or Guardians, Committee or Committees, and to and for the Use and Benefit of such Person or Persons so entitled respectively.

Expences of Titles to be paid by the Commissioners.

LXX. And be it further enacted, That all the Costs, Charges, and Expences, on the Part as well of the Seller as the Purchaser, of all Conveyances and Assurances of any Lands which shall be purchased or taken by the said Commissioners for the Drainage of the Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, for the Purposes of this Act, and of deducing, evidencing, and verifying such Title as such Commissioners may require to the said Lands or Grounds, and of making out and furnishing such Abstract and such attested Copies as the said Commissioners may require, and all Expences whatsoever incident to the Investigation, Deduction, and Verification of such Title, and to the Title and Conveyance of any outstanding Terms or Estates which the said Commissioners may require to be called in or conveyed, shall be exclusively borne and paid by the said Commissioners for the Drainage of the Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*; and the said Commissioners, before entering into possession of the Lands so purchased or taken, shall pay the Amount of such Costs, Charges, and Expences, or, in case there shall be any Dispute about the same, shall obtain such Order as herein-after mentioned, and shall deposit, for the Purpose of paying the same, in such Manner as herein-after mentioned, the Amount of the Costs, Charges, and Expences claimed by the Party or Parties from whom the Lands shall be purchased or taken: Provided always, that the said Commissioners shall not be prevented from entering into possession of the Lands so purchased by reason of the Nonpayment of the said Costs, Charges, and Expences, or by reason of the Order hereinbefore mentioned not having been obtained, or the Deposit herein mentioned not having been made, unless the Party or Parties from whom such Lands shall have been purchased shall, within Seven Days after Notice in Writing for that Purpose shall have been given to them by the said Commissioners, deliver a Bill of their said Costs, Charges, and Expences to the said Commissioners.

How such Costs are to be ascertained.

LXXI. And be it further enacted, That if the said Commissioners for the Drainage of the Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, and the Party or Parties aforesaid, cannot agree as to the Amount of such Costs, Charges, and Expences, the same shall be ascertained by the said Court of Exchequer; and it shall be lawful for the said Court, on Petition to be presented by the said Commissioners, to order and direct that such Costs, Charges, and Expences shall be referred to one of the Masters of the said Court to be taxed in the usual Manner, and such Order shall be served on the Party or Parties aforesaid; and after Taxation thereof it shall be lawful for the said Court to order and direct the Amount of such Costs, Charges, and Expences so taxed, together with the Costs, Charges, and Expences attending the Taxation thereof, or

so much of the same as shall be payable by the said Commissioners to the Person or Persons from whom such Lands shall have been purchased or taken, to be paid to the Person or Persons aforesaid: Provided always, that the said Commissioners shall not be at liberty to enter into possession of the Lands so purchased or taken until an Order shall have been made for the Taxation of the said Costs, Charges, and Expences, and the said Commissioners shall have deposited the Amount thereof in the Bank of *England* in the Name and with the Privity of the Accountant General of the said Court of Exchequer, to be placed to his Account there *ex parte* the Commissioners for the Drainage of the Low or Marsh Lands or Grounds in the Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* in the County of *Westmorland*, pursuant to the Method prescribed by the herein-before mentioned Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, which Sums shall be applied, under the Order of the said Court, in payment of the said Costs, Charges, and Expences: Provided always, that the Expence of determining such Costs, Charges, and Expences as aforesaid, and of obtaining the Order or Orders referring the same to be taxed, shall be paid and borne by the said Commissioners, unless the Sixth of the said Costs, Charges, and Expences shall be disallowed, in which Case the said Expence shall be paid and borne by the Person or Persons from whom the said Lands were purchased or taken, and the Amount thereof may then be paid to the said Commissioners out of the said Sum so deposited by them as aforesaid.

In case of not making out Titles, or if Persons cannot be found, Purchase Money to be paid into the Bank, subject to the Order of the Court of Exchequer by Motion or Petition.

LXXII. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be so ordered to be paid as aforesaid shall not be able to make a good Title to the Premises to the Satisfaction of such Commissioner or Commissioners, as the Case may be, or shall refuse to execute such Conveyance or Conveyances, or in case such Person or Persons to whom any Sum or Sums of Money shall be so ordered to be paid as aforesaid cannot be found, or if the Person or Persons entitled to such Lands, Tenements, or Hereditaments be not known or discovered, then and in every such Case it shall be lawful for such Commissioner or Commissioners, as the Case may be, to order the said Sum or Sums so awarded to be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account to the Credit of the Parties interested in the said Lands, Tenements, or Hereditaments (describing them), subject to the Order, Control, and Disposition of the said Court; which said Court, on the Application of any Person or Persons making claim to such Sum or Sums of Money or any Part thereof, by Motion or Petition, shall be and is hereby empowered in a summary Way of Proceeding, or otherwise as to the said Court shall seem meet, to order the same to be laid out and invested in the Public Funds, or to order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estate or Estates, Title, or Interest of the Person or Persons making claim thereto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *England* who shall receive such Sum or Sums of Money is and are hereby required to give a Receipt or Receipts for such Sum or Sums, mentioning and specifying for what and for whose Use the

the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into the Bank as aforesaid.

When Question shall arise touching the Title to Money to be paid, the Person who shall be in possession of the Land at the Time of such Purchase shall be deemed entitled.

LXXIII. Provided always, and be it further enacted, That when any Question shall arise touching the Title of any Person to any Money to be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer in pursuance of this Act for the Purchase of any Lands, Tenements, or Hereditaments, or of any Estate, Right, or Interest in any Lands, Tenements, or Hereditaments to be purchased in pursuance thereof, or to any Bank Annuities to be purchased with any such Money, or to the Dividends or Interest of any such Bank Annuities, the Person or Persons who shall have been in possession of such Lands, Tenements, or Hereditaments at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Hereditaments according to such Possession, until the contrary shall be shown to the Satisfaction of the said Court of Exchequer; and the Dividends or Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities, shall be paid, applied, and disposed of accordingly, unless it shall be made to appear to the said Court that such Possession was a wrongful Possession, and that some other Person or Persons was or were lawfully entitled to such Lands, Tenements, and Hereditaments, or some Estate or Interest therein.

The Court may order reasonable Expences of Purchases and of Investments to be paid by the Commissioners.

LXXIV. Provided also, and be it further enacted, That where, by reason of any Disability or Incapacity of any Party entitled to any Lands to be taken or used, or in respect of which any Satisfaction, Recompence, or Compensation shall be payable under the Authority of this Act, the Purchase Money for the same, or the Money paid for such Compensation, shall be required to be paid into the Bank of *England*, it shall be lawful for the said Court to order the Costs, Charges, and Expences attending the Purchase or the taking or using of such Lands, or which may be incurred in consequence thereof, and of the Reinvestment of the Purchase or Compensation Money in other Land, or so much of such several Costs, Charges, and Expences as the said Court shall deem reasonable, and likewise the Costs, Charges, and Expences occasioned only by the passing of this Act, and not by Litigation between Claimants or otherwise, of any Proceedings had as herein-before authorized for the Investment of such Purchase or Compensation Money in Government or Real Securities, and for the Payment of the Interest and Dividends thereof, and of such Government or Real Securities, or of the Money to be produced by the Sale thereof, out of Court, together with the necessary Costs and Charges of obtaining the proper Order for such Purposes, to be paid by the said Commissioners out of the Monies to be received by virtue of this Act; and the said Commissioners shall from Time to Time pay such Sums of Money for such Costs, Charges, and Expences as the said Court shall direct; and also that where in any other Cases the Purchase Money for any Lands to be taken or used under the Authority of this Act, or any Monies payable for any Satisfaction, Recompence, or Compensation under this Act, shall, by reason of or under any of the Provisions of this Act, be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, it shall likewise be lawful

lawful for the said Court to order the reasonable Expences of any Party or Parties in procuring the same to be paid out of Court, together with the necessary Costs and Charges of obtaining the proper Orders for such Purposes, to be in like Manner paid by the said Commissioners out of the Monies to be received by virtue of this Act; and the said Commissioners accordingly shall from Time to Time pay such Sums of Money and in such Manner and for such Purposes as the said Court shall direct.

Power for incapacitated Persons to borrow Money to pay Expences.

LXXV. And be it further enacted, That it shall be lawful for all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Tenants for Life or in Tail, or for any partial or qualified Interest, Husbands, Guardians, Feoffees in Trust for charitable or other Purposes, Heirs, Executors, Administrators, Successors, Committees for Lunatics and Idiots, and all other Trustees whomsoever, and for all Persons seised, possessed of, or interested in right of others, being Persons labouring under any Disability or Incapacity, who are or is or shall be seised, possessed of, or interested in the Lands or Grounds to be rated or taxed by virtue of this Act, to charge such Lands or Grounds, or any Part or Parts thereof respectively, with any such Sum or Sums of Money, not exceeding the Sum of Five Pounds *per* Acre, as shall be ascertained and determined by the said Commissioners for the Drainage of the said Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* to be payable by such Parties or Persons respectively as or for their Shares of the Proportion of the Costs, Charges, and Expences of obtaining and passing this Act, and of the Costs, Charges, and Expences of making and completing the Engines and Works of Drainage by this Act authorized to be made, and all other the Costs, Charges, and Expences of carrying this Act into execution, so far as applies to the erecting, forming, and making the said intended Works of Drainage, and such further Sum as shall be the Amount of the Costs, Charges, and Expences of preparing the Deeds and Instruments necessary for the Purposes aforesaid, and, for securing the Repayment of such Sums with Interest, to grant, mortgage, surrender, lease, or demise such Lands to such Person or Persons as shall respectively advance and lend such Sum and Sums of Money, and to his, her, or their respective Heirs, Executors, Administrators, or Assigns, in Fee, or for any Term or Number of Years, so as every such Grant, Mortgage, Surrender, Lease, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be re-conveyed or surrendered, when such Sum or Sums of Money thereby to be secured, and the Charges to be occasioned by preparing and executing such Security, and of borrowing such Sum or Sums of Money, with Interest for the same respectively, shall be fully paid and satisfied; and any Mortgagee or Mortgagees advancing or lending Money under the present Power, and obtaining the Receipt or Receipts of the Commissioner or Commissioners for the same, shall not be obliged to see to the Application thereof, or be in anywise answerable for any Misapplication or Nonapplication thereof, or of any Part thereof; and so as in every such Grant, Mortgage, Surrender, Lease, or Demise which shall by virtue of this Act be made by any Tenant in Tail, or for Life or Lives, or Years determinable on a Life or Lives, or upon any other Contingency, there be contained a Proviso or Condition that no Person who shall afterwards become entitled

in Remainder or Reversion to the Lands or Tenements therein comprised shall be liable to pay any further or larger Arrear of Interest in respect of the Money so to be charged as aforesaid than for a Year preceding the Time that the Title to such Possession shall have commenced.

Award of Commissioners of Drainage.

LXXVI. And be it further enacted, That the said Commissioners for the Drainage of the said Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* shall and they are hereby authorized and required, as soon as conveniently may be after the said Works of Drainage hereby directed and authorized to be made shall be perfected and completed, to form and draw, or cause to be formed and drawn up, an Award or Instrument in Writing directing in what Proportions the Occupiers of the said several Lands and Grounds shall contribute to the Costs, Charges, and Expences of maintaining, supporting, and keeping in repair the intended Works of Drainage; and such Commissioners shall and they are hereby required to include in such Award all such Orders, Regulations, and Determinations relating to such Works of Drainage as are in and by this Act declared, required, or authorized to be made or established; which said Award or Instrument shall be fairly ingrossed and written upon Parchment, and signed and sealed by the said Commissioners, and to which shall be annexed a Schedule describing the Lands and Grounds liable to be assessed and taxed by virtue of this Act, to whom such Lands and Grounds respectively belong, and in what Proportions such Assessment, Rate, or Tax is to be borne and paid, together with a Map or Plan of the said Lands and Grounds; nevertheless in fixing such Proportions the said Commissioners shall have especial Regard to the different Degrees in which the said several Farms and Lands will be benefited by such intended Works of Drainage.

Prescribing Scale for laying Assessment.

LXXVII. And be it further enacted, That the Proportions stated in the said Schedule and Assessment hereby directed to be annexed to the said Award shall be adopted and taken to be the Scale or Proportion upon which all Assessments to be laid under the Authority of this Act, so far as the same relate to the said intended Works of Drainage, shall be apportioned and regulated.

After Execution of the Award the Powers of Commissioners to cease.

LXXVIII. And be it further enacted, That after the Execution of the said Award, and after the Election of a Superintendent or Superintendents of the said Works as by this Act directed, all and every the Appointment of the said Commissioners for the Drainage of the Low or Marsh Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* herein-before named, and their Successors, and the Powers of this Act given to and vested in them, of any Nature or Kind soever, touching or concerning the Execution of this Act or any Part thereof, shall cease and absolutely determine, any thing herein contained to the contrary notwithstanding.

Expences relative to works of Drainage how and by

LXXIX. And be it further enacted, That Three Ninth Parts, the whole into Nine equal Parts being considered as divided, of the Costs, Charges, and Expences preparatory to and of soliciting, preparing, settling, and passing this Act, and of all other the Costs, Charges, and Expences to which

whom to be paid.

which the Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* intended to be benefited by the said Works of Drainage shall be subject or liable jointly and in conjunction with the Lands or Grounds in the said Townships or Divisions of *Helsington*, *Strickland Roger*, and *Whinfell* intended to be inclosed and divided, shall be borne and defrayed by the Owners or Proprietors of the said Marsh or Low Lands within the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* to be charged with the Expences of supporting and maintaining the said Works of Drainage; and all and singular other the Costs, Charges, and Expences of erecting, making, and completing the new Works of Drainage, in the Proportions to be fixed by the Award of the said Commissioners herein-before mentioned, and of purchasing any Land that may be required for the Purposes aforesaid, or of making Compensation for any Injury which any Person or Persons may sustain by the erecting or making such intended Works of Drainage, or to which the said *John Watson* and *William Turner*, or either of them, or any Commissioner or Commissioners to be appointed in their or either of their Places, may in anywise be subject or liable or be entitled to claim in carrying the several Purposes of this Act into execution for the Drainage of the Low or Marsh Lands or Grounds within the Limits of the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, shall be borne and defrayed by the Owners or Proprietors of the said Lands or Grounds within the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* to be charged with the Expences of supporting and maintaining the said intended Works of Drainage, in the Proportions to be fixed by the Award of the said Commissioners; and the respective Sums of Money so due and owing from such Proprietor or Proprietors shall be payable and paid to such Owner or Owners, Person or Persons, and at such Times as the said Commissioners for executing the said intended Works of Drainage shall by Writing under their Hands order and direct; and in case any Person or Persons shall neglect to pay his, her, or their Proportion of the Costs, Charges, and Expences aforesaid, it shall be lawful to and for the said Commissioners for executing the said intended Works of Drainage, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause the same to be levied and recovered by Distress and Sale of the Goods and Chattels of the Person or Persons so making default as aforesaid, wheresoever the same shall be found, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, the reasonable Charges of such Warrant, and of taking, keeping, and selling such Distress, being first deducted.

Proprietors and Occupiers to hold an Annual Meeting, and fix Amount to be raised for Repairs, and appoint Superintendent, &c.

LXXX. And for the Purpose of effectually sustaining, supporting, and upholding all and singular the aforesaid Drains and Watercourses, Banks, Causeways, Bridges, Sluices, Flood Gates, Tunnels, Watergates, Steam or other Engines, Windmills, and other Works, and of supplying all and singular Fuel and other Things that may be required to work the same; be it further enacted, That it shall be lawful for the Proprietors and Occupiers of the several Messuages, Farms, and Lands in the said several Townships of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* liable to the Payment of the Sums of Money or Assessments for making and maintaining the aforesaid Works of Drainage, and they are hereby

required, on *Easter Tuesday* in every Year, to assemble in the Vestry Room of the Parish Church of *Heversham*, the first of such Meetings to take place on *Easter Tuesday* next after the Execution of the said Commissioners Award, with Power from Time to Time to adjourn any such Meeting or Meetings to such other Place or Places as any such Meeting or Meetings shall think proper, and at which Meeting or Meetings such Proprietors and Occupiers as aforesaid who shall be then present, or the major Part of them in Value as herein-after mentioned, shall then and there determine and fix the Sum of Money that shall be contributed and raised during the then ensuing Year for the Purposes of effectually sustaining, supporting, and upholding all and singular the aforesaid Works, and for the other Purposes herein-after mentioned, and shall also nominate and appoint One or more fit and proper Person or Persons, who shall be willing to take upon himself or themselves the Duties of such Office, to be the Superintendent or Superintendents to overlook such several Drains, Watercourses, Banks, Causeways, Bridges, Sluices, Flood Gates, Tunnels, Watergates, Steam or other Engines, Windmills, and other Works, and shall also fix and determine the Amount of Salary or Compensation to which such Person or Persons shall be entitled for his or their Services: Provided always, that all and every the Marsh or Low Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* within the Limits of this Act, and whether charged by the Award of the said Commissioners or otherwise, shall, after the Execution of the Award of the said Commissioners, be subject in the first place to an equal or even Rate of Sixpence *per* Acre in each Year to be collected by the said Superintendent or Superintendents, and to be applied by him or them in or towards the Costs, Charges, and Expences of sustaining, supporting, and keeping in repair the said intended Works of Drainage.

Superintendent to give Security.

LXXXI. And be it further enacted, That every Person who shall be appointed a Superintendent under the Authority herein-before contained shall give Security for the due and faithful Execution of his Office, and for duly accounting for all Monies which as such Superintendent he shall or may receive, and for the punctual Payment thereof to the Person or Persons to whom the same ought to be paid; and such Security shall be by Bond, with Two or more sufficient Sureties, in such Penalty as such Meeting shall appoint; and every such Bond shall be made to the Auditor of the Accounts for the Time being herein-after directed to be appointed, and may, on any Breach of the Condition thereof, be put in force by and in the Name of the Auditor of Accounts for the Time being; and no Action or Proceeding upon any such Bond shall abate or be discontinued by the Death of any such Auditor of Accounts, or by his Resignation of or Removal from Office, or by his ceasing to hold the same.

Duties of Superintendent.

LXXXII. And be it further enacted, That the Person or Persons so to be appointed Superintendent or Superintendents as aforesaid shall and he and they is and are hereby required, immediately after such his or their Appointment or Appointments, to levy and raise, in the Proportions to be fixed by the Award of the said Commissioners for executing the said intended Works of Drainage, and from the Person or Persons liable to pay the same, such Sum and Sums of Money as shall have been fixed and determined

determined upon at any such Meeting, and to pay and apply such Monies in or towards the Payment of the Salary or Salaries of such Superintendent or Superintendents, and carrying into execution the Determination or Determinations of such Meeting, and the several Purposes last herein-before mentioned; and such Superintendent or Superintendents shall in all respects observe, perform, fulfil, and carry into execution the Provisions of this Act, and the Directions of the Award of the said Commissioners, so far as the same shall apply to the Drainage and Works of Drainage of the said Lands or Grounds.

Power to erect additional Works of of Drainage.

LXXXIII. And be it further enacted, That it shall be lawful for the Proprietors and Occupiers of the several Messuages, Farms, and Lands in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens* liable to the Payment of the Sums of Money or Assessments for making or maintaining the aforesaid Works of Drainage, and such Proprietors and Occupiers shall and they are hereby empowered, at the Annual Meeting to be held for the Election of a Superintendent or Superintendents of the said Works of Drainage, from Time to Time to order and direct such additional Drains, Watercourses, Banks, Causeways, Bridges, Sluices, Flood Gates, Tunnels, Drains, Watergates, Steam or other Engines, Windmills, and other Works to be made, erected, or executed as they may think necessary for effectually draining the said several Farms and Lands, and every Part thereof; and in order to carry into full and complete Execution any such Order or Resolution of such Meeting, the Superintendent or Superintendents so to be appointed shall have and exercise all the same Powers and Authorities which are vested in the said Commissioners for executing the said intended Works of Drainage in and by this Act; and the Costs, Charges, and Expences of erecting and making such additional Works of Drainage shall be paid, borne, and satisfied by the same Persons and in the same Proportions as the other Assessments by this Act directed to be made and levied for the sustaining, supporting, and upholding the said Works of Drainage.

Auditor to be appointed annually.

LXXXIV. And be it further enacted, That it shall be lawful for the Proprietors and Occupiers of Messuages, Farms, and Lands so assembled, or such Majority of them as herein-after mentioned, at such Meeting for the Appointment of a Superintendent or Superintendents as aforesaid, and they are hereby required, to elect and choose some fit and proper Person to be the Auditor of Accounts of such Superintendent or Superintendents for the ensuing Year; and in case of the Death or Refusal to act or Resignation of the Person so to be appointed Auditor of Accounts as aforesaid, it shall be lawful for such Proprietors and Occupiers or such Majority of them assembled at a Meeting to be called for that Purpose, and to be held after Ten Days previous Notice specifying the Object of the Meeting shall have been given by any One or more of such Proprietors or Occupiers by posting the same on the principal Door of the Parish Churches of *Heversham* and *Kirkby in Kendal*, and the Chapels of *Underbarrow* and *Helsington*, on some *Sunday* during or immediately before Divine Service in the Forenoon, to elect and choose some fit and proper Person in his Stead, which Person so to be appointed as last aforesaid shall continue in Office until the next annual Day of Election.

LXXXV. And

Regulating the Mode of voting at Elections.

LXXXV. And be it further enacted, That at all Meetings to be held in pursuance of this Act relative to the Drainage of the said Lands or Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, at which any of the Proprietors or Occupiers of such Lands shall attend, all Elections and other Matters shall be made and determined by a Majority of Votes of the Proprietors and Occupiers of Lands charged to the Expence of forming, completing, supporting, and keeping in repair the said Works of Drainage, present by themselves or Agents or Deputies, appointed pursuant to the Directions of this Act, and that every Proprietor or Occupier of Lands in the then last Rate or Assessment charged with or liable to the annual Payment of the Sum of Two Shillings and Sixpence shall be entitled to have and exercise One Vote; and every Proprietor and Occupier of Lands shall be entitled to have and exercise an additional Vote in respect of every additional Sum of Five Shillings with which the Lands of which he is such Owner or Occupier shall be charged and assessed over and above the first Sum of Two Shillings and Sixpence; yet that no such Proprietor or Occupier shall have more then Ten Votes in the whole: Provided always, that in all Cases of Infancy, Idiotcy, or Lunacy the Guardian or Guardians, Trustee or Trustees shall be deemed and taken to be the Proprietor of the Estate of the Infant, Idiot, or Lunatic; and that in all Cases of Joint Tenancy, Tenancy in Common, or Tenancy in Coparcenary, the several Tenants shall for the Purposes of this Act be deemed and considered to be One Proprietor: Provided nevertheless, that at the first Meeting which shall be held for the Election of a Superintendent or Superintendents under this Act the said Proprietors and Occupiers shall vote according to a Scale to be fixed by the said Commissioners.

No Person to have more than Ten Votes.

Proprietors may Vote by Proxy.

LXXXVI. And be it further enacted, That it shall be lawful for the Proprietors or Owners of the said Lands to vote at any such Meeting by his, her, or their Agent or Deputy, whether such Agent or Deputy shall be or be not a Proprietor or Owner in his or her own Right: Provided always, that every such Agent or Deputy shall be appointed by Writing under the Hand or Hands of the Proprietor or Owner or Proprietors or Owners entitled to vote, or, in case of a Corporation, under their Common Seal.

Proceedings of Meetings to be entered in a Book, and signed by Chairman.

LXXXVII. And be it further enacted, That all Orders, Resolutions, and Proceedings of such Meetings as aforesaid shall from Time to Time be fairly written and entered in a proper Book or Books to be kept for that Purpose, with the Names of the Parties who shall attend such Meetings, and (in case of Division upon any Question) stating the Number constituting the Majority; and such Entries, signed by the Chairman of such Meeting, shall be deemed and taken to be Originals, and the same or true Copies thereof shall be admitted to be read in Evidence in all Courts whatsoever in all Causes, Suits, and Actions touching any thing to be done in pursuance of and under the Authority of this Act; and the said Book or Books shall be open to the Inspection of the Land Owners and Occupiers at all seasonable Times.

Public Drains to be scoured.

LXXXVIII. And be it further enacted, That the said Superintendent or Superintendents shall and he or they is or are hereby required from Time

Time to Time to cause the several public Drains already made and used and to be made and used for the draining of the said Lands and Grounds, or any of them, to be well and sufficiently roaded, scoured, and cleansed from Weeds and other Rubbish and Obstructions twice at least in each and every Year.

Dikes to be kept open.

LXXXIX. And be it further enacted, That the several Occupiers of the said Lands so intended to be drained as aforesaid shall at all Times well and sufficiently road, cleanse, deepen, widen, and repair the several Droveways, Dikes, Outring or Partition Dikes, and Division Dikes adjoining and belonging to their said respective Lands, and shall at all Times keep and maintain the said Dikes and every of them of such sufficient Width as the said Superintendent or Superintendents of the said Works of Drainage, in pursuance of a Resolution of a Meeting of the Proprietors and Occupiers, shall direct and appoint, not exceeding Twelve Feet at the Top and Six Feet at the Bottom, and of a sufficient Depth from the level Soil; and in case any such Occupier or Occupiers shall at any Time refuse or neglect so to road, cleanse, deepen, widen, or repair any of the said Dikes adjoining or belonging to his, her, or their said Lands, or to keep and maintain the same of such Width and Depth as aforesaid, for the Space of Twenty Days next after Notice in Writing under the Hand of the Superintendent or Superintendents given to such Occupier or Occupiers, or left at his, her, or their last or usual Place or Places of Abode for that Purpose, every such Occupier shall for every such Neglect forfeit and pay the Penalty or Sum of Five Pounds; and it shall be lawful for the Superintendent or Superintendents from Time to Time after such Neglect as aforesaid to cause such Dikes to be well and sufficiently roaded, cleansed, deepened, widened, and repaired at the Expence of such respective Occupiers; and by Warrant and Precept under the Hand of any Justice of the Peace, and which Warrant or Precept any Justice of the Peace is hereby empowered from Time to Time to sign and give to the said Superintendent or Superintendents, to levy such Proportions, Charges, and Expences upon such respective Goods, Chattels, or Effects of such Occupier or Occupiers, rendering the Overplus (if any) of the Monies which shall be thereby levied to such Occupiers respectively.

Officers to account.

XC. And be it further enacted, That any and every Person who shall be appointed Superintendent as aforesaid shall under his Hand, at such Time or Times and in such Manner as the Auditor of Accounts for the Time being shall direct, render to such Auditor of Accounts or to such Person or Persons as he shall appoint true and perfect Accounts in Writing of all the Monies which shall have been received by such Superintendent by virtue of and for the Purposes of this Act, and how much thereof hath been paid and disbursed, and for what Purposes, together with the proper Vouchers for such Payments, and shall pay all such Monies as shall remain in his Hands to the said Auditor of Accounts, or to such Person or Persons as he shall appoint; and if any such Superintendent shall not make out and render such Accounts, or produce and deliver up the Vouchers relating to the same, or make Payment as aforesaid, or shall not deliver to the said Auditor of Accounts, or to such Person or Persons as he shall appoint, within One Calendar Month after being thereto required, all Books, Papers, and Writings in his Custody

or Power relative to the Execution of his Office, or shall refuse or neglect to pay such Monies as upon the Balance of any Account or Accounts shall appear to be in his Hands to the said Auditor of Accounts, or as he shall direct or appoint, then and in any of the Cases aforesaid such Auditor of Accounts may and he is hereby authorized and empowered to bring or cause to be brought any Action or Actions, either upon the said Bond or otherwise as he may be advised, against any such Superintendent, or any of his Sureties, for neglecting or refusing as aforesaid, in order for the Recovery of the Monies that shall be in the Hands of such Superintendent or Superintendents as aforesaid; and all and every the Sum and Sums of Money which shall be paid to such Auditor by any such Superintendent as aforesaid, or which shall be recovered in any such Action or Actions, shall be paid over by such Auditor to any succeeding Superintendent or Superintendents for the Time being, and shall be by him or them applied in defraying any Expences incurred for the Purposes of this Act during the Period and in the Execution of his or their Office of Superintendent or Superintendents; and such Application shall be accounted for in like Manner as the Assessments received by any Superintendent under this Act are to be accounted for.

Assessments how to be recovered.

XCII. And be it further enacted, That in case at any Time or Times any of the Occupiers of the said Low or Marsh Lands or Grounds shall refuse or neglect to pay any Sum or Sums of Money to which he or they shall be severally assessed by virtue of this Act in or towards the Expences of supporting and repairing the said Banks, Causeways, Bridges, Sluices, Flood Gates, Tunnels, Drains, Watergates, Windmills, Engines, and other Works, or of erecting and building any additional Works of Drainage in pursuance of any Determination or Resolution of any such Meeting as aforesaid, to any such Superintendent or Superintendents within Ten Days after the same shall have been demanded by virtue of a written or printed Notice, specifying the Nature and Amount of the Demand and the Name and Residence of the Superintendent or Superintendents, then it shall be lawful for any One of Her Majesty's Justices of the Peace for the County of *Westmorland* and he is hereby authorized and directed by Writing under his Hand, on Complaint made by such Superintendent or Superintendents, to summon all and every Persons and Person who shall have refused or neglected to pay as aforesaid to appear, at a Time and Place to be mentioned in such Summons, before such Justice, or before any other Justice of the said County of *Westmorland* who shall be then and there present, such Superintendent or Superintendents having previously made Oath that he had applied at the Premises rated to the said Assessment for Payment of the same, and had delivered or left a written or printed Notice as aforesaid, and that the same was then in arrear and unpaid; and such Summons shall be served upon every Person refusing or neglecting to pay as aforesaid, either by delivering the same to the Person or Persons thereby intended to be summoned, or by leaving the same at his or their last or usual Place of Abode; and if any Person or Persons so summoned shall refuse or neglect to attend at the Time and Place mentioned in such Summons, or if he, she, or they shall attend, and shall not show good and sufficient Cause to such Justice or Justices as may be then and there present that he, she, or they is or are not chargeable with such Assessment or Assessments, or other sufficient Cause, then and in every such Case all and every such Person and Persons shall pay the Assess-

Assessment or Assessments in respect of which Summonses or Summons were or was issued, and also the Costs and Charges of such Summonses respectively; and in all Cases where such Assessment or Assessments, or any of them, shall not be paid upon the Return of such Summonses respectively, it shall be lawful for the Justice who shall have signed and issued such Summons or Summonses, or for any other Justice of the Peace for the County of *Westmorland*, and he is hereby authorized and required, upon Oath made before him of the due Service of such Summons or Summonses by the Person who shall have served the same, and Proof on Oath that such Assessment or Assessments is or are actually due and owing, to grant a Warrant or Warrants under his Hand and Seal authorizing or directing the Person or Persons to levy such Assessment or Assessments, and the said Costs and Charges of the Information and other Proceedings (if the same shall not have been paid before), and the Costs and Charges of every such Warrant, and also the Costs, Charges, and Expences of executing the same, by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing, wheresoever such Goods and Chattels can be found; and the Amount of all such Costs, Charges, and Expences shall be fixed and ordered by the Justice granting the Summons or Warrant, according to his Discretion; and if, within Five Days next after any Distress shall be made, the said Assessment or Assessments, together with all the Charges for the same Warrant, and of making such Distress, and of keeping such Goods and Chattels, to be fixed and ordered as aforesaid, shall not be paid, then the said Person appointed to collect as aforesaid, or other Person authorized by the said Warrant, shall cause the said Goods and Chattels to be taken and sold either on the Premises where the same shall be distrained or elsewhere, or such Part or Parts thereof as in his or their Judgment shall be sufficient to pay the said Assessment or Assessments, and the said Costs, Charges, and Expences of the said Summons, Warrant, Distress, Removal, and keeping Possession of such Goods and Chattels so distrained, and the reasonable Costs, Charges, and Expences of taking and selling the same, to be fixed and ordered as aforesaid, and shall return the Overplus, if any, to the Owner or Owners of such Goods and Chattels respectively, upon Demand thereof made by him, her, or them.

Works vested in the Commissioners.

XCII. And be it further enacted, That all the several public Banks, Drains, Ditches, Sewers, Dams, Sluices, Tunnels, Bridges, Headings, Forelands, Watercourses, Doors, Outlets, Mills, Engines, and other Works which have been heretofore made or erected, or which shall be hereafter made or erected, by the Commissioners for the Time being for the Drainage of the Low or Marsh Lands or Grounds within the said several Townships or Divisions of *Helsington, Underbarrow* and *Bradley Field*, and *Levens*, as herein-before directed, or which shall at any Time hereafter be made or erected in pursuance of this Act, and the Right and Property of, to, and in the same, and the Materials of which the same shall consist, and all Land, Ground, and Hereditaments to be purchased, taken, or used for the Purpose of making any such Banks, Drains, or other Works in pursuance of this Act, and every of them, shall be and are and is hereby vested in the Commissioners for the Time being for the Drainage of the said Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington, Underbarrow* and *Bradley Field*, and *Levens*, until the Execution of their said Award and the Appointment of a Super-

Superintendent or Superintendents as herein-before mentioned, and from and immediately after such Appointment, then in such Superintendent or Superintendents for the Time being; and the Person or Persons in whom such Works shall be vested for the Time being is and are hereby authorized and empowered to insure such Engines from Fire, and to bring or cause to be brought any Action or Actions in their or his Names or Name, or to prefer or order and direct the preferring of Indictments or other Prosecutions against any Person or Persons who shall dig up, break, pull down, steal, take, carry away, destroy, spoil, or injure any of them, or any Part thereof, or the Materials of which the same shall be made, built, or consist.

Meeting for ascertaining the Mode of Valuation.

XCIII. And be it further enacted, That it shall be lawful for the Commissioner or Commissioners acting within the Limits of the Township or Division for which he or they is and are by this Act nominated and appointed such Commissioner or Commissioners to call a Meeting or Meetings, to be held after Ten Days previous Notice specifying the Purpose of the Meeting shall have been given by the Commissioner or Commissioners calling the same in the Manner other Notices are by this Act required to be given, for the Purpose of ascertaining the Mode of Valuation of the old inclosed Lands in each such Township or Division to be adopted as the Basis of the Allotment or Division of the said Commons or Waste Lands to and amongst the Proprietors or Persons interested therein; and if at any such Meeting Three Fourths in Value of the Proprietors of Lands in any one of such Townships or Divisions present at such Meeting, or who shall have authorized by Writing any other Person to attend for that Purpose on his, her, or their Behalf, (such Value to be ascertained by the Poor's Rate in such Township or Division,) shall determine to adopt the Poor's Rate or any other existing Rate or Assessment or Valuation applicable to such Township or Division, either entirely or with such Qualifications as may be then and there agreed upon, in lieu of the Valuation and Survey directed to be made by the Commissioners by the said first-recited Act, then and in every such Case such Valuation so agreed to in any one of the said Township or Division shall, so far as the Messuages, Lands, and Tenements in such Township or Division are concerned, be deemed and taken to be the Valuation of the Commissioner or Commissioners for the Purpose of allotting and apportioning the said Commons, Mosses, and Waste Lands or Grounds to and amongst the Proprietors of Lands and Grounds in such Township or Division, and for all the Purposes of this Act.

Any existing Rate or Valuation may be adopted in lieu of new Valuations.

Recovery and Application of Penalties.

XCIV. And be it further enacted, That all Penalties and Forfeitures inflicted or imposed by this Act, or incurred under the Provisions thereof, (the Manner of levying and recovering whereof is not herein otherwise particularly directed,) may, in case of Nonpayment thereof, be recovered in a summary Way by the Order and Adjudication of some Justice of the Peace for the said County of *Westmorland*, on Complaint to him for that Purpose made by the Oath or Affirmation of any Person or Persons, or on the Confession of the Party offending (which Oath or Affirmation such Justice is hereby authorized to administer); and in default of Payment of such Penalties or Forfeitures, the same shall be levied by Distress and Sale of the Offender's Goods and Chattels by Warrant under the Hand and Seal of such Justice, rendering the Overplus, if any, on Demand,

to the Party or Parties whose Goods and Chattels shall be so distrained (the reasonable Charges of such Distress and Sale being first deducted); and in case such Penalties and Forfeitures shall not be forthwith paid, it shall be lawful for such Justice and he is hereby authorized and required to order the Offender or Offenders so convicted to be detained and kept in safe Custody until Return can conveniently be made to such Warrant of Distress, unless the Offender or Offenders shall give sufficient Security to the Satisfaction of such Justice for his, her, or their Appearance before such Justice or some other Justice of the Peace for the County of *Westmorland* on such Day or Days as shall be appointed for the Return of such Warrant or Warrants of Distress, such Day or Days not being more than Seven Days from the taking of any such Security, and which Security any such Justice is hereby empowered to take by way of Recognizance or otherwise; but if upon the Return of such Warrant it shall appear that no sufficient Distress can be had whereupon to levy the said Penalty or Penalties and such Costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the Satisfaction of such Justice, upon the Confession of the Offender or Offenders or otherwise, that he, she, or they hath or have not sufficient Goods and Chattels whereupon such Penalties, Forfeitures, Costs, and Expences could be levied if a Warrant of Distress should be issued, such Justice shall not be compelled or required to issue such Warrant of Distress, but it shall be lawful for such Justice and he is hereby authorized and required, by Warrant under his Hand and Seal, to commit such Offender or Offenders to any Common Gaol or House of Correction, there to remain for any Time not exceeding Three Calendar Months, unless such Penalty or Forfeiture, Costs and Expences, shall be sooner paid; and the Monies arising by such Fines, Penalties, and Forfeitures, when paid or levied, if not directed to be otherwise applied by this Act, shall be paid and applied in or towards defraying the Costs, Charges, and Expences of obtaining this Act, and carrying the same into execution, chargeable upon the Lands and Grounds to be divided, allotted, and inclosed, or upon the Persons to whom any Allotments of such Lands or Grounds shall be made and allotted, or upon the Lands chargeable with the Costs of sustaining, supporting, and keeping in repair the said intended Works of Drainage in the Township or Division where the Offence in respect whereof such Penalty or Forfeiture shall have been committed shall have arisen, until the Execution of the Award of the Commissioner or Commissioners; and from and after the Execution of such Award, then as to all Penalties and Forfeitures which shall arise or be incurred in respect of any Offence committed within the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, or any of them, the same shall be paid to the Superintendent or Superintendents of the said Works of Drainage, to be by him or them applied in aid of the Rate or Assessment for sustaining, supporting, and keeping in repair the said intended Works of Drainage.

Justices may proceed by Summonses in the Recovery of Penalties.

XCV. And be it further enacted, That in all Cases in which by this Act any Penalty or Forfeiture is imposed and made recoverable by Information before a Justice of the Peace it shall be lawful for any Justice of the Peace to whom Complaint shall be made of any Offence against this Act to summon the Party complained against before him, and on such Summons to hear and determine the Matter of such Complaint, and on Proof of the Offence to convict the Offender, and to adjudge

adjudge him to pay the Penalty or Forfeiture incurred, and to proceed to recover the same, although no Information in Writing shall have been exhibited or taken by or before such Justice; and all such Proceedings by Summons without Information shall be as good, valid, and effectual, to all Intents and Purposes, as if an Information in Writing was or had been exhibited.

Form of Conviction.

XCVI. And for the more speedy Conviction of Offenders against this Act; be it further enacted, That all and every the Justice and Justices of the Peace before whom any Person or Persons shall be convicted of any Offence against this Act or the Provisions thereof shall and may cause the Conviction to be drawn up in the Form or to the Effect following; (that is to say,)

'*Westmorland* to wit. } BE it remembered, That on the Day of in the Year of our Lord at in the said County of *Westmorland*, *A.B.* is convicted before me [*or* us] of Her Majesty's Justices of the Peace for the said County, by virtue of an Act passed in the First Year of the Reign of Her Majesty Queen *Victoria*, intituled *An Act* [*here insert the Title of this Act, and state the Offence, and the Time and Place when and where the same was committed contrary to the said Act*]; and I [*or* we] the said Justice [*or* Justices] aforesaid do adjudge and determine the said *A.B.* for the said Offence to forfeit and pay the Sum of and do order the same to be forthwith paid to the Party entitled to receive the same; and I [*or* we] do further order the said forthwith to pay to *C.D.* [*name the Informant*] the Sum of as and for the reasonable Costs by him incurred in and about the said Conviction. Given under my Hand and Seal [*or* our Hands and Seals] the Day and Year first above written.'

Proceedings not to be quashed for Want of Form.

XCVII. And be it further enacted, That no Order, Judgment, Conviction, or other Proceeding touching or concerning any of the Matters aforesaid, or touching or concerning any Offence against this Act, shall be quashed or vacated for Want of Form only, or be removed or be removeable by Certiorari or any other Writ or Process whatsoever into any of Her Majesty's Courts of Record at *Westminster*, any Law or Statute to the contrary thereof notwithstanding.

Power for the several Commissioners to borrow Money.

XCVIII. And be it further enacted, That it shall be lawful for the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, to borrow and take up at Interest such Sum or Sums of Money as shall be necessary for defraying the Costs, Charges, and Expences preparatory to and of soliciting, preparing, settling, and passing this Act chargeable upon the Lands and Grounds, or upon the Person or Persons to whom any Allotment or Allotments of such Lands and Grounds shall be made, in the said Township or Division of *Strickland Roger*; and it shall be lawful for the said *John Watson* the younger, or the Commissioner to be appointed in his Place as herein-before mentioned, to borrow and take up at Interest such Sum or Sums of Money as shall be necessary for defraying the Costs, Charges, and Expences preparatory to and of soliciting, preparing, settling, and passing this Act chargeable

chargeable upon the Lands and Grounds, or upon the Person or Persons to whom any Allotment or Allotments of such Lands and Grounds shall be made, in the said Township or Division of *Whinfell*; and it shall be lawful for the said *John Watson* and *William Turner*, or other the Commissioners for the Time being for the Division, Allotment, and Inclosure of the Lands and Grounds in the said Township or Division of *Helsington*, and for the Drainage of the Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, to borrow and take up at Interest such Sum or Sums of Money as may be necessary for defraying the Costs, Charges, and Expences preparatory to and of soliciting, preparing, settling, and passing this Act chargeable upon the Lands and Grounds, or upon the Person or Persons to whom any Allotment or Allotments of such Lands or Grounds shall be made, in the said Township or Division of *Helsington*, or chargeable upon the Persons whose Lands are intended to be benefited by such intended Works of Drainage in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, and all and singular other the Costs, Charges, and Expences of carrying this Act into execution, so far as relates to the said intended Works of Drainage in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, subject and without Prejudice to the Restrictions herein-before mentioned as to the Payment of the Fees due to the said Commissioners and their Clerk; and in each of the Cases aforesaid the Commissioner or Commissioners so borrowing and taking up such Sum or Sums of Money at Interest shall have Power, by Writing under his or their Hand or Hands, to assign over all and every the Rates and Assessments so herein-before by this Act authorized to be assessed and charged by the Commissioner or Commissioners borrowing such Sum or Sums of Money, for the Purposes of defraying the Costs, Charges, and Expences of applying for, soliciting, and obtaining this Act and carrying the same into execution, as a Security or Securities for the Repayment of such Sum and Sums of Money so to be borrowed, with Interest, to such Person or Persons as shall advance or lend the same; and such Sum or Sums of Money so borrowed, with all Arrears of Interest in respect thereof, shall be repaid and satisfied by the Commissioner or Commissioners borrowing the same, or the Commissioner or Commissioners to be appointed in his or their Place or Places, out of the first Monies to be raised by such Commissioner or Commissioners under the Provisions of this Act.

Commissioners to lay Accounts before Justices every Twelve Calendar Months.

XCIX. And be it further enacted, That once at least in every Twelve Calendar Months during the Execution of this Act, to be computed from the Day of passing this Act, the Commissioner under this Act for dividing, allotting, and inclosing the Commons, Mosses, and Waste Lands or Grounds in the Township or Division of *Strickland Roger*, and the Commissioner under this Act for dividing, allotting, and inclosing the Commons, Mosses, and Waste Lands or Grounds in the Township or Division of *Whinfell*, and the Commissioners under this Act for dividing, allotting, and inclosing the Commons, Mosses, Waste Lands or Grounds in the Township or Division of *Helsington*, and for the Drainage of the Low or Marsh Lands or Grounds in the said Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, shall and they are hereby respectively required to make a true and just Statement or

Account of all Sums of Money by them respectively received and expended or due to them respectively for their own Trouble and Expences in the Execution of this Act; and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which each particular Sum has been paid and disbursed; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by them respectively laid before any Justice of the Peace for the said County of *Westmorland*, not interested in the said Inclosure or Drainage, to be by any such Justice examined and balanced; and the Justice acting in the Premises shall or may disallow or reduce any of the Sums or Items charged in the said Account which he may think unjust or unreasonable, and the Balance of each such Account shall be by such Justice stated in the Book of Accounts to be kept in the Office of the Clerk to the Commissioner or Commissioners whose Accounts shall be so examined and balanced; and an Abstract of each such Account so examined and balanced shall within Fourteen Days be published in some Newspaper usually circulated in the said County of *Westmorland*; and no Charges or Items therein shall be binding on the Parties concerned, unless the same shall have been so allowed by some Justice as aforesaid, or until the Account or the Abstract thereof as aforesaid shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Awards where to be deposited.

**C.** And be it further enacted, That the Award to be made by the said *Anthony Battersby Tomlinson*, or the Commissioner to be appointed in his Place as herein-before mentioned, and the Award to be made by the said *John Watson* the younger, or the Commissioner to be appointed in his Place as herein-before mentioned, for such Division, Allotment, and Inclosure, together with the Map or Plan thereunto respectively annexed, and the Award to be made by the said *John Watson* and *William Turner*, or other the Commissioners to be appointed as herein-before mentioned, and for draining the said Marsh or Low Lands, which they are hereby required to make and execute for regulating the future Maintenance of such Drainage and Works, shall, after each of the same Awards respectively shall have been executed by the Commissioner or Commissioners making the same, be respectively deposited with the Clerk of the Peace for the said County of *Westmorland*, who is hereby required to receive each such Award, and to keep and deposit the same amongst the Records of the said County, for the depositing of which Awards the Sum of Two Pounds Two Shillings, and no more, shall be paid or demanded for each Award, and that the depositing of any such Award in manner aforesaid shall be sufficient without the same being enrolled, notwithstanding the Directions of the said first-recited Act for enrolling the Award under any Act for dividing, allotting, and inclosing Lands; and a true Copy of the Award relating to the Lands or Grounds in the said Township or Division of *Strickland Roger*, with any Plan thereunto annexed, attested and signed by the Commissioner making the same, and a true Copy of the Award relating to the Lands and Grounds in the said Township or Division of *Whinfell*, with any Plan thereunto annexed, attested and signed by the Commissioner making the same, shall be deposited and kept in the Parish Church of *Kirkby in Kendal* aforesaid; and a true Copy of the Award relating to the Lands and Grounds in the said several Townships or Divisions of *Helsington*, *Underbarrow* and *Bradley Field*, and *Levens*, with any Plan thereunto

thereunto annexed, attested and signed by the Commissioners making the same, shall be deposited and kept in the Parish Church of *Heversham* aforesaid.

Appeal

CI. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done or omitted to be done in pursuance of this Act or of the said recited Act of the Forty-first Year of the Reign of King *George* the Third, other than and except such Determinations of any of the said Commissioners as in and by this Act or the said recited Act are declared to be binding, final, and conclusive, and except in such Cases where an Issue at Law shall be tried as herein mentioned, or by having paid or by having been compelled to pay any Rate or Assessment made under or by virtue of this Act, then and in every such Case he, she, or they may appeal to the General or Quarter Sessions of the Peace which shall be holden for the said County of *Westmorland* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Commissioner or Commissioners, or Superintendent or Superintendents, or other Party whose Act or Omission shall be complained of or appealed against, or to his, her, or their Agent or Agents for the Time being, Twenty-one Days previous Notice in Writing of such Appeal, and of the Matter thereof; except with respect to the Accounts of any of the said Commissioners, which, notwithstanding the same shall have been examined and balanced and published as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award of such Commissioner or Commissioners in manner aforesaid, on giving to the Commissioner or Commissioners whose Accounts shall be so appealed against, and his or their Clerk, such Notice as last aforesaid; and the Justices, not interested in the Premises, in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and award such Costs and Charges as to them in their Discretion 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 or Parties made liable to pay the same, rendering the Overplus, if any, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and every such Order and Determination of the said Justices upon every such Appeal shall be final and conclusive upon all Parties concerned, and shall not be removed or removeable by Certiorari or any other Writ or Process whatsoever into any of Her Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then and in every such Case the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and such Costs shall be levied in manner aforesaid.

Rights of the Lords of Manors to Minerals not to be prejudiced.

CII. Provided always, and be it further enacted, That nothing in this Act contained shall be construed or adjudged to defeat, lessen, or prejudice the Right, Title, or Interest of the Lord or Lords of the Manors within which the said Townships or Divisions of *Helsington* and *Strickland Roger* are situate for the Time being of, in, and to the Seignories and Royalties, Franchises and Liberties incident and belonging to the said Manors, (save

and except sufficient Stones and Stone and Quarries of Stone in the several Allotments to be set out under and by virtue of this Act for the Proprietors of such Allotments own Use,) but that the Lord or Lords of such Manors within which the said Townships or Divisions are situate for the Time being shall and may at all Times for ever hereafter have, hold, take, and enjoy all Rents, Services, Courts, Perquisites and Profits of Courts, Hunting, Fishing, Hawking, and Fowling, Goods and Chattels of Felons and Fugitives, Felons of themselves and those put in Exigent, Deodands, Waifs, Estrays, Forfeitures, Escheats, and other Royalties, Liberties, Franchises, Privileges, Pre-eminences, Jurisdictions, and Appurtenances whatsoever to the said Manors or the Lord or Lords thereof for the Time being incident, appertaining, and belonging, or which have been anciently used, exercised, and enjoyed by the Lord or Lords of the same Manors within which the said Townships or Divisions are situate, (other than and except such Rights of Soil and Right of Common and Pasture and such other Rights and Interests as is and are by this Act meant and intended to be barred, destroyed, and extinguished,) as could or might be claimed by them as Owners of the Soil of the said Commons, Mosses, and Waste Lands or Grounds, in as full, ample, and beneficial a Manner to all Intents and Purposes as he or they could or might have held and enjoyed the same in case this Act had not been passed; and that the said Lords and Owners of the Manors within which the said Townships or Divisions are situate for the Time being shall and may from Time to Time and at all Times hereafter have, hold, work, and enjoy all Mines, Minerals, and Quarries, of what Nature or Kind soever, within or under the said Commons, Mosses, and Waste Lands or Grounds intended to be divided and inclosed as aforesaid, as well those not opened as those already opened, (save and except the said public Quarry to be set out as aforesaid, and save and except sufficient Stones and Stone and Quarries of Stone in the several Allotments aforesaid for the Use of the respective Proprietors,) and to have and exercise all such Rights, Privileges, and Powers for searching for, working, and winning the Mines and Quarries, and leading and carrying away the Coals, Lead, Tin, Copper, Metals, and Minerals in, through, upon, over, and along the said Commons, Mosses, and Waste Lands or Grounds, or any of them, or any Part or Parts thereof, as the said Lords or Lord had or was entitled to previously to the passing of this Act, or might or could have had or exercised therein or thereon if this Act had not been passed.

Satisfaction to be made by the Lords of the Manors for working Mines.

CIII. Provided always, and be it further enacted, That in case the Lord or Lords of the said Manors within which the said Townships or Divisions of *Strickland Roger* and *Helsington* are situate for the Time being, or any Person or Persons claiming under him or them, shall, after such Inclosure be made as aforesaid, search for, win, work, or lead away Coal, Lead, Tin, Copper, Metals, or Minerals lying within or under any of the said Allotments or Inclosures so to be made as aforesaid, or Lands or Tenements in respect whereof such Allotment shall be made, then and in every such Case the Lord or Lords of the said Manors, Townships, or Divisions for the Time being, or such Person or Persons so searching for, winning, working, or leading away the same, shall make a full and reasonable Satisfaction for the Damage and Spoil of the Ground occasioned thereby, or in making or using of Waggon Ways or any other Matters or Things, according to the Powers herein reserved or granted to the Lord

Lord or Lords of the said Manors for the Time being, to the Person or Persons, Bodies Politic, Corporate, or Collegiate, who shall be in the Possession of such Ground at the Time or Times of such Damage or Spoil.

General Saving.

CIV. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all and every other Person and Persons, Body or Bodies Politic, Corporate, or Collegiate, his, her, or their Heirs, Successors, Executors, and Administrators, (except the Person or 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 Her Majesty, or Her Heirs and Successors, or such other Persons or Parties, every or any of them, could or ought to have had or enjoyed in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed before the passing of this Act, or could or might have held or enjoyed in case the same had not been passed.

Public Act.

CV. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

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