ANNO QUADRAGESIMO QUARTO

GEORGII III. REGIS.

****

Cap. 74.

An Act for inclofing Lands in the Manor of *Long Marton*, in the County of *Weftmorland*; and alfo the Common Stinted Pafture, called *Marton Park*, within the faid Manor and County.

[29th *June* 1804.]

WHEREAS there are within the Manor of *Long Marton* in the County of *Weftmorland*, feveral Open Commons and Wafte Grounds, containing by Eftimation Five hundred Acres or thereabouts, and alfo a certain Common Stinted Pafture called *Marton Park*, containing alfo by Eftimation Five hundred Acres or thereabouts: And whereas the Right Honourable *William* Vifcount *Lowther*, Baron of *Whitehaven*, in the County of *Cumberland*, is Lord of the Manor, and Owner of the Soil of the faid Open Commons and Wafte Grounds, and of the faid Common Stinted Pafture, and of the Coal Mines, Veins, and Seams of Coal, and all other Mines and Minerals in and under the fame: And whereas the Right Honourable *Sackville* Earl of *Thanet* is Patron of the Rectory, Parifh, and Parifh Church of *Long Marton* aforefaid, of

which the ſaid Manor of *Long Marton* is Parcel; and the Reverend *John Rippon* is the preſent Rector and Incumbent thereof, and as ſuch entitled to the Tythes yearly ariſing and growing due within the ſaid Manor of *Long Marton*: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled, *An Act for conſolidating in One Act certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*: And whereas it would be of great Advantage to the ſeveral Owners and Proprietors of and Perſons intereſted in the ſaid Commons, Moors, and Waſte Grounds, and the ſaid Common Stinted Paſture, if the ſame were divided and incloſed, and ſpecifick Parts thereof divided and allotted unto and amongſt the ſeveral Perſons intereſted therein, according to their reſpective Rights, Shares, and Intereſts; but ſuch Diviſion, Allotment, and Incloſure cannot be effected without the Aid and Authority of Parliament: May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That *Robert Lumb*, of *Lowther* in the County of *Weſtmorland*, *John Houſman*, of *Corby* in the County of *Cumberland*, and *John Hobſon*, of *Dufton* in the ſaid County of *Weſtmorland*, Gentlemen, and their Succeſſors, to be nominated in Manner herein-after mentioned, ſhall be and they are hereby appointed Commiſſioners for ſetting out, dividing, allotting, and incloſing the ſaid Commons, Moors, and Waſte Grounds, and alſo the ſaid Common Stinted Paſture, and for otherwiſe carrying this Act into Execution, ſubject to the Rules, Orders, and Directions herein-after mentioned; and alſo ſubject to the Rules, Orders, and Directions contained in the ſaid recited Act, except in ſuch Caſes where the ſame are by this Act varied or altered; and that all Acts, Matters, and Things hereby directed to be done by the ſaid Commiſſioners, may be done and executed by any Two of them; and the ſame ſhall be as valid and effectual as if done and executed by all the ſaid Commiſſioners.

Appointment of Commiſſioners.

II. And be it further enacted, That if any of the ſaid Commiſſioners appointed by this Act, or who ſhall be nominated in Manner herein-after mentioned, ſhall, before the Execution of all the Powers and Authorities hereby in them reſpectively veſted, die, or refuſe to act, or without ſome reaſonable Cauſe neglect to attend a Meeting for putting this Act into Execution, for the Space of Two Calendar Months after he ſhall have received Notice from any Perſon intereſted in the ſaid Incloſure, of the paſſing of this Act, or requiring him to attend as a Commiſſioner, a new Commiſſioner or Commiſſioners ſhall be nominated in Manner following; (that is to ſay), if the ſaid *Robert Lumb* ſhall die, or refuſe to act, or neglect to attend as aforeſaid, it ſhall and may be lawful for the ſaid *William* Lord Viſcount *Lowther*, his Heirs, or Aſſigns, by any Writing under his or their Hand or Hands, to appoint One other Commiſſioner not intereſted in the ſaid Incloſure in the room of the ſaid *Robert Lumb*, and ſo from Time to Time, as often as any Commiſſioner ſo to be appointed by the ſaid *William* Lord Viſcount *Lowther*, his Heirs or Aſſigns as aforeſaid, ſhall die, or refuſe to act, or neglect to attend as aforeſaid; and in caſe the ſaid *John Houſman* ſhall die or refuſe to act, or neglect to attend as aforeſaid, it ſhall and may be lawful for the ſaid *John Rippon*, or his Succeſſor or Succeſſors, Rectors of *Long Marton* aforeſaid for the Time being, by

Other Commiſſioners, how to be appointed.

by any Writing under his Hand, to appoint One other Commissioner, not interested in the said Inclosure, in the room of the said *John Housman* and so from Time to Time, as often as any Commissioner so to be appointed by the said *John Rippon*, or his Successor or Successors, Rectors of *Long Marton* aforesaid shall die, or refuse to act, or neglect to attend as aforesaid; and in case the said *John Hobson* shall die, or refuse to act, or neglect to attend as aforesaid, it shall and may be lawful for the Majority in Value (to be ascertained by the Rate for the Relief of the Poor) of the Proprietors or Persons interested in the Lands and Grounds directed by this Act to be divided and inclosed, or their Agents, to be appointed by Writing under their respective Hands for such Purpose, or their known Agents or Attornies (except the said *William* Lord Viscount *Lowther*, and *John Rippon*) who shall be present at a publick Meeting to be held for that Purpose at the Parish Church of *Long Marton* aforesaid, in pursuance of a Notice to be given in the said Church, or by Writing to be affixed upon the most publick outer Door of the said Church, and also in *The Cumberland Pacquet* or *Carlisle Journal*, at least Twenty-one Days before such Meeting, by Writing under their Hands, to appoint One other Commissioner, not interested in the said Inclosure, in the room of him the said *John Hobson*, and so from Time to Time, as often as any Commissioner, to be appointed by the said Proprietors as aforesaid, shall die, refuse to act, or neglect to attend as aforesaid; and in case the said *William* Lord Viscount *Lowther*, his Heirs or Assigns, or the said *John Rippon*, or his Successor or Successors, Rectors of *Long Marton* aforesaid, or the said Proprietors, either or any of them respectively, shall make Default in appointing any new Commissioner so directed to be appointed by him and them as aforesaid, within Two Calendar Months after the Death of any Commissioner, or his Refusal to act, or Neglect of Attendance shall be known, then the surviving or remaining Commissioner or Commissioners shall, and they and he are and is hereby required from Time to Time, by Writing under their or his Hands or Hand, within One Calendar Month next after the Expiration of the said Two Calendar Months allowed to the respective Parties and Persons for naming such new Commissioner or Commissioners by them respectively as aforesaid, to appoint One other Commissioner, not interested in the said Inclosure, in the room of every such Commissioner so dying, refusing to act, or neglecting to attend; and every Commissioner so to be appointed shall have the like Power and Authority as the Commissioner in whose Place he shall be appointed was vested with by virtue of this Act.

Allowance to the Commissioners.

III. And be it further enacted, That each of the said Commissioners shall be paid the Sum of One Pound Eleven Shillings and Sixpence, and no more, for all their Trouble, and the Expences which they shall incur on each and every Day that they shall respectively attend, or be engaged or employed in the surveying, admeasuring, planning, and valuing of all the Lands and Grounds hereby directed to be divided, allotted, and inclosed, within the said Manor of *Long Marton*, and likewise for all their Trouble, and the Expences which they shall incur in the dividing and allotting the said several Commons, Moors, and Waste Grounds, and also the said Common Stinted Pasture; and also the further Sum of One Pound Eleven Shillings and Sixpence unto each and every Commissioner, for his Trouble and Expence on each and every Day that he shall attend, or be engaged or employed for the Purpose of inquiring into, examining Witnesses,

Witneſſes, ſettling and determining any objected or diſputed Claims, or any other Diſputes or Differences which ſhall or may ariſe or happen, touching or concerning the ſaid Diviſion or Incloſure, and hereby referred to the ſaid Commiſſioners; the ſaid Sum of One Pound Eleven Shillings and Sixpence to be paid by the Perſon or Perſons againſt whom the Award of the ſaid Commiſſioners ſhall be made, in caſe of a Reference to them as herein-before expreſſed: Provided always, that the ſaid Proprietors or Perſons intereſted in the ſaid Diviſion and Incloſure, their Agents and Attornies, ſhall pay their own Expences, when they or any of them ſhall attend the ſaid Commiſſioners in the Execution of this Act.

Parties to pay their own Expences.

Appointment of Surveyors and Aſſiſtants.

IV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and empowered when and as to them ſhall ſeem meet, to appoint ſuch and ſo many Perſons as they ſhall think proper or neceſſary, to be Surveyors or Aſſiſtants to ſuch Surveyors, or to ſurvey and admeaſure the ſame themſelves for the Purpoſes of the ſaid intended Diviſion and Incloſure, 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 in the room, place, and ſtead, of any ſuch Surveyor or Surveyors, Aſſiſtant or Aſſiſtants, ſo to be diſplaced and removed, and to make ſuch Surveyor or Surveyors, Aſſiſtant or Aſſiſtants, ſuch Recompence for their reſpective Labour, Skill, and incidental Expences, as to the ſaid Commiſſioners ſhall ſeem juſt and reaſonable.

Notice to be given of the Firſt Meeting of the Commiſſioners.

V. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to cauſe publick Notice to be given in the Newſpaper called *The Cumberland Pacquet* or *Carliſle Journal*, or ſome other Newſpaper uſually circulated in the ſaid County of *Weſtmorland*, and alſo in the ſaid Pariſh Church of *Long Marton*, or by affixing a Notice in Writing upon the principal outer Door of the ſaid Church of *Long Marton*, upon ſome *Sunday* during or immediately before or after Divine Service, of the Time and Place of their firſt Attendance or beginning to put this Act into Execution, and alſo of all ſuch other Times and Places as they ſhall appoint for the Purpoſe of receiving, adjuſting, and ſettling the Claims, Rights, Shares, and Proportions of any Perſon or Perſons intereſted in the ſaid Commons, Moors, and Waſte Grounds, and alſo in the ſaid Common Stinted Paſture hereby directed to be divided and incloſed, or for any other Purpoſe whatſoever, which ſhall or may require the Attendance of any Perſon or Perſons intereſted in the ſaid intended Diviſion and Incloſure, ſo as that the Place of every ſuch Attendance or Meeting be within Three Miles of *Long Marton* aforeſaid, and that Fourteen Days previous Notice be given thereof (Meetings by Adjournment only excepted).

Other Notices, how to be given.

VI. Provided always, and be it further enacted, That all other Notices of Meetings of the ſaid Commiſſioners, requiſite or neceſſary to be given by them, and not herein otherwiſe directed, ſhall be ſo given by Advertiſement in *The Cumberland Pacquet* or *Carliſle Journal*, or ſome other Newſpaper publiſhed or circulated in the ſaid County of *Weſtmorland*.

For determining Encroachments.

VII. And be it further enacted, That all Incroachments which ſhall have been made upon any of the Commons and Waſte Lands, or the ſaid Common Stinted Paſture, intended by this Act to be divided and incloſed, within the Space of Twenty Years next before the paſſing of this Act, without

without any legal Grant or Authority for that Purpose, shall be deemed Part of the Commons and Waste Lands to be divided and inclosed by virtue of this Act, and the same shall be divided and inclosed accordingly: 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 the Receipt of the Rents and Profits thereof, as the Whole or Part of the Share or Portion of the Commons or Waste Lands to which such Person or Persons will be entitled by virtue of this Act, without considering the Value of any Erection thereon, or Improvements made thereto.

Commissioners to settle Disputes.

VIII. 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 Division and Inclosure hereby directed to be made, touching or concerning the Right of the Soil of the said Commons, Moors, and Waste Grounds, and also of the said Common Stinted Pasture, or any Part or Parts thereof, or touching or concerning the respective Rights and Interests therein, which they or any of them shall have or claim to have in or to such Commons, Moors, and Waste Grounds, or Common Stinted Pasture, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, it shall be lawful for the said Commissioners to examine into, hear, and determine the same; provided that no Determination of the said Commissioners shall exclude any Person from trying and ascertaining his Right at Law or in Equity, in respect of the Title to any of the Shares or Allotments of the said Commons, Moors, and Waste Grounds, or of the said Common Stinted Pasture, intended to be divided by virtue of this Act, so that no such Trial, or any Judgement thereupon, shall suspend or impede the Execution of this Act; and provided that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever.

Commissioners to award Costs.

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

Parties may try their Right by an Issue at Law.

X. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Claim or Claims of the Right to the Soil of the said Commons, Moors, and Waste Grounds, or the said Common Stinted Pasture, or of any Rights of Common, or other Rights or Interests in, over, or upon, the said Commons, Moors, and Waste Grounds, or upon the said Common Stinted Pasture, hereby directed to be divided, allotted, and inclosed, or any Part thereof, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the next or at the following Assizes to be holden for the said County of *Westmorland*; and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners shall cause an Action to be brought, upon a feigned Issue, against the Person or Persons in whose Favour such Determination shall have been made, within Two Calendar Months next after such Determination of the said Commissioners; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto and file common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be binding upon all Persons and Bodies Politick and Corporate whomsoever, 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, which it shall be lawful for the Court to do; and also upon sufficient cause shewn to put off the Trial of such Issue, as is usual in other Cases; and that after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby empowered to act in conformity thereto: Provided always, 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 such Event had not happened.

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

Power to sell Common Rights separate from other Property.

XI. And be it further enacted, That it shall be lawful for any of the Persons entitled to Right of Common upon the said Commons, Moors, and Waste Grounds, hereby directed to be divided, allotted, and inclosed, to sell and dispose of his, her, or their Rights, Share, or Interest in such Commons, Moors, and Waste Grounds, separate and apart from the Property to which such Right or Interest is appurtenant; and that the said Commissioners shall and may award the Allotments to be made in lieu of the Right of Common so sold and disposed of to the Purchaser or Purchasers thereof respectively, having received a Request in Writing so to do, signed by the Owners or Proprietors of such Rights of Common, in the Presence of One or more credible Witness or Witnesses; and that any such Purchasers shall hold and enjoy the same unto him, his Heirs and Assigns for ever; any Law to the contrary thereof notwithstanding.

Allotment for publick Watering

XII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered in the First Place to assign, set out,

out, and allot unto the Surveyors of the Highways within the Township of *Long Marton* aforesaid, for the Time being, such Part or Parts of the said Commons and Waste Grounds, so to be divided by them as aforesaid, as they shall think fit and necessary to be used as and for publick Watering Places for Cattle, and for getting Gravel for making and repairing of the Roads to be made over the said Common and Waste Grounds, and the said Common Stinted Pasture, and also to be used as and for a Common Stone Quarry or Stone Quarries; and the said Allotments when set out shall for ever thereafter be used by the Surveyors of the Highways for the Time being of the said Township, and by the Owners and Proprietors of Messuages, Lands, and Tenements, within the Manor of *Long Marton* aforesaid; and the Proprietors of the said Wastes and Commons, and Common Stinted Pasture, shall have free Liberty of getting Stone therein for their own Use and Benefit, but not to sell and dispose thereof; and that it shall be lawful for the said Commissioners to set out Roads to and from the said Stone Quarries for publick Use and Benefit. Places, Gravels Pits, and Stone Quarries.

XIII. And be it further enacted, That the said Commissioners shall in the next Place set out, allot, and appoint unto and for the said *John Rippon*, Rector of the said Parish and Parish Church of *Long Marton*, and his Successors, such Parcel of the said Common Stinted Pasture, called *Marton Park*, as shall in the Judgement of the said Commissioners be a full Equivalent and Compensation for the Tythe of Corn, Hay, and all other Produce arising from the Earth, and growing due or payable, or which would, could, or might become due or payable or to which he or his Successors is, are, can, might, or could be entitled to, from and out of, or for and in respect of all and every or any Part of the said Common Stinted Pasture, called *Marton Park*; the same to be awarded and allotted by the said Commissioners to lay adjoining to a Close or Inclosure being Part of the Glebe Land called *Chappel Flatt*; and to make or cause to be made a good and sufficient Hedge or Fence, and plant the same with Thorn Quicks, and defend them by a sufficient Fence, according to the accustomed Method of Fencing. Allotment to the Rector for Tythe of *Marton Park*.

XIV. And be it further enacted, That the said Commissioners shall in the next Place set out, allot, and appoint unto and for the said *John Rippon*, and his Successors, Rectors of *Long Marton*, such Quantity, Part, and Proportion of the said Commons and Waste Grounds so to be divided and inclosed, as shall in the Judgement and Opinion of the said Commissioners be a full Equivalent and Compensation for the Tythe of Corn, Hay, and other Grain, and all other Produce arising from the Earth, and growing due or payable, or which would, could, or might become due or payable, to which he or his Successors is, are, can, might, or could be entitled to, from and out of, or for and in respect of all and every or any Part of the Commons and Waste Grounds within the said Manor of *Long Marton*, the same being well and sufficiently cast and planted with Thorn Quicks, and defended by a sufficient Hedge or Fence, according to the usual and accustomed Method of Fencing, by and at the Expence of the said *William* Lord Viscount *Lowther*, and the Land Owners and other Persons interested in the Division and Inclosure of the said Commons and Waste Grounds; which said Allotment, Part, or Portion, shall be accepted by and vested in such Rector as aforesaid, and his Successor or Successors, Heirs or Assigns, for ever, in lieu of and as a full Compensation Allotment to the Rector for Tythe of the Common.

tion and Satisfaction for all the Tythes of Hay, Corn, and other Grain, and Produce arising from the Earth, due to the said Rector, or his Successor or Successors, Heirs or Assigns, or any of them, for and in respect of the said Commons and Waste Grounds so to be divided and inclosed within and throughout the whole Manor of *Long Marton* aforesaid.

Allotment to the Lord of the Manor.

XV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required in the next Place, out of the Residue and Remainder of the Commons and Waste Grounds hereby intended to be divided and inclosed, to set out, allot, and appoint, unto and for the said *William* Lord Viscount *Lowther*, and his Heirs, One Fourteenth Part in Value of the said Commons and Waste Lands to be awarded and allotted to him, upon a certain Part of the said Common adjoining to *Grainge Moor*, on the North-east, and to the Turnpike Road leading from *Long Marton* aforesaid, to *Milburn*, in the said County of *Westmorland*, for his Right to the Soil of the said Commons and Waste Lands hereby intended to be divided and inclosed.

Allotment to the Rector for Tythe of the inclosed Lands and Glebe.

XVI. And be it further enacted, That the said Commissioners shall in the next place set out, allot, and appoint unto and for the said *John Rippon*, and his Successors, Rectors of *Long Marton*, such Quantity, Part, and Proportion of the said Commons and Waste Grounds so to be divided and inclosed, as shall in the Judgement and Opinion of the said Commissioners be a full Equivalent and Compensation not only for the Common Right of the Glebe Lands, but also for the Tythe of Corn, Hay, and other Grain, and all other Produce arising from the Earth, within the said Manor of *Long Marton*, growing due and payable, or which would, could, or might become due and payable, to the said Rector or his Successors, or to which he or his Successors is, are, can, might, or could be entitled to, from and out of, or for and in respect of all and every or any Part of the Messuages, Tenements, and inclosed Lands, within the said Manor of *Long Marton*, the same being well and sufficiently cast and planted with Thorn Quicks, and defended by a sufficient Hedge or Fence, according to the usual and accustomed Method of Fencing, by and at the Expence of the Land Owners and other Persons interested in the Division and Inclosure of the remaining Part of the said Commons and Waste Grounds, which said Allotment, Part or Portion, shall be accepted by and vested in such Rector as aforesaid, and his Successor and Successors, Heirs or Assigns, for ever, in lieu of and as a full Compensation and Satisfaction for the Common Right of all the Glebe Lands, and also for Tythes of Hay, Corn, and other Grain, and Produce arising from the Earth, due to the said Rector or his Successor or Successors, Heirs or Assigns, or any of them, for and in respect of the said Messuages, Tenements, and inclosed Lands, within and throughout the whole Manor of *Long Marton* aforesaid.

Allotment of the Residue.

XVII. And be it further enacted, That immediately after the said Commissioners shall have deducted Lands for the Roads, and for Ways and Drains, and made the several Allotments herein-before mentioned, they shall in the next Place set out and allot all the Residue and Remainder of the said Commons, Moors, and Waste Grounds, and also the said Common Stinted Pasture, by this Act directed to be divided and inclosed, unto and amongst the several Persons who at the Time of making such

ſuch Allotments ſhall be entitled to any Eſtate, Property, Right, or Intereſt in the ſaid Common Stinted Paſture, according to the Number of Cattlegates each Proprietor ſhall be poſſeſſed of or entitled unto and in the ſaid Commons, Moors, and Waſte Grounds, according to their reſpective Intereſts therein, and according to the Value of their reſpective Eſtates, as they are rated to the Poor, in ſuch Quantities, Shares, and Proportions, and in ſuch Parts and Places, as by the ſaid Commiſſioners ſhall be adjudged and determined to be a Compenſation and Satisfaction for the ſeveral and reſpective Lands and Grounds, Rights of Common, and other Rights and Intereſts, of each of the ſaid Proprietors, after ſuch Deductions as aforeſaid, ſuch Commons, Moors, and Waſte Grounds, when incloſed, ſhall be veſted in the ſeveral Perſons who ſhall be entitled to the ſame as Freehold Eſtates of Inheritance, in Fee Simple (the Lands and Grounds lying in the ſaid Common Stinted Paſture, ſo to be divided and incloſed, remaining as cuſtomary Eſtates of Inheritance, paying ſuch Rents, Fines, Dues, Duties, and Services, as the ſame were ſubject and liable to, previous to the paſſing of this Act, according to the Cuſtom of the Manor of *Long Marton* aforeſaid) ſave and except ſuch Part or Portion of the ſaid Common Stinted Paſture as ſhall be aſſigned and allotted unto the ſaid *John Rippon*, and his Succeſſors, Rectors as aforeſaid, which ſhall be veſted in him and them as Freehold Eſtates of Inheritance in Fee Simple, and ſhall allot the Share or Shares of each Party, as near to the Homeſteads, or ſome other of the preſent incloſed Lands or Tenements, belonging to ſuch Party reſpectively, as conveniently may be.

Tythes to be paid as heretofore, until Allotments made.

XVIII. And be it further enacted, That until the Diviſion and Allotments ſhall be made and finiſhed in purſuance of this Act, the ſaid *John Rippon*, Rector as aforeſaid, or ſuch Perſon or Perſons entitled to ſuch Tythes as aforeſaid, ſhall be entitled to and ſhall receive and enjoy ſuch and the ſame Tythes as he or they could, might, or ought to have done in caſe this Act had not been made.

Allotments to be incloſed and fenced.

XIX. And be it further enacted, That the ſeveral Allotments to be made as aforeſaid ſhall, within the Space of One Year next after the Execution of the ſaid Award, be incloſed and fenced, and ſuch Fences for ever afterwards maintained, repaired, and ſupported by and at the Expence of the reſpective Proprietors, in ſuch Manner, Shares, and Proportions, as the ſaid Commiſſioners ſhall by their ſaid Award direct; and in caſe any of the Proprietors or Perſons intereſted in the ſaid Diviſion and Incloſure ſhall refuſe or neglect to incloſe and fence ſuch Part or Proportion of the ſaid Commons and Waſte Grounds, or Common Stinted Paſture, as ſhall be awarded and allotted to him, her, or them, within the Time above limited and preſcribed, it ſhall and may be lawful to and for the ſaid Commiſſioners to cauſe the ſame to be incloſed and fenced, and charge ſuch Proprietor with the Expence of ſuch Diviſion and Incloſure.

Exchanges may be made.

XX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to ſet out, allot, and award, any Lands, Tenements, or Hereditaments whatſoever, within the ſaid Manor of *Long Marton*, in lieu of and in Exchange for any other Lands, Tenements, and Hereditaments whatſoever, within the ſaid Manor, or within any adjoining Manor, Pariſh, Hamlet, Townſhip, or Place; provided that all ſuch Exchanges be

be ascertained, specified, and declared in the said Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politick, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies, of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunaticks, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politick, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so 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, testified as aforesaid, of the 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.

Directing by whom Expences of making Exchanges shall be paid.

XXI. And be it further enacted, That all Costs, Charges, and Expences attending the making and completing of any Exchanges and Partitions shall be paid and borne by the several Persons making such Exchanges and Partitions, in such Manner and in such Proportions as the said Commissioners shall by their said Award, or other separate Deed or Instrument, order or direct.

Wills and Settlements not to be affected.

XXII. And be it further enacted, That nothing in this Act contained shall extend or be deemed or taken to revoke, make void, alter, or annul any Settlement, Deed, Will, or Limitation, or prejudice any Person having or claiming any Jointure, Dower, Portion, Reversion, Rent, Service, Debt, Charge, or Incumbrance, of, in, out of, upon, or affecting any of the Lands and Grounds so intended to be divided and inclosed, or which shall be exchanged in pursuance of this Act, or any Part thereof respectively; but that the several Lands and Grounds to be assigned and allotted upon such Division and Inclosure, to the several Parties concerned or their Trustees, and which shall be taken in Exchange, in pursuance of this Act, shall, immediately after such Allotments or Exchanges shall be made, be, remain, and enure; and the several Persons to whom the same shall be allotted and assigned, or given in Exchange as aforesaid, shall from thenceforth stand and be seised thereof to and for such and the same Uses and Estates, and subject to such and the same Wills, Settlements, Limitations, Remainders, Charges, Tenures, Rents, Services, Quit-Rents, and Incumbrances, as the said several Lands, Grounds, Tenements, or Hereditaments, in lieu or in respect whereof such Allotments and Exchanges shall be made as aforesaid, now are, or should or would have been subject and liable to be charged with, or affected by,

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in caſe the ſame had remained unincloſed and unexchanged, or this Act had not been paſſed.

For paying the Expences of paſſing and executing the Act.

XXIII. And be it further enacted, That as well the Fees and Payments of the ſaid Commiſſioners, as alſo the Charges and Expences incident to and attending the ſoliciting, obtaining, and paſſing this Act, and of the ſurveying, planning, dividing, and allotting the ſaid Commons and Waſte Grounds, and the ſaid Common Stinted Paſture, and of making the Ring Fences, and planting the ſame with Thorn Quicks, of ſuch Part of the ſaid Commons and Waſte Grounds, and alſo of the Common Stinted Paſture, as ſhall be awarded and allotted to the ſaid *John Rippon*, and his Succeſſors, Rectors of *Long Marton* aforeſaid, in lieu of and as a Compenſation for the Tythes and Glebe Lands as herein-before mentioned, and of preparing, making, and depoſiting the Award of the ſaid Commiſſioners and Inſtruments of Election, and all other Charges and Expences attending the Execution of this Act, ſhall be borne and defrayed by the ſaid *William* Lord Viſcount *Lowther*, and the ſeveral and reſpective Land Owners within the ſaid Manor (except the ſaid Rector and his Succeſſors), according and in proportion to their ſeveral and reſpective Intereſts in the ſaid Commons and Waſte Grounds, and the ſaid Common Stinted Paſture, by a Rate to be aſcertained, ſettled, and made by the ſaid Commiſſioners, upon the ſaid *William* Lord Viſcount *Lowther*, and the ſaid Land Owners reſpectively for that Purpoſe, and to be payable and paid to ſuch Perſon and Perſons, and at ſuch Times, as ſhall by the ſaid Commiſſioners be ordered and directed in Writing under their Hands; and in caſe any or either of the Perſons aforeſaid ſhall neglect or refuſe to pay his, her, or their Share or Shares of ſuch Charges and Expences, or any Part thereof, to the Perſon or Perſons who ſhall be appointed to receive the ſame, within the Time to be limited by the ſaid Commiſſioners as aforeſaid, then and in ſuch Caſe the ſaid Commiſſioners ſhall cauſe the ſame to be levied and recovered in the Manner directed by the ſaid recited Act.

Commiſſioners to make out yearly Accounts.

XXIV. And be it further enacted, That Once at leaſt in each and every Year during the Execution of this Act (ſuch Year to be computed from the Day of paſſing thereof) the ſaid Commiſſioners ſhall and they are hereby required to make a true and juſt Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble or Expences in the Execution of this Act; and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before One of His Majeſty's Juſtices of the Peace for the ſaid County of *Weſtmorland*, to be by him examined and balanced; and ſuch Balance ſhall be by ſuch Juſtice ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioners; and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtice.

Perſons advancing Money to be repaid with Intereſt.

XXV. And be it further enacted, That if any of the ſaid Proprietors, or any other Perſon or Perſons, ſhall advance and pay any Money in Diſcharge of Fees or other Expences of obtaining, paſſing, and executing this Act, the Money ſo paid and advanced ſhall be repaid and ſatisfied by the

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

Two Parts of Award to be made.

XXVI. And be it further enacted, That the ſaid Commiſſioners ſhall make and execute Two Parts of their ſaid Award, One Part whereof ſhall be depoſited where the other publick Papers belonging to the Township and Manor of *Long Marton* aforeſaid are uſually kept, and the other Part thereof with the Clerk of the Peace for the ſaid County of *Weſtmorland*; and for which a Fee of One Pound and One Shilling and no more ſhall be paid; and that the ſame ſhall reſpectively be depoſited in the ſaid Places, within Three Calendar Months next after the Execution thereof; and a true Copy of ſuch Award, or of any Part thereof, ſigned by the Clerk of the Peace or his Deputy, for which no more than Four-pence *per* Sheet ſhall be paid, each Sheet to contain Seventy-two Words; and alſo each Part of the original Award ſhall be allowed as good and legal Evidence, and the ſaid Clerk of the Peace and his Deputy, ſhall permit or ſuffer any Perſon or Perſons whomſoever, from Time to Time and at all Times within the Office Hours of Attendance, to peruſe and inſpect the Part of the ſaid Award or Inſtrument depoſited in the Office of the ſaid Clerk of the Peace, upon paying for every ſuch Peruſal and Inſpection One Shilling and no more.

Saving the Rights of the Lord of the Manor.

XXVII. Provided always, and be it further enacted, That nothing in this Act contained ſhall be conſtrued to defeat, leſſen, or prejudice the Right, Title, or Intereſt of the ſaid *William* Lord Viſcount *Lowther* as Lord of the ſaid Manor of *Long Marton*, his Heirs or Aſſigns, of, in, and to the Seigniories and Royalties incident and belonging to the ſaid Manor; but that the ſaid *William* Lord Viſcount *Lowther*, and all ſucceeding Lords or Ladies of the ſaid Manor, ſhall and may from Time to Time and at all Times hold and enjoy all Quit-Rents, Free Rents, Reliefs, Duties, Cuſtoms, and Services, and all Courts and Perquiſites, and Profits of Courts, within the ſaid Manor, Goods and Chattels of Felons and Fugitives, Felons of themſelves, and put in Exigent, Deodands, Treaſure Trove, Waifs, Eſtrays, Forfeitures, Royalties, Juriſdictions, Franchiſes, Matters, and Things whatſoever, to the ſaid Manor, or to the Lord or Lords, Lady or Ladies thereof, incident, belonging, or appertaining (other than and except ſuch Common Rights as could or might be claimed by him, her, or them, as Owner of the Soil and Inheritance of the ſaid Commons, Moors, and Waſte Grounds, and of the ſaid Common Stinted Paſture, and the Right of getting Stone, Slate, and Gravel therein, which is and are hereby intended to be barred and for ever extinguiſhed), in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as he, ſhe, or they might have held and enjoyed the ſame if this Act had not been paſſed; and that the ſaid *William* Lord Viſcount *Lowther*, his Heirs and Aſſigns, ſhall and may from Time to Time and at all Times hereafter, have, hold, win, work, and enjoy all Mines of Coal, Ironſtone, and Minerals, of what Nature or Kind ſoever, within and under the ſaid Commons, Moors, and Waſte Grounds, and alſo within and under the ſaid Common Stinted Paſture hereby directed to be divided, allotted, and incloſed, together with all convenient and neceſſary Ways, Wayleaves, Roads, and Paſſages already made, and hereafter to be made, through, over, and upon the ſaid Lands and Grounds,

Grounds, and Liberty of laying, making, and repairing Waggon Ways and other Ways, in, over, and along the ſame, or any of them, or any Part thereof, and of ſearching for, winning and working the ſaid Mines and Minerals, and leading and carrying away the Coal, Ironſtone, Lead, Minerals, Things, and other Produce thereof, making Pit Rooms and Heap Rooms, Drifts, Levels, Soughs, Drains, Ways, and Watercourſes, and of erecting and uſing Fire Engines and other Engines, and of altering, changing, and pulling down and carrying away the ſame, or any of the Materials thereof, in, through, over, and upon the ſaid Lands and Grounds hereby directed to be incloſed, and to have and uſe any Stone got in the courſe of ſinking Pits or Shafts, or working or getting the ſaid Minerals ſo reſerved as aforeſaid, at his, her, or their own free Will and Pleaſure, and to do all ſuch other Works, Acts, and Things, either now in uſe or hereafter to be invented, as may be neceſſary or convenient for the full and complete Enjoyment thereof, in and upon the ſaid Commons, Moors, and Waſte Grounds, and alſo in and upon the ſaid Common Stinted Paſture, in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as he, ſhe, or they, could or might have done in caſe this Act had not been made.

Not to give the Lord of the Manor any greater Power than he was entitled to previous to the paſſing this Act.

XXVIII. Provided nevertheleſs, That nothing in this Act contained ſhall give to the ſaid *William* Lord Viſcount *Lowther*, or to any future Lord or Lords, Lady or Ladies, of the Manor of *Long Marton* aforeſaid, any greater, further, or other Authority, Power, Privilege, or Liberty whatſoever, touching or concerning the ſinking, ſearching for, winning, working, carrying away, and diſpoſing of the Mines of Coal, Ironſtone, and other Minerals contained in the ſaid ſeveral Commons, Moors, and Waſte Grounds, and alſo in the ſaid Common Stinted Paſture, hereby directed to be divided, allotted, and incloſed, than he the ſaid *William* Lord Viſcount *Lowther* was by Law entitled to immediately before the paſſing of this Act.

Satisfaction to be made for Damages.

XXIX. Provided alſo, and be it further enacted, That if any Perſon or Perſons ſhall ſuffer or ſuſtain any Loſs or Damage in his, her, or their reſpective Allotments by the ſinking, ſearching for, winning, or working of any Mines of Coal, Ironſtone, or other Mines therein, or the laying or repairing Waggon Ways or other Ways, or by leading or carrying away the Coals, Ironſtone, or other Ore or Minerals to be gotten thereout, or making Drifts, Levels, or Watercourſes, erecting or uſing Fire or other Engines, Pit Room, or other the Liberties and Powers hereby given and reſerved to the Lord or Lords, Lady or Ladies, of the Manor of *Long Marton* aforeſaid for the Time being, that then and in every ſuch Caſe the Lord or Lords, Lady or Ladies, of the ſaid Manor, his, her, or their Heirs, Executors, Adminiſtrators, or Aſſigns, ſhall pay full Satisfaction for all ſuch Damages, Spoil of Ground, and other Loſs to be occaſioned thereby, to the Perſon or Perſons who ſhall be in the Poſſeſſion of ſuch Ground or Allotment at the Time of doing ſuch Damage or occaſioning ſuch Spoil or Loſs.

Allowing an Appeal to the Seſſions.

XXX. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves, aggrieved by any Thing done in purſuance of this Act, then and in every ſuch Caſe (except where the Orders and Determinations of the ſaid Commiſſioners are by the ſaid recited

recited Act or this Act directed to be binding or concluſive, and except in ſuch Caſes wherein an Iſſue at Law ſhall be tried as herein-before mentioned) ſuch Perſon or Perſons may appeal to any General Quarter Seſſions of the Peace to be holden for the ſaid County of *Weſtmorland*, within Six Calendar Months after the Cauſe of Complaint ſhall have ariſen, and giving Twenty Days Notice to the Commiſſioners of ſuch his, her, or their Intention of appealing; and the Juſtices of ſuch Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and to award ſuch Coſts, as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order and Warrant to levy the Coſts and Charges which ſhall be ſo awarded, by Diſtreſs and Sale of the Goods and Chattels of the Party liable to pay the ſame, rendering the Overplus (if any) on Demand, to the Owner or Owners of ſuch Goods and Chattels; which Determination of the ſaid Juſtices ſhall be final and concluſive on all Parties, and ſhall not be removed or removeable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts at *Weſtminſter* or elſewhere; and in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then the ſaid Juſtices ſhall and may, and they are hereby authorized and empowered to award ſuch Coſts to be paid by the Appellant or Appellants, as to them in their Diſcretion ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

General Saving.

XXXI. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politick and Corporate, his, her, or their Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, (other than and except the reſpective Perſons to whom any Allotment or Allotments of Lands, or other Compenſation ſhall be made or provided by virtue of this Act, in reſpect of the Intereſt or Property for which ſuch Allotment or Compenſation ſhall be made, and except ſuch other Rights and Intereſts as the Intent and Purpoſes of the Incloſure hereby authorized ſhall abſolutely require to be barred, deſtroyed, or extinguiſhed), all ſuch Eſtates, Rights, and Intereſts, as they, every, or any of them, had or enjoyed, of, in, to, or in reſpect of the Commons and Waſtes hereby directed to be divided and incloſed before the paſſing of this Act, or could or might have had or enjoyed if this Act had not been made.

Declaring the Act Publick.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1804.