ANNO QUINQUAGESIMO PRIMO

GEORGII III. REGIS.

Cap. 131.

An Act for incloſing *Quernmore Moor* within and Parcel of the Foreſt of *Quernmore*, in the Pariſh of *Lancaſter*, in the County Palatine of *Lancaſter*.

[25th *May* 1811.]

WHEREAS there is within, and Parcel of the Foreſt of *Quernmore*, in the Pariſh of *Lancaſter*, in the County Palatine of *Lancaſter*, a Tract of Moor, Common, or Waſte Ground, commonly called or known by the Name of *Quernmore Moor*: And whereas the King's moſt Excellent Majeſty, in Right of His Duchy of *Lancaſter* is ſeized to Himſelf, His Heirs and Succeſſors, of the Soil, Inheritance, and Royalties of and within the ſaid Moor, Common or Waſte Ground, as Parcel of or belonging to His Majeſty's ſaid Foreſt: And whereas the Owners of Meſſuages, Lands, and Hereditaments, within the Townſhip of *Quernmore*, which is uſually called *Quarmore*, and the Mayor, Bailiffs, and Commonalty of *Lancaſter*, in the County of *Lancaſter*; and alſo the Owners of Meſſuages, Lands, and Hereditaments, in the ſeveral Townſhips of *Lancaſter*, *Skirton*, and *Sline*, with *Heſt* reſpectively, in the ſaid County Palatine, claim to be entitled for themſelves, their Leſſees and Tenants, to have and enjoy a Right of Common of Paſture, and Common of Turbary, and other Commonable Rights, within, upon, and over the ſaid Moor, Common or Waſte Ground, called *Quernmore Moor*: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for conſolidating in one Act certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*: And whereas

the ſaid Tract or Parcel of Moor, Common, or Waſte Ground, called *Quernmore Moor*, is at preſent in a rude and uncultivated State; but if the ſame were diſafforeſted and divided, allotted, and incloſed, and if ſpecific Parts thereof were allotted to the ſeveral Parties intereſted therein, according and in Proportion to their reſpective Rights and Intereſts, the ſame would be capable of great Improvement; but as ſuch Diviſion, Allotment, and Incloſure cannot be carried into Effect and eſtabliſhed, without the Aid and Authority of Parliament: May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That *John Bower* of *Brotherton*, in the County of *York*, and *John Humphreys* of *Ripon*, in the ſaid County of *York*, Gentlemen, and their Succeſſors, to be appointed in Manner hereinafter mentioned, ſhall be and they are hereby appointed Commiſſioners for ſetting out, dividing, allotting, and incloſing the ſaid Tract or Parcel of Moor, Common, or Waſte Ground, called *Quernmore Moor*, and for putting this Act in Execution, purſuant to the Powers, Regulations, and Directions herein after contained, and to ſuch of the Powers, Regulations, Reſtrictions, and Proviſions contained in the ſaid Act ſo paſſed as aforeſaid in the Forty-firſt Year of His preſent Majeſty's Reign, as are not controlled by or repugnant to any of the Clauſes, Proviſions, or Regulations contained in this Act; and that the Notices by the ſaid recited Act required to be given in ſome public Newſpaper, and all other Notices by virtue of this Act neceſſary or requiſite to be given by the ſaid Commiſſioners, ſhall be given and publiſhed in *The Lancaſter Gazette*, or if that Paper ſhall not then be publiſhed, in ſome other Newſpaper generally circulated in the ſaid County of *Lancaſter*.

Commiſſioners.

Allowance to Commiſſioners.

II. And be it further enacted, That the ſaid Commiſſioners ſhall bear and pay their own Charges and Expences (excepting travelling Expences and the Money they ſhall pay to Servants, and for the Room or Rooms wherein ſuch Meeting ſhall be held); and that out of the Monies which ſhall be raiſed for defraying the Expences of obtaining, paſſing, and executing this Act, they the ſaid Commiſſioners ſhall be paid and allowed the Sum of Three Guineas each, and no more, for each and every Day by them reſpectively employed in putting this Act in Execution.

New Commiſſioners to be appointed on Vacancies.

III. And be it further enacted, That in caſe either of the ſaid Commiſſioners herein-before named, or any other Commiſſioners to be appointed by virtue of this Act, ſhall, before the Finiſhing and Completion of the ſaid Incloſure, or before executing ſuch general Award as hereinafter mentioned, die or refuſe to act, or become incapable of acting as a Commiſſioner; and alſo, in caſe there ſhall at any Time be a total Want of Commiſſioners by reaſon of any ſuch Death, Refuſal to act, or Incapacity as aforeſaid, then and in every ſuch Event, the Vacancies thereby occaſioned, ſhall be filled up and ſupplied by an Order, Nomination, or Appointment in Writing, of or by the Chancellor for the Time being, of His Majeſty's ſaid Duchy of *Lancaſter*; and when and as often as any ſuch Order, Nomination or Appointment of any new or other Commiſſioner or Commiſſioners ſhall be made upon any of the Events aforeſaid, the Commiſſioner or Commiſſioners ſo as aforeſaid to be ordered, nominated or appointed, ſhall have ſuch and the like Powers and Authorities for

for putting this or the ſaid recited Act in Execution; and ſhall take ſuch and the like Oath, and be ſubject to ſuch and the like Regulations, as if he or they had been originally a Commiſſioner or Commiſſioners appointed by Name, in or by this Act: Provided always, that the Writing or Inſtrument, Writings or Inſtruments, of the Nomination and Appointment of every ſuch Commiſſioner ſhall be enrolled with the Award of the Commiſſioners, and a Copy of ſuch Writing or Inſtrument, Writings or Inſtruments, atteſted by the proper Officer of the Court where the ſame ſhall be enrolled, ſhall be and be allowed to be full and ſufficient Evidence thereof, in all Courts and Places whatſoever.

Appointment of Commiſſioners to be enrolled with the Award.

IV. And be it further enacted, That in caſe the Commiſſioners for carrying this Act into Execution ſhall at any Time or Times differ in Opinion reſpecting any Matter or Thing to be done under this or the ſaid recited Act, the ſame ſhall be determined by *William Walton* of *Lincoln's Inn*, in the County of *Middleſex*, Eſquire, Barriſter at Law, as an Umpire; and in caſe of the Death, Refuſal, or Incapacity of ſuch Umpire to act, another Barriſter at Law, who ſhall attend the Northern Circuit, ſhall be nominated and appointed by the ſaid Commiſſioners, and ſo from Time to Time as often as the Umpire ſhall die, refuſe, or become incapable to act, and the Determination of ſuch Umpire ſhall be concluſive upon, and be adopted by the ſaid Commiſſioners, and comprehended by them in their Award; and every ſuch Appointment of an Umpire ſhall be annexed to and depoſited with the Award of the ſaid Commiſſioners directed to be made and executed.

Umpire.

V. And be it further enacted, That neither the ſaid *William Walton*, nor any Perſon nominated and appointed an Umpire as aforeſaid, ſhall be capable of acting as ſuch Umpire, until he ſhall have taken and ſubſcribed the Oath, or being one of the People called *Quakers*, the Affirmation following; that is to ſay,

Umpire's Oath.

'I *A. B.* do ſwear, [*or*, being one of the People called *Quakers*, do ſolemnly affirm] that I will faithfully, impartially, and honeſtly, according to the beſt of my Skill and Judgment, examine into, hear and determine the Matter or Matters ſubmitted to my Deciſion, under or by virtue of an Act paſſed in the Fifty-firſt Year of the Reign of His Majeſty King *George* the Third, intituled, [*Here inſert the Title of this Act*], without Favour or Affection, Prejudice or Malice, to any Perſon or Perſons whomſoever. So help me GOD.'

Which Oath it ſhall be lawful for either of the ſaid Commiſſioners to adminiſter, and the ſaid Commiſſioners, or either of them, are and is hereby required to adminiſter the ſame accordingly.

VI. Provided alſo, and be it enacted, That if either of the ſaid Commiſſioners hereby nominated, ſhall refuſe or neglect to attend at the Firſt Meeting appointed to be holden for carrying this Act into Execution, and duly qualify himſelf, by taking and ſubſcribing the Oaths preſcribed in that Behalf; or if either of the ſaid Commiſſioners ſhall, at any Time after the ſaid Firſt Meeting, wilfully abſent himſelf from any Three following ſucceſſive Meetings, appointed to be holden by virtue of this Act, or having been abſent from Two ſucceſſive Meetings, ſhall not attend during the Whole of the Third or next ſucceeding Meeting, ſuch

What ſhall be deemed a Refuſal to act by any Commiſſioner.

Meetings

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

Commiſſioners empowered to appoint a Surveyor.

VII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners, and they are hereby authorized and impowered, by Writing under their Hands, to nominate and appoint ſome fit and proper Perſon or Perſons (not intereſted in the ſaid intended Diviſion and Incloſure), to be a Surveyor or Surveyors for the Purpoſes of this Act; and in caſe of the Death, Neglect, Refuſal, or Incapacity of any ſuch Surveyor or Surveyors, from Time to Time, to nominate and appoint ſome other fit and proper Perſon or Perſons (not intereſted as aforeſaid), to be a Surveyor or Surveyors for the Purpoſes of this Act, in the Place and Stead of the Surveyor or Surveyors who ſhall ſo die, neglect, refuſe, or become incapacitated to act as aforeſaid.

Commiſſioners may appoint a Clerk.

VIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and empowered, to appoint a Clerk or Clerks to aſſiſt them in the Execution of this Act, and, from Time to Time, to remove ſuch Clerk or Clerks, and appoint others in his or their Stead, as to the ſaid Commiſſioners ſhall ſeem meet; and, from and out of the Money to be provided for the Purpoſes of this Act, to allow and pay to every ſuch Surveyor and Clerk ſuch Allowance for their Trouble as to the ſaid Commiſſioners ſhall appear juſt and reaſonable.

Commiſſioners and Surveyor to have Power to enter upon Lands to ſurvey.

IX. And be it further enacted, That the ſaid Commiſſioners, and the Surveyor or Surveyors, to be appointed by this Act, their Servants and Aſſiſtants, and all Perſons employed by them reſpectively, for the Purpoſes and in the Execution of this Act, ſhall have and they are hereby veſted with full Power and Authority to enter into, view, and examine, ſurvey and admeaſure all and every the Lands and Grounds hereby directed to be divided, allotted, and incloſed, and alſo any other Lands and Grounds having Right of Common upon the Lands and Grounds hereby

hereby directed to be divided, allotted, and incloſed for the Purpoſes of this and the ſaid recited Act.

Notices of Time and Place of Commiſſioners Meeting.

X. And be it further enacted, That the ſaid Commiſſioners may, and they are hereby required to cauſe Notice in Writing under their Hands, to be affixed on ſome one of the outer Doors of the Pariſh Church of *Lancaſter*, and alſo to be inſerted in the ſaid Newſpaper called *The Lancaſter Gazette*, or in ſome other Newſpaper circulated in the ſaid County of *Lancaſter*, of the Time and Place of holding the Firſt, Second, and Third Meetings for the Purpoſe of putting in Execution the ſeveral Powers veſted in them by this Act, Ten Days at the leaſt before ſuch Meetings reſpectively, (Meetings by Adjournment only excepted), each of which Meetings ſhall be held at *Lancaſter* in the ſaid County Palatine of *Lancaſter*; and the ſaid Commiſſioners may and ſhall after the ſaid Third Meeting, from Time to Time appoint ſuch Time and Place for every ſuch ſubſequent Meeting, as to them ſhall ſeem proper, cauſing Notice in Writing under their Hands to be affixed on ſome one of the outer Doors of the Pariſh Church of *Lancaſter*, above-mentioned; and by Advertiſement as aforeſaid reſpectively, Ten Days at the leaſt before every ſuch ſubſequent Meeting, and the ſaid Commiſſioners ſhall have full Power and Authority (if they ſhall think it convenient and proper) to continue any of the ſaid Meetings by Adjournment, without giving any ſuch Notice as aforeſaid of any ſuch adjourned Meeting, ſuch adjourned Meetings nevertheleſs to be held within the Space of Fourteen Days from the Time of Adjournment: Provided always, that all Meetings of the ſaid Commiſſioners ſhall be held in the ſaid Town of *Lancaſter*, or within Eight Miles thereof.

For ſhortening Boundary Fences.

XI. 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 the Lands in any adjoining Manor, Pariſh, Townſhip or Place, it ſhall be lawful for the ſaid Commiſſioners, with the Conſent in Writing under the Hands of the Lords of the Manors, and of the Majority in value (to be aſcertained by the Land Tax Aſſeſſment), of the Land Owners intereſted in any Commons or Waſte Grounds adjoining to the Lands or Grounds hereby intended to be incloſed, or under the Hand of any Owner of any Land, upon which any ſuch Fence ſhall be intended to be made, to ſet out, aſcertain, and determine the Boundary Fences to be made between the Lands and Grounds hereby directed to be divided and allotted; and the Lands lying in ſuch adjoining Manor, Pariſh, Townſhip or Place, as they ſhall judge proper for the Purpoſes aforeſaid, and after ſuch Boundary Fences ſhall be ſet out, aſcertained and determined, the ſame ſhall be fenced by ſuch Perſons in ſuch Manner, and at ſuch Times as the ſaid Commiſſioners ſhall direct, and ſhall for ever thereafter be deemed and be taken to be the Boundary between the ſaid Lands or Grounds hereby intended to be incloſed, and ſuch adjoining Manors, Pariſhes, Townſhips or Places; any Law, Uſage, or Cuſtom, to the contrary thereof notwithſtanding.

Commiſſioners to ſettle Differences.

XII. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Proprietors of, or Perſons intereſted or claiming to be intereſted in the ſaid Tract of Moor, Common, or Waſte Ground ſo intended to be incloſed as aforeſaid, or any Part thereof, concerning the

the respective Rights or Interests which they, or any of them, may have, or claim to have, in or upon, or in any Manner respecting or relating to the same Tract of Ground, or touching or concerning any Matter or Thing relating to the said Division, Allotment, and Inclosure, it shall be lawful for the said Commissioners and Umpire to hear, adjudge, and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

Commissioners may award Costs.

XIII. And be it further enacted, That in case the said Commissioners or Umpire shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them or him, in pursuance of this Act, or the said recited Act, see Cause to award any Costs, it shall be lawful for them or him, and they or he is and are hereby empowered, upon Application made to them or him for that Purpose, to settle, assess, and award such Costs and Charges as they or he shall think reasonable to be paid to the Party or Parties, in whose Favour any Determination shall be made by the Person or Persons, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same within Two Months after the same shall have been demanded, then and in such Case, provided no Notice shall have been given to have such Matters in Dispute tried by an Issue at Law, pursuant to the Power herein-after given, it shall be lawful for the said Commissioners and Umpire, and they and he is and are hereby authorized and required, by Warrant under their Hands or Hand, directed to any Person whomsoever, to cause the same 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) on Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained, after deducting the Expences attending such Distress and Sale.

Commissioners not to determine contrary to Possession.

XIV. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners or Umpire to determine any Right between any Parties contrary to the Possession of any such Parties; but in case the said Commissioners or Umpire shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been given up or recovered from such Person or Persons by Ejectment or other due Course of Law.

Power to try disputed Claims at Law.

XV. Provided always, and be it further enacted, That if any Person or Persons, Bodies Politick or Corporate, making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Rights or Interests therein, or objecting to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioners or Umpire, and shall be desirous of having such Claim or Claims, Rights and Interests respectively, tried at Law, and the Person or Persons, Bodies Politick or Corporate, so desirous of having the same tried at Law, shall, by themselves, or their respective Stewards, Receivers, Attornies, or Agents, give, or cause to be given, Notice thereof in Writing to the said Commissioners, or either of them, within Two Calendar Months next after such Determination shall have been so made by the said Commissioners

or

or Umpire, (of which Notice the ſaid Commiſſioners are hereby required, immediately on Receipt thereof, or as ſoon after as conveniently may be, to give Information to the adverſe Party or Parties, or his, her, or their reſpective Stewards, Receivers, Attornies or Agents, by Writing under their reſpective Hands, to be delivered to or left at the uſual Place of Abode of ſuch Party or Parties, Stewards, Receivers, Attornies, or Agents as aforeſaid); then and in every ſuch Caſe it ſhall be lawful for the Perſon or Perſons, Bodies Politick or Corporate, giving ſuch Notice as aforeſaid, their reſpective Heirs, Succeſſors, and Aſſigns, and he, ſhe, or they is and are hereby required to proceed to a Trial or Trials at Law of the ſame, at the Firſt or Second Aſſizes then next following, to be holden for the ſaid County of *Lancaſter*, in a feigned Action or Actions for that Purpoſe, to be commenced by the Perſon or Perſons, Bodies Politick or Corporate, giving ſuch Notice as aforeſaid, againſt any Perſon or Perſons intereſted in the ſaid Diviſion, who ſhall make ſuch Objection or Objections, within Two Calendar Months next after ſuch Notice ſhall be given to the ſaid Commiſſioners as aforeſaid; and the Defendant or Defendants in ſuch Action or Actions ſhall forthwith name an Attorney or Attornies who ſhall file Common Bail, or appear and accept One or more Iſſue or Iſſues, whereby all ſuch Claim or Claims, and Rights and Intereſts may be properly tried and determined, ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court wherein ſuch Action ſhall be brought, if the Parties differ about the ſame; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions ſhall be final and concluſive to all Perſons whomſoever, unleſs the Court wherein ſuch Action or Actions ſhall be brought, ſhall ſet aſide ſuch Verdict or Verdicts, and order a new Trial to be had therein, which ſhall be lawful for the Court to do, as is uſual in other Caſes; and after any Verdict or Verdicts ſhall have been obtained, and not ſet aſide by the Court, the ſaid Commiſſioners ſhall, and they are hereby authorized and required to conform thereto, but if no ſuch Action or Actions at Law ſhall be brought or commenced by the Perſon or Perſons, Bodies Politick or Corporate, giving ſuch Notice within the Time aforeſaid, or if ſuch Action or Actions ſhall not be proceeded in to a Trial or Trials at the Firſt or Second Aſſizes which ſhall be holden for the ſaid County of *Lancaſter*, after the Expiration of Thirty Days from the Day of giving ſuch Notice, by or on account of the Neglect or Default of the Plaintiff or Plaintiffs therein, then and in ſuch Caſe the Determination of the Commiſſioners or Umpire ſhall be binding and concluſive unto and upon all Parties whomſoever.

Actions not to abate by Death of Parties.

XVI. And be it further enacted, That if any or either of the Parties in any Action to be brought, or Appeal had in purſuance of this Act, ſhall die pending the ſame, ſuch Action or Appeal ſhall not abate by Reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened.

In caſe of Deaths of Parties before Actions brought, the ſame to be carried on and defended in their Names.

XVII. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any 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 herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politick or Corporate, 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 Clerk or Clerks to the ſaid Commiſſioners

ſioners with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if living; 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.

Right of Common may be ſuſpended, or extinguiſhed, before the Execution of the Award.

XVIII. Provided nevertheleſs, That it ſhall be lawful for the ſaid Commiſſioners, at any Time before the Execution of their ſaid Award, by Notice in Writing, under their Hands, to be affixed upon One of the outer Doors of the ſaid Pariſh Church of *Lancaſter*, to order and direct all or any Part of the Rights of Common in or over the ſaid Tract of Moor, Common, or Waſte Ground, or any Part or Parts thereof to be extinguiſhed, or the Exerciſe thereof ſuſpended for and during ſuch Time or Times as ſhall be expreſſed in ſuch Writing, and all ſuch Rights of Common as the ſaid Commiſſioners ſhall by ſuch Writing order and direct to be extinguiſhed, or the Exerciſe thereof to be ſuſpended as aforeſaid, ſhall from the Time mentioned in ſuch Writing ceaſe, determine, and be extinguiſhed, or the Exerciſe thereof ſhall be ſuſpended accordingly; any Law, Uſage, or Cuſtom to the contrary thereof in anywiſe notwithſtanding.

No Turf to be taken away after paſſing of this Act, under the Penalty of 5*l.*

XIX. And be it further enacted, That if any Perſon or Perſons ſhall, at any Time or Times after the paſſing of this Act, cut, dig, get, or take away, any of the Turf, Flaws, or Soil of the Grounds or Lands to be incloſed by virtue of this Act, for any Uſe or Purpoſe whatſoever, or under any Right, Privilege or Claim, or Pretence of Right, Privilege or Claim whatſoever, then and in every ſuch Caſe, upon due Proof made before the ſaid Commiſſioners, upon the Oath or Affirmation of one credible Witneſs, (which Oath or Affirmation the ſaid Commiſſioners are hereby empowered to adminiſter), the ſaid Commiſſioners ſhall, and they are hereby required, by Warrant under their Hands and Seals, directed to any Perſon or Perſons whomſoever, to cauſe any Sum of Money, not exceeding Five Pounds, to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo offending in the Premiſes, rendering the Overplus (if any) on Demand to the Perſon or Perſons whoſe Goods and Chattels ſhall be 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 applied towards the Payment of the Coſts, Charges, and Expences of obtaining and executing this Act.

Encroachments made within 20 Years.

XX. And be it further enacted, That all Intakes and Encroachments made on or from the ſaid Tract or Parcel of Moor, Common, or Waſte Ground, and which have been made within the Space of Twenty Years next before the paſſing of this Act, and for which no Licence, Conſent, or Grant ſhall have been obtained, ſhall be deemed and conſidered Part and Parcel of the ſaid Grounds to be allotted and incloſed, as if the ſame were actually lying open and unincloſed.

Water-courſes may be turned.

XXI. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners, and they are hereby empowered to direct,

order, and award all Streams of Water, Springs, and Watercourſes, within the Lands and Grounds hereby intended to be divided and incloſed, to be carried and conveyed in ſuch Courſes, and through ſuch of the ſaid Lands and Grounds ſo hereby intended to be divided and incloſed, as they, in their Diſcretion, ſhall think neceſſary and proper for the Purpoſes aforeſaid: Provided always, that no ſuch Streams of Water, Springs, or Watercourſes, ſhall be diverted or turned from or into any ancient incloſed Lands, without the Conſent in Writing of the Owner or Owners thereof.

Materials for Roads, &c.

XXII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby required to ſet out and appoint upon and from the ſaid Tract of Moor, Common, or Waſte Ground, hereby directed to be incloſed, ſuch and ſo many Pieces or Parcels of the ſaid Tract of Ground, (not exceeding in the Whole the Quantity of Two Acres in Statute Meaſure,) and in ſuch convenient Places as the ſaid Commiſſioners ſhall think proper, with ſuitable and commodious Ways and Roads to and from the ſame, for the Purpoſe of working, getting, and taking in, upon, and from ſuch Places reſpectively, all ſuch and ſuch Quantities of Stone, Sand, Gravel, or other Materials there to be found as may be neceſſary for making any new, or repairing any old Houſes, Out-houſes, Fence Walls, Erections, or Buildings, or for making or repairing any Roads or Ways, or for draining or improving any Lands or Grounds within the ſaid Foreſt of *Quernmore*; but not to be ſold or taken, uſed or employed, otherwiſe than within the Limits or Confines of the ſaid Foreſt; and that all ſuch Stone, Sand, and Gravel ſhall be ſunk for, won, and worked in ſuch Quarries, Pits, or Breaſts to be opened and cleared, and the Rubbiſh thereby made to be removed at ſuch Times and Seaſons, in ſuch Sort, Manner, and Form, and ſubject to and under ſuch Rules and Regulations, and to be ſuperintended by ſuch Perſon or Perſons, and with ſuch Powers and Authorities, in reſpect thereto, as the ſaid Commiſſioners, in and by their ſaid Award, ſhall, in that Behalf, order and direct, and which Orders and Directions ſuch Commiſſioners may, and are hereby authorized and required to make, when and as to them ſhall ſeem meet; and all and every ſuch Pieces or Parcels of Land and Places ſo to be ſet out and appointed as aforeſaid, ſhall, from and after ſuch ſetting out and Appointment as aforeſaid, be and remain, and are hereby declared to be and remain, veſted in His Majeſty and His Succeſſors for ever, in Truſt only for the Purpoſes of this Act.

Land to be ſold for Payment of Expences.

XXIII. And be it further enacted, That the ſaid Commiſſioners ſhall mark and ſet out ſuch Part and Parts of the ſaid Tract of Moor, Common, or Waſte Ground, as by the Sale thereof will, in the Judgment of the ſaid Commiſſioners, raiſe a ſufficient Sum of Money to defray and diſcharge all the Coſts, Charges, and Expences incident to and attending the obtaining and paſſing of this Act, and of preparing and enrolling the Awards to be made by the ſaid Commiſſioners, and of ſurveying, admeaſuring, planning, valuing, dividing, and allotting the Lands and Grounds to be divided, allotted, and incloſed by virtue of this Act, and all the Charges of the ſaid Commiſſioners, and of the Umpire, and the Clerks, Aſſiſtants, and Servants, and all the other neceſſary Expences of the ſeveral Perſons to be employed by the ſaid Commiſſioners in and about the Lands and

Grounds to be divided, allotted, and incloſed, by virtue of this Act, and all other the Expences of forming, completing, and repairing the publick Carriage Roads and Highways, to be ſet out and appointed by the ſaid Commiſſioners, in, over, or upon the ſaid Tract of Moor, Common, or Waſte Ground, and carrying this Act into Execution; and the Commiſſioners ſhall, and they are hereby required to ſell the Lands and Grounds ſo marked and ſet out in ſuch Allotment or Allotments, as to them ſhall ſeem right and proper, to any Perſon or Perſons, for the beſt Price or Prices that can be gotten for the ſame, by Publick Auction or Auctions, to be holden for that Purpoſe, of which Auction or Auctions reſpectively, Six Weeks previous Notice ſhall be given; and the Perſon or Perſons ſo purchaſing the ſame at ſuch Publick Auction ſhall immediately pay (by Way of Depoſit) into the Hands of the ſaid Commiſſioners, or ſuch Perſon or Perſons as they ſhall direct and appoint, One Tenth Part of his, her, or their Purchaſe Money, and ſhall pay the Remainder thereof within Three Calendar Months next after the ſaid Sale, or at ſuch other Time as the ſaid Commiſſioners ſhall appoint, and in Default thereof the Money ſo depoſited ſhall be forfeited, and ſhall be applied in carrying this Act into Execution; and the Allotment or Allotments for which the Whole of ſuch Purchaſe Money ſhall not have been ſo paid, or for which there ſhall be no Bidding at ſuch Auction, ſhall be again put up to Sale, and ſold by Publick Auction in Manner aforeſaid, for the beſt Price or Prices that can be gotten for the ſame, or be ſold by the ſaid Commiſſioners by Private Contract, for any Sum or Sums not leſs than the remaining Nine-Tenths of the Price, or reſpective Prices for which the ſame was or were reſpectively before ſold, or the Amount of one Bidding above the Sum or reſpective Sums at which the ſame was or were reſpectively put up at the ſaid former Auction; and every Allotment for which the full Purchaſe Money ſhall be paid, ſhall immediately thereupon be abſolutely diſcharged of and from all Common Right thereon or therein, and be veſted in Fee Simple in, and be incloſed and from thenceforth held in Severalty by ſuch Purchaſer or Purchaſers thereof reſpectively, as his, her, or their private and abſolute Property, (ſubject only to the Seigniorial Rights of His Majeſty and His Succeſſors), and ſhall be allotted accordingly by the ſaid Commiſſioners, and the ſaid Purchaſe Money ſhall be applied by the ſaid Commiſſioners in defraying ſuch Coſts, Charges, and Expences as aforeſaid.

Purchaſers of Land ſold for paying the Expences of the Act ſhall be ſubject to the Orders of the Commiſſioners.

XXIV. And be it further enacted, That the Perſon or Perſons who ſhall become the Purchaſer or Purchaſers of the ſaid Lands ſo to be allotted and ſold for the Purpoſes aforeſaid, their Heirs and Aſſigns, ſhall be ſubject and liable to the making and keeping in Repair all or ſuch Part of the Ring Fences thereof as ſhall be directed by the ſaid Commiſſioners, or the major Part of them, and alſo for the due Obſervance and Performance of all Orders, Matters, Charges, and Directions, to be made, laid down, and appointed by the ſaid Commiſſioners in and by their Award, in like Manner as if ſuch Lands had been allotted to ſuch Purchaſer or Purchaſers, his or their Heirs or Aſſigns, for or in reſpect of any Right in, over, or upon the ſaid Open Commonable Grounds and Waſte Lands; but no ſuch Purchaſer or Purchaſers ſhall be ſubject or liable to the Payment of the Charges and Expences of obtaining this Act, or carrying the ſame into Execution.

Persons desirous of paying in Money to be exempt from the Operation of the Powers of Sale.

XXV. Provided always, and be it enacted, That in case any of the Persons interested in the said intended Division and Inclosure shall be desirous of having the Whole of their respective Shares and Allotments of the said Tract of Moor, Common, or Waste Ground set out and allotted to them, without any Abatement for or in respect of the Sales herein-before directed, for the Purposes aforesaid, and shall by themselves or Agents signify the same in Writing to the said Commissioners, at the Time of delivering in their respective Claims as herein directed, or within such Time afterwards as shall be limited and prescribed by the said Commissioners, then, and in every such Case, the said Commissioners shall, and they are hereby authorized and directed to set out and allot to such Persons respectively, all such Shares and Proportions of the said Tract of Moor, Common, or Waste Ground, as they would have been severally entitled unto, under and by virtue of this Act, in case no Provision had been hereby made for Sale of any Part of the same Waste Lands, and without any Deduction or Abatement whatsoever on that Account, and to adjust and settle what Sum and Sums of Money ought to be borne and paid by such several Persons, their Heirs or Assigns, for and in respect of their several and respective proportionable Shares of the Charges and Expences aforesaid; the same to be paid and recovered in such and the same Manner, and under such and the same Powers and Authorities as herein-after provided, with respect to any Deficiency in the Monies to arise by Sale as aforesaid: Provided nevertheless, that nothing herein contained shall give to the said Commissioners any Power to charge such Persons with any Part of the Expences attending or occasioned by the Sales herein-before directed.

Surplus produced by Sales to be divided between Proprietors in Fee according to their Interests, and between other Proprietors.

XXVI. And be it further enacted, That in case such Part or Parts of the said Tract of Moor, Common, or Waste Ground hereby directed to be sold as herein-before mentioned, shall be sold for more Money than will be required to defray such Costs, Charges, and Expences as aforesaid, then and in such Case such Surplus Money shall be divided and apportioned between the several Proprietors of, and Persons interested in the Lands hereby directed to be divided and inclosed, in such Shares as shall be in Proportion to such their respective Property, Rights, and Interests; and the respective Shares of such of them as shall be Tenants in Fee Simple of their respective Allotment, shall be paid to them respectively; and the Shares of such other Proprietors or Persons of and in such Surplus Money, shall be applied and disposed of in Manner directed by the said recited Act of the Forty-first Year of His present Majesty, in Cases where any Money is to be paid for the Purchase or Exchange of any 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.

Surplus Expences of the Act to be raised by Rate.

XXVII. And be it further enacted, That all Costs, Charges, and Expences incurred in the obtaining and executing this Act, in case the Money raised by Sale of the Lands herein directed to be sold shall be insufficient to defray the same, shall be borne and defrayed by the several Persons to whom any Allotment or Allotments shall be made by virtue of this Act; and all such Costs, Charges, and Expences, together with the Proportions thereof, to be paid by the several Persons hereby made liable to the Payment thereof, shall be settled and adjusted by the said Commissioners, and shall be paid at such Time and Place, and to such Person or Persons, as the said

said Commissioners shall appoint, either before or after the Execution of their said Award.

Allotment to His Majesty.

XXVIII. And be it further enacted, That the said Commissioners, after the necessary Roads, and such Allotments for Sale, as herein-before mentioned, and in other Respects as aforesaid, shall have been set out and ascertained, shall and may, and they are hereby authorized and required to set out, allot, and award to the King's most Excellent Majesty, His Heirs and Successors, in Right of His said Duchy of *Lancaster*, freed and exonerated, and for ever discharged of and from all Rights of Common of Pasture and Turbary, and other Commonable Rights of what Nature or Kind soever, of the Freeholders and other Persons interested in the said Inclosure, One full Twelfth Part, (Quantity, Quality, and Situation considered) of the said Tract of Moor, Common, or Waste Ground, meant and intended to be inclosed as aforesaid, in Compensation and Satisfaction for His Majesty's Right, (except as herein-after mentioned), to the Soil of the Residue of the said Tract of Ground, and for His Majesty's Consent to the Division and Inclosure of the same, and to the Disafforestation of the Whole of the said Forest.

Allotment to the Mayor, Bailiffs, and Commonalty of Lancaster.

XXIX. And whereas it hath been agreed between the Chancellor and Council of His Majesty's Duchy of *Lancaster*, on Behalf of His Majesty and the said Mayor, Bailiffs, and Commonalty of *Lancaster*, that the Twelfth Part of a certain Tract or Parcel of the said Common or Waste Ground hereby directed to be inclosed, extending from a certain Place called *Long Hill* to a certain other Place called *Syke Swamp*, and bounded on the Northerly and Easterly Sides thereof by an ancient Mound of Earth, and which said Tract or Parcel of Common or Waste Ground contains about Three hundred and ninety-eight Acres, (and which said Twelfth Part is intended to be set apart for His Majesty, in respect of His Right of Soil in the said Three hundred and ninety-eight Acres), shall be vested in the said Mayor, Bailiffs, and Commonalty, in full Satisfaction of all Claims of the said Mayor, Bailiffs, and Commonalty, to any Coal Mines, Stone, Slate, and other Mines and Minerals, in or under any Part of the said Forest; be it therefore enacted, That the said Commissioners shall, and they are hereby directed and required, to set out and allot as Part of the Land so to be allotted to His Majesty, One Twelfth Part of the said Three hundred and ninety-eight Acres; and that such last-mentioned Twelfth Part when so set out and allotted to His Majesty, shall be vested in, and the same shall thenceforth by force and virtue of this Act, be vested in the said Mayor, Bailiffs, and Commonalty of *Lancaster*, in full Satisfaction of all Claims of the said Mayor, Bailiffs, and Commonalty, to any Coal Mines, Stone, Slate, and other Mines and Minerals in or under any Part of the said Forest.

Rights of Seigniory vested in Mayor, Bailiffs, and Commonalty of Lancaster.

XXX. And be it further enacted, That all such Rights of Seigniory in, over, and upon the said last-mentioned Tract or Parcel of Ground, containing Three hundred and ninety-eight Acres, as are intended by this Act to be reserved to His said Majesty, His Heirs and Successors, out of the Residue of the said Common and Waste Grounds, shall from and after the passing of this Act be vested in the said Mayor, Bailiffs, and Commonalty of *Lancaster* for ever, subject nevertheless to the existing Right in and over the same, heretofore granted under the Seals of the said Duchy and County Palatine

Palatine of *Lancaſter*, unto *John Fenton Cawthorne* Eſquire, during his Life, as herein after mentioned.

Allotment of the Reſidue.

XXXI. And be it further enacted, That the ſaid Commiſſioners ſhall and may, and they are hereby authorized and required, after making ſuch Deductions and Allotments as before mentioned, to divide, apportion, ſet out, and allot all the Reſidue and Remainder of the ſaid Tract of Moor, Common, or Waſte Ground hereby directed to be divided and incloſed, unto and among the ſeveral Perſons, Bodies Politick and Corporate, having Common Right, or other Intereſt, in or upon the ſaid Tract or Parcel of Moor, Common, or Waſte Ground, or any Part thereof, in a juſt and fair Proportion, according to their ſeveral Rights and Intereſts therein, without any undue Preference whatſoever, but with a juſt Regard to the Quantity, Quality, Situation, and Convenience of the Property, Buildings, and old Incloſures belonging to each Proprietor, and alſo of the Land and Ground to be allotted in purſuance of the ſaid recited Act and of this Act, ſubject to the Rules, Orders, and Directions herein, or in the ſaid recited Act contained.

After Allotments made, Right of Common to ceaſe.

XXXII. And be it further enacted, That immediately after all the Allotments to be made in purſuance of this Act ſhall, by Order of the ſaid Commiſſioners, be marked or ſtaked out, all the ſeveral Shares or Allotments to be ſet out as aforeſaid, ſhall be in lieu of and full Satisfaction and Compenſation for all Right of Common, which the ſaid Proprietors, or any of them, could or might have had or been entitled to, in, over and upon the ſaid Tract of Moor, Common, or Waſte Ground, or any Part thereof; and from that Time all Right of Common in or upon the ſame ſhall ceaſe, and be for ever annulled, aboliſhed, and extinguiſhed.

Owners of Common Rights may have their Allotments laid together.

XXXIII. And be it further enacted, That if any of the ſeveral Perſons, Bodies Politick and Corporate, who may or ſhall be entitled to Allotments upon the ſaid Tract of Moor, Common, or Waſte Ground, ſhall be deſirous that their reſpective Shares and Proportions of the ſame ſhould be allotted together in One or more Parcel or Parcels, and ſhall expreſs ſuch their Deſire in Writing to the ſaid Commiſſioners at one of their Meetings, to be held in purſuance of this Act, before ſuch Allotments ſhall have been otherwiſe fixed by the ſaid Commiſſioners, then and in ſuch Caſe the ſaid Commiſſioners ſhall, and they are hereby required to ſet out the ſeveral Parcels of Ground to be allotted to ſuch ſeveral Perſons, in One Allotment; and ſuch Allotments ſhall be uſed and enjoyed by the ſeveral Proprietors thereof, in ſuch Manner, and under ſuch Regulations, as the ſaid Commiſſioners ſhall in that Behalf direct and appoint in their Award.

Allotments to be entered upon as ſoon as aſcertained.

XXXIV. And be it further enacted, That when and as ſoon as the Allotments herein directed to be made for Soil, ſhall be ſtaked and ſet out, which the ſaid Commiſſioners are hereby directed to do with all convenient Speed, after the Limits and Boundaries of the ſaid Tract of Moor, Common, or Waſte Ground ſhall have been aſcertained, the ſeveral Perſons entitled to ſuch Soil ſhall and may enter upon and occupy, and enjoy their reſpective Allotments in Severalty, without paying any Rent for the ſame;

ſame; and alſo it ſhall be lawful to and for all or any of the Proprietors, after the Allotments in general ſhall have been, by Order of the ſaid Commiſſioners, ſtaked and ſet out by and with the Conſent of the ſaid Commiſſioners, in Writing under their Hands, to enter upon their reſpective Allotments, and to fence the ſame in ſuch Manner and at ſuch Time or Times as the ſaid Commiſſioners ſhall direct.

Commiſſioners may, before executing their Award, alter Allotments, &c.

XXXV. Provided always, and be it enacted, That it ſhall and may be lawful for the ſaid Commiſſioners, at any Time before executing their Award, to make any Alterations in the Allotments and Fences which they may have ſet out and ordered, or private Roads made over or to ſuch Allotments, as they ſhall think expedient; and in caſe any Perſon or Perſons ſhall be injured by any ſuch Alteration or Alterations, on account of any Expences which he, ſhe, or they may have incurred, the ſaid Commiſſioners ſhall aſcertain and determine what Recompence ſhall be made to him, her, or them, and ſhall direct by whom, and in what Manner ſuch Recompence ſhall be made.

Lands allotted to be of the ſame Tenure as thoſe in reſpect or lieu whereof the Allotments are made.

XXXVI. And be it further enacted, That all ſuch Lands and Grounds, or other Hereditaments, as ſhall be allotted to any of the ſaid Proprietors, under or by virtue of this Act, ſhall be held by ſuch Proprietor, or other Perſon or Perſons reſpectively, under the ſame Tenure, Rents, Cuſtoms, and Services, as the Lands, Hereditaments, and Premiſes, in lieu or in reſpect of which ſuch Allotments ſhall be made, were reſpectively held and enjoyed, at or immediately before the making ſuch Allotments reſpectively.

Exchanges to be made.

XXXVII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners to ſet out, allot, and award any Lands, Tenements or Hereditaments, within the ſaid Pariſh of *Lancaſter*, in lieu of or in Exchange for any other Lands, Tenements or Hereditaments, new Allotments or old Incloſures, or other Lands or Grounds within the ſaid Pariſh, or within any adjoining Pariſh, Hamlet, Townſhip, or Place, provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the 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 Politic, 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, 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 or Bodies Politic, 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

Exchanges ſhall be made of any Lands, Tenements or Hereditaments, belonging to His Majeſty, His Heirs or Succeſſors, in Right of His Duchy of *Lancaſter*, without the Conſent in Writing of the Chancellor of the ſaid Duchy for the Time being, or 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: Provided always, that all Coſts, Charges, and Expences attending the making and completing of any Exchanges or Partitions, ſhall be paid and borne by the ſeveral Owners making ſuch Exchanges and Partitions, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioners ſhall, by any Writing under their Hands, or by their ſaid Award, order and direct.

Leaſes at Rack Rent to be void.

XXXVIII. And be it further enacted, That all and every Leaſe and Leaſes upon Rack Rent now ſubſiſting, touching or in anywiſe affecting any Part or Parts of the Tracts or Parcels of Moor, Common, or Waſte Ground to be incloſed by virtue of this Act as aforeſaid, and all other Agreements for any Term or Terms therein at Rack Rent, ſhall, as to any Allotment or Allotments of any Part of the ſaid Tract or Parcel of Moor, Common, or Waſte Gronnd, which are or ſhall be comprized in ſuch Leaſes or Agreements, ceaſe, determine, and be void, at ſuch Time or Times as the ſaid Commiſſioners ſhall, by any Writing under their Hands, in that Behalf order and appoint; and ſuch Allotment or Allotments ſhall be made and aſſigned unto the Landlord or Landlords, and not to the Tenant or Tenants, Leſſee or Leſſees, and ſuch Allotment or Allotments ſhall be freed and diſcharged from all Right and Intereſt which may, or otherwiſe might be claimed in or to the ſame, by virtue of ſuch Leaſe or Leaſes; and the reſpective Owners and Proprietors of the Premiſes, in ſuch reſpective Leaſes or Agreements, ſhall make ſuch Satisfaction and Compenſation to the Leſſee or Leſſees, Tenant or Tenants, and at ſuch Time or Times as the ſaid Commiſſioners ſhall aſcertain, direct, and appoint as reaſonable to be paid or made to ſuch Leſſee or Leſſees, Tenant or Tenants, on account thereof, or as equivalent for the ſame; and if any Perſon or Perſons ſhall refuſe or neglect to make any ſuch Compenſation to the Perſon or Perſons entitled thereto, on Demand, then and in ſuch Caſe it ſhall and may be lawful to and for the ſaid Commiſſioners, and they are hereby authorized and required to raiſe and levy the ſame for the Uſe and Benefit of the Perſon or Perſons entitled thereto, by ſuch Ways and Means as the Coſts, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raiſed and levied.

This Act not to affect any Will or Settlement.

XXXIX. Provided always, and be it enacted, That nothing in this Act contained ſhall extend, or be conſtrued to extend to revoke, make void, annul or affect, any Settlement, Deed, Will, or Leaſe whatſoever, or to prejudice any Perſon or Perſons having Right or Claim of Dower, Jointure, Rent, Debt, Charge or Incumbrance, in, out of, upon, or affecting any of the Lands, Tenements, or Hereditaments to be divided, allotted, incloſed, or exchanged, by virtue of the ſaid recited Act made in the

the Forty-firſt Year of the Reign of His preſent Majeſty, or of this Act, or any Part or Parts thereof reſpectively, but that the ſeveral Perſons to whom ſuch Lands, Tenements, or Hereditaments ſhall be aſſigned, allotted or given in Exchange by virtue of this Act as aforeſaid, ſhall be ſeized and poſſeſſed thereof reſpectively to ſuch and the ſame Uſes, and to and for ſuch and the ſame Eſtates, and with ſuch and the ſame Powers and Authorities for making Leaſes and otherwiſe, and ſubject to the ſame Wills, Limitations, Conditions, Settlements, Truſts, Proviſoes, Remainders, Reverſions, Debts, Charges and Incumbrances, as the ſeveral Lands, Tenements or Hereditaments, in right, or in reſpect or in lieu whereof ſuch Allotments or Exchanges ſhall be made to them reſpectively, would have been ſubject to, and charged with or affected by, in caſe this Act had not been made, except in ſuch Caſes as is herein otherwiſe directed and provided.

Power to ſell Common Right before Award.

XL. And be it further enacted, That if any Perſon or Perſons hath or have ſold, or ſhall at any Time before the Execution of the ſaid Award of the ſaid Commiſſioner, ſell his, her, or their Right, Intereſt, or Property in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and incloſed, to any other Perſon or Perſons, then and in every ſuch Caſe it ſhall and may be lawful to and for the ſaid Commiſſioners, and they are hereby authorized and required to make the Allotment or Allotments 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 every ſuch Vendee or Purchaſer, and his, her, or their Heirs and Aſſigns, ſhall and may, from and after the Execution of the ſaid Award, hold and enjoy the Land ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner to all Intents and Purpoſes as the Vendor, in every ſuch Sale, might, could, or ought to have held and enjoyed the ſame, in caſe ſuch Sale had not been made, or ſuch Right, Intereſt, or Property had been veſted in ſuch Vendor at the Time of making ſuch Allotment or Allotments as aforeſaid.

Tenants for Life, &c. empowered to charge Allotments for Payment of Expences of Act.

XLI. And whereas ſome of the Owners and Proprietors of and Perſons intereſted in the Lands and Grounds hereby intended to be divided and incloſed, may have Occaſion to borrow Money to defray their reſpective Shares, Proportions of the Charges, and Expences of obtaining and carrying this Act into Execution, be it therefore enacted, That it ſhall and may be lawful to and for the Proprietors and Owners of, and all other Perſons whomſoever intereſted in ſuch Lands and Grounds, being a Tenant or Tenants for Life, with or without Impeachment of Waſte, or Tenant or Tenants in Fee Tail General or Special, or by the Courteſy of *England*, or Tenant or Tenants by the Cuſtom of the Manor, Townſhip or Place, within which ſuch Lands and Grounds are ſituated, or for Years determinable on any Life or Lives, and alſo to and for the Huſbands, Guardians, Truſtees, and Committees of any of the ſaid Owners or Proprietors being under Coverture, Minors, Idiots or Lunatics, beyond the Seas, or labouring under any other Diſability whatſoever; and alſo to and for all Perſons acting as Guardians, Truſtees or Committees, of any Owners or Proprietors being under any Diſability or Incapacity whatſoever,

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

If Commiſſioners in their Award omit to make different Allotments, &c. they may rectify the ſame by Deed, after making their Award.

XLII. And be it further enacted, That in all Caſes where the Proprietor or Proprietors of any of the Lands or Hereditaments which ſhall be allotted, divided, or exchanged by virtue of this or the ſaid recited Act, ſhall hold his, her, or their reſpective Lands or Hereditaments for different Eſtates, or by different Tenures, and where, for want of neceſſary Information, or from any other Cauſe, the ſaid Commiſſioners ſhall in their Awards have omitted to diſtinguiſh and aſcertain the Lands or other Hereditaments holden for each of ſuch Eſtates, and by each of ſuch Tenures reſpectively, and to ſet out and award ſeveral and diſtinct Allotments for ſuch Lands or other Hereditaments reſpectively, as hereinbefore is required; or where the ſaid Commiſſioners ſhall, in their

ſaid Awards, have miſ-ſtated the Eſtate or Tenure for or by which any ſuch Lands or other Hereditaments are or ſhall be holden, and ſhall have made any Allotment or Allotments for ſuch laſt mentioned Lands or other Hereditaments, it ſhall be lawful for the ſaid Commiſſioners, at any Time within Six Calendar Months next after making their ſaid Awards, upon Requeſt made to them for that Purpoſe, by any Perſon or Perſons intereſted in any ſuch Omiſſion or Miſ-ſtatement, by Writing under his, her, or their Hands, to ſupply or correct ſuch Omiſſions or Miſ-ſtatements by a ſeparate Inſtrument; and ſo far as may be requiſite for that Purpoſe to examine Witneſſes, and to proceed and act in every other Reſpect as if their Awards had not been made; and when they ſhall have obtained ſuch Information in the Matter as they may judge ſufficient, they are hereby alſo authorized and required, by Deed under their Hands and Seals, to diſtinguiſh and ſet forth the true Eſtates and Tenures for or by which the Lands and Hereditaments, in reſpect of which ſuch Omiſſion or Miſ-ſtatement ſhall have ariſen, ſhall be reſpectively holden, and to make diſtinct and ſeveral Allotments in reſpect thereof accordingly, in like Manner as they are hereby required to do in their ſaid Awards, and as if no ſuch Omiſſion or Miſ-ſtatement had happened; and every ſuch ſeparate Inſtrument ſhall be annexed to their ſaid Awards, and ſhall be inrolled and depoſited therewith, and Evidence ſhall be given thereof in like Manner as by the ſaid recited Act and this Act, or either of them, is directed concerning their ſaid Awards; and all reaſonable Expences incurred in or about ſuch ſeparate Inſtrument as aforeſaid, ſhall be paid by the Perſon or Perſons who ſhall have requeſted the ſaid Commiſſioners to make and execute the ſame as aforeſaid, or by his, her, or their Heirs, Executors or Adminiſtrators; and every ſuch ſeparate Inſtrument ſhall, from and immediately after the due Execution thereof by the ſaid Commiſſioners, have the ſame Effect, to all Intents and Purpoſes, as if the Contents thereof had been inſerted and contained in their ſaid Awards; and a Duplicate of ſuch Inſtrument ſhall be delivered to the Perſon or Perſons upon whoſe Requeſt any ſuch Omiſſion or Miſ-ſtatement ſhall have been ſupplied or corrected, and to the Perſon or Perſons to whom the Cuſtody of the Deeds and Writings concerning the Title of the Lands, Hereditaments, or Allotments mentioned in ſuch Inſtrument, ſhall, in the Judgment of the ſaid Commiſſioners, belong.

Money borrowed to be repaid with Intereſt.

XLIII. And be it further enacted, That if any of the Proprietors or Perſons intereſted in the Execution of this Act, or any other Perſon or Perſons on the Behalf of them, or any of them, ſhall have advanced and paid, or ſhall advance and pay, any Money in the Diſcharge of the Fees or other Expences of or for obtaining or executing this Act, the Money ſo paid and advanced ſhall be repaid and ſatisfied, by the Direction of the ſaid Commiſſioners, together with lawful Intereſt for the ſame, out of the firſt or any other Monies that ſhall or may be raiſed for the Purpoſes of this Act.

General Award.

XLIV. And be it further enacted, That the Awards to be made by the ſaid Commiſſioners, purſuant to the before-mentioned Act of the

Forty-firſt Year of His preſent Majeſty, and the Maps or Plans explanatory of the ſame, and alſo every ſuch Award as ſhall be made by the Commiſſioners, touching any Claim or Claims to be determined as aforeſaid, and Counterparts of the ſame reſpectively (to the End that the ſame may be preſerved, and Recourſe had thereto by any Body Politic or Corporate, or any Perſon or Perſons whomſoever), ſhall be duly made out, executed, and perfected; one Part of which ſaid Awards, Maps, or Plans, ſhall, before or at the Expiration of Eight Months next after the making and perfecting thereof by the ſaid Commiſſioners, be depoſited in the Office of the Clerk of the Council of His Majeſty's ſaid Duchy of *Lancaſter*, to be by him kept amongſt the Records of the ſaid Office; and one other Part of the ſaid Awards, Maps, or Plans, ſhall, within the Space of Eight Months next enſuing the Execution of the ſaid Awards by the ſaid Commiſſioners, be by the ſaid Commiſſioners delivered to, and depoſited in the Office of the Prothonotary of the Court of Common Pleas for the ſaid County Palatine of *Lancaſter*; for or in reſpect of which ſaid depoſiting and keeping ſuch Awards and Maps and Plans, the Sum of One Guinea, and no more, ſhall be paid to the ſaid Clerk of the Council and Prothonotary reſpectively; and for every Inſpection thereof, after the ſame ſhall have been ſo depoſited, the Sum of Five Shillings, and no more, ſhall be paid to the ſaid Clerk of the Council, or Prothonotary, or their reſpective Deputies; and alſo, that one other Part of the ſaid Awards, Maps, or Plans ſhall, before or at the Expiration of Six Calendar Months next after the Execution of the ſaid Awards by the ſaid Commiſſioners, be put into a proper Box to be provided by them for that Purpoſe, and depoſited in the Pariſh Church of *Lancaſter* aforeſaid, and there be kept at all Times thereafter, for ever, for the Uſe of any Perſon or Perſons who may be intereſted in conſequence of the Incloſure hereby authorized to be made; and for the Inſpection thereof and Liberty to take Extracts therefrom, the Sum of Two Shillings and Sixpence, and no more, ſhall be paid to the Clerk of the ſaid Church for the Time being; and ſuch reſpective Awards, and the Maps or Plans to be annexed thereto as aforeſaid, or any true Copy or Copies of ſuch Awards, Maps, or Plans, or any Part thereof, on Paper ſtamped according to Law for Copies of Records, and ſigned by the ſaid Clerk of the Council, or Prothonotary, or their reſpective Deputies, purporting to be a true Copy or Copies, ſhall be admitted and allowed as legal Evidence in all Courts whatſoever; and the ſaid Clerk of the Council, and the ſaid Prothonotary, or their reſpective Deputies, are and is hereby required to make and deliver, unto any Perſon or Perſons, Body or Bodies Politic or Corporate, requeſting and offering to pay for the ſame, a true Copy or Copies of the ſaid Awards, Maps, or Plans, or any of them, or any Part thereof; for which ſuch Clerk of the Council, and Prothonotary, or their reſpective Deputies, ſhall be paid by the Perſon or Perſons, Body or Bodies Politic or Corporate, requeſting the ſame, after the Rate of Sixpence for every Sheet of the ſaid Awards ſo copied, counting Seventy-two Words to each Sheet; and a reaſonable Allowance ſhall alſo be paid to them reſpectively beſides, for a Copy or Copies of ſuch Maps or Plans, or any Part thereof.

XLV. And

Accounts to be paſſed before Juſtices.

XLV. 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 paſſing of this Act), the ſaid Commiſſioners ſhall, and they are hereby required to make a juſt and true Statement or Account of all Sums of Money by them received and expended, or due to them for their Trouble and Expences in the Execution of this Act; which Statement or Account, when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before any Two Juſtices of the Peace for the County of *Lancaſter*, to be by them examined and balanced, and ſuch Balance ſhall be ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioners; and no Charges or Item in ſuch Account ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtices.

The whole Foreſt diſafforeſted.

XLVI. And be it further enacted, That from and immediately after the ſaid Commiſſioners ſhall have made and executed their Awards, as mentioned and directed by this Act, and by the ſaid recited Act, all and ſingular the Lands lying within the ancient Limits or Boundaries of the ſaid Foreſt, as well ſuch as are already incloſed, as alſo all and ſingular the ſaid Tract of Moor, Common, or Waſte Grounds, under and by virtue of this Act intended to be divided and incloſed, ſhall from thenceforth become and be, and continue from thenceforth for ever abſolutely exonerated and diſcharged from Game of Deer, Warrens of Conies, and all Foreſtal Rights and Privileges whatſoever, which His ſaid Majeſty and His Succeſſors, may or could, or might otherwiſe claim therein, except in reſpect of the Performances of ſuch Fealties, Suits of Court, Services, Cuſtoms, Rights and Privileges, as are due for and in reſpect of Meſſuages, Buildings, and Lands of ancient Incloſure, within the Limits of the ſaid Foreſt, and as are intended to be in and by this Act particularly reſerved.

Appeal.

XLVII. And be it further enacted, That if any Perſon or Perſons, Bodies Politic or Corporate, ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance of this Act, or of the ſaid recited Act, (other than and except ſuch Orders and Determinations of the ſaid Commiſſioners reſpectively, as are herein or by the ſaid Act directed to be final and concluſive, and excepting ſuch Caſes wherein an Iſſue at Law ſhall be tried as herein mentioned), then and in every ſuch Caſe, he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace which ſhall be holden for the ſaid County of *Lancaſter*, within Six Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners, and the Party concerned, Thirty Days Notice in Writing of ſuch Appeal, and the Juſtices of the ſaid Quarter Seſſions are hereby authorized and required to hear and determine the Matter of every ſuch Complaint, and to make ſuch Order, and award ſuch Coſts and Damages, as to them ſhall ſeem reaſonable, and by their Order and Warrant to levy the Coſts and Damages which ſhall be ſo awarded, by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) to the Owner or Owners of ſuch Goods

Goods and Chattels, after deducting the reaſonable Charges of ſuch Warrant, Diſtreſs and Sale; and the Determination of ſuch Juſtices ſhall be final and concluſive to all Parties, and ſhall not be removed by *Certiorari*, or any other Writ or Proceſs into any of His Majeſty's Courts of Record at *Weſtminſter*, or elſewhere.

Saving of Manorial Rights.

XLVIII. And be it further enacted, That nothing herein contained ſhall extend, or be conſtrued to extend, to defeat, leſſen, or prejudice, the Right, Title, or Intereſt of His Majeſty, His Heirs or Succeſſors, in Right of His ſaid Duchy of *Lancaſter*, of, in, and to any Quit Rents, Chief Rents, Fee Farm Rents, or other Rents, now payable to His Majeſty, but that His ſaid Majeſty, His Heirs and Succeſſors, ſhall and may from Time to Time, and at all Times for ever hereafter, hold and enjoy all Rents, Services, Courts, Perquiſites, and Profits of Courts, Deodands, Waifs, Eſtrays, Forfeitures, and all other Royalties, Juriſdictions, Privileges, Pre-eminences, and Appurtenances whatſoever, (other than and except the Right of and in the Soil of ſuch Parts of the ſaid Tract of Common and Waſte Ground as ſhall be allotted by virtue of this Act, to any Perſon or Perſons, Body or Bodies Politic or Corporate, and ſave and except ſuch Rights of Seigniory as are hereby intended to be veſted in the ſaid Mayor, Bailiffs, and Commonalty as aforeſaid, and ſave and except ſuch Mines, Minerals, Immunities, Eaſements, Privileges, Advantages, and diſafforeſting as aforeſaid), in as full, ample, and beneficial a Manner to all Intents and Purpoſes, as His ſaid Majeſty, His Heirs and Succeſſors, in Right of the ſaid Foreſt of *Quernmore* for the Time being, could or might have held and enjoyed the ſame reſpectively, in caſe this Act, or the ſaid intended Incloſure and Diviſion had not been made.

Saving the Rights of John Fenton Cawthorne Eſquire.

XLIX. Provided always nevertheleſs, and be it further enacted, That nothing in this Act contained ſhall tend to vary, alter, prejudice, or affect the Rights or Intereſts of His Majeſty, His Heirs or Succeſſors, given or granted by certain Letters Patent under the Seals of the Duchy and County Palatine of *Lancaſter*, bearing Date the Fifth Day of *March* One thouſand ſeven hundred and eighty-five, unto *John Fenton Cawthorne* Eſquire, in, over, and upon the ſaid Foreſt, during the Term of his natural Life.

General Saving.

L. Saving always unto the King's moſt Excellent Majeſty, His Heirs and Succeſſors, as well in Right of His Crown as in Right of His Duchy of *Lancaſter*, and to all Bodies Politic and Corporate, and their Succeſſors, and to all and every Perſon and Perſons whomſoever, his and their Heirs, Executors, Adminiſtrators, and Aſſigns, all ſuch Eſtate, Right, Title, Intereſt, Claim, and Demand whatſoever, (other than and except ſuch as is and are hereby expreſſed, meant, and intended to be barred, deſtroyed, or extinguiſhed), as they, every, or any of them had or enjoyed in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and incloſed, or might or could have held and enjoyed therein, in caſe this Act had not been made.

Act to be printed by the King's Printer.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1814.