ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 105.

An Act for repealing an Act passed in the Seventh Year of the Reign of His present Majesty, intituled *An Act for dividing and inclosing the Open Commons in the Manor of* Shap, *in the County of* Westmorland; and for granting other Powers for dividing, allotting, and inclosing the said Lands and Grounds.

[21st *May* 1813.]

WHEREAS there are within the Manor of *Shap*, in the Parishes of *Shap* and *Crosby Ravensworth*, in the County of *Westmorland*, several large Commons or Waste Grounds, containing together Two thousand five hundred Acres, or thereabouts: And whereas by an Act made and passed in the Seventh Year of His present Majesty's Reign, intituled *An Act for dividing and inclosing the Open Commons in the Manor of* Shap, *in the County of* Westmorland, after reciting that within the said Manor and Parish of *Shap*, there are several large Open Commons or Waste Grounds, and that Sir *James Lowther* Baronet was then Lord of the Manor of *Shap*, and Impropriator of the Rectory and Vicarage, and as such, was seised and entitled unto all the Great and Small Tythes arising within the said Manor and Parish; and that several other Persons were entitled to Right of Common upon the said Commons or Waste Grounds within the said Manor; and that it would be advantageous to the several Owners and Proprietors of Lands and Tenements

entitled to Right of Common in and upon the ſame, if the ſaid Commons were divided and incloſed; it was enacted, that the ſaid Commons lying and being within the ſaid Manor of *Shap*, ſhould on on or before the Twentieth Day of *May* One thouſand ſeven hundred and ſixty-ſeven, or as ſoon after as conveniently could be done, be divided, ſet out and allotted by the Reverend *Richard Burn*, Doctor of Laws, *George Wheatley* and *Thomas Gibſon*, Commiſſioners appointed by the ſaid Act, and their Succeſſors, or any Two of them, in the Manner and ſubject to the Rules, Orders, and Directions therein-after mentioned: And it was thereby (amongſt other Things) further enacted, that when and as often as any of the Commiſſioners appointed by the ſaid Act, or to be elected in Manner therein-after mentioned, ſhould die or refuſe to act, the ſurviving Commiſſioners, or any Two of them, ſhould from Time to Time, in Manner therein mentioned, elect a Commiſſioner, not intereſted in the ſaid intended Incloſure, in the Stead and Place of every Commiſſioner ſo dying or refuſing to act as aforeſaid: And whereas all the ſaid Commiſſioners have departed this Life, without having done any Act or Thing for carrying the ſaid Incloſure into Effect, and without having appointed any other Perſon or Perſons in their Stead or Place: And whereas the Right Honourable *William* Earl of *Lonſdale*, Baron of *Whitehaven*, in the County of *Cumberland*, on the Deceaſe of the ſaid Sir *James Lowther* (afterwards Earl of *Lonſdale*) ſucceeded to the Right and Intereſt of the ſaid Sir *James Lowther*, afterwards the Earl of *Lonſdale*, and is now Lord of the Manor of *Shap* and Impropriator of the ſaid Rectory and Vicarage; and the Reverend *James Holme* is Vicar of the ſaid Vicarage, and the ſaid Earl and Vicar are entitled to all the Great and Small Tythes ariſing within the ſaid Manor and Pariſh: And whereas the ſaid Commons and Waſte Grounds are, in their preſent State, incapable of any conſiderable Improvement; and it would be advantageous to the ſaid *William* Earl of *Lonſdale*, and the ſeveral other Perſons intereſted therein, if the ſame were divided, and ſpecific Parts or Shares thereof allotted to them, in Proportion to their ſeveral and reſpective Eſtates, Rights, and Intereſts therein, and ſuch Allotments incloſed; but by Reaſon of the Death of the ſaid Commiſſioners, without having appointed any other Perſon or Perſons in their Stead or Place, it is conceived that 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 the ſaid in Part recited Act paſſed in the Seventh Year of the Reign of His preſent Majeſty, and every Matter, Clauſe, and Thing therein contained, ſhall be and the ſame is and are hereby repealed.

7 G. 3. repealed.

Commiſſioners.

II. And be it further enacted, That *Thomas Wakefield* of *Yealand*, in the County of *Lancaſter*, and *John Machell* of *Low Plains*, in the County of *Cumberland*, Gentlemen, and their Succeſſors to be elected in Manner herein-after mentioned, ſhall be and they are hereby appointed Commiſſioners for dividing, allotting, and incloſing, with all convenient Expedition, the ſaid Commons and Waſte Grounds, in the Manner and ſubject to the Rules, Orders, and Directions mentioned and contained in an Act 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*

Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts; except in such Cases where the same are hereby varied or altered.

Appointment of other Commissioners.

III. And be it further enacted, That if either of the said Commissioners appointed by this Act, or who shall be nominated in Manner herein-after mentioned, shall before the Execution of 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 shall be nominated in Manner following; that is to say, if the said *Thomas Wakefield* shall die or refuse to act, or neglect to attend as aforesaid, it shall be lawful for the said Earl of *Lonsdale*, or the future Lord or Lords, Lady or Ladies of the said Manor, by any Writing under his, her, or their Hand and Seal or Hands and Seals, to appoint One other Commissioner, not interested in the said Inclosure, in the room of the said *Thomas Wakefield*, and so from Time to Time as often as any Commissioner so to be appointed by the said Earl of *Lonsdale*, or the future Lord or Lords, Lady or Ladies of the said Manor as aforesaid, shall die, refuse to act or neglect to attend as aforesaid; and in case the said *John Machell* 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 within the said Manor) 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 Earl of *Lonsdale*) who shall be present at a public Meeting to be held for that Purpose in the Parish Church of *Shap* aforesaid, in pursuance of a Notice to be given in the said Church or by Writing to be affixed on the most public Outer Door of the said Church, and also in some Newspaper usually published or circulated in the said County of *Westmorland*, at least Twenty-one Days before such Meeting (such Notice to be given by the Person who acts as Clerk to the said Commissioners), by Writing under their Hands to appoint one other Commissioner, not interested in the said Inclosure, in the room of him the said *John Machell*, 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 Earl of *Lonsdale*, or the future Lord or Lords, Lady or Ladies, of the said Manor, or the said Proprietors or either 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 Commissioner shall and he is hereby required from Time to Time by Writing under his 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 by him or 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 as aforesaid; 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.

Appointing an Umpire.

IV. Provided always, and be it further enacted, That in case the said Commissioners shall at any Time or Times disagree in Opinion upon any Matter, concerning which it shall be necessary for them to judge and determine in the Execution of this Act or the said Act of the Forty-first Year of the Reign of His present Majesty, then and as often as it shall so happen, the said Commissioners shall and may and they are hereby authorized and required to refer such Difference to the Judgment and Determination of an Umpire, to be chosen by the said Commissioners; and in case the said Commissioners shall for the Space of Fourteen Days after such Difference shall arise, neglect to appoint an Umpire as aforesaid, or if such Umpire shall die, or being appointed shall refuse to act or become incapable of acting, then and in every such Case an Umpire shall be nominated and appointed by the major Part in Value of the said Proprietors of Lands, after the like Notice, and in such Manner as is herein-before directed concerning the Nomination and Appointment of a Commissioner in the Room or Stead of any Commissioner dying or refusing or neglecting to act or become incapable of acting, and so *toties quoties*, in case any Umpire as last-mentioned shall die or refuse to act or become incapable of acting; and the Judgment and Determination of such Umpire so to be chosen or nominated and appointed, shall be conclusive between the said Commissioners, who shall in every such Case act conformably thereto.

Umpire to take an Oath.

V. Provided always, and be it further enacted, That no Person shall be capable of acting as Umpire in the Execution of the Powers given by this or the said Act of the Forty-first Year of the Reign of His present Majesty, until he shall have taken and subscribed the Oath following; (that it to say)

Oath.

'I do swear, That I will faithfully, impartially, and honestly, 'according to the best of my Skill and Judgment, execute and perform the several Powers and Authorities vested and reposed in me as 'an Umpire, by virtue of an Act, passed in the Fifty-third Year of the 'Reign of King *George* the Third, intituled [*here insert the Title of this Act*] according to Equity and good Conscience, and without Favour 'or Affection, Prejudice or Partiality, to any Person or Persons whomsoever. 'So help me GOD.'

Which Oath it shall be lawful for the said Commissioners or either of them to administer; and the said Oath, so taken and subscribed by such Umpire, shall be annexed to and enrolled with the Award of the said Commissioners, and a Copy of the Enrolment thereof shall be admitted as legal Evidence.

Allowance to Commissioners.

Proprietors to pay their own Expences.

VI. And be it further enacted, That the said Commissioners and Umpire shall be each respectively paid the Sum of Two Guineas, and no more, for all their Trouble and Expences which they shall incur on each and every Day that they shall be respectively employed in travelling to, returning from, and attending on the Execution of this Act: Provided always, that the said Proprietors or Persons interested in the said Division and Inclosure, their Agents and Attornies, shall pay their own Expences,

pences when they or any of them shall attend the said Commissioners in the Execution of this Act.

Appointment of Surveyors.

V. And be it further enacted, That *James Parnell* of *Askham*, in the said County of *Westmorland*, Land Surveyor, shall be and he is hereby appointed Surveyor for the Purposes of the said Division and Inclosure; and that the said Commissioners shall have Power, if they think it proper and necessary, to displace and remove the said *James Parnell*, and to appoint any other Person or Persons in the Room, Place, and Stead of the said *James Parnell*, and from Time to Time to displace and remove any such other Person or Persons so to be appointed, and to appoint any other Person or Persons in his or their Place and Stead, and to make such Surveyor or Surveyors such Recompence for their respective Labour, Skill, and incidental Expences, as to the said Commissioners shall appear just and reasonable; but that it shall not be necessary or incumbent on the said Commissioners to cause any Admeasurement, Plan, or Valuation to be made of the Messuages, Cottages, Gardens, Homesteads, or ancient inclosed Lands or Grounds within the said Manor of *Shap*, but only of such Part or Parts thereof (if any) as the said Commissioners shall judge expedient or necessary, any Thing in the said recited Act contained to the contrary notwithstanding.

Notice to be given of the First Meeting of Commissioners.

VI. And be it further enacted, That the said Commissioners shall and they are hereby required to cause public Notice to be given in the Newspaper called *The Westmorland Advertiser and Kendal Chronicle*, or some other Newspaper usually circulated in the said County of *Westmorland*, and also in the said Parish Church of *Shap*, or by affixing a Notice in Writing upon the principal Outer Door of the said Parish Church of *Shap*, 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 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, and that the Place of every such Attendance or Meeting shall be at *Shap* aforesaid, and that Fourteen Days previous Notice be given thereof (Meetings by Adjournment only excepted).

Other Notices how to be given.

VII. 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 Westmorland Advertiser and Kendal Chronicle*, or some other Newspaper published or circulated in the said County of *Westmorland*.

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 or Inclosure hereby directed to be made, touching or concerning the respective Rights and Interests of such Parties therein, or which they or any of them shall have or claim to have in

or to such Commons, Moors, and Waste Grounds, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, it shall and may be lawful to and for the said Commissioners or Umpire to examine into, hear, and determine the same.

Commissioners not to determine Titles nor molest Possession.

IX. Provided always, and be it further enacted, That nothing in this Act contained shall extend to authorize or enable the said Commissioners or Umpire to determine the Title to any Messuages, Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments); 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 by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due Course of Law.

Commissioners empowered to award Costs.

X. 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 in pursuance of this Act, see Cause to award any Costs, it shall and may be lawful to and for the said Commissioners or Umpire, 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 or Umpire 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 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, 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.

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

XI. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said Division and Inclosure, shall be dissatisfied with any Determination of the said Commissioners or Umpire, touching or concerning Boundaries, or any Rights of Common or other Rights or Interests, in, over, or upon the said Commons, Moors, and Waste Grounds, hereby directed to be divided, allotted, and inclosed, or any Part thereof, it shall and may be lawful to and for the Person or Persons so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners or Umpire 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 or Umpire, 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 such Commissioners or Umpire; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept one or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and if at the Trial of any such Issue or Issues, it shall appear that the Party claiming is entitled to any qualified or less Right or Rights, or Interest or Interests, than was or were claimed by such Party, then it shall and may be lawful for the Jury by whom such Issue or Issues shall be tried, to find and declare the same by their Verdict, which shall be indorsed on the Postea in addition to the Verdict given on the Issue or Issues joined; but nevertheless the Costs of such Action or Actions shall abide and be determined by the Verdict given upon the Issue or Issues joined, as if no such Special Finding had been made; and the Verdict or Verdicts which shall be given in such Action or Actions upon the Issue or Issues joined, in case there shall be no such Special Finding and Indorsement, or such Special Finding or Indorsement, if any such shall be made, shall be binding upon all Persons and Bodies Politic and Corporate whomsoever, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, or Finding or Indorsement, 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 or Special Finding or Indorsement shall be obtained and not set aside by the Court, the said Commissioners and Umpire shall and they are hereby required 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.

XII. 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 such Action or Actions, Suit or Suits, might have been brought if living, shall die before any such Action or Actions, Suit or Suits, shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, Suit or Suits, it shall be lawful for the Person or Persons, Bodies Politic, Corporate or Collegiate, who might have brought such Action or Actions, Suit or Suits, 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 with Process for commencing such Action or Actions, Suit or Suits, 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 to and defend such Action or Actions, Suit or Suits, in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in like Manner as if such Person or Persons had been

Provision in Cases of Deaths of Parties before Action brought.

been actually living; and the Rights of the Parties shall be equally bound and concluded by the Event of such Action or Actions, Suit or Suits.

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

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

Deaths of Parties not to suspend the Execution of the Act.

XIV. And be it further enacted, That if any of the Parties interested in the said intended Division or Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioners or Umpire shall not be thereby determined or suspended, but that the said Commissioners or Umpire shall proceed in the Execution of the Powers given to them by this Act or the said Act of the Forty-first Year of the Reign of His present Majesty, in such Manner as they might have done in case such Parties had not died; and that the Share or Shares of the Person or Persons so dying shall be allotted to such Person or Persons who by Law shall become entitled to the same, and shall be accepted and fenced by him, her, or them, according to the Directions of this or the said Act of the Forty-first Year of the Reign of His present Majesty; and he, she, or they shall be liable to the Charges and Expences and other Conditions of this Act and the said Act of the Forty-first Year of the Reign of His present Majesty.

Allotments for Watering Places, Gravel Pits, &c.

XV. 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 and allot, unto the Surveyors of the Highways within the Township or Manor of *Shap* 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 public Watering Places for Cattle, and for getting Sand, and also for getting Gravel for making and repairing of the Roads to be made over the said Commons and Waste Grounds, 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 of the said Townships for the Time being, and by the Owners and Proprietors of Messuages, Lands, and Tenements within the Manor of *Shap* aforesaid; and the Proprietors of the said Commons and Waste Grounds shall have free Liberty of getting Stone therein for their own Use and Benefit, to be used within the said Manor of *Shap* upon such their respective Messuages, Lands, and Tenements lying within the said Manor, 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 public Use and Benefit.

XVI. And

Not to dig Turves, Sods, &c.

XVI. And be it further enacted, That from and after the paſſing of this Act, no Perſon ſhall pare, dig, or take away any Sods, Turves or Soil, in, upon, or from any Part of the ſaid Commons or Waſte Grounds, until the ſame ſhall be ſet out and allotted as aforeſaid, except in ſuch Place or Places as the ſaid Commiſſioners ſhall direct and appoint, under a Penalty not exceeding Forty Shillings for every ſuch Offence, the ſame to be recovered and levied by the ſaid Commiſſioners, and applied in defraying the Expences of carrying this Act into Execution.

Encroachments made within 20 Years to be deemed Common.

XVII. And be it further enacted, That all Encroachments which ſhall have been made upon any of the Commons, Moors, and Waſte Grounds intended by this Act to be divided and incloſed, within the Space of Twenty Years next before the paſſing of this Act, 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 always, that all ſuch Encroachments which ſhall have been made or taken by any Perſon or Perſons entitled to Right of Common upon the ſaid Commons, Moors, and Waſte Grounds, ſhall be conſidered as the Share or Allotment, or Part of the Share or Allotment to be made to the Perſon or Perſons who ſhall then be in Poſſeſſion or entitled to the improved Rents and Profits thereof, without conſidering the Improvement made thereto, and ſhall be allotted to and accepted by ſuch Perſon or Perſons as the Whole, or Part or Share of the Allotment or Allotments to be aſſigned or allotted to him, her, or them reſpectively.

Proprietors may ſell their Common Right and the Commiſſioners award the ſame to the Purchaſer.

XVIII. Provided alſo, and be it further enacted, That it ſhall and may be lawful to and for the Perſons entitled to Right of Common on the ſaid Commons, Moors, and Waſte Grounds hereby directed to be incloſed, to ſell and diſpoſe of his, her or their Right, 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 ſuch Purchaſer or Purchaſers ſhall hold and enjoy the ſame unto him, his Heirs and Aſſigns for ever, any Law to the contrary thereof notwithſtanding.

Allotment for the Tithes of Common.

XIX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required to ſet out, allot, and appoint unto and for the ſaid Earl of *Lonſdale*, as Impropriator of the Rectory and Vicarage of *Shap*, or the Impropriator or Impropriators of the ſaid Rectory and Vicarage for the Time being, over and above, and excluſive of ſuch Lands and Grounds as ſhall by virtue of this Act be allotted to him as Lord, or in lieu of and as a Compenſation for his Right of Common upon the Commons ſo to be incloſed, ſuch Allotment or Allotments upon the ſaid Commons and Waſte Lands as ſhall, when fenced in the Manner herein-after preſcribed, be in the Judgment of the ſaid Commiſſioners equivalent to One-eighth Part or Share of the ſaid Waſtes and Commons, remaining after the Allotments herein-before or by the ſaid

recited Act directed to be made for Public Highways, Quarries and Watering Places, in Lieu and Satisfaction of all Tithes whatsoever both Great and Small, and all Moduſes and Preſcriptions in lieu thereof, ariſing and growing due and payable, or which would, could, or might ariſe and become due or payable, or to which he or they is, are, can, might, or could be entitled to, from and out or for and in reſpect of all and every or any Part of the Commons and Waſte Grounds within the ſaid Manor of *Shap*, ſuch Allotment or Allotments being well and ſufficiently defended by a ſufficient Wall built with Stone, being Thirty-ſix Inches thick at the Bottom, Sixteen Inches at the Top, and Six Feet in Height on both Sides, all around the ſaid Allotment or Allotments, and the ſame to be built with ſuch Materials and in ſuch Manner as ſhall be ſatisfactory to the Commiſſioner appointed by the ſaid Earl of *Lonſdale*; which ſaid Allotment, Part or Portion ſhall be accepted by and veſted in the ſaid Earl of *Lonſdale* as Impropriator of the Rectory and Vicarage of *Shap* as aforeſaid, and the Impropriator or Impropriators thereof for the Time being.

Allotment of One-ſixteenth Part to the Lord of the Manor.

XX. 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 Earl of *Lonſdale*, and the Lord or Lords, Lady or Ladies of the ſaid Manor for the Time being, One-ſixteenth Part in Value of ſuch Reſidue of the ſaid Commons and Waſte Lands (Quantity and Quality conſidered) to be awarded and allotted to him for his Right to the Soil of the ſaid Commons and Waſte Lands hereby intended to be divided and incloſed.

Commiſſioners to ſell Lands for Payment of Expences.

XXI. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby empowered, from Time to Time when they ſhall think proper, to ſell in the Manner directed and preſcribed by the ſaid recited Act, ſuch Part or Share of the ſaid Commons and Waſte Grounds, ſo to be divided and incloſed, as ſhall be neceſſary to raiſe a ſufficient Sum for defraying the Charges of obtaining this Act and attending the Diviſion of the ſaid Commons, Moors, and Waſte Grounds, and of walling the Allotments directed by this Act to be ſet out and allotted unto the ſaid Earl of *Lonſdale* as Impropriator of the Rectory and Vicarage of *Shap* aforeſaid, in lieu of Tythes as herein-before and herein-after mentioned, and carrying this Act into full Execution, agreeable in all Reſpects to the Rules and Regulations in the ſaid recited Act mentioned; but if the Money to be raiſed by ſuch Sale or Sales ſhall not be ſufficient to anſwer the Purpoſes aforeſaid, then the Deficiency therein ſhall be raiſed and paid by the Proprietors of the ſeveral Allotments of the ſaid Commons and Waſte Grounds in Proportion to the Value of their reſpective Allotments to be aſcertained by an Aſſeſſment or Aſſeſſments to be made for that Purpoſe by the ſaid Commiſſioners; and in caſe any Perſon or Perſons intereſted in the ſaid Diviſion and Incloſure ſhall refuſe or neglect to pay their, his, or her Shares or Proportions, Share or Proportion of all Fees, Charges, and Expences mentioned and expreſſed in the ſaid Aſſeſſment or Aſſeſſments ſo to be made as aforeſaid, within the Time to be limited and appointed by the ſaid Commiſſioners to ſuch Perſon or Perſons as they ſhall appoint to receive the ſame, then the ſaid Commiſſioners

ſioners ſhall and may and they are hereby empowered and required, either by Warrant under their Hands and Seals directed to any Perſon or Perſons whomſoever, to cauſe the ſame to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo reſpectively refuſing or neglecting to pay the ſame, rendering the Overplus (if any) on Demand to the Owner or Owners of ſuch Goods and Chattels, after deducting the Coſts and Charges of taking and making ſuch Diſtreſs and Sale, or it ſhall be lawful for the ſaid Commiſſioners to ſell or mortgage the Allotment or Allotments of the Perſon or Perſons ſo neglecting to pay their, his, or her Shares or Proportions, Share or Proportion of all ſuch Fees, Charges, and Expences as aforeſaid, or ſo much and ſuch Part or Parts of all ſuch Allotment or Allotments as ſhall be ſufficient to raiſe Money to pay their, his, or her Proportion of all ſuch Fees, Charges, and Expences as aforeſaid, and alſo the Charges and Expences of ſuch Sale or Mortgage and other Expences attending the ſame.

Application of Surplus Money.

XXII. And be it further enacted, That in caſe any Surplus of the Money to ariſe by Sale of Land as herein-before mentioned, ſhall remain after Payment of ſuch Expences as aforeſaid, ſuch Surplus ſhall be paid to the Perſon or Perſons entitled thereto, if ſeiſed in Fee Simple of the Eſtate in reſpect whereof they ſhall be entitled to any Right or Intereſt in ſuch Lands; or otherwiſe ſuch Surplus ſhall be paid into the Bank of *England* in the Manner directed by the ſaid recited Act with reſpect to Money to be paid for the Purchaſe or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments to be ſettled to the ſame Uſes.

Allotment to the Vicar in lieu of Tythes.

XXIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required in the next Place to ſet out, allot and appoint, unto and for the ſaid *James Holme* and his Succeſſors, Vicars of *Shap* aforeſaid for the Time being, ſuch Allotment or Allotments, Parcel of the ſaid Commons and Waſte Lands, as ſhall in the Judgment of the ſaid Commiſſioners be a full and ample Equivalent and Compenſation for, and in lieu of, and in full Satisfaction of all Tythes, Moduſes, Compoſitions, Preſcriptions, or annual Payments ariſing or growing due within the ſaid Manor of *Shap* to the ſaid *James Holme*, and his Succeſſors Vicars of *Shap* aforeſaid for the Time being, the ſame to be deducted in a fair and equal Proportion and Manner from and out of the Allotments of Common to which the ſeveral Parties liable to ſuch Payments are entitled, and ſhall be accepted by and veſted in the ſaid *James Holme*, and his Succeſſors Vicars of *Shap* for the Time being, as a full Equivalent and Compenſation for all Manner of Tythes, Moduſes, Compoſitions, Preſcriptions or annual Payments, ariſing, renewing, and becoming due or payable within the ſaid Manor of *Shap*, or which would, could or might become due or payable, or to which he or they is, are, can, might or could be entitled as Vicar of *Shap* aforeſaid, or his Succeſſors for the Time being, ſuch Allotment or Allotments to be well and ſufficiently ring-fenced, with a Wall built with Stone, in ſuch Manner as the ſaid Commiſſioners ſhall order and direct.

Allotment for Tythe of ancient incloſed Lands.

XXIV. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required in the next Place to ſet out, allot

allot and appoint, unto and for the ſaid Earl of *Lonſdale*, or the Impropriators or Impropriator of the ſaid Rectory and Vicarage for the Time being, ſuch Allotment or Allotments, Parcel of the ſaid Commons and Waſte Lands, as ſhall in the Judgment of the ſaid Commiſſioners be a full Equivalent and Compenſation for and in lieu of and in Satisfaction of all Tythes whatſoever, both Great and Small, and all Moduſes and Preſcriptions in lieu thereof, ariſing and growing due to the ſaid Earl of *Lonſdale*, or the Impropriators or Impropriator of the ſaid Rectory and Vicarage for the Time being, from and out of the ancient incloſed Lands within the ſaid Manor of *Shap*, having Right of Common upon the ſaid Lands ſo intended to be incloſed, to be deducted in a fair and equal Proportion and Manner from and out of the Allotments of Common to which ſuch Eſtates are entitled unto, and ſhall be accepted by and inveſted in the ſaid Earl of *Lonſdale*, or the Impropriators or Impropriator of the ſaid Rectory and Vicarage for the Time being, as a full Equivalent and Compenſation for all Manner of Tithes both Great and Small and all Moduſes and Preſcriptions in lieu thereof, ariſing, renewing and becoming due or payable, or which would, could, or might become due or payable, or to which he or they is, are, can, might or could be entitled to from and out of, or for and in reſpect of all and every or any of the ancient Meſſuages, Tenements, and incloſed Lands within the ſaid Manor and Townſhip of *Shap* aforeſaid, having ſuch Right of Common as aforeſaid, the ſame being well and ſufficiently ring-fenced, with a Wall built with Stone, being Thirty-ſix Inches thick at the Bottom, Sixteen Inches at the Top, and Six Feet in Height on both Sides thereof, all around the ſaid Allotment or Allotments, and to be built with ſuch Materials and in ſuch Manner as ſhall be ſatisfactory to the Commiſſioner appointed by the ſaid Earl of *Lonſdale*.

Allotment for Turbary.

XXV. And be it further enacted, That the ſaid Commiſſioners ſhall aſſign, ſet out and appoint ſuch Part or Parts, Parcel or Parcels of the ſaid Commons and Waſte Lands, as is or are conveniently ſituate, and fit and proper for the digging, cutting, and curing of Peats and Turves for the Uſe and Benefit of the Vicar of *Shap* for the Time being, and of the Proprietors and Occupiers for the Time being of Meſſuages, or other Buildings, in reſpect whereof any Allotments of the ſaid Commons and Waſte Lands ſhall be made in purſuance of this Act, or which ſhall be erected and built upon any ſuch Allotment or Allotments, to be uſed at all Times thereafter as Peat Moſſes by the ſaid Proprietors and Occupiers for the Time being, and their ſeveral Tenants and Leſſees, ſuch Allotments to be made in Severalty, and ſet out to ſuch Perſon and Perſons as ſhall be entitled to the ſame; and the ſaid Commiſſioners ſhall and they are hereby required and empowered to ſet out ſuch public Roads to and from the ſame, as ſhall be by them the ſaid Commiſſioners deemed neceſſary and requiſite for the full Occupation and Enjoyment of the ſaid Lands and Grounds ſo ſet out by them for the Purpoſe aforeſaid.

Allotment of the Reſidue.

XXVI. And be it further enacted, That immediately after the 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, by this Act directed to be

be divided and incloſed unto and amongſt the ſeveral Perſons who at the Time of making ſuch Allotments ſhall be entitled to any Eſtate, Property, Right or Intereſt in the ſaid Commons, Moors and Waſte Grounds, or any Part thereof, in Proportion to ſuch Right or Intereſt and according to the Value of the ſeveral Meſſuages, Lands, Tenements and Hereditaments, in reſpect whereof they are ſo entitled, ſuch Value to be aſcertained by the Rate or Aſſeſſment for the Relief of the Poor within the ſaid Pariſh, made and collected within the ſaid Manor under an Admeaſurement and Valuation of the ſaid Meſſuages, Lands, Tenements, and Hereditaments, made by Meſſieurs *Robert Lumb* and *John Gibſon* in the Years One thouſand eight hundred and ſeven, and One thouſand eight hundred and eight: Provided always, that if any Perſon or Perſons ſhall be entitled to Right of Common or other Intereſt in the ſaid Commons and Waſte Lands, in reſpect of any Meſſuages, Lands or Hereditaments, which ſhall have been omitted to have been rated in ſuch Aſſeſſment or Valuation, or which ſhall lie out of the Limits or Precincts of the ſaid Manor, the ſaid Commiſſioners are hereby authorized and required to value ſuch Meſſuages, Lands or Hereditaments, which ſhall have been ſo omitted, or ſhall lie out of ſuch Limits or Precincts, in an equal Proportion to ſuch Poor Rate or Aſſeſſment, and allot in reſpect of ſuch Meſſuages, Lands and Tenements accordingly; provided alſo, that the ſaid Commiſſioners, in making ſuch Valuations and Allotments as laſt mentioned, ſhall have due regard whether the Lands, Tenements or Hereditaments entitled to ſuch Right of Common or other Intereſt, and not included in the ſaid Aſſeſſment or Valuation, are ſubject to the Payment of Tithe by this Act intended to be exonerated, or are exempt from the Payment thereof, or any Part or Species of ſuch Tithe, and ſhall deduct from or add to the Value of the ſaid Lands, Tenements, or Hereditaments, ſo liable to or exempt from ſuch Tythe, in ſuch Proportion as to the ſaid Commiſſioners ſhall ſeem juſt and equitable.

Allotments, when incloſed, to be Freehold.

XXVII. And be it further enacted, That 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.

Tythes to be paid as heretofore, until Diviſion made.

XXVIII. And be it further enacted, That until the Diviſion and Allotments ſhall be made and finiſhed in purſuance of this Act, the ſaid Earl of *Lonſdale*, and the ſaid Impropriator or Impropriators for the Time being, 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.

Not to affect Wills or Settlements.

XXIX. And be it further enacted, That nothing in this Act centained ſhall extend or be deemed or taken to revoke, make void, alter or annul any Settlement, Deed, Will or Limitation, or to 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 the said recited 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 and Incumbrances, as the said several Lands, Grounds, Tenements, or Hereditaments, in lieu of or in respect whereof such Allotments shall be made as aforesaid, now are, or should or would have been subject and liable to be charged with or affected by, in case the same had remained unenclosed and unexchanged, or this Act had not been passed.

Power to make Exchanges.

XXX. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot and award any Messuages, Buildings, Lands, Tenements or Hereditaments within the said Manor of *Shap*, and Parishes of *Shap* and *Crosby Ravensworth* aforesaid, in lieu of and in exchange for any other Messuages, Buildings, Lands, Tenements or Hereditaments within the said Manor of *Shap* and Parishes of *Shap* and *Crosby Ravensworth*, or in any adjoining Parish, Hamlet, Township, or Place; provided that all such Exchanges shall be ascertained, specified, and declared in the said Award, and be made with the Consent of the Proprietor or Proprietors, Trustee or Trustees, Feoffee or Feoffees of the Hereditaments and Premises which shall be so exchanged, whether such Proprietor or Proprietors, Trustee or Trustees, Feoffee or Feoffees, shall be a Body or Bodies Politic, Corporate or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life or in Fee Tail General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees or Feoffees for Charitable, Parochial or other Uses, Husbands, Committees, or Attornies of or acting for any such Proprietor or Proprietors, who at the Time of making such Exchange or Exchanges, shall be respectively Infants, Femes Covert, Ideots, Lunatics, or under any other legal Disability, or who shall be beyond the Seas or otherwise disabled to act for himself, herself, or themselves, (such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively) and all and every such Exchange or Exchanges so to be made shall be good, valid and effectual in Law, to all Intents and Purposes whatsoever; provided nevertheless, that no Exchange shall be made of any Messuages, Buildings, Lands, Tenements, or Hereditaments held in Right of any Ecclesiastical Benefice without the Consent (testified as aforesaid) of the Bishop of the Diocese in which such Messuages, Buildings, Lands, Tenements, or Hereditaments shall be situate, and of the Patron of such Ecclesiastical Benefice.

Expences of Exchanges how paid.

XXXI. 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.

No Sheep or Lambs to be turned upon the Allotments.

XXXII. And be it further enacted, That no Person shall, during the Space of Seven Years from the Execution of the said Award, keep or depasture, or cause to be kept and depastured any Sheep or Lambs in the Allotments to be made in pursuance of this Act (unless he, she, or they shall first effectually fence and guard the adjoining Allotment or Allotments belonging to any other Proprietor or Proprietors, from any Injury or Damage to their Quicksets or new planted Fences), nor shall any Person, during the said Term of Seven Years, turn or put, or cause to be turned or put any Sheep, Lambs, Horses, Asses, or other Beasts or Cattle into any of the Lanes, Ways, or Roads, on either Side whereof any new growing Fence shall be planted.

Leases at Rack Rent to be vacated.

XXXIII. And be it further enacted, That all and every Lease and Leases for any Term not exceeding Twenty-one Years subsisting at Rack, Improved, or Extended Rent, of all or any Part of the Lands and Grounds hereby intended to be inclosed as aforesaid, and all Right of Common in and upon the same, and all other Agreements for any Time or Term at Rack, Improved, or Extended Rent, shall, as to the said Commons, Moors and Waste Grounds so intended to be divided and inclosed as aforesaid, at such Time or Times as the said Commissioners shall by Writing under their Hands, order and direct, cease and be void; the respective Persons who have granted or made any such Leases or Agreements making such reasonable Satisfaction for the same to such Lessee or Lessees, Tenant or Tenants, when required, as the said Commissioners shall direct and appoint on account thereof, or as an Equivalent for the same.

Allotments to be fenced.

XXXIV. And be it further enacted, That the several Allotments to be made as aforesaid shall, within such Time, either before or after the Execution of the said Award, as the said Commissioners shall direct by Writing under their Hands, 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.

Proprietors, with the Consent of the Commissioners, may inclose their Allotments before the whole are staked out, on paying Rent.

XXXV. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, if they shall think it proper and expedient so to do at any Time or Times after the passing of this Act, and before all the Allotments to be made by virtue thereof are staked out, and the Rights and Interests of each and every of the Proprietors fully ascertained, to set out and allot to any such Proprietors upon Application made in Writing to the said Commissioners for that Purpose, any Parcel or Parcels of Land as Part of the Allotments to be made to such Proprietors respectively, and by Writing under their Hands to authorize and empower such Proprietors respectively to fence, occupy, and enjoy the same in Severalty, paying such annual Rents in respect thereof, until the Whole of the Allotments to be made by virtue of this Act shall be ascertained and staked out, as the said Commissioners shall fix and appoint; such Rents to be applied by the said Commissioners towards the Payment of the Expences of obtaining this Act and carrying the same into Execution; and the said Commissioners

Commiſſioners ſhall have all ſuch Remedies for Recovery thereof, as Landlords now have or ſhall at any Time hereafter be entitled to for the Recovery of Rent in Arrear.

Perſons advancing Money, to be repaid with Intereſt.

XXXVI. 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 the Fees or other Expences of obtaining, paſſing, and 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.

Commiſſioners Accounts to be audited.

XXXVII. 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 of this Act) 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 at the Office of the Clerk of 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.

Saving the Rights and Seigniories of the Lord of the Manor.

XXXVIII. 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 Earl of *Lonſdale*, as Lord of the ſaid Manor of *Shap*, or the Lord or Lords, Lady or Ladies of the ſaid Manor for the Time being, of, in, and to the Seigniories and Royalties incident and belonging to the ſaid Manor; but that the ſaid Earl of *Lonſdale* 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 the Lord or Lords, Lady or Ladies thereof, incident, belonging, or appertaining (other than and except ſuch Common Right 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 the Right of getting Stones, 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 made; and that the ſaid Earl of *Lonſdale* and the Lord or Lords, Lady or Ladies of the ſaid Manor for the Time being, 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, hereby directed to be divided, allotted, and incloſed, together with all convenient and neceſſary Ways, Way-leaves,

Roads

Roads and Paſſages already made and hereafter to be made through, over, or upon the ſaid Lands and 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 Pits, Shafts, 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 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, 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: Provided nevertheleſs, that nothing in this Act contained ſhall give to the ſaid Earl of *Lonſdale*, or to any future Lord or Lords, Lady or Ladies of the Manor of *Shap* 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 hereby directed to be divided, allotted, and incloſed, than he the ſaid Earl of *Lonſdale* was by Law entitled to immediately before the paſſing of this Act.

Satisfaction to be made for Damages.

XXXIX. 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 Rooms or other the Liberties and Powers hereby given and reſerved to the Lord or Lords, Lady or Ladies of the Manor of *Shap* 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, Spoil, or Loſs.

Award to be depoſited in the Pariſh Church.

XL. And be it further enacted, That the Award to be made by the ſaid Commiſſioners, when enrolled in Manner directed by the ſaid Act of the Forty-firſt Year of the Reign of His preſent Majeſty, ſhall, together with a Map or Plan annexed thereto, be depoſited and kept with the Pariſh Regiſters, in the Pariſh Church of *Shap* aforeſaid.

Appeal to the Quarter Seſſions.

XLI. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance

ſuance of this Act, then and in every ſuch Caſe (except where the Orders and Determinations of the ſaid Commiſſioners are by this Act or the ſaid Act of the Forty-firſt Year of the Reign of His preſent Majeſty, directed to be final, binding, and concluſive, and except in ſuch Caſes where 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 Two Calendar Months Notice to the Commiſſioners of ſuch his, her, or their Intention of appealing; and the Juſtices at 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 or 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) to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale; which Determination of the ſaid Juſtices ſhall be final and concluſive on all Parties, and ſhall not be removed or removable 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.

XLII. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politic 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 and 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 Inclоſure hereby authorized ſhall abſolutely require to be barred or extinguiſhed by this Act) all ſuch Eſtates, Rights and Intereſts, as he, they, every or any of them had or enjoyed, of, in, and 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.

Act to be printed by the King's Printers.

XLIII. And be it further enacted, That this Act ſhall be printed by the ſeveral Printers to the King's moſt Excellent Majeſty, duly authorized to print the Statutes of the United Kingdom; and a Copy thereof, ſo printed by any of them, 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. 1813.