ANNO QUINQUAGESIMO QUARTO

GEORGII III. REGIS.

Cap. 87.

An Act for incloſing Lands in the Pariſhes of *Wallaſey*, and *Weſt Kirby*, in the County of *Cheſter*.

[27th *May* 1814.]

WHEREAS there are within the Townſhip of *Wallaſey*, in the Pariſh of *Wallaſey*, in the County of *Cheſter*, divers Commons and Waſte Lands, containing about Three hundred and twelve Acres of Statute Meaſure, excluſive of certain Land covered with Sand Hills on the North-weſt Side of Part of the ſaid Commons; and there is within the ſaid Townſhip of *Wallaſey*, a certain Tract or Parcel of open and undivided Land, called *Wallaſey Paſture*, containing about Two hundred and twenty Acres of Statute Meaſure; and there are within the Townſhip of *Poolton-cum-Seacombe*, in the ſaid Pariſh of *Wallaſey*, divers other Commons and Waſte Lands, containing Eighty-two Acres of Statute Meaſure, or thereabouts; and there is within the Pariſh of *Weſt Kirby*, in the ſaid County, a certain other Tract or Parcel of Common Land, called *The Carr*, containing about Two hundred and four Acres of Statute Meaſure, adjoining the Townſhips of *Grange*, *Little Meols*, and *Newton-cum-Larton*, in the ſaid Pariſh of *Weſt Kirby*, and on which the Owners of Lands in thoſe ſeveral Townſhips have Right of Common: And whereas *Robert Vyner* Eſquire, and *John Egerton* Eſquire, are joint Lords of the Manor of *Wallaſey* aforeſaid; and *Richard Smith* Eſquire is or claims to be Lord of the Manor of *Poolton-cum-Seacombe* aforeſaid; and *James Mainwaring* Eſquire, alſo claims ſome Right or Title to, or Intereſt in, the ſaid laſt-mentioned Manor; and *John Leigh* Eſquire is Lord of the Manor of *Grange*, in the ſaid Pariſh of *Weſt Kirby*, in which

Manor the ſaid Piece of Land called *The Carr* is ſituate: And whereas the Right Reverend the Biſhop of *Cheſter* is Patron of the Rectory and Pariſh Church of *Wallaſey* aforeſaid, and the Reverend *Auguſtus Campbell* Clerk is the Rector of the ſaid Pariſh and Pariſh Church; and the Dean and Chapter of the Cathedral Church of *Cheſter* are Patrons of the Rectory and Pariſh Church of *Weſt Kirby* aforeſaid; and the Reverend *Thomas Trevor Trevor* Clerk is the Rector of the ſaid Pariſh and Pariſh Church: And whereas the ſaid *Robert Vyner*, *John Egerton*, *Richard Smith*, *James Mainwaring*, and *John Leigh*, and alſo Sir *Henry Poole* Baronet, *John Tobin*, *Joſeph Green*, *Joſeph Molyneux*, *Peter Ledſom*, *Joſeph Jackſon*, *George Cooper*, *William Bird*, *Robert Stanley*, *John Meadows*, *William Dean*, *Robinſon Dean*, *Richard Hilliard*, and ſeveral other Perſons, are Owners and Proprietors of divers Meſſuages, Tenements, Lands, and Hereditaments within the ſaid Townſhips of *Wallaſey* and *Poolton-cum-Seacombe*, and are reſpectively entitled to Right of Common on the ſaid Commons and Waſte Lands in *Wallaſey* and *Poolton-cum-Seacombe*, in which Townſhips their Meſſuages, Lands, and Tenements reſpectively lie; and the ſaid *John Leigh*, Sir *Thomas Stanley Maſſey Stanley* Baronet, the Reverend *Edward Stanley*, the Reverend *Roger Jacſon*, and ſeveral other Perſons, are Owners of Eſtates within the ſaid Townſhips of *Grange*, *Little Meols*, and *Newton-cum-Larton* reſpectively, and are entitled to Right of Common on the ſaid Piece of Land called *The Carr*; and ſome of the ſaid Perſons before named, and others, are poſſeſſed of or entitled to the ſaid Piece of Land called *Wallaſey Paſture*, in certain Shares and Proportions called *Cowgaits*; but the ſame Cowgaits lie open to each other, and are undivided, although the Number of ſuch Cowgaits belonging to each Perſon is well known and aſcertained, and the Owners of ſuch Cowgaits are alſo entitled to Right of Common on the ſaid Commons and Waſte Lands in the Townſhip of *Wallaſey*: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Ma-
41 G. 3. jeſty, 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 ſeveral Commons and Waſte Lands, and the ſaid Cowgaits and Carr before ſpecified, in their preſent State are of little Value, and if divided into ſpecific Allotments and incloſed, would be conſiderably improved; but ſuch Diviſion and Incloſure cannot be made and rendered effectual 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 Commons and Waſte Lands within the ſaid ſeveral Townſhips of *Wallaſey* and *Poolton-cum-Seacombe*, and the ſaid Cowgaits and Carr reſpectively, ſhall be ſet out, allotted, and divided, as ſoon as conveniently may be; and that *James*
Commiſſioner. *Boydell* of *Roſſett*, in the County of *Denbigh*, Gentleman, ſhall be and he is hereby appointed the Commiſſioner for ſetting out, allotting, and dividing the ſame, and for carrying this and the ſaid recited Act into Execution, ſubject to the Regulations of the ſaid recited Act, except in ſuch Caſes where the ſame are hereby varied or altered.

For appointing new Commiſſioner. II. And be it further enacted, That if the ſaid *James Boydell*, or any ſucceeding Commiſſioner to be appointed as herein-after mentioned, ſhall die,

die, or refuſe to act, or be rendered incapable of acting by Sickneſs, or any other Cauſe, it ſhall be lawful for a Majority in Value (ſuch Value to be aſcertained by the Aſſeſſment of the Land Tax) of the Owners and Proprietors of Meſſuages, Lands, Tenements, or Hereditaments in the ſaid ſeveral Townſhips of *Wallaſey*, *Poolton-cum-Seacombe*, *Grange*, *Little Meols*, and *Newton-cum-Larton*, having Right of Common there, and alſo of the Owners of the ſaid Cowgaits, being preſent at a Meeting to be called as herein-after mentioned, by Writing under their Hands, to appoint another Commiſſioner (not intereſted in the Premiſes) in the Room or Place of the ſaid *James Boydell*, within Six Weeks next after ſuch Death, Refuſal, or Incapacity ſhall be made known, and ſo from Time to Time as ſuch Commiſſioner ſo to be appointed as aforeſaid may happen to die, or refuſe or become incapable to act, to appoint another Commiſſioner in the like Manner; and every ſuch new Commiſſioner ſo to be appointed, having taken and ſubſcribed the Oath required to be taken by the ſaid recited Act, ſhall have ſuch and the like Powers and Authorities by virtue of this Act, as if he had been originally named and appointed a Commiſſioner in and by this Act.

Notice of Meeting for the Appointment of a new Commiſſioner.

III. And be it further enacted, That ſuch Meeting for the Appointment of a new Commiſſioner ſhall be called of the ſeveral Perſons intereſted in the ſaid Commons and Waſte Lands, and in the ſaid Cowgaits and Carr before ſpecified, and ſhall be held at ſome convenient Place in the Townſhips of *Wallaſey*, *Little Meols*, or *Grange*, and that Notice of ſuch Meeting ſhall and may be given by order of any Five or more Perſons intereſted in the Lands and Grounds to be allotted, divided, and incloſed by virtue of this Act, by affixing ſuch Notice on the Pariſh Churches of *Wallaſey* and *Weſt Kirby* aforeſaid, on Three *Sundays* next immediately preceding ſuch Meeting, and alſo by publiſhing the ſame in One of the *Cheſter* Newſpapers Fourteen Days previous to ſuch Meeting.

Notice of Sittings to put Act in Execution.

IV. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to cauſe Notice to be inſerted in one of the *Cheſter* Weekly Newſpapers of the Time and Place of his firſt Sitting, to put this Act into Execution, at leaſt Twenty-one Days before the Day of ſuch Sitting, and which ſhall be at ſome convenient Place within ſome one of the ſaid Townſhips; and the ſaid Commiſſioner ſhall and may afterwards proceed in the Execution of this Act, and from Time to Time adjourn to ſuch Time and Place within the ſaid Townſhips reſpectively, or within Eight Miles thereof, as he ſhall think proper.

Other Notices.

V. Provided always, and be it enacted, That all other Notices requiſite or neceſſary to be made and given by the ſaid Commiſſioner, ſhall be ſo made and given by Advertiſement in One of the ſaid *Cheſter* Newſpapers.

Commiſſioner to determine Diſputes.

VI. 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 Lands and Grounds to be divided, allotted, and incloſed in purſuance of this Act, or any Part thereof, touching or concerning the ſeveral Rights and Intereſts which they or any of them have, or ſhall have, or claim to have, in, over, upon, or out of the ſaid Lands and Grounds, or any Part thereof, or touching or concerning any Matter or Thing relating

to the ſaid Diviſion, Allotment, and Incloſure, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized to examine into, hear, and determine the ſame: Provided always, that nothing in this Act contained ſhall authorize the ſaid Commiſſioner to determine the Title to any Meſſuages, Lands, Tenements, and Hereditaments whatſoever.

Perſons in Poſſeſſion not to be moleſted without due Courſe of Law.

VII. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioner to determine any Right between any Parties, contrary to the Poſſeſſion of any ſuch Parties, (except as herein-after particularly mentioned); but in caſe the ſaid Commiſſioner ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, he ſhall forbear to make any Determination thereupon till 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.

Power to award Coſts.

VIII. And be it further enacted, That in caſe the ſaid Commiſſioner ſhall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in purſuance of this Act, ſee Cauſe to award any Coſts, it ſhall and may be lawful for him, and he is hereby empowered, upon Application made for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as he ſhall think reaſonable, to be paid to the Party or Parties in whoſe Favour any Determination of the ſaid Commiſſioner ſhall be made, by the Perſon or Perſons whoſe Claim or Claims, Objection or Objections, ſhall be thereby diſallowed or overruled; and in caſe the Perſon or Perſons who ſhall be liable to pay ſuch Coſts and Charges, ſhall neglect or refuſe to pay the ſame on Demand, then and in ſuch Caſe it ſhall and may be lawful for the ſaid Commiſſioner, and he is hereby required and authorized, by a Warrant under his Hand and Seal, directed to any Perſon or Perſons 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.

For determining diſputed Claims.

IX. And be it further enacted, That in caſe any Perſon or Perſons intereſted or claiming to be intereſted in the ſaid intended Diviſion and Allotments, ſhall refuſe to leave his, her, or their Claim or Right to the Deciſion of the Commiſſioner, or ſhall be diſſatisfied with any Determination of the ſaid Commiſſioner, touching or concerning ſuch Claim or Right in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and incloſed, or any Part thereof, it ſhall be lawful for the Perſon or Perſons ſo refuſing to refer ſuch Claim or Right, or being diſſatisfied with any Determination of the ſaid Commiſſioner made reſpecting the ſame as aforeſaid, to proceed to a Trial at Law of the Matter in Diſpute at the then next or at the following Aſſizes to be holden for the ſaid County of *Cheſter*; and for that Purpoſe the Perſon or Perſons who ſhall ſo refuſe to refer as aforeſaid, or ſhall be diſſatisfied with the Determination of the ſaid Commiſſioner, ſhall, upon giving Notice in Writing to the ſaid Commiſſioner of his, her, or their Intention to bring an Action, cauſe an Action to be brought in One of His Majeſty's Courts of Record at *Weſtminſter*, upon a feigned Iſſue againſt the Perſon or Perſons with whom

whom such Question of Claim or Right may have arisen, or in whose Favour such Determination shall have been made, within Three Calendar Months next after such Refusal or Determination as aforesaid, as the Case may be; and the Defendant or Defendants in such respective Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies who shall appear thereto, or file Common Bail, and accept one or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said respective Action or Actions shall be commenced, (in case the Parties shall differ about the same,) and the Verdict or Verdicts which shall be given upon the Trial of such Action or Actions, shall be final, binding, and conclusive upon all and every Person and 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 it shall be lawful for the Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that in case such Refusal to refer shall not be signified as aforesaid, or in case the Determination of the said Commissioner, touching such Claim or Right in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, shall not be objected to, or being objected to, the Party or Parties objecting shall not cause such Action at Law to be brought and proceeded in as aforesaid, then the Determination of the said Commissioner shall be final and conclusive upon all Parties.

Action not to abate by Death of Parties.

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

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

XI. Provided always, and be it further enacted, That if any Person or Persons with whom any such Question of Right may have arisen, or in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought, if living, shall die before any such Action shall have been brought, and before the Expiration of the Time by this Act limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Bodies Politic, Corporate or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited against such Person or Persons as if actually living, and to serve the Clerks or Clerk of the said Commissioner 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 question such Claim or Right, or demand the Benefit of such Determination as aforesaid, to appear to and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or

Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

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

XII. 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 Commissioner from proceeding in the Execution of the Powers vested in him 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.

XIII. 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 Commissioner, shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers to him given by this Act or the said recited Act, in such Manner as he might have done in case such Parties had not died; and 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 recited Act; and he, she, or they, shall be liable to the Charges and Expences, and other Conditions of this and the said recited Act.

Commissioner to determine Incroachments.

XIV. And be it further enacted, That it shall be lawful for the said Commissioner to enquire into and determine what Incroachment or Incroachments hath or have been made upon or from the said several Commons or Waste Lands, or the said Carr respectively, by any Person or Persons whomsoever, and that all such Incroachments as shall have been made upon or taken from the said several Commons and Waste Lands and Carr, within Twenty Years previous to the passing of this Act, shall be deemed Part or Parcel of the said several Commons or Waste Lands, or Carr, by this Act intended to be enclosed, which said Incroachments the said Commissioner is hereby directed to allot to such Person or Persons entitled to Right of Common upon the said several Commons and Waste Lands and Carr, as is or are or shall be in the Possession thereof, for or in Part of the Allotment or Allotments to be made to him, her, or them respectively by virtue of this Act, so that such Incroachment or Incroachments shall not exceed the Allotment or Allotments to be made to such Person or Persons in respect of his, her, or their Right of Common as aforesaid, and in the Valuation of which Incroachments respectively the said Commissioner shall not take into his Consideration any Improvements which may have been made thereon, nor estimate the same at any higher Rate or Value than the same respectively would have been estimated at had the same remained Part of the said Commons and Waste Lands and Carr, and had not been inclosed; and all Incroachments from the said Commons or Waste Lands, or Carr, which have been held for Twenty Years

Years or upwards, ſhall remain and be the Property and as Part of the ancient Eſtate of the Perſon or Perſons to whom the ſame reſpectively now belong, but no Allotment ſhall be made to any Perſon or Perſons in reſpect of any ſuch Lands ſo incloſed for Twenty Years or upwards.

Drains, &c.

XV. And be it further enacted, That the ſaid Commiſſioner ſhall, and he is hereby authorized and empowered to ſet out and make ſuch Roads, Ditches, Drains, Watercourſes, Bridges, Walls, Banks, Tunnels, Gates, Stiles, and other Works, and divert, alter, or change the Courſe of any of the preſent Roads, Ditches, Drains, or Watercourſes in, through, over, or upon the Lands or Grounds hereby directed to be divided, allotted, and incloſed, and every or any of them, and alſo to ſet out and make ſuch Roads from the ſaid Lands and Grounds in, through, and over the ſaid Sand Hills, to communicate with the Strand or Shore of the Sea, as he the ſaid Commiſſioner ſhall think proper and convenient, uſeful, or neceſſary; and that all ſuch Roads, Ditches, Drains, and Watercourſes, Bridges, Walls, Banks, Tunnels, Gates, Stiles, and other Works as ſhall be ſet out and made as aforeſaid, ſhall be made, and from Time to Time amended, cleanſed, and repaired, by and at the Expence of the Inhabitants of ſuch of the ſaid Townſhips reſpectively in which the ſame may be, or of ſuch Perſons intereſted in any of the Lands or Grounds hereby directed to be divided, allotted, and incloſed, and in ſuch Manner as the ſaid Commiſſioner ſhall in that Behalf by his Award, or by any other Writing or Writings under his Hand, order, direct, or appoint: Provided always, that no Watercourſe or Stream ſhall be diverted or turned without the Conſent in Writing of the Owner or Owners of the Lands from which ſuch Stream or Watercourſe ſhall be intended to be diverted or turned, and of the Owner or Owners of the Lands into which the ſame ſhall be turned.

Apportioning Allotments to the reſpective Parties.

XVI. And be it further enacted, That the Part or Share of the ſaid Commons and Waſte Lands in the ſaid Townſhip of *Wallaſey*, (excluſively of the ſaid Tract or Parcel of Land called *Wallaſey Paſture*,) to be allotted to the Lords of the ſaid Manor, and alſo the Part or Share of the ſaid Commons and Waſte Lands in the ſaid Townſhip of *Poolton-cum-Seacombe* to be allotted to the Lord of that Manor, ſhall be equal to One Sixteenth Part in Value of ſuch Commons and Waſte Lands to be incloſed reſpectively as the ſaid Value ſhall be aſcertained by the ſaid Commiſſioner, and that the ſaid Commiſſioner ſhall ſet out and allot to the ſaid *John Leigh*, as Lord of the ſaid Manor of *Grange*, Eleven Acres (of Statute Meaſure) of the ſaid Tract or Parcel of Land called *The Carr*, by way of Compenſation.

Allotments for Stone and Marl.

XVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required, to allot and ſet out ſuch Parcel of Land, in ſuch Part or Parts of the ſaid Carr, for the Purpoſe of getting Marl for the Uſe of the Land Owners in the ſaid Townſhips of *Grange*, *Little Meols*, and *Newton-cum-Larton*, and alſo ſuch Parcel of Land in ſuch Part or Parts of the Commons in the ſaid ſeveral Townſhips of *Wallaſey* and *Poolton-cum-Seacombe*, as he ſhall think proper, and by his Award direct, for the Purpoſe of getting Stone and Marl for

the Uſe of the Land Owners within thoſe Townſhips reſpectively, but ſuch Stone and Marl are not to be uſed elſewhere than in the ſaid Townſhips, for the Uſe of which the ſame ſhall be reſpectively ſet out.

Allotment for Sale to pay Expences.

XVIII. And be it further enacted, That the Proportion of the Charges and Expences incident to and attending the obtaining and paſſing this Act, and of carrying the ſame into Execution, and of making any Drains, Watercourſes, or Fences, ſo far as regards the ſaid Piece of Land called *The Carr*, ſhall be paid and borne by the ſeveral Parties intereſted therein, according to an equal Rate or Aſſeſſment to be made by the ſaid Commiſſioner on ſuch ſeveral Parties ſo intereſted, (other than in reſpect of the ſaid Eleven Acres ſo to be ſet out for the ſaid *John Leigh*, as Lord of the ſaid Manor of *Grange*); and that the ſaid Commiſſioner, after the ſetting out ſuch Roads and Ways on the ſaid ſeveral Commons and Lands in the ſaid Townſhips of *Wallaſey* and *Poolton-cum-Seacombe*, as he may think requiſite by virtue of the Power herein-before given, ſhall ſet out and allot ſuch Part or Parts of the ſaid Commons and Lands in *Wallaſey* and *Poolton-cum-Seacombe* reſpectively, as will in his Judgement, by Sale thereof, raiſe a Sum of Money ſufficient to pay the proportionate Charges and Expences of obtaining and paſſing this Act, and carrying the ſame into Execution, as far as regards the ſaid Commons and Lands in the ſaid Townſhips of *Wallaſey* and *Poolton-cum-Seacombe* reſpectively.

To be ſold by Auction.

XIX. Provided alſo, and be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner, after having ſet out and allotted ſuch Part or Parts of the ſaid Commons and Lands in the ſaid Townſhips of *Wallaſey* and *Poolton-cum-Seacombe*, as will in his Judgement be ſufficient by Sale thereof to pay ſuch proportionate Expences as aforeſaid, to order and direct ſuch Part and Parts of the ſaid Commons and Lands to be advertiſed for Sale, and ſold by Public Auction at ſome convenient Place in the ſaid Townſhips, or One of them, at ſuch Time and Times, and in ſuch Manner as he ſhall think proper.

Diviſion of Expences.

XX. Provided always, That no Part of the Expences which in the Judgement of the ſaid Commiſſioner may be incurred reſpecting the Commons and Waſte Lands in one of the ſaid Townſhips, ſhall be charged to or form any Part of the Expences which may relate to the other of the ſaid Townſhips; nor ſhall the Expences which, in the Judgement of the ſaid Commiſſioner, may be incurred reſpecting the ſaid Parcel of Land called *Wallaſey Paſture*, be charged to the Expences which may relate to the Commons and Waſte Lands in that Townſhip, nor the Expences which may relate to the ſaid Piece of Land called *The Carr*, be charged to any other of the ſaid Townſhips than thoſe of *Grange*, *Newton-cum-Larton*, and *Little Meols*: Provided alſo, that in caſe any Surplus ſhall remain after all ſuch Charges and Expences as aforeſaid ſhall have been fully paid and ſatisfied, ſuch Surplus ſhall be divided and apportioned between the ſeveral Proprietors of the Commons and Lands hereby directed to be divided, allotted, and incloſed, according to their ſeveral and reſpective Intereſts therein, in caſe they ſhall be Tenants in Fee Simple thereof, or otherwiſe, ſhall be applied and diſpoſed of in Manner directed by the ſaid recited Act, whenever Monies are to be paid for the Purchaſe

or

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 or Exchange of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes.

Making good Deficiency.

XXI. Provided always, and be it further enacted, That if the Monies to be produced by ſuch Sale or Sales as aforeſaid, ſhall not be ſufficient to pay ſuch proportionate Charges and Expences aforeſaid, then the Deficiency ſhall be borne by the Proprietors of Lands in the ſaid Townſhips of *Wallaſey* and *Poolton-cum-Seacombe*, hereby directed to be allotted and incloſed, in Proportion to the real Value of their reſpective Diviſions and Allotments; ſuch Proportion to be ſettled and aſcertained by the ſaid Commiſſioner, and ſhall be raiſed by a Rate or Rates, and be paid to ſuch Perſon or Perſons, and at ſuch Time or Times as the ſaid Commiſſioner ſhall, by Notice in Writing to be affixed on the outer Door of the Pariſh Church of *Wallaſey*, at leaſt Twenty-one Days previous to the Day of Payment, order and direct; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay his, her, or their Share or Proportion of the ſaid Deficiency as aforeſaid, then the ſame ſhall be levied and recovered in the Manner directed by the ſaid recited Act, in caſe the Expences of obtaining and executing this Act, ſo far as regards the ſaid Commons and Lands in the ſaid Townſhips of *Wallaſey* and *Poolton-cum-Seacombe*, had been directed to be paid, in Proportion, by the Proprietors of Lands or Grounds to whom Allotments ſhall be made, inſtead of being raiſed by Sale of Land as aforeſaid.

Allotment of the Reſidue.

XXII. And be it further enacted, That the ſaid Commiſſioner ſhall, and he is hereby directed and required to divide, ſet out, and allot the Reſidue and Remainder of the ſaid ſeveral Commons and Waſte Lands in the ſaid ſeveral Townſhips of *Wallaſey* and *Poolton-cum-Seacombe*, and the ſaid Piece of Land called *The Carr*, unto and amongſt the ſeveral Perſons who, at the Time of making ſuch Diviſion and Allotment, ſhall be entitled to Right of Common on ſuch Commons and Waſte Lands, and on the ſaid Carr reſpectively, in Proportion and according to their reſpective Rights, Property, and Intereſt therein; and that the ſaid Commiſſioner ſhall, and he is hereby directed and required to divide, ſet out, and allot the Reſidue and Remainder of the ſaid Tract or Parcel of Land, called *Wallaſey Paſture*, unto and amongſt the ſeveral Perſons who, at the Time of making ſuch Diviſion and Allotment, ſhall be entitled to Cowgaits on the ſaid Land, in Proportion and according to their reſpective Rights, Property, and Intereſt in the ſame.

Sand Hills to remain open.

XXIII. And be it further enacted, That nothing herein contained ſhall be conſtrued to authorize the ſaid Commiſſioner to divide, ſet out, or allot any of the Land covered with Sand Hills, on the North-weſt Side of the ſaid Commons or Waſte Lands, in the Townſhip of *Wallaſey* aforeſaid, beyond ſuch Line or Extent of Land as the ſaid Commiſſioner may think fit for Cultivation, but that the ſaid Sand Hills ſhall remain unincloſed and open, for the better Security and Preſervation of the Land to the Eaſtward and Southward of the ſame, from the Incroachments of the Sea, and for which Purpoſe ſuch Land covered with Sand Hills is hereby appropriated.

Allotment to the Rectors in respect of their Glebe Lands, to be fenced at the Expence of the other Claimants.

XXIV. And be it further enacted, That the several Plots of Lands and Grounds, which shall be set out and allotted in Right of the said Rectories of *Wallasey* and *West Kirby*, in respect of the Glebe Lands, by virtue of this Act, shall be inclosed and fenced round with Ditches, Posts, and Rails, or other proper Mounds and Fences; and that the same shall be so made and done by or under the Directions of the said Commissioner, and the Expences thereof shall be borne and paid as the Expences of this Act are hereby directed to be paid; and the said Ditches and Fences, when properly made, shall for ever thereafter be kept up, maintained, and supported by and at the Expence of the Person or Persons whom the said Commissioner shall direct to do the same.

Exchanges.

XXV. And be it further enacted, That it shall and may be lawful to and for the said Commissioner to set out, allot, and award any Allotment or Allotments of the said several Commons or Waste Lands, or any other Lands, Tenements, or Hereditaments within the said Parishes of *Wallasey* and *West Kirby*, or either of them, in lieu of and in Exchange for any other Allotment or Allotments, or any other Lands, Tenements, and Hereditaments within the said Parishes, or within any adjoining Parish, Hamlet, or Township, provided that all such Exchanges be ascertained, specified, and declared in the said Award of the said Commissioner, 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 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 legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so to be made, shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent in Writing 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 any Exchanges shall be paid and borne by the several Persons making such Exchanges, in such Manner and in such Proportion as the said Commissioner shall by his Award order and direct.

Not to revoke Wills.

XXVI. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed, adjudged, deemed, or taken to revoke, make void, alter, or impeach any Settlement, Deed, or Will whatsoever, or to prejudice any Person or Persons having any Right, Title, Interest, Claim, Charge, or Incumbrance whatsoever, in, out of, upon, or affecting any of the Lands or Grounds to be divided and inclosed as

aforeſaid, or any Part or Parcel thereof, but that the reſpective Shares of the ſaid Commons or Waſte Lands ſo to be allotted or exchanged, ſhall, immediately after ſuch Allotments or Exchanges, be, remain, and enure, and be held and enjoyed, and the ſeveral Perſons to whom the ſame ſhall be allotted and given in Exchange, ſhall from thenceforth ſtand and be ſeiſed and poſſeſſed thereof reſpectively, by ſuch Tenure, for ſuch Eſtates, upon ſuch and the ſame Uſes, for ſuch Truſts, and with ſuch and the ſame Powers, and ſubject to ſuch and the ſame Wills, Limitations, Conditions, Settlements, Truſts, Proviſions, Remainders, Reverſions, Debts, Charges, and Incumbrances, as the ſeveral Meſſuages, Lands, Tenements, or Hereditaments, in reſpect whereof ſuch Allotments or Exchanges ſhall be made, were held, and ſtood ſeverally limited or ſubject or liable unto at the Time of making ſuch Allotments or Exchanges.

To ſet Poſts and Rails to preſerve Quickſets.

XXVII. And be it further enacted, That it ſhall be lawful for all and every Perſon or Perſons to whom any Allotment or Allotments ſhall be made by virtue of this Act from Time to Time, during the Term of Seven Years from the ſigning of the ſaid Award, to ſet down Poſts and Rails or other Fences on the Outſide of the Ditches bounding any Highway or unincloſed Lands, adjoining to his, her, or their Allotment or Allotments, for the Preſervation of the Quickſets, not exceeding Five Feet from the Line of Incloſure, and at any Time before the End of the ſaid Term to remove and carry away ſuch Poſts, Rails, and Fences; and it ſhall and may be lawful to and for the ſaid Commiſſioner, by his Award, to order and direct by what Perſon and Perſons the Fences of the different Allotments to be ſet out by virtue of this Act, ſhall be made and kept in Repair.

Rights in Incloſures may be ſold ſeparate from the Eſtate which gives the Right.

XXVIII. And be it further enacted, That it ſhall be lawful for any Perſon or Perſons intereſted in the ſaid Commons and Waſte Lands to be incloſed by virtue of this Act, at any Time before the Execution of the Award herein directed to be made by the ſaid Commiſſioner, to ſell and diſpoſe of all ſuch Eſtate, Right, and Intereſt as he, ſhe, or they now hath or have, or ſhall or may hereafter have, in reſpect of any Allotment or Allotments to be made by virtue of this Act, ſeparate from ſuch Eſtate in Right whereof he, ſhe, or they is, are, or ſhall be ſo entitled; and that in caſe of any ſuch Sale it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required to allot the ſame to the Purchaſer or Purchaſers thereof reſpectively, who ſhall and may immediately after the Execution of ſuch Award as aforeſaid, have, hold, uſe, and enjoy ſuch Allotments, ſo by him, her, or them purchaſed as aforeſaid, and ſhall and may have, uſe, and exerciſe any Act of Ownerſhip in, upon, over, and to the ſame, and be ſeiſed and poſſeſſed thereof, in as full, large, ample, and beneficial a Manner, to all Intents and Purpoſes whatſoever, as the former Proprietor or Vendor thereof could or might have done, in caſe ſuch Sale or Sales had not been made, but ſubject nevertheleſs to the ſeveral Rules, Orders, Conditions, and Reſtrictions mentioned and contained in this and the ſaid recited Act.

Right of Common to ceaſe.

XXIX. And be it further enacted, That the ſeveral Allotments, Partitions, Diviſions, and Exchanges to be made, declared, or approved by the ſaid Commiſſioner, in and by his Award, ſhall be and are hereby declared to be final, binding, and concluſive upon the ſeveral Parties intereſted

tereſted in the ſaid Commons or Waſte Lands, and all other Perſons, Bodies Politic and Corporate whomſoever, and from and immediately after the Execution of the ſaid Award, and the Publication thereof, all Right of Common in, over, or upon the ſaid ſeveral Commons or Waſte Lands, and in, over, or upon the ſaid Sand Hills, ſhall ceaſe and be for ever extinguiſhed.

Commiſſioners Allowance.

XXX. And be it further enacted, That out of the Money which ſhall be raiſed for defraying the Expences of obtaining and executing this Act, there ſhall be paid to the ſaid Commiſſioner, as a Recompence for his Trouble, the Sum of Three Pounds and Three Shillings for each Day he ſhall reſpectively act, or travel for the Purpoſe of acting, or be returning Home from acting, in the Execution of this Act, and no more; and that at all Meetings to be held in purſuance of this Act, the ſaid Commiſſioner ſhall defray his own Expences: Provided alſo, that all Perſons intereſted in the ſaid intended Diviſion and Incloſure, their Attornies and Agents, ſhall pay their own Expences when they, or any of them, ſhall attend the ſaid Commiſſioner upon any Occaſion relative to the Execution of this Act.

Accounts to be ſettled by Juſtices.

XXXI. And be it further enacted, That once at leaſt in each and every Year during the Execution of this Act, (ſuch Year to be computed from the Day of paſſing thereof) the ſaid Commiſſioner ſhall, and he is hereby required to make a true and juſt Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this Act; and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be by him laid before any One Juſtice of the Peace for the County of *Cheſter*, to be by him examined and balanced, and ſuch Balance ſhall be by ſuch Juſtice ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioner; and no Charges or Items 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.

Money advanced to be repaid with Intereſt.

XXXII. And be it further enacted, That if any Perſon ſhall advance any Sum or Sums of Money for the Purpoſe of defraying the Expences of obtaining and paſſing this Act, or of carrying the ſame into Execution, every ſuch Perſon ſhall be repaid the ſame, with Intereſt, at the Rate of Five Pounds *per Centum per Annum*, out of the firſt Monies that ſhall be raiſed for defraying ſuch Expences by virtue of this Act.

Award to be depoſited.

XXXIII. And be it further enacted, That the Award to be made by the ſaid Commiſſioner, when enrolled in the Manner directed by the ſaid recited Act, ſhall, together with a Map or Plan thereunto annexed, be depoſited in the Pariſh Church of *Wallaſey*.

Appeal.

XXXIV. 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 the ſaid recited Act or this Act, (except as to ſuch Claims, Matters, and Things as are herein-before directed or authorized to be tried, ſettled, or determined by the Verdict of a Jury, or where any of the Clauſes or Proviſions of the ſaid recited Act, or of this Act, ſhall expreſs that the ſame ſhall be final and concluſive) then, and in every ſuch Caſe, he, ſhe, or they may appeal to the General

General Quarter Seſſions of the Peace, to be held at *Cheſter* or *Knutsford*, in and for the ſaid County of *Cheſter*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, every ſuch Appellant giving Ten Days previous Notice in Writing to the Parties to be appealed againſt, of the Intention of bringing ſuch Appeal; and the Juſtices at their ſaid Quarter Seſſions are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order, and award ſuch Coſts, as to them in their Diſcretion ſhall ſeem reaſonable; and by their Order and Warrant to levy the Coſts and Damages which ſhall be awarded by the ſaid Juſtices 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 and Chattels, after deducting the reaſonable Charges of every ſuch Diſtreſs and Sale, which Determination of the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter* or elſewhere; but in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants as to them in their Diſcretion ſhall ſeem reaſonable.

Saving Manorial Rights.

XXXV. 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 the Lord or Lords of the ſaid ſeveral Manors of *Wallaſey*, *Poolton-cum-Seacombe*, and *Grange*, or any of them reſpectively, for the Time being, of, in, and to any Quit Rents, Chief Rents, Fee Farm Rents, Incroachment Rents, or other Rents now payable, or to the Seigniories and Royalties incident and belonging to the ſaid Manors reſpectively; but that the ſaid Lord and Lords of the ſaid Manors reſpectively, and all and every Perſon and Perſons claiming or to claim, by, from, under, or in Truſt for them reſpectively, 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, Goods and Chattels of Felons and Fugitives, Felons of themſelves and thoſe put in Exigent, Deodands, Waifs, Eſtrays, Forfeitures, and all other Royalties, Juriſdictions, Privileges, Pre-eminences, Manorial Juriſdictions, and Appurtenances whatſoever, to the ſaid Manors reſpectively incident, appendant, belonging or appertaining, (other than and except their reſpective Rights of and in the Soil of ſuch Parts of the ſaid Commons and Waſte Grounds as ſhall be allotted by virtue of this Act to any Perſon or Perſons), in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as the ſaid Lord and Lords 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: Provided alſo, that nothing in this Act contained ſhall be conſtrued to affect, prejudice, or leſſen any of the Rights of the ſaid *Richard Smith* in reſpect of his ancient Ferry of *Seacombe*.

General Saving.

XXXVI. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every Perſon and Perſons, Bodies Politic and Corporate, his, her, and their Succeſſors, Executors, and Adminiſtrators, all ſuch Eſtate, Right, Title, and Intereſt, other than and except ſuch as are hereby intended to be barred and deſtroyed, as they, every,

every, or any of them had and enjoyed of, in, to, or out of the said several Commons or Waste Lands at the Time of passing this Act, or would or might have had or enjoyed in case this Act had not been made.

Act to be given in Evidence as Public Act.

XXXVII. 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. 1814.