ANNO QUINQUAGESIMO QUARTO

# GEORGII III. REGIS.

## *Cap.* 96.

### An Act for incloſing Lands in the Manor and Townſhip of *Woodland*, in the Pariſh of *Cockfield*, in the County of *Durham*. [27th *May* 1814.]

WHEREAS there is within the Manor and Townſhip of *Woodland*, in the Pariſh of *Cockfield* and County of *Durham*, a Tract of Common or Waſte Lands called *Woodland Common*, containing together Two thouſand two hundred and ſixty Acres, or thereabouts: And whereas The Right Honourable *William Harry* Earl of *Darlington* is (or claims to be) Lord of the Manor of *Woodland* aforeſaid, and as ſuch is entitled to the Soil of the ſaid Common or Waſte Lands: And whereas the ſaid *William Harry* Earl of *Darlington*, The Right Honourable *John Bowes* Earl of *Strathmore*, and others, are the Owners of Meſſuages, Lands, Tenements, and Hereditaments within the ſaid Manor and Townſhip: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for conſolidating in One Act certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*: And whereas the ſaid Common and Waſte Lands are ſubject to certain Rights of Common of Paſture, and other Commonable Rights, and it would be advantageous to the ſeveral Perſons entitled to and intereſted in the ſame, if the ſaid Rights of Common were extinguiſhed, and the ſaid Common and Waſte Lands were divided, and ſpecific Parts or Shares thereof allotted to the ſeveral Perſons entitled to and intereſted in the ſame, according to their reſpective Eſtates, Rights, and Intereſts therein; but the ſaid Diviſion and Incloſure cannot be made and 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 *John Machell* of *Low Plains*, in the County of *Cumberland*, Gentleman, ſhall be and he is hereby appointed ſole Commiſſioner for dividing, allotting, and incloſing the ſaid Common and Waſte Lands, and for putting this Act into Execution, ſubject to ſuch Regulations as are herein-after preſcribed, and ſubject to ſuch of the Powers, Regulations, Reſtrictions, and Proviſions contained in the ſaid recited Act, as are not varied or altered, or repugnant to any of the Clauſes, Proviſions, or Regulations in this Act contained.

Commiſſioner.

Appointment of a new Commiſſioner.

II. And be it further enacted, That if the ſaid Commiſſioner hereb appointed, or any Commiſſioner to be elected in the Place or Stead of him or his Succeſſors, ſhall die, or refuſe or neglect to attend, or become incapable of acting as a Commiſſioner in the Execution of this Act, then, and ſo often as the ſame ſhall happen, the major Part in Value (ſuch Value to be aſcertained by the Land Tax Aſſeſſment) of the Perſons intereſted in the ſaid Incloſure for the Time being, who ſhall attend, either perſonally or by their reſpective Agents or Attornies, at a Meeting or Meetings to be held for the Election of a new Commiſſioner, within Twenty-one Days next after ſuch Death, Refuſal, Neglect, or Incapacity, or as often as conveniently may be or Occaſion require, of which Meeting public Notice ſhall be given upon ſome *Sunday* before Divine Service, by Writing to be affixed on the Outer Door of the Pariſh Church of *Cockfield* aforeſaid, and by Advertiſement to be inſerted in the *Newcaſtle* Newſpaper called *The Newcaſtle Courant*, if then publiſhed, and if not, then in ſome other Newſpaper uſually circulated in the ſaid County of *Durham*, at leaſt Ten Days before any ſuch Meeting, by Writing under their Hands to appoint ſome other fit Perſon (not intereſted in the ſaid Diviſion and Incloſure) to be a Commiſſioner in the room of him ſo dying, or refuſing, neglecting, or becoming incapable of acting as aforeſaid; and every Commiſſioner ſo to be appointed ſhall have the ſame Powers and Authorities for putting the ſaid recited Act and this Act into Execution, as if he had been herein nominated and appointed a Commiſſioner.

Notice of Meetings.

III. And be it further enacted, That the ſaid Commiſſioner ſhall, and he is hereby required, to cauſe public Notice to be given in Writing, to be affixed on the principal Outer Door of the Pariſh Church of *Cockfield* aforeſaid, and alſo by Advertiſement, to be inſerted in the ſaid *Newcaſtle* Newſpaper called *The Newcaſtle Courant*, if then publiſhed, or if not, then in ſome other Newſpaper uſually circulated in the ſaid County of *Durham*, of the Time and Place of the firſt and every other Meeting for the Execution of this Act, at leaſt Ten Days before every ſuch Meeting (Meetings by Adjournment only excepted); and the ſaid Commiſſioner ſhall and may adjourn any and every ſuch Meeting from Time to Time, as he ſhall ſee Occaſion, for the further Execution of the ſaid recited Act and this Act; and in caſe the ſaid Commiſſioner ſhall not be preſent at ſuch Time, and at the Place appointed for ſuch Attendance, then it ſhall be lawful for the Perſon who ſhall act as Clerk to the ſaid Commiſſioner, to adjourn the ſame to any future Day, not exceeding

Twenty-eight Days from the Day of Adjournment: Provided always, that all Meetings of the ſaid Commiſſioner to be held by virtue of this Act ſhall be held within the Pariſh of *Cockfield* aforeſaid, or within the Diſtance of Eight Miles thereof.

Other Notices how to be given.

IV. And be it further enacted, That all Notices requiſite or neceſſary to be given by the ſaid Commiſſioner in purſuance of the ſaid recited Act or this Act, for any Purpoſes whatſoever (except ſuch Notices as are in and by this Act authorized or particularly directed to be given in any other Manner), ſhall be made and given in the ſaid *Newcaſtle* Newſpaper called *The Newcaſtle Courant*, if then publiſhed, or if not, then in ſome other Newſpaper uſually circulated in the ſaid County of *Durham*, and by Writing, to be affixed upon the principal Outer Door of the Pariſh Church of *Cockfield* aforeſaid.

Allowance to Commiſſioner.

V. 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 Pains and Trouble, the Sum of Two Guineas, and no more, for each Day he ſhall be employed in travelling to, returning from, and attending in the Execution of this Act, and that the ſaid Commiſſioner ſhall defray his Travelling Expences, and alſo his own Expences at all Meetings to be held in purſuance of this Act; and all Proprietors, their Agents or Attornies, and other Perſons in any Manner intereſted in the ſaid Common and Waſte Lands to be divided and incloſed by virtue of this Act, ſhall at all ſuch Meetings pay and diſcharge their own Expences.

Proprietors and other Perſons to pay their own Expences.

Commiſſioner to appoint Surveyor and Aſſiſtants.

VI. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authorized and empowered, when and as to him ſhall ſeem meet, to appoint ſuch and ſo many Perſons as he ſhall think proper or neceſſary to be Surveyor, and Aſſiſtants to ſuch Surveyor, for the Purpoſes of the ſaid intended Diviſion and Incloſure, and from Time to Time to diſplace and remove any ſuch Perſon or Perſons ſo to be appointed, and to appoint any other Perſon or Perſons in the Room, Place and Stead of any ſuch Surveyor or Aſſiſtant or Aſſiſtants ſo to be diſplaced and removed, and to make ſuch Surveyor or Aſſiſtant or Aſſiſtants ſuch Recompence for their reſpective Labour, Skill and incidental Expences as to the ſaid Commiſſioner ſhall appear juſt and reaſonable.

Diſputes touching Claims, Commiſſioners to hear and determine.

VII. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted or claiming to be intereſted in the ſaid Diviſion and Incloſure touching or concerning the reſpective Rights of Common and other Intereſts, which they or any of them ſhall have or claim to have in the ſame, or the Nature, Limits and Extent of ſuch Rights and Intereſts, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion and Incloſure, it ſhall and may be lawful for the ſaid Commiſſioner, and he is hereby authorized and required to examine into, hear, and determine the ſame.

Commiſſioner to aſſeſs Coſts.

VIII. And be it further enacted, That in caſe the ſaid Commiſſioner ſhall, upon the Hearing and Determination of any Claim or Objection to be delivered to him in purſuance of the ſaid recited Act or this Act, ſee Cauſe

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to award any Coſts, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby empowered, upon Application made to him for that Purpoſe, to ſettle, aſſeſs and award ſuch Coſts 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, Body or Bodies Politic, Corporate or Collegiate, whoſe Claim or Objection ſhall be thereby diſallowed or over-ruled, or againſt whom the ſaid Commiſſioner ſhall have determined as aforeſaid; and in caſe the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, who ſhall be liable to pay ſuch Coſts, ſhall neglect or refuſe to pay the ſame upon Demand, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required, by Warrant under his Hand and Seal, directed to any Perſon or Perſons whomſoever, to cauſe ſuch Coſts to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand to the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, whoſe Goods and Chattels ſhall have been ſo ſold and diſtrained, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Claimants being diſſatisfied, to try Iſſue at Law.

IX. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, Bodies Politic or Corporate, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Incloſure, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioner, touching or concerning any Claim or Claims, Objection or Objections, of or to the Common or any other Rights or Intereſts in, over, or upon the Lands and Grounds hereby directed to be divided and incloſed, or any Part thereof, or as to the Nature, Limits, and Extent of ſuch Rights and Intereſts, and ſhall thereof give Notice in Writing to the ſaid Commiſſioner within Three Calendar Months next after ſuch Determination ſhall be made; and Notice thereof being given to him the ſaid Commiſſioner, it ſhall be lawful for the Perſon or Perſons ſo diſſatisfied, to proceed to a Trial or Trials at Law of the Matter ſo determined by the ſaid Commiſſioner, at the then next or at the following Aſſizes to be holden for the ſaid County of *Durham*; and for that Purpoſe the Perſon or Perſons who ſhall be diſſatisfied with the Determination of the ſaid Commiſſioner, 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, or with whom ſuch Queſtion ſhall ariſe, within Three Calendar Months next after the Determination of the ſaid Commiſſioner ſhall be made, and Notice thereof ſhall be given as aforeſaid; and the Defendant or Defendants in ſuch Action or Actions ſhall, and he, ſhe, or they, is and are hereby required to name an Attorney or Attornies, who ſhall appear thereto, and file Common Bail, and accept one or more Iſſue or Iſſues, whereby ſuch Claim or Claims, Objection or Objections, and the Right or Rights thereby inſiſted on, may be tried and determined, ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be commenced, in caſe the Parties differ about the ſame; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions ſhall be final, binding, and concluſive, upon all and every Perſon and Perſons whomſoever, 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

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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 the Determination of the ſaid Commiſſioner, touching ſuch Claim or Claims of Right to the ſaid Common and Waſte Lands, or other Rights or Intereſts in, over, or upon the Lands and Grounds hereby directed to be divided and incloſed, or any Part thereof, which ſhall not be objected to, or being objected to, the Party or Parties objecting not cauſing ſuch Action at Law to be brought and proceeded in as aforeſaid, ſhall be final and concluſive on all Parties: Provided alſo, that nothing in this Act contained ſhall authorize the ſaid Commiſſioner to determine the Title to any Meſſuages, Cottages, or ancient incloſed Lands and Tenements or Hereditaments whatſoever.

Determination of the Commiſſioner to be final, if not objected to.

Commiſſioner not to determine Titles.

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.

Parties dying, Proceedings not to abate.

XI. Provided always, and be it further enacted, That if any Diſpute ſhall ariſe between any Perſon reſpecting the Title to all or any Part of any Meſſuage, Land or Tenement to which any Common or other Right in, to, or upon the ſaid Common and Waſte Lands, or any Part thereof, or any other Matter or Thing touching the ſaid Incloſure ſhall belong or appertain, the ſame ſhall not retard the ſaid Diviſion and Incloſure, but the ſame ſhall be proceeded in as if ſuch Diſpute had not ariſen; and in caſe the Diſpute refers to an Allotment, the ſame ſhall be made in reſpect thereof ſeparate and apart from any other Allotment.

Diſputes as to Titles not to retard Incloſure.

XII. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe Favour ſuch Determination ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought, if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic or Corporate, who might have brought ſuch Action or Actions againſt the 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 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 claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein in the ſame Manner as if ſuch Perſon or Perſons had been actually living, and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

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

XIII. 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

Perſons in Poſſeſſion not to be moleſted without

due Course of Law.

(except in Cases of Encroachment made within the Period of Thirty Years as herein-after mentioned); but in case the said Commissioner shall be of Opinion against the Rights of the Person or Persons so in Possession, he shall forbear to make any Determination thereon until the Possession shall have been given up or recovered from such Person or Persons by Ejectment or other due Course of Law.

For shortening Boundary Fences against adjoining Parishes.

XIV. And be it further enacted, That if the said Commissioner shall deem it expedient or proper to shorten the Boundary Fences between the Lands and Grounds by this Act to be divided and allotted in the said Manor and Township, and any Parish or Parishes adjoining thereto, or to make the same Boundary Fences respectively regular, it shall and may be lawful for the said Commissioner (with the Consent in Writing under the Hand or Hands of the Lord or Lords of the Manor or Manors in which the Land is situate, or of the Owner or Owners of the Land upon which any Fence or Fences shall or may be intended to be made), to set out the Boundary between the Lands and Grounds by this Act directed to be divided and allotted in the said Manor and Township, and any adjoining Parish or Parishes, in such Manner as he shall judge proper for the Purposes aforesaid; and after such Boundary shall be so set out as aforesaid, the same shall be fenced by such Person or Persons, in such Manner and at such Time or Times as the said Commissioner shall direct, and shall for ever thereafter be deemed and taken to be the Boundaries between the said Manor and Township and such adjoining Parish or Parishes respectively, any Law, Usage, or Custom to the contrary notwithstanding.

Encroachments within 30 Years to be allotted.

Beyond 30 Years confirmed.

XV. And be it further enacted, That all Encroachments which shall have been made within Thirty Years last past upon the said Common and Waste Lands by this Act directed to be divided and allotted, shall be deemed Part of the said Common and Waste Lands to be divided and allotted; but no such Encroachments which shall have been made more than Thirty Years shall be liable to the Claim of any other Person against the present Possessor, on the Ground of such Encroachment having heretofore been Part of the said Common and Waste Lands; and in case any Dispute shall arise touching any such Encroachment, or the Extent thereof, such Dispute shall be determined by the said Commissioner.

Objections to be delivered to the Parties whose Claims are objected to.

XVI. And be it further enacted, That if any of the Parties interested in the Lands and Grounds to be divided and allotted by virtue of this Act, shall have any Objection or Objections to any of the Accounts or Claims which shall be delivered to the said Commissioner by virtue of the said recited Act or this Act, such Objection or Objections shall be reduced into Writing, and Two Parts thereof shall be signed by the Party or Parties making the same, and One Part thereof shall be delivered to the said Commissioner, and the other Part thereof shall be delivered to the Party or Parties whose Claim or Account shall be objected to, or to his, her, or their Agent, or left at his, her or their last or usual Place of Abode, at such Time or Times as the said Commissioner shall appoint for that Purpose, and no Objection to any of the said Accounts or Claims shall be afterwards received by the said Commissioner, unless for some legal Disability or special Cause to be allowed by him.

XVII. And

Commiſſioner may ſtop up old Roads and Foot Paths.

XVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and empowered to ſtop up and diſcontinue, or divert and turn, and to ſet out and appoint, any public or private Roads, Tracks, Ways, or Paths, in the ſaid Manor or Townſhip, and to make ſuch Order or Orders as to him ſhall ſeem proper, ſubject nevertheleſs to the Proviſions and Directions of the ſaid recited Act, with reſpect to the ſtopping up of any old or accuſtomed Road or Roads, and ſubject to an Appeal to the Quarter Seſſions, as mentioned in the ſaid recited Act.

To extinguiſh Right of Common.

XVIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized at any Time or Times before the Execution of the Award, by Notice in Writing under his Hand, to be affixed on the principal Door of the ſaid Pariſh Church of *Cockfield*, to order and direct all or any Part of the Rights of Common in, over, or upon the ſaid Common and Waſte Lands, or any Part thereof, to be extinguiſhed or the Exerciſe thereof to be ſuſpended for and during ſuch Time as ſhall be expreſſed in ſuch Writing; and that all ſuch Rights of Common as the ſaid Commiſſioner ſhall by ſuch Writing order and direct to be extinguiſhed, or the Exerciſe thereof to be ſuſpended as aforeſaid, ſhall from the Time of affixing ſuch Writing on the ſaid Church Door, ceaſe, determine, and be extinguiſhed, or the Exerciſe thereof ſuſpended accordingly, any Law, Uſage or Cuſtom to the contrary notwithſtanding.

Commiſſioner to make Drains, &c.

XIX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to cauſe any Ditches, Fences, Drains, Brooks, or Watercourſes within the ſaid Manor and Townſhip to be cleanſed, opened, ſcoured, widened, deepened, or enlarged, and to ſtop up and diſcontinue any Ditches, Fences, Drains, Brooks, or Watercourſes which may appear to the ſaid Commiſſioner neceſſary, and alſo to cauſe any new Ditches, Fences, Drains, Bridges, Banks, Sluices, Tunnels, Brooks, or Watercourſes, to be made in the ſaid Manor and Townſhip, and to make ſuch Order for maintaining ſuch Ditches, Fences, Drains, Bridges, Banks, Sluices, Tunnels, Brooks, or Watercourſes in repair as he ſhall think proper; provided that no ſuch Works ſhall be made upon any incloſed Lands, without the previous Conſent in Writing of the Owner or Owners thereof, and that no Rivulet, Brook, or Watercourſe ſhall be diverted or turned from its preſent Courſe, in, through, or over any incloſed Land without the Conſent in Writing of the Owner or Owners of the Land from which and into which any ſuch Rivulet, Brook, or Watercourſe ſhall be directed or turned and carried or conveyed.

Allotments for Watering Places, Gravel Pits, &c.

XX. And be it further enacted, That the ſaid Commiſſioner ſhall, in the firſt Place, ſet out and allot unto the Surveyor of the Highways, within the ſaid Manor and Townſhip, ſuch Parts and Parcels of the ſaid Common and Waſte Lands hereby directed to be divided and incloſed, as the ſaid Commiſſioner ſhall think proper or neceſſary, not exceeding in the Whole Twenty Acres, as and for public Watering Places for Cattle, and for Stone and Gravel Pits, Sand and Clay, and for laying and depoſiting Rubbiſh; and the ſaid Allotments, when ſo ſet out, ſhall for ever thereafter be uſed by the ſaid Surveyors of the Highway, and alſo by the Proprietors of Lands, Tenements, and Hereditaments within the ſaid Manor

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and Townſhip, and their Tenants, for the Time being, in ſuch Manner and under ſuch Rules and Regulations as the ſaid Commiſſioner ſhall by his ſaid Award direct or appoint.

Proprietors of Allotments may work Stone within the ſame, and get Stone out of the Common Quarries.

XXI. And be it further enacted, That it ſhall be lawful for the Owners or Occupiers of all or any of the ſaid Allotments to be ſet out or allotted by virtue of this Act, at any Time or Times thereafter, to win, get, and work Stones within their ſaid reſpective Allotments; and alſo to win, get, and work Stones in and out of the Common Quarries to be ſet out by the ſaid Commiſſioner, as well for building, walling, fencing, and draining, or otherwiſe employing in or upon the Lands ſo to be allotted to them reſpectively, as for building, walling, fencing, and draining, or otherwiſe employing in or upon the ancient incloſed Grounds, in reſpect whereof any ſuch Allotment ſhall be made; but ſhall not furniſh any Stones to be worked for Sale, or for any other Purpoſe whatſoever.

Commiſſioner may ſell for paying Charges.

XXII. And be it further enacted, That the ſaid Commiſſioner ſhall, and he is hereby authorized and empowered from Time to Time, when he ſhall think proper, to ſell ſuch Parts and Parcels of the ſaid Common or Waſte Lands, within the ſaid Manor and Townſhip, in ſuch Proportions as he the ſaid Commiſſioner ſhall think juſt and equitable for the Purpoſe of raiſing ſo much Money as ſhall be ſufficient to pay and defray the Charges of preparing, obtaining, and paſſing this Act, and of making the public Roads, and of carrying this Act into full Execution, agreeable in all reſpects to the Rules and Regulations in the ſaid recited Act mentioned.

Deficiency, if any, to be made good by a Rate.

XXIII. Provided always, and be it further enacted, That in caſe the Money ariſing by the Sale or Sales to be made in purſuance of this Act as aforeſaid, ſhall not be ſufficient to defray all the Coſts, Charges, and Expences as aforeſaid, then the Deficiency ſhall be made up by the ſeveral Perſons intereſted in the ſaid Common and Waſte Lands, and ſhall be paid in ſuch Shares and Proportions, within ſuch Time, and to ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall direct, nominate, and appoint; and in caſe any Perſon herein made ſubject to the Payment of any Money towards ſuch Charges and Expences as aforeſaid, ſhall neglect or refuſe to pay his or her Share or Proportion thereof, within the Time to be appointed by the ſaid Commiſſioner as aforeſaid, or at any other Time after, upon Demand, the ſame ſhall and may be levied and recovered in the Manner directed by the ſaid recited Act.

Application of Surplus Money.

XXIV. And be it further enacted, That in caſe any Surplus Money ſhall remain after all ſuch Coſts, Charges, and Expences as aforeſaid ſhall have been fully paid and ſatisfied, ſuch Surplus Money ſhall be divided and apportioned between the ſeveral Perſons intereſted in the ſaid Common and Waſte Lands, according to their ſeveral and reſpective Rights and Intereſts; and ſuch proportional Parts and Shares of ſuch Surplus Money ſhall be paid to thoſe Proprietors who are Tenants in Fee Simple of the Eſtates, in right of which they ſhall be entitled to ſuch Surplus Money; but the Surplus Money to which any Proprietor, not being Tenant in Fee Simple, may be entitled, ſhall be applied and diſpoſed of in the ſame Manner as any 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 or Exchange

change of other Lands, Tenements or Hereditaments to be ſettled to the ſame Uſes) is by the ſaid recited Act directed to be applied and diſpoſed of.

Allotment to the Lord of the Manor.

XXV. And be it further enacted, That after the public Highways, Wells, Watering Places, Drains, and Watercourſes, Quarries and other neceſſary public Conveniences, ſhall be ſet out and fixed, and all the Lands to be ſold for defraying the Expences ſhall be ſet out and appointed as aforeſaid, the ſaid Commiſſioner ſhall ſet out and allot one full Sixteenth Part of the Reſidue or Remainder of the ſaid Common or Waſte Lands within the ſaid Manor and Townſhip aforeſaid, unto and for the Lord of the ſaid Manor of *Woodland* for the Time being, in lieu of and as a Compenſation for his Rights and Intereſts in, to, and upon the Soil of ſuch Common and Waſte Lands within the ſaid Manor and Townſhip, over and beſides what he ſhall be entitled to in reſpect of any other Rights or Intereſts in the Lands and Grounds hereby directed to be divided and allotted.

Allotment of Reſidue.

XXVI. And be it further enacted, That the ſaid Commiſſioner ſhall alſo ſet out and allot the Reſidue and Remainder of the ſaid Common and Waſte Lands hereby directed to be divided and allotted unto, for, and amongſt all and every Perſon and Perſons, Body and Bodies Politic, Corporate, or Collegiate, having any Right or Rights of Common, or other Rights or Intereſts in, over, or upon the ſame, or any Part thereof, according to the real Value of their reſpective Shares, Rights of Common, and other Rights and Intereſts in or upon the ſaid Common and Waſte Lands, or any Part thereof, in ſuch Manner as the ſaid Commiſſioner ſhall in his Judgement think proper: Provided always, that it ſhall be lawful for the ſaid Commiſſioner, at any Time before executing his final Award, to make any Alteration in the Allotments and Fences which he may have ſet out and ordered, or in the private Roads laid or to be laid over to ſuch Allotments, that he ſhall think right and expedient; and in caſe any Perſon or Perſons ſhould be injured by ſuch Alterations, on Account of any Expences he, ſhe, or they may have been at, the ſaid Commiſſioner ſhall aſcertain and determine what Recompence ſhall be made to him, her, or them, and ſhall direct by whom and in what Manner ſuch Recompence ſhall be made: Provided always, that if through Situation, or other Circumſtances of any Allotment or Allotments, it ſhall happen that the Proprietors thereof ſhall not have a proportionable Share of Boundary Fencing thereto, it ſhall be lawful for the ſaid Commiſſioner, where he ſhall judge it reaſonable, to aſcertain and appoint any Sum or Sums of Money to be paid by ſuch Proprietors towards the Boundary Fencing of ſuch other or others of the ſaid Proprietors as may happen to have too great a Proportion thereof, in order that the Expences of the Boundary Fencing may be brought as near as may be to a juſt and equal Proportion; and the Money ſo to be aſcertained and appointed, ſhall be levied and recovered, in ſuch and the ſame Manner as herein-before mentioned, with reſpect to any Deficiency of Monies ariſing from the Sale of the Lands herein-before directed to be ſold for the Payment of the Coſts and Expences of this Act, and carrying the ſame into Execution.

Proportioning of Boundary Fences.

Gaps and Openings to be left for a Time.

XXVII. Provided always, and be it further enacted, That convenient Gaps or Openings ſhall (if neceſſary) be left in the Hedges and Fences of the ſaid

ſaid Allotments for ſuch Space of Time next enſuing the Execution of the Award of the ſaid Commiſſioner, for the Paſſage of Horſes, Cattle, Carts, and Carriages, as the ſaid Commiſſioner ſhall in and by his Award direct and appoint.

Allotments to follow the Tenure of Eſtates in reſpect of which they may be made.

XXVIII. And be it further enacted, That all Allotments to be ſet out to any of the ſaid Proprietors, or other Perſon or Perſons under or by virtue of this Act, ſhall be held by ſuch Proprietors, or other Perſon or Perſons reſpectively, under the ſame Tenure as the Lands and Grounds, or Hereditaments, in reſpect of which ſuch Allotments were made, were reſpectively held and enjoyed at or immediately before the making of ſuch Allotments, and ſhall be and become ſubject to the Payment of the ſame Kind or Species of Tithe only, Modus, Preſcript, or Money Payment in lieu of certain Species of Tithe, in the ſame Manner, and to the ſame Perſon or Perſons, as the Lands in reſpect whereof ſuch Allotments ſhall be made have been uſed and accuſtomed, and do now pay and are ſubject to.

If any Perſon ſells his Common Right, the Allotment is to be made to the Purchaſer.

XXIX. Provided always, and be it enacted, That if any Perſon hath ſold, or ſhall, at any Time before the Execution of the ſaid Award, ſell his or her Right, Intereſt, and Property, in, to, over, or upon the ſaid Common and Waſte Lands hereby directed to be divided and allotted, or any Part thereof, to any other Perſon, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required, upon receiving Notice of any ſuch Sale, to make an Allotment of Land unto the Vendee or Purchaſer, or to his or her Heirs or Aſſigns, for and in reſpect of ſuch Right, Intereſt, and Property ſo ſold as aforeſaid; and every ſuch Vendee or Purchaſer, or his or her Heirs or Aſſigns, ſhall and may, from and after the Execution of the ſaid Award, hold and enjoy the Land ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner as the Vendor in ſuch Sale might, could, or ought to have held and enjoyed the ſame, in caſe ſuch Sale had not been made, or ſuch Right, Intereſt, or Property had been veſted in ſuch Vendor at the Time of making ſuch Allotment as aforeſaid.

For allowing Exchanges to be made.

XXX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to ſet out, allot and award any Lands, Tenements or Hereditaments whatſoever, within the ſaid Manor and Townſhip aforeſaid, in Lieu of and in Exchange for any other Lands, Tenements or Hereditaments within the ſame Manor or Townſhip, or within the ſaid Pariſh of *Cockfield*, or within 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 of the Premiſes which ſhall be ſo exchanged, whether ſuch Proprietor or Proprietors ſhall be a Body Politic, Corporate or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple of, for Life or in Fee Tail, General or Special, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, by and with the Conſent of the Leſſor or Leſſors, and not otherwiſe, 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, Idiots, Lunatics,

or under any other legal Disability, or who shall be beyond the Seas or otherwise disabled to act for themselves, himself or herself, (such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively,) and all and every such Exchange 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 Ecclesiastical Benefice, without the Consent testified as aforesaid of the Lord Bishop of the Diocese in which such Lands, Tenements or Hereditaments shall be situate, and of the Patron of such Ecclesiastical Benefice: Provided also, that all Costs, Charges and Expences attending the making of any Exchanges and Partitions shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioner shall by his said Award order and direct.

Leases void as to Allotments of Common.

XXXI. And be it further enacted, That all and every Lease and Leases at Rack or Extended Rent now subsisting, of any Lands or Tenements within the said Manor or Township, shall, as far as such Lease or Leases affect or concern any Allotment or Allotments to be made of any Part of the said Common and Waste Lands, in respect of such Lands or Tenements comprized in such Lease or Leases, be, and the same is and are hereby declared to be null and void as to such Allotment and Allotments; and such Allotment and Allotments shall be made and assigned unto the Landlord or Landlords, and not to the Tenant or Tenants, Lessee or Lessees; and such Allotment and Allotments shall be freed and discharged from all Right and Interest which may or otherwise might be claimed in or to the same, by virtue of such Lease or Leases; and the Person or Persons to whom the Lands or Tenements comprized in such Lease shall belong as Landlord or Landlords, shall make such Compensation to the Person or Persons entitled to the same under such Lease or Leases, as the said Commissioner shall, by Writing under his Hand, direct for the Right of Common, or any other Rights or Interests in, over, or upon the said Common or Waste Lands, or any Part thereof appendant or appurtenant to such Lands or Tenements, and which shall be extinguished by this Act; and if any Person or Persons shall refuse or neglect to make any such Compensation to the Person or Persons entitled thereto, within Twenty-one Days after Demand made thereof, then and in such Case it shall be lawful to and for the said Commissioner, and he is hereby authorized to raise and levy the same, for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raised and levied.

Not to affect Wills or Settlements, &c.

XXXII. And be it further enacted, That nothing herein contained shall extend to annul, revoke, or alter any Will, Deed, or Settlement, or to prejudice any Person having or claiming any Jointure, Dower, Portion, Debt, or Incumbrance out of, upon, or affecting any of the Lands or Hereditaments to be divided, inclosed, and exchanged in pursuance of this Act; but that the several Lands and Hereditaments to be set out and allotted, or divided, or given in Exchange in pursuance of this Act, shall, immediately after the vesting of such Allotments, or making such Exchanges

charges respectively, be, remain, and enure, and the several Parties to or for whom the same shall be allotted, or shall be given in Exchange as aforesaid, shall thenceforth stand and be seized thereof to such Estates, Uses and Trusts, and subject to such Wills, Deeds, Settlements, Limitations, Remainders, Charges, and Incumbrances, as the several Lands and Hereditaments, in lieu or in respect whereof such Allotments, Divisions, and Exchanges shall be made as aforesaid, would have been subject and liable to be charged with and affected by in case this Act had not been made.

Sheep, &c. not to be kept in the Lanes.

XXXIII. And be it further enacted, That no Persons shall keep or depasture, or permit to be kept or depastured any Cattle, Sheep, Lambs, Horses, Mules, or Asses in the Roads or Lanes to be set out by virtue of the said recited Act or this Act.

Sheep not to be kept in Allotments for Seven Years, except the same be properly fenced.

XXXIV. And be it further enacted, That in case Sheep or Lambs shall be depastured in any of the said Allotments to be made in pursuance of this Act, during the Space of Seven Years from the passing thereof, the Persons respectively so depasturing or keeping such Sheep or Lambs, shall, at their own Expence, effectually guard and fence their Neighbour's Quicksets adjoining such Allotments respectively, in which Sheep or Lambs shall be depastured or kept as aforesaid, so as to prevent any Damage or Injury from being done to such Fence or Fences and Quicksets by any such Sheep or Lambs; and in case any Person shall turn or keep any Sheep or Lambs in any such Allotments without guarding or raising such Fences as aforesaid, it shall be lawful for the Owner or Occupier of any adjoining Allotment to enter thereon, and to take, drive away, and impound the same Sheep or Lambs.

Persons advancing Money to be repaid with Interest.

XXXV. And be it further enacted, That if any Person or Persons shall advance and pay any Sum or Sums of Money for the Purpose of defraying the Expences previous to obtaining and passing this Act, or afterwards of carrying the same into Execution, every such Person shall be repaid the same, with Interest, after the Rate of Five Pounds *per Centum per Annum*, out of the First Monies which shall be raised for defraying the Expences by virtue of this Act.

Commissioner to account.

XXXVI. 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 the passing of this Act), 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 Expence in the Execution of this and the said recited Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before some Justice of the Peace (not interested in the Premises) for the said County of *Durham*, 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 Charge or Item in such Account shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice as aforesaid.

XXXVII. And

Award to be made.

XXXVII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized to make an Award as to the Matters and Things by the ſaid recited Act and this Act authorized to be done by the ſaid Commiſſioner; and that the Award of the ſaid Commiſſioner to be made in purſuance of the ſaid recited Act and this Act ſhall, together with a Map or Plan thereto annexed, within Six Calendar Months after the ſame ſhall be ſigned by the ſaid Commiſſioner, be enrolled by the Clerk of the Peace of the ſaid County of *Durham*, and then be lodged and afterwards depoſited, together with a Map or Plan thereto annexed, in the Pariſh Church of *Cockfield* aforeſaid, to the end that Recourſe may be had thereto by any Perſon or Perſons whomſoever.

Appeal to Quarter Seſſions.

XXXVIII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance of the ſaid recited Act or this Act, then and in every ſuch Caſe (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 this Act ſhall expreſs that the ſame ſhall be final and concluſive) ſuch Perſon or Perſons may appeal to the General Quarter Seſſions of the Peace which ſhall be held in and for the ſaid County of *Durham* within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen; and the Juſtices of ſuch Seſſions are hereby authorized and required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and to award ſuch Coſts as they ſhall think reaſonable; and by their Order and Warrant to levy the Coſts which ſhall be awarded by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of every ſuch Diſtreſs and Sale; and ſuch Determination of the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removable by *Certiorari*, or any other Writ or Proceſs whatſoever, in any of His Majeſty's Courts at *Weſtminſter* or elſewhere.

Not to prejudice the Earl of Darlington's Right to Mines, &c.

XXXIX. Provided always, and be it further enacted, That nothing herein contained ſhall prejudice, leſſen or defeat any Right, Title or Intereſt which the ſaid *William Harry* Earl of *Darlington* as Lord of the ſaid Manor, or any other Perſon, as Lord of the ſaid Manor for the Time being, now have or hath, or ſhall hereafter have in or to any Mines, Ores, Coals, Metals, Minerals or Quarries of Stone or Slate whatſoever, in or under the ſaid Common or Waſte Lands, or any Part or Parcel thereof, (ſubject only to the Rights and Privileges herein reſerved and given, in reſpect of the Common Quarry or Quarries, and of the whinning, getting and working Stones within the ſaid reſpective Allotments,) but that it ſhall be lawful to and for the ſaid *William Harry* Earl of *Darlington*, or the Lord of the ſaid Manor for the Time being, and his or their Aſſigns reſpectively, in and upon the ſaid Common and Waſte Lands, at any Time or Times hereafter, according to his or their Rights therein, to delve, ſearch for, get up, make merchantable, and take and carry away, with all or any Manner of Carriages to their own reſpective Uſes, the ſaid Mines, Ores, Coals, Metals, Minerals or Quarries of Slate or Stone, or any Part thereof, and to make, erect or uſe any Roads, Ways, Sumps, Levels, Warehouſes, Smithies, Engines, Machines and other Conveniences and Erections, and

to do any other Acts which shall be necessary or proper for all or any of those Purposes, in such and the like Manner as if this Act had not been made; and the same Warehouses, Smithies, Engines, Machines and other Conveniences and Erections, or any of them, at any Time or Times to alter, take down, remove, re-erect and take and carry away at his and their respective Pleasure, he the said Earl of *Darlington*, or the Lord of the said Manor for the Time being, and his and their respective Heirs and Assigns respectively, making full Satisfaction from Time to Time to the respective Owners and Occupiers of the said Allotments of the said Common and Waste Lands, for the Spoil and Damage which shall be done or occasioned thereon by the Exercise of all or any of the said Powers.

The Lord's Right not to be altered or extended.

XL. Provided always, and be it further enacted, That nothing herein contained shall extend, or be construed to extend, to give unto the Lord of the said Manor for the Time being, any further or other Manerial Rights, Titles, or Interest, than those now subsisting, nor to defeat, lessen, prejudice, or affect any Right, Title, or Interest of, in, or to any Rents, Services, Courts, Perquisites and Profits of Courts, Goods and Chattels of Felons and Fugitives, Felons of themselves, and put in Exigent, Deodands, Waifs, Estrays, Forfeitures, and all other Royalties, Jurdisdictions, Privileges, Pre-eminences, and Appurtenances whatsoever incident, belonging, or appertaining to the said Manor (other than and except those meant and intended to be barred, destroyed, and extinguished by virtue of this Act), but that the same and every of them shall remain and be enjoyed by the Lord of the said Manor for the Time being, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as he or they could or might have held and enjoyed the same, in case this Act had not been passed.

General Saving of Rights.

XLI. 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 Heirs, Successors, Executors, and Administrators, all such Right, Title, Estate, and Interest, (other than those meant and intended to be barred and destroyed by this Act) as every or any of them had enjoyed, of, in, to, or out of the said Common and Waste Lands, or any Part thereof, before the passing of this Act, or could or might have had or enjoyed in case this Act had not been made.

Act to be printed by the King's Printer.

XLII. 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.