



ANNO QUINQUAGESIMO QUARTO

GEORGI II. REGIS.

Cap. 165.

An Act for inclosing certain Moor, Common, and Waste Grounds, in the Parish of *Tunstal*, in the County Palatine of *Lancaster*, and for converting the same into Stinted Pasture, and other Purposes.

[17th June 1814.]

WHEREAS there is in the Parish of *Tunstal*, in the County Palatine of *Lancaster*, a certain Tract of Moor, Common, or Waste Ground, usually called *Leck Fell*, containing in the Whole, by Estimation, Three thousand four hundred and fifty Acres, or thereabouts; and there are also divers other small Parcels of Waste Land or Ground within the said Parish, containing together Fifty Acres, or thereabouts: And whereas *Richard Toulmin North* Esquire is Lord of the Manor of *Tunstal*, within the Parish of *Tunstal* aforesaid, and as such seised of or well entitled to the Soil and Inheritance and Royalties of and within the said Tract and Parcels of Moor, Common and Waste Ground: And whereas *William Wilson Carus Wilson* of *Casterton Hall*, in the Parish of *Kirkby Lonsdale*, in the County of *Westmorland*, Esquire, is or claims to be seised of and entitled to the Rectorial Tithes and Glebe Lands of the Improprate Rectory or Parsonage of the Parish of *Tunstal* aforesaid, arising and renewing and situate within the several Townships or Places in the said Parish of *Tunstal* called *Burrow with Burrow Tunstal* and *Cantsfield*, except as to certain Parts thereof which are held or claimed to be held by the Proprietors thereof free and exempted from Tithes; and

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the Feoffee or Feoffees of *Heversham* School, in the Parish of *Heversham*, in the said County of *Westmorland*, is or are, or claimeth or claim to be, in like Manner, and with such Exception as aforesaid, seised of and entitled to the Rectorial Tithes and Glebe Lands of the said Rectory or Parsonage of *Tunstal*, arising and renewing and situate within the Township of *Leck*, in the said Parish of *Tunstal*: And whereas the said *Richard Toulmin North* is also Patron of the Vicarage and Parish Church of *Tunstal* aforesaid, within the Archdeaconry of *Richmond*, in the Diocese of the Bishop of *Chester*: And whereas *Frederick Needham* Clerk, Master of Arts, is Vicar of the Vicarage and Parish Church of *Tunstal* aforesaid, and as such is entitled to certain Glebe Lands and Commonable Rights within the said Parish of *Tunstal*; and also to certain Tithes and Payments in lieu of Tithes arising, growing, or renewing within the said Parish of *Tunstal*: And whereas the said *Richard Toulmin North* and *Thomas Fenwick* Esquire, and divers other Persons are Owners and Proprietors of divers ancient Messuages, Cottages, Lands, Tenements, and other Hereditaments, and in respect thereof or otherwise are severally entitled to Right of Common of Pasture and Turbary, in, upon, and over the said Tract and Parcels of Moor, Common and Waste Ground: And whereas the said Tract and Parcels of Moor, Common and Waste Ground, are in their present State of little Profit or Value to any of the Parties interested therein; but if the same were inclosed, and certain Parts of that Portion thereof called *Leck Fell*, divided and allotted in Severalty to the said Proprietors of Rectorial Tithes, and to the said Vicar of *Tunstal* respectively, and their Heirs and Assigns, or Successors respectively, in lieu of their several and respective Rights and Titles in and to all and every the Rectorial and Vicarial Tithes and Payments in lieu of Tithes whatsoever accruing, or that might otherwise hereafter accrue to them, and each or either of them respectively within the said Parish, or any Part or Parts thereof; and if certain other Parts of the same Moor, Common, and Waste Grounds, called *Leck Fell*, and also all other the Pieces or Parcels of Waste Land lying in the Parish of *Tunstal*, within the said Manor, were sold and inclosed, and the Residue of that Portion of the said Moor, Common and Waste Grounds called *Leck Fell*, was inclosed and proportioned or divided among the several Persons entitled thereto by such Compensations or Allotments, in Proportion to their respective Rights and Interests therein, as are herein-after mentioned, the same would be of great Benefit and Advantage to all the Parties concerned; yet as the same cannot be effected without the Aid and Authority of Parliament; May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *George Wright* of *Hornby Castle*, in the County of *Lancaster*, Gentleman, and *Thomas Buttle* of *Kirkby Lonsdale*, in the County of *Westmorland*, Land Surveyor, and their Successors, to be appointed in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for allotting and inclosing, and for converting into a Stinted Pasture or Stinted Pastures, and dividing, and also for selling the said Tract and Parcels of Moor, Common, and Waste Ground, in the Manner and as to the Portions herein-after mentioned and provided, and for putting this Act into Execution, pursuant to the Powers, Regulations, and Directions herein-after contained, and to such of the Powers, Regulations,

Commissioners appointed.

tions, Restrictions, and Provisions contained in an Act passed in the Forty-first Year of His present Majesty's Reign, 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*, as are not controlled by or repugnant to any of the Clauses, Provisions, or Regulations contained in this Act.

II. And be it further enacted, That in case the said Commissioners herein-before named, or either of them, or any other Commissioner or Commissioners to be appointed by virtue of this Act, shall before the Finishing and Completion of the said Inclosure, or before executing such General Award as herein-after mentioned, die or refuse to act, or become incapable of acting as Commissioners, or as a Commissioner therein, then, and from Time to Time in every or either of such Cases the Vacancy or Vacancies thereby occasioned shall be filled up and supplied by such fit and proper Person or Persons (not being interested in the said Moor, Common, or Waste Grounds), as may be for that Purpose elected and appointed by the Lord of the said Manor and the other Proprietors interested in the said Wastes as aforesaid for the Time being, or the major Part in Value of them, who shall appear either in Person, or by their authorized or known Agents or Attornies, at any public Meeting to be convened for that Purpose by the said Lord for the Time being, such Value to be ascertained and guided by the Assessments to the Property Tax for the Lands and Hereditaments within the said Manor in the Parish of *Tunstal* aforesaid; and it is hereby declared, that whenever any or either of such Cases or Events as aforesaid shall occur, the Lord of the said Manor for the Time being shall be empowered, and he is hereby required within Two Calendar Months at the farthest, after any such Event or Case shall be known to him, to cause such a public Meeting to be convened by Notice in Writing, specifying the Time and Place, and also the particular Cause and Purpose of such Meeting, such Notice to be published Ten Days at the least previous to the holding of such Meeting, in such Manner as is herein prescribed in respect to the Notices of Meetings to be given by the said Commissioners; and when and as often as any such Appointment of any new Commissioner or Commissioners shall be made upon any of the Events or Cases aforesaid, the Commissioner or Commissioners so as aforesaid to be appointed, shall have such and the like Powers and Authorities for putting this Act into Execution, as if he or they had been originally a Commissioner or Commissioners appointed by Name in or by this Act.

Appointment
of new Com-
missioners.

III. And be it further enacted, That the said Commissioners for the Time being may, and they are hereby required to cause public Notice to be given by Writing under their Hands, to be affixed on some one of the outer Doors of the Parish Church of *Tunstal*, and of the Chapel of *Leck*, within the said Parish of *Tunstal*; and also by Advertisement in the Newspaper called *The Lancaster Gazette*, if then published, and if not, then in some other Newspaper circulating in the said County of *Lancaster*, of the Time and Place of holding the First and all subsequent Meetings for the Execution of this Act, Ten Days at the least before such Meetings respectively (Meetings by Adjournment only excepted); each of which Meetings shall be held at *Tunstal*, in the Parish of *Tunstal* aforesaid, or at *Cowen Bridge*, or at *Burrow*, both within the said Parish of *Tunstal*, or within

Notices and
Places of
Meeting, and
other Notices.

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Eight Miles of the Boundaries of the said Parish, and that all the Notices by the said recited Act required to be given in some public Newspaper, and all other Notices necessary or requisite to be given by the said Commissioners by virtue of this Act, shall be given in *The Lancaster Gazette*, if it be then published, and if not, then in some other Newspaper generally circulated in the said County of *Lancaster*, and likewise (if the Commissioners shall so think fit, but not otherwise) by Notices in Writing to be affixed at the Places and in the Manner herein-before mentioned; but that the said Commissioners shall have full Power and Authority to continue any of the said Meetings by Adjournment, without giving any Notice of any such Adjourned Meetings, such Adjourned Meetings nevertheless to be held within the Space of Twenty-one Days from the Time of Adjournment.

Commis-
sioners to
ascertain
Common
Rights and
settle Differ-
ences.

IV. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, as soon as conveniently may be after the passing of this Act, to examine into and determine the several and respective Estates entitled to Right of Common upon the said Moor, Common, and Waste Grounds; and that if any Dispute or Difference shall arise between any of the Proprietors of, or any Persons interested or claiming to be interested in any of the Lands intended to be inclosed or sold, or otherwise appropriated by virtue of this Act, concerning the respective Rights or Interests which they or any of them may have or claim to have in or upon, or in any Manner respecting or relating to the same Lands, or any or either of them, or touching or concerning any Matter or Thing relating to the Division, Allotment, or Inclosure thereof, it shall be lawful for the Commissioners to hear, adjudge, and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

Commis-
sioners differ-
ing, Umpire
to decide.

V. Provided also, and be it further enacted, That in case the Commissioners named or appointed in or by virtue of this Act shall at any Time or Times disagree in Opinion upon any Matter concerning which it shall be necessary for them to judge and determine in the Execution of this Act or of the said recited Act, then and as often as it shall so happen, the said Commissioners shall and may, and they are hereby authorized and required, within Thirty Days after any such Difference shall have arisen, to refer the same to the Judgment and Determination of *Adam Cottam* of *Whalley*, in the County of *Lancaster*, Gentleman, as Umpire between them; and that in case the said Umpire shall die or refuse to act, or become incapable of acting, then and in every such Case an Umpire, not interested in the said Inclosure, shall be nominated and appointed by the major Part in Value of the said Proprietors of Common Rights, such Value to be ascertained as aforesaid, at any Meeting to be held for that Purpose upon the Summons of the said Commissioners within Two Calendar Months next after such Death, Refusal, or Incapacity, after the like Notice, and in such Manner as is herein-before directed concerning the Appointment of a new Commissioner, and so *toties quoties*, in case any Umpire, as last mentioned, shall die or refuse to act, or become incapable of acting; and the Judgment and Determination of the said *Adam Cottam*, or of any such Umpire so to be chosen or nominated and appointed as aforesaid, shall be conclusive between the said Commissioners (who shall in every such Case act conformably thereto), and upon
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all Parties whomsoever, unless complained of and appealed from by such Notice, within such Time, and in such Manner as herein-after is mentioned.

VI. Provided always, and be it further enacted, That no Person shall be capable of acting as an Umpire in the Execution of the Powers given by this or the said recited Act, until he shall have taken or made and subscribed the Oath or Affirmation following; (that is to say), Umpire to take an Oath.

‘ I do swear (or, being one of the People called *Quakers*, do solemnly affirm), That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as an Umpire, by virtue of an Act passed in the Fifty-fourth Year of the Reign of King *George* the Third, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality to any Person or Persons whomsoever.

‘ So help me GOD.’

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

VII. And be it further enacted, That in case the said Commissioners or Umpire (as the Case may be) shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, or other Question of Right, or of Claim to Right whatsoever, see Cause to award any Costs, it shall be lawful for them or him, and they and he are and is hereby empowered, upon Application made to them or him for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of them the said Commissioners, or of him the said Umpire, shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners or Umpire, and they and he are and is hereby authorized and required, by Warrant under their or his Hands or Hand, directed to any Person whomsoever, to cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons neglecting or refusing to pay the same, rendering the overplus Proceeds of every such Sale (if any) on Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the reasonable Expences attending such Distress and Sale. Power to assess Costs.

VIII. Provided moreover, and be it further enacted, That in case any Party or Parties interested or claiming to be interested in the Inclosures and Allotments to be made in pursuance of this Act shall be dissatisfied with any Determination of the Commissioners or Umpire touching or concerning his, her, or their respective Rights, Interests, or Claims, and shall by Writing under his, her, or their Hands, or the Hand or Hands Parties dissatisfied may try their Rights at Law.

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of his, her, or their Agent respectively, signify the same to the said Commissioners or Umpire (whichever of them shall have made the Determination complained of) within Two Calendar Months next after such Determination shall be made, it shall be lawful for the Person or Persons so dissatisfied to have the Subject Matter of the Determination so complained of tried at Law, at the then next or at the following Assizes to be holden for the said County of *Lancaster*; and for that Purpose the Party or Parties dissatisfied shall cause an Action to be brought against the Person or Persons in whose Favour such Determination shall have been so made, upon a feigned Issue (to be settled by the proper Officer of the Court wherein such Action shall be brought, in case the Parties differ about the same), within Six Calendar Months next after such Determination shall have been made; and the Defendant or Defendants in such Action shall, and is and are hereby required to name an Attorney or Attornies, who shall appear or file Common Bail, and accept One or more Issue or Issues, whereby the Rights or Claims thereby insisted on may be tried and determined; and the Verdict of the Jury on such Trial shall be binding, final, and conclusive, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had therein, which it shall and may be lawful for the said Court to do, in case the said Court shall think proper; and after such Verdict the said Commissioners and Umpire shall, and they and he are and is hereby required to act in conformity thereto, and to allow or disallow the Rights or Claims thereby determined, according to the Event of such Trial or Trials.

Determinations of Commissioners to be final.

IX. Provided always, and be it enacted, That all such Determinations of the said Commissioners or Umpire as shall not be objected to in Manner aforesaid, or which, being so objected to, shall not be questioned by Trial at Law, to be brought and prosecuted as aforesaid, shall be binding, final, and conclusive on all Parties whomsoever.

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

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

In case of Death of Parties before Actions brought, the same to be defended in their Names.

XI. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any Action or Actions might have been brought if living, shall die before any such Action or Actions shall be brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Party or Parties determined against and dissatisfied (the Notice in that respect herein-before required to be given having been duly given), to bring such Action or Actions against the Person or Persons so dying, within such limited Time as aforesaid, as if he, she, or they was or were actually living, and to serve the Clerk or Clerks to the Commissioners with Process for commencing such Action or Actions in the same Manner as the deceased Person or Persons might

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 Process 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.

XII. Provided also, and be it further enacted, That if any or either of the Parties in any Action to be brought, or Appeal had, in pursuance of this Act, shall die pending the same, such Action or Appeal shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and the Rights of all Parties shall be equally bound and concluded by the Event of such Actions or Appeals.

Actions not to abate by Death of Parties.

XIII. Provided likewise, and be it further enacted, That no Difference, Dispute, or Proceedings whatsoever, touching the Title to any Lands, Tenements, or Hereditaments, or any other Claim or Question of Right to arise under and by virtue of this Act, shall prevent, impede, or delay the Progress of the said Commissioners in the Execution of this Act; but the Inclosures and Allotments, and other Matters and Things hereby directed to be made and effected, shall be proceeded in (so far at least as the same are capable of being proceeded in), notwithstanding the Existence of any such Difference, Dispute, or Proceeding.

Trials not to suspend the Execution of the Powers of this Act.

XIV. And be it further enacted, That the said Commissioners shall and may cause and direct all or any of the Brooks, Streams, Ditches, Watercourses, Watering Places, Tunnels, and Bridges, within the said Parish of *Tunstal*, that they may deem expedient to be scoured out, deepened, and widened; and may set out, and order and direct, such new Ditches, Drains, Watercourses, Watering Places, Tunnels, Water Gates, Flood Gates, Banks, and Bridges, to be made, of such Depth, Breadth, and Extent, and in such Situations and Directions, as they shall think proper, as well in, through, over, and upon the ancient Inclosures, or other Lands and Grounds in the said Parish of *Tunstal* or any Part or Parts thereof, as in, through, over, and upon the Lands and Grounds hereby directed to be inclosed or sold as aforesaid (making such Satisfaction to the Owners and Proprietors of such ancient Inclosures or other Lands and Grounds not hereby directed to be inclosed or sold, for the Damage done thereby, as they shall judge reasonable, out of the Monies to be raised and received by them for Payment of the Expences of executing this Act); and the said Commissioners shall and may, and they are hereby directed in and by their Award to order and direct by whom, at whose Expence, at what Time, and in what Manner, the said Brooks, Streams, Ditches, Drains, Watercourses, Watering Places, Tunnels, Water Gates, Flood Gates, Banks and Bridges, shall be thereafter repaired, cleansed, scoured, and maintained.

Commissioners may make Drains, &c.

XV. Provided always, That no such Brook or Stream shall be diverted or turned without the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands and Grounds from which any such Brook or

Streams not to be diverted without Consent of Stream Owners.

Stream shall be diverted, or into which any such Brook or Stream shall be turned.

Commissioners may discontinue Roads, &c.

XVI. And be it further enacted, That the said Commissioners may, and they are hereby empowered to divert, turn, or stop up, and by their Award, or any other Writing under their Hands, to be deposited with their Award, order and direct to be discontinued, such of the present public and private Carriage, Bridle, and Foot Roads and Highways passing or leading as well through or over any of the old inclosed Lands within the said Parish of *Tunstal*, as through or over the said Tract or Parcels of Moor, Common or Waste Ground by this Act directed to be inclosed, or any of them, as they shall think useless and unnecessary, with the Concurrence of Two Justices of the Peace not interested therein (to be signified by their signing such Award or other written Order and Direction), and subject to Appeal in Manner directed by the said recited Act; but without necessarily making or repairing, or directing to be made or repaired, a like Number of new or any other old Roads or Ways to and from or between the same Places, in lieu of the Roads or Ways (if any) to be by them stopped up or discontinued by virtue of the Power hereby given; such Substitution of other Roads or Ways being to be governed by Expediency, and to be judged of and determined by the said Commissioners and Justices, if questioned, subject to such Appeal as aforesaid.

Power to shorten Boundary Fences.

XVII. And be it further enacted, That if the said Commissioners shall deem it expedient to shorten the Boundary Fences between the said several Lands and Grounds by this Act directed to be inclosed, and any adjoining Parish or Place, it shall and may be lawful for them, with the Consent in Writing under the Hand or Hands of any Lord or Lady of the contiguous Manor or Manors in which the forensic Land is situate, and of the Owners of the Land upon which any Fence or Fences shall or may be intended to be made, or of the major Part in Value of any such Lords or Ladies and Land Owners (such Majority in Value to be ascertained by the Property Tax Assessments on Lands and Hereditaments for the Parishes or Places in question), to ascertain and set out the Boundary Fences to be made between the Lands and Grounds hereby directed to be inclosed, and any adjoining Parish or Place, in such Manner as they shall think proper for the Purposes aforesaid; and after such Boundary Fences shall be set out as aforesaid, the same shall be fenced and repaired by such Person or Persons, in such Manner and at such Time or Times, as the said Commissioners shall order and direct in and by their Award, and shall be for ever thereafter deemed and taken to be the Boundaries between the said Manor and Parish of *Tunstal* aforesaid, and such adjoining Manor or Manors, Parish or Parishes, Place or Places; any Law, Usage, or Custom to the contrary thereof notwithstanding.

For ascertaining Boundaries of Leck Fell.

XVIII. And whereas it might not be of Advantage to the Proprietors to be obliged to fence or inclose certain Parts of the said Tract or Parcel of Moor, Common, or Waste Ground, called *Leck Fell*, though it would be of Advantage that the exterior Boundaries of the Whole, as against the adjoining Townships, Parishes, Lordships, and Districts, and the interior Boundary of such intended Allotment, and of each Portion to be

fold as herein-after directed, should be better ascertained and fixed; be it therefore further enacted, That the said Commissioners, with respect to such Part or Parts of the said Tract or Parcel of Moor, Common, or Waste Ground called *Leck Fell*, as they in their Discretion shall think would not be an Advantage to the Proprietors thereof to be obliged to inclose and ring-fence, shall and may only divide, separate, and apportion the same, and shall and may, if they shall so find it expedient, not require the same to be inclosed and ring-fenced, but merely to ascertain the same by Boundary Stones, or other Marks of Partition, for the Purpose only of better ascertaining and fixing the Boundaries of the said Tract or Parcel of Moor, Common, or Waste Ground, called *Leck Fell*.

XIX. And be it further enacted, That all Encroachments which shall have been made upon any of the Commons and Waste Lands by this Act to be inclosed or sold within the Space of Twenty Years next before the passing of this Act, without any legal Grant or Authority for that Purpose, shall be deemed Part of the Commons and Waste Lands to be inclosed, or sold and inclosed, and the same shall be inclosed, or sold and inclosed accordingly: Provided nevertheless, that all and each of such Encroachments shall be allotted to the Person or Persons who shall at the Time of making the Allotment be in Possession of such Encroachments, or in the Receipt of the Rents and Profits thereof, as the Whole or Part of the Share or Portion of the Commons or Waste Lands, or Cattle Gates, to which such Person or Persons will be entitled by virtue of this Act, without considering the Value of any Erection thereon, or Improvements made thereto; and if any such Person shall not be entitled to any Commonable Interest, or shall be entitled to a Commonable Interest not equal to the Value of such Encroachments, but shall be willing to purchase the same, then the said Commissioners shall ascertain the Price thereof, or of such Part thereof as shall exceed the Commonable Rights of such Possessor or Possessors thereof (without considering the Value of the Buildings or other Improvements thereon, but valuing the Land only, and that at so much *per Acre* as the same shall in their Estimation be worth with Reference to the Waste next adjoining); and upon such Person or Persons paying such Price *per Acre*, and in Proportion for less than an Acre, to the said Commissioners, at such Time or Times as they shall for that Purpose appoint, and taking their Receipt or Receipts for the same, every such Encroachment, or such Part thereof as shall be so purchased, and also all Buildings and Improvements thereon, shall thereupon become vested, by virtue of this Act, in such Purchaser or Purchasers, and his, her or their respective Heirs and Assigns, in Fee Simple, without any further or other Conveyance or Assurance, Instrument or Writing whatsoever; and such Commissioners shall apply such Purchase Money as Part of the Monies to be raised on Behalf of the Proprietors of Common Rights, for the defraying such of the Expences of obtaining and passing this Act, and of carrying the same into Execution, as are hereby made payable by them.

Encroachments.

XX. And be it further enacted, That it shall be lawful for the said Commissioners to sell, under some express Terms and Conditions for their Inclosure, and to award to the Purchaser or Purchasers thereof respectively, to be by him; her, and them, his, her, and their Heirs and Assigns, inclosed and held in Severalty, such Parts or Parcels of the said

Commissioners may sell certain Parts of Commonable Lands;

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Tract

Tract or Parcel of Moor, Common or Waste Ground, called *Leck Fell*, and all and singular other the small Pieces or Parcels of Waste Lands by this Act directed to be inclosed, and also such of the said encroached Lands and Premises as shall not be allotted or sold to the Possessor or Possessors thereof as herein-before is mentioned, as they the said Commissioners shall think most proper and deem sufficient, by the Proceeds to arise from the Sale thereof, to discharge and satisfy all such Charges and Expences as are hereby made payable to the Persons entitled to Common Rights in and over the said Moor, Common, and Waste Grounds; and that the Sale or Sales thereof shall be conducted and made by the said Commissioners, in the Manner prescribed by the said Act of the Forty-first Year of the Reign of His present Majesty in Cases where the Expences attending Acts of Inclosure are directed to be paid by Sale of any Part of the Lands to be inclosed under such Acts; and the Money or Monies arising from such Sale or Sales shall, under the Direction of the said Commissioners, be applied, so far as the same will extend, in Payment of such of the Charges and Expences incident to and attending the obtaining and Execution of this Act, as are hereby made payable by or on the Part of the Proprietors of Lands entitled to Common Rights, or other Commonable Interests, in, upon, or out of the said Lands and Grounds hereby directed to be inclosed.

First offering
same to ad-
joining Land
Owners.

XXI. Provided always, and be it further enacted, and the said Commissioners are hereby directed and authorized, before they make any Sale or Sales as aforesaid, by virtue of this Act, to offer in Writing such small Pieces or Parcels of Waste Lands by this Act directed to be inclosed, to the Owner or Owners, Proprietor or Proprietors of the ancient inclosed Land or Lands adjoining thereto, at such Price or Prices or Value as they the said Commissioners shall put thereon; and the said Owner or Owners, Proprietor or Proprietors shall have the Option of taking the same at such Price or Prices or Value accordingly; and in case the said Owner or Owners, Proprietor or Proprietors shall, for the Space of Thirty Days after such Offer by the said Commissioners as aforesaid, neglect or refuse to take the same at such Price or Prices or Value as aforesaid, then the said Commissioners shall, and they are hereby empowered to sell the same, as herein-before is mentioned.

Allotments
for Repairs
of Roads, etc.

XXII. And be it further enacted, That the said Commissioners shall and may, and they are hereby required, before any other Allotment is made in pursuance of this Act, to set out and appoint One or more Piece or Parcels of Land, Part or Parts of the said Moor, Common, or Waste Grounds hereby directed to be inclosed (not exceeding Four Acres in the Whole), in such convenient Situation or Situations as they shall think proper, as and for public Watering Places for Cattle, and for the Purposes of getting Stones or Gravel, or any other Materials for repairing the Roads and Highways already made and to be made or set out by virtue of this or of the said recited Act, within the said Manor in the Parish of *Tunstal* aforesaid, or any Part thereof.

Turf Pits to
be allotted to
Proprietors of
Messuages,
etc.

XXIII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out and allot unto each of the Proprietors of Messuages and Tenements interested in the said Division and Inclosure, upon some Part or Parts of the said Tract or Parcel

Parcel of Moor, Common, or Waste Ground, called *Leck Fell*, such Allotment or Allotments, for the Purpose of getting Turves, as they the said Commissioners shall think necessary, to be held by the said Proprietors in Severalty; and that they the said Commissioners shall in their said Award and Maps or Plans specify and describe the same by Metes and Bounds.

XXIV. And whereas it is likewise considered, and may be expedient, that, notwithstanding the Reservation of Mines, Minerals, and Quarries herein-after contained, it shall and may be lawful to and for the present and future Owners and Occupiers of Messuages and Lands within the Manor of *Tunstal* with its Members aforesaid, as heretofore, to get Stones within and upon some Part or Parts of the said Tracts or Parcels of Moor, Common, or Waste Grounds, for their own Use respectively within the said Manor; be it therefore hereby enacted, That (besides that it shall be lawful for such Owners and Occupiers for that Purpose to seek for and get Stones from and out of any distinct Allotment or Allotments to be made by virtue and in pursuance of this Act, which shall be belonging to or in their Occupation respectively) the said Commissioners shall, and they are hereby authorized and required to set out and allot such and so many Stone Pits or Quarries as they may deem sufficient, and in such Situations as they shall think expedient, for such Uses and Purposes as aforesaid; such last-mentioned Pits or Quarries to be also specified and described by them in their said Award and Maps or Plans; and the Use thereof to be regulated by them in and by their said general or any other Award to be annexed thereto, if thought necessary by them.

Stone Pits to be set out for the Use of the Owners, and Occupiers of Messuages, &c.

XXV. And be it further enacted, That it shall be lawful for such Owners and Occupiers as aforesaid, at all Times thereafter, under such Regulations nevertheless (if any) as may be prescribed by the said Commissioners as aforesaid, to win and get Stone for their own Use within the said Manor as heretofore, from and out of the Pits or Quarries so to be set out and allotted by the said Commissioners, but not elsewhere (except upon their own distinct Allotments respectively as aforesaid), and not for any other Use or Purpose whatsoever.

XXVI. And for the Purpose of ascertaining, settling, and determining the Value of the Tithes and Payments in lieu of Tithes due and payable to the said *Frederick Needham* and his Successors, as Vicars as aforesaid, within the said Parish of *Tunstal*, be it hereby enacted, That it shall and may be lawful to and for the said *Frederick Needham*, or the Vicar of the said Parish for the Time being, by Writing under his Hand and Seal, to nominate some proper Person (not interested in the Inclosures or other Matters to be effected by virtue of this Act), and also to and for the said Commissioners, and they are hereby required, by Writing under their Hands, likewise to nominate some other proper Person (not interested as aforesaid); which said Two Persons are hereby authorized and required, by such Ways and Means as they shall think proper, and by Examination of Witnesses upon Oath (which Oath any One of them is hereby empowered to administer), jointly to enquire into, ascertain, and determine the Value of such Tithes or Payments in lieu of Tithes (except *Easter Offerings*, Mortuaries, and Surplice Fees), as are due or payable to the Vicar of the said Parish, for the Time being, within the Whole of the said Parish; and

For ascertaining the Value of the Vicar's Tithes.

to frame and deliver a full and perfect Terrier and Particular of the Estates, Farms, Lands, and other Hereditaments found liable to Vicarial Tithes or Payments for Tithes, and of the Tithes or Payments to which each of such Estates, Farms, Lands, or Hereditaments respectively is liable, together with their Inquisition or Certificate of the Value thereof respectively, to the said Commissioners (to be annexed to and deposited with their Award); an Office Copy of which Terrier, Particular, and Certificate, or Inquisition, shall in all Cases be admitted as legal Evidence.

Tithe Valuer's Oath.

XXVII. Provided always, That no Person so to be nominated shall be capable of acting in the Execution of the Powers hereby given, until he shall have taken or made and subscribed the Oath or Affirmation following; (that is to say),

‘ I do swear [or, being one of the People called Quakers, I do solemnly affirm], That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and perform the several Powers and Authorities vested in me as a Valuer of the Tithes due and payable to the Vicar of the Parish of *Tunstal*, by virtue of an Act passed in the Fifty-fourth Year of the Reign of King *George* the Third, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice to any Person whomsoever. So help me GOD.’

Which Oath or Affirmation the said Commissioners, or either of them, are and is hereby empowered to administer.

Tithe Valuers differing, to appoint an Umpire.

XXVIII. Provided always, and be it enacted, That in case any Dispute or Difference shall happen to arise between the said Persons so nominated as Tithe Valuers as aforesaid, the same shall be settled and determined by some Person not interested, whom it shall be lawful for the said Tithe Valuers, and they are hereby required within Thirty Days after any such Difference between them, to nominate and appoint to be an Umpire for that Purpose, by Writing under their Hands so often as there shall be Occasion; and the Determinations of any such Umpire, to be expressed in Writing under his Hand, shall be binding and conclusive upon the said Tithe Valuers and upon all other Persons whomsoever.

Tithe Umpire's Oath.

XXIX. Provided also, That any Person so to be nominated to be Umpire shall, before he shall act as such, take an Oath similar to that herein-before directed to be taken by the Umpire to be nominated between the said Commissioners; and which Oath either of the said Persons so to be appointed Valuers of the Tithes as aforesaid, is hereby authorized to administer.

Residue of Leck Fell to be set out, and gross Number of Cattle or Pasture Gates ascertained.

XXX. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and empowered to set out the Residue of the said Tract or Parcel of Moor, Common, or Waste Grounds, remaining after such Sale or Sales, and after such Allotments for Materials for Roads and Watering Places, and for Turf Pits and Stone Quarries as aforesaid, in One or more Allotment or Allotments, and to ascertain, specify, and set forth in their Award the Number of Cattle Gates or Pasture Gates which such Allotment or Allotments shall be capable of agisting or depasturing.

XXXI. And

XXXI. And be it further enacted, That the said Commissioners shall, and they are hereby required to set out, allot, and award unto the said *Richard Toulmin North*, as Manorial Lord, or other the Lord of the said Manor for the Time being (exclusive of all other Allotments to him and them in other Rights) so many of such Cattle Gates or Pasture Gates as in the Judgment of the said Commissioners shall be equal to One full Twentieth Part thereof (subject to be diminished for and in respect of the future Exoneration thereof from Rectorial and Vicarial Tithes, by such Allotments to the Vicar and Proprietors of Rectorial Tithes respectively, in Proportion to the Value of the said Twentieth Part, as is herein-after mentioned and provided to be made in respect of all the Lands hereby directed to be inclosed), in lieu of, and as a full Compensation and Satisfaction for the Rights and Interests of the Lords of the said Manor, his Heirs and Assigns, in, to, or out of the Soil and Freehold or Inheritance of all or any of the Lands and Grounds hereby directed to be inclosed and allotted to or proportioned amongst any Persons except himself.

Allotment to the Lord for Soil.

XXXII. And be it further enacted, That the said Commissioners shall, and they are hereby required, in the next Place, to set out and allot and appoint unto and for each of the said Portionists of Rectorial Tithes, or other the Person or Persons entitled to the same respectively, and unto and for the said *Frederick Needham* and his Successors, Vicars of *Tunstal* afore said (in separate and distinct Proportions or Allotments respectively), so many of such Cattle Gates or Pasture Gates, or Portions of Cattle Gates or Pasture Gates (or an Allotment of Land equivalent thereto), as shall in their Judgment be equal in Value to, and a full Compensation for the Commonable Rights upon the said Moor, Common, and Waste Grounds, incident and belonging to the Glebe Lands and other the Church Estate of each of the said Portionists of Rectorial Tithes, and of the said Vicar of *Tunstal* for the Time being respectively.

Allotments for Rectorial and Vicarial Glebe.

XXXIII. And be it further enacted, That the said Commissioners shall, and they are hereby required, in the next Place, to ascertain, and to specify and set forth in their Award, the Number of Cattle Gates, or Pasture Gates, or Portions of Cattle Gates, or Pasture Gates, to which the said *Richard Toulmin North*, and each and every other of the Proprietors of Commonable Rights or Interests, shall be entitled respectively, out of the Residue of the Cattle Gates or Pasture Gates to remain after deducting and setting out such Allotments to the Lord of the said Manor, for the Soil and for the Vicar's Glebe as afore said, in respect of and in Proportion to the annual Value of their ancient Estates respectively entitled to Common Rights within the said Manor and Parish (such annual Value to be ascertained by the Assessment on Lands and Hereditaments within the said Parish of *Tunstal*, under the Property Tax Act, or by the Land Tax Assessments, but subject nevertheless to such Deviations from or Alterations in such Assessments as the said Commissioners shall think proper).

Proprietor's Rights in the Residue to be ascertained.

XXXIV. And be it further enacted, That the said Commissioners shall, and they are hereby required and empowered (by and with the Consent in Writing as well of the major Part in Value of the Proprietors of Messuages, Lands, and Tenements, within the said several Townships of *Burrow with Burrow*, *Tunstal*, and *Cantsfield*, subject to Rectorial Tithes

Allotments for Rectorial Tithes in Burrow, Tunstall, and Cantsfield.

[Loc. & Per.]

34 M

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or Payments for Tithes, whose Claims shall have been allowed by the said Commissioners, such major Part in Value to be ascertained by Reference to the Property Tax or Land Tax Assessments as aforesaid, as of the said *William Wilson Carus Wilson*, or other the Person or Persons entitled thereto, Proprietors of such Portion of the Rectorial Tithes as aforesaid), in the next Place to set out, allot, and assign unto the said *William Wilson Carus Wilson*, or other the Person or Persons entitled thereto, such Quantity, Part or Portion of the said Moor, Common, and Waste Grounds, called *Leck Fell*, as the said Commissioners shall adjudge to be a full Equivalent, Satisfaction and Compensation for all and all Manner of Rectorial Tithes, Moduses, Compositions, Payments, Claims, and Demands whatsoever, arising, renewing, or growing due or payable, or which would, could, or might otherwise have become due or payable to the said *William Wilson Carus Wilson*, or other the Person or Persons entitled thereto, from or out of, or for or in respect of all and every or any of the Messuages or Tenements, ancient inclosed Lands, Grounds, and Hereditaments, situate within the said several Townships of *Burrow with Burrow, Tunstal, and Cantsfield*, or from or out of, or for or in respect of all and every or any Part of the Moor, Common, or Waste Grounds that shall or may be set out or allotted for and in respect of all or any of such Messuages or Tenements, Lands, Grounds, or Hereditaments within the same several Townships; and the Allotment or Allotments, Portion or Portions so to be set out and assigned to the said *William Wilson Carus Wilson*, or other the Person or Persons entitled thereto, shall be accepted by and vested in him and them in Severalty for ever, in lieu and in Extinguishment of, and as a full Compensation for all Rectorial Tithes, Moduses, Compositions, Payments, Claims, and Demands whatsoever, now arising, renewable, and payable, or which might at any Time afterwards have become due or payable to him or them, for or out or in respect of all and every or any of the ancient Messuages, Tenements, and inclosed Lands, Moor, Common, or Waste Grounds and Hereditaments within the said several Townships of *Burrow with Burrow, Tunstal, and Cantsfield*, or any of them, or any Part thereof; the said Allotment or Allotments being well and sufficiently ring-fenced according to the usual and accustomed Method of Fencing, at the Expence of the Parties, and in Manner herein-after mentioned.

Allotments
in lieu of
Rectorial
Tithes within
Leck.

XXXV. And be it further enacted, That after the said Allotment shall be so made as aforesaid, the said Commissioners shall also, and they are hereby authorized and required (by and with the Consent in Writing as well of the major Part in Value of the Proprietors of Messuages, Lands, and Tenements, within the said Township of *Leck*, subject to Rectorial Tithes, or Payments for Tithes, whose Claims shall have been allowed by the said Commissioners, such major Part in Value to be ascertained by Reference to the Property Tax or Land Tax Assessments for *Tunstal* as aforesaid, as of the said Feoffee or Feoffees, Trustee or Trustees for the Time being entitled to the Portion of the Rectorial Tithes within the said Township of *Leck* as aforesaid) in the next Place to set out, allot, and assign unto such Feoffee or Feoffees, Trustee or Trustees for the Time being, such Quantity, Part, and Portion of the said Moor, Common, and Waste Grounds called *Leck Fell*, as the said Commissioners shall adjudge to be a full Equivalent, Satisfaction, and Compensation for all and all Manner of Rectorial Tithes, Moduses, Compositions, Payments, Claims, and Demands whatsoever, arising, renewing, or growing due or payable,

or which would, could, or might otherwise have become due or payable to the said Feoffee or Feoffees, Trustee or Trustees, or their Successors, from or out of, or for or in respect of all and every or any of the Messuages or Tenements, ancient inclosed Lands, Grounds, and Hereditaments, situate within the said Township of *Leck*, or from or out of, or for or in respect of all and every or any Part of the Moor, Common, or Waste Grounds that shall or may be set out or allotted for or in respect of all or any of such Messuages or Tenements, Lands, Grounds, or Hereditaments, situate within the said Township of *Leck*; and the Allotment or Allotments, Portion or Portions, so to be set out and assigned to the said Feoffee or Feoffees, Trustee or Trustees, and their Successors as aforesaid, shall be accepted by and vested in such Feoffee or Feoffees, Trustee or Trustees, for the Time being, in Severalty for ever, for and in lieu, and in Extinguishment of, and as a full Satisfaction and Compensation for all and all Manner of Rectorial Tithes, Moduses, Compositions, Payments, Claims, and Demands whatsoever now arising, renewing, or payable, or which the said Feoffee or Feoffees, or Trustee or Trustees for the Time being, might at any Time afterwards have become entitled to, from, for, out, or in respect of all and every or any of the ancient Messuages, Tenements, and inclosed Lands, Moor, Common, or Waste Grounds and Hereditaments within the said Township of *Leck*, or any Part thereof, such Allotment or Allotments being well and sufficiently ring-fenced, according to the usual and accustomed Method of Fencing, at the Expence of the Parties and in Manner herein-after mentioned.

XXXVI. And be it further enacted, That (notwithstanding there may be many Proprietors of old inclosed Lands, who by reason of their Estates consisting of Intakes or Approvements from Time to Time made from the Moor, Common, and Waste Lands hereby directed to be inclosed, or otherwise, have no Right or Title to any Commonable Interest whatsoever upon the said Moor, Common, or Waste Lands, or to any Allotment or Proportion thereof, under and by virtue of this Act, and who yet may be liable, in respect of such Inclosures, to the Payment of Vicarial Tithes, or of some pecuniary or other Compensations for the same) the said Commissioners shall, and they are hereby authorized and required to make and set out an Allotment of so much of the Land hereby directed to be inclosed, as in the Judgment of the said Commissioners (Quantity, Quality, and Situation considered) will be a full Equivalent and Compensation for the Tithes and all other Payments (*Easter Offerings*, Mortuaries, and Surplice Fees excepted) due and payable to the Vicar of the said Parish for the Time being, within the said Parish of *Tunstal*, and every Part thereof, according to the Valuation to be made and certified to them as aforesaid; and shall and do award and appoint such Allotment or Allotments unto and for the said *Frederick Needham*, and his Successors, Vicars of *Tunstal* aforesaid, to be by him and them for ever afterwards holden and enjoyed in Severalty, in lieu and in Extinguishment of all and singular his and their Rights to Tithes and Payments for Tithes, and all other Profits in the Nature of Tithes or Vicarial Dues whatsoever (Surplice Fees, Mortuaries, and *Easter Offerings*, only excepted) arising or renewing, or which might hereafter arise and renew, within and out of the said Parish of *Tunstal*, or any Part thereof.

Allotments
by way of
Extinguishment
of Vicarial
Tithes.

XXXVII. Pro-

Unless re-
jected by
Vicar in a
limited Time.

XXXVII. Provided also, That the said *Frederick Needham*, or the Vicar of the said Parish for the Time being, shall, after the said last-mentioned Allotment shall have been so made and set out by the said Commissioners as aforesaid, and Notice in Writing thereof given to the said *Frederick Needham*, or the Vicar for the Time being, have the Option of accepting or refusing the same, in lieu of such Vicarial Tithes as aforesaid, so as the said Vicar signify his Assent or Dissent in Writing to the said Commissioners or either of them, within Thirty Days after he shall have had such Notice as aforesaid.

A Money
Payment to
be made for
the Tithe of
old Inclo-
sures.

XXXVIII. And be it further enacted, That in case there are any Homesteads, Gardens, Orchards, Homecloses, or old inclosed Lands, in the said Parish of *Tunstal*, subject or liable to the Payment of such Rectorial and Vicarial Tithes as aforesaid, or to any Moduses, Composition, or other Payment, in lieu of such Tithes, or any other Ecclesiastical Due or Payment whatsoever, the respective Proprietors whereof shall not happen to be entitled to any or a sufficient specific Allotment out of the said Moor, Common, and Waste Grounds, to make Compensation for the same, such Proprietors shall respectively pay or cause to be paid unto such Person or Persons, and at such Time or Times as the said Commissioners shall direct or appoint, such Sum or Sums of Money as the said Commissioners shall adjudge and determine to be a full Compensation and Satisfaction for such Tithes, Moduses, Compositions, or other Payments in lieu of Tithes or other Ecclesiastical Due or Payment issuing or payable out of such Homesteads, Gardens, Orchards, Homecloses, and old inclosed Lands and Grounds respectively, (except *Easter Offerings*, Mortuaries, and Surplice Fees), or for such Part thereof for which a Compensation in Land cannot be made by the Proprietors thereof as aforesaid; which Sum or Sums of Money shall be applied towards Payment of the Charges and Expences of the several Persons from whose Allotment or Allotments any Deduction shall have been made, for making Compensation and Satisfaction for such Tithes, Moduses, Compositions, and other Ecclesiastical Dues and Payments, (except as aforesaid) of obtaining and passing this Act, and carrying the same and the said recited Act into Execution, and shall and may be raised, levied and recovered in like Manner as the Costs, Charges, and Expences of obtaining and passing this Act, and carrying the same and the said recited Act into Execution, are by the said recited Act directed to be raised, levied, and recovered; and if any Surplus shall remain after Payment of such Expences as aforesaid, such Surplus shall be divided between such several Persons, in Proportion to their respective Interests and Property therein; and the Shares of such of the said Persons as shall be Tenants thereof in Fee Simple shall be paid to them respectively; and the Shares of the others of the said Persons shall be respectively paid into the Bank of *England*, in the Manner directed by the said recited Act, with respect to Money to be paid for the Purchase or Exchange of Lands, Tenements, or other Hereditaments, or of any Timber or Wood growing thereon, where any such last-mentioned Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses as such last-mentioned Lands, Tenements, or Hereditaments.

Allotment of
the Residue
between Com-

XXXIX. And be it further enacted, That after such last-mentioned Allotment to the Vicar shall have been duly ascertained and set out as aforesaid,

aforesaid, the said Commissioners shall, and they are hereby required to set out and allot and award the Residue of the said Cattle Gates or Pasture Gates, in One or more Allotment or Allotments, Inclosure or Inclosures, unless as Stinted Pasture or Stinted Pastures (unless any distinct Allotment or Allotments shall be required, as herein-after mentioned), to and between the said *Richard Toulmin North* and the other Owners or Proprietors of Commonable Rights or Interests, in Proportion to the annual Value of their respective ancient Estates entitled to Common Rights upon the said Moor, Common, or Waste Grounds, or any Part thereof (such annual Value to be ascertained as aforesaid).

Common Right
Proprietors,
&c.

XL. Provided always, and be it hereby enacted, That until such Sales, Inclosures, and Fences be made and perfected as aforesaid, all and singular the said Tract and Parcels of Moor, Common, or Waste Grounds to be inclosed by virtue of this Act shall be staffherded at the Costs and Charges of the Parties interested therein, in proportion to the Number of Cattle Gates or Pasture Gates which may be allotted to them respectively therein.

Wastes till
allotted to be
staff herded.

XLI. And be it further enacted, That the Allotments to be set out and awarded to the Portionists and Vicar of *Tunstal* for Tithes as aforesaid shall be inclosed and ring-fenced with strong Walls or other sufficient Fences to be prescribed by and erected and made under the Authority and Directions of the said Commissioners, at the Expence of such of the Proprietors of the other Allotment or Allotments of the Lands and Grounds hereby intended to be divided and allotted as aforesaid, and of the Owners and Proprietors of such old Inclosures, whether not entitled or entitled to Common Rights, as shall be exonerated from Tithes or Payments in lieu of Tithes by virtue of this Act, in such Manner and in such Proportions as the said Commissioners shall order and appoint (due Regard being had to the Value of the Tithes and Payments extinguished in favour of such Proprietors respectively, and not to the Value of the Estates exonerated from such Tithes respectively); and the said Commissioners shall direct and appoint what Part of the said Walls and Fences shall afterwards respectively belong to the said Portionists and Vicar respectively, and what Part to any other Proprietors or Owners; and the said Walls and Fences, when properly made, shall for ever thereafter be maintained and supported by and at the Expence of the Person or Persons to whom the same shall be so ordered and appointed to belong.

Tithe Allot-
ments to be
ring-fenced.

XLII. And be it further enacted, That the said Commissioners are hereby required, according to the best of their Judgment, to compute and determine, and in their Accounts to specify what Part or Portion of the Expences of obtaining and passing this Act should (independently of all other Expences) be paid and borne by the Persons whose Lands shall be exonerated from Tithes as aforesaid exclusively, whether such Exoneration shall be effected both as to the Rectorial and Vicarial Tithes, or only as to such Vicarial Tithes; and that such Part or Portion thereof as the said Commissioners shall so determine, and the Amount of the Compensations to be made to the said Tithe Valuers and their Umpire, together with the Costs and other reasonable Expences to be paid by them in and about the Completion of the several Documents to be prepared by them, and other their Proceedings respectively, under and by virtue of this Act, shall in like Manner be paid and borne by the Persons

What other
Expences to
be paid ex-
clusively by
Persons ex-
onerated from
Tithes.

[*Loc. & Per.*]

34 N

whose

whose Lands shall be exonerated from Tithes as aforesaid exclusively, in such Manner and at such Times (in Proportion to the Value of the Tithes and Payments extinguished in favour of such Persons respectively) as the said Commissioners shall from Time to Time order, direct, or appoint; and the said Commissioners are hereby authorized and required to ascertain, apportion, and assess, as well the said Costs, Charges, and Expences, as also the Expences of fencing the said Allotments for the said Portionists and Vicar accordingly; and to levy and raise the same, either before or after their Award, by any of the Ways or Means by which they are empowered to raise any other of the Expences of obtaining and executing this Act.

Tithes to be paid till Possession of Allotments given.

XLIII. Provided always, and be it further enacted, That until the Allotments to be set out to or for the said Portionists and Vicar respectively in lieu of Tithes shall have been made and fenced in by the said Commissioners, and Possession thereof given, each of the said Portionists and Vicar respectively shall be entitled to, and shall receive and enjoy, such and the same Tithes and other Payments as each of them could, might, or ought to have received and enjoyed in case this Act had not been made.

Proprietors may have distinct Allotments, on Request, paying extraordinary Expences.

XLIV. Provided always, and it is hereby further enacted, That if any of the Proprietors interested in the said Tracts of Moor, Common, or Waste Ground previous to the Time when the said Commissioners shall make their Award, shall by Writing under his, her, or their Hand or Hands signify to the said Commissioners his, her, or their Will or Desire that One or more distinct Allotment or Allotments of Ground may be made and allotted to him, her, or them from the said Tracts or Parcels of Moor, Common, or Waste Ground intended to be made into Stinted Pasture as aforesaid, for and in lieu of all or any Portion of the Cattle Gates or Pasture Gates to which he, she, or they might otherwise be entitled therein, then the said Commissioners shall and are hereby required to make and set out such Allotment or Allotments accordingly, and shall charge such Person or Persons respectively for whose Benefit the same shall be made with the Payment of such Sum and Sums of Money as shall be necessary to defray the extraordinary Costs and Charges of making such distinct Allotment or Allotments, and of inclosing and internally subdividing and fencing the same, over and above his, her, or their just Proportion or Proportions of the Costs and Expences of making the external Ring Fence to the Portion of the said Wastes capable of being originally allotted amongst all the Common Right Proprietors generally as a Stinted Pasture, or as Stinted Pastures, and of the other Costs and Expences of passing and carrying this Act into Execution in all other Respects.

Allotments to follow the Tenures of ancient Estates.

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

spect of Freehold or Fee Farm Lands and Hereditaments shall; from the making thereof, be deemed Freehold or Fee Farm Lands and Hereditaments, and shall be held of the Lord of the Fee, under the same Rents, and by the same Services, as the Freehold or Fee Farm Lands and Hereditaments, for or in respect of which they were so allotted were theretofore held; and the several Lands or Grounds, Cattle Gates, or Pasture Gates, and other Hereditaments, which shall be allotted in respect of Leasehold, Copyhold or Customary Lands, Grounds, or Hereditaments shall in like Manner be deemed Leasehold, Copyhold, or Customary Lands, Grounds, Tenements, or Hereditaments, and shall be held of the Lord or Lords, Lady or Ladies of the Manor, under the same Rents, and by the same Customs, Duties, and Services, as the Leasehold, Copyhold, or Customary Lands, Tenements, or Hereditaments, for which they were so allotted, were or ought to have been held and enjoyed, in case this Act had not been passed.

XLVI. And be it further enacted, That for the more beneficial ordering and Management of such Part or Parts of the said Waste as, when inclosed, shall remain and be used as a Stinted Pasture, or as Stinted Pastures, from and after the depositing of the Award of the said Commissioners a Meeting of the Proprietors of the Cattle Gates or Pasture Gates within such Stinted Pasture or Stinted Pastures allotted as aforesaid, may and shall, annually for ever thereafter, be holden on the First *Monday* in the Month of *March* in each Year, at Eleven of the Clock in the Forenoon, at the Inn in *Tunstal* aforesaid; at which Meeting it shall and may be lawful for such Proprietors to attend and vote, either personally or by Proxy; and that all the Subjects, Matters, and Things which may or shall from Time to Time be discussed at such Meetings, shall be determined by the Majority in Value of such Proprietors or Persons interested, present at such Meetings respectively, such Value to be ascertained by the Number of such Cattle Gates or Pasture Gates to which each Proprietor, or Person interested, shall be entitled; and that it shall and may be lawful for such Proprietors as aforesaid, annually to make Rules and Orders for the better improving and regulating the Manner of using and occupying the said Stinted Pasture or Stinted Pastures, and of stocking the same with Cattle, Sheep, Horses, and other Stock, and for stinting and limiting the Number and Kinds thereof, and the Times and Seasons of stocking, and other Rules, Orders, and Regulations for the further Improvement, better Management, and more convenient Enjoyment thereof; and to annul, repeal, or alter all or any of such Rules, Orders, and Regulations, and make others, in such Manner as may be from Time to Time deemed expedient for the mutual Benefit of all Persons interested therein; and also annually to appoint a Herdsman to superintend the said Stinted Pastures, and also annually to appoint a Secretary or Clerk, to record and enter in a Book or Books, to be provided and kept for that Purpose, all the Orders, Rules, Regulations, and Determinations of such Meetings; and to collect and levy such Rates or Assessments as may or shall be, from Time to Time, at such Annual Meeting, rated or assessed by such Majority of Proprietors as aforesaid, and which Rates and Assessments the Majority in Value of such Proprietors, to be estimated according to the Number of their Cattle Gates and Pasture Gates respectively, are hereby empowered to fix, rate, and impose, and to order and direct to be assessed and levied accordingly, at such Annual Meetings as aforesaid, upon all the Owners and Occupiers of such Cattle Gates or Pasture Gates

Annual Meeting of Proprietors.

Bye Laws may be made.

as

as aforesaid, in a due Proportion, for the Purpose of the further Improvement of the said Stinted Pasture or Stinted Pastures, and of keeping the Fences of the same in Repair, and of defraying the Wages or Salaries of such Herdsman and Secretary or Clerk, and of such other Charges and Expences incident to the Management, Regulation, or Improvement of the said Pasture or Pastures, as may be from Time to Time, by a Majority in Value at such Annual Meeting, ordered and directed to be raised and paid; and that it shall and may be lawful to and for such Secretary or Clerk as aforesaid for the Time being, to collect and levy such Rates so to be assessed as aforesaid; and that in case any such Owner or Occupier as aforesaid shall refuse or neglect to pay his, her, or their Proportion of the Charges and Expences so to be rated and assessed upon him, her, or them, whenever the same shall be demanded by such Secretary or Clerk, it shall and may be lawful for any Justice of the Peace for the said County of *Lancaster* (not interested in the said Stinted Pasture or Stinted Pastures), and he is hereby authorized and required upon Complaint on Oath or Affirmation, to be made by such Secretary or Clerk (which Oath or Affirmation such Justice is hereby authorized to administer), to issue a Warrant or Warrants under the Hand and Seal of such Justice, directed to any Person or Persons whomsoever, to enable such Person or Persons to raise and levy such Rates and Assessments by Distress and Sale of the Goods and Chattels of the Person and Persons so making Default in Payment as aforesaid, his, her, or their Husbands, Guardians, Trustees, Committees, or Attornies, wheresoever the same shall be found, rendering the Overplus (if any) on Demand, to the Owner or Owners of such Goods and Chattels, the reasonable Charges of such Warrant, Distress, and Sale being first deducted.

Bye Laws not to be repugnant to the Laws of England.

XLVII. Provided always, and it is hereby further enacted, That such Rules, Orders, and Regulations shall not be repugnant to the Laws of that Part of *Great Britain* called *England*, and such Rules, Orders, and Regulations shall be subject to Appeal to the General Quarter Sessions of the Peace for the said County of *Lancaster*, in Manner herein-after mentioned.

Purchasers to stand in the Place of original Proprietors.

XLVIII. And be it further enacted, That if any Person or Persons, who shall be entitled to any Cattle Gates or Pasture Gates, or Shares of Cattle Gates or Pasture Gates, under or by virtue of this Act, or to any Right of Common or other Right upon the said Tract and Parcels of Moor, Common, or Waste Grounds hereby directed to be inclosed, and who, by Writing under his, her, or their Hand or Hands, delivered to the said Commissioners previous to their making their said Award, shall give Notice of his, her, or their having sold or disposed of the same to any Person or Persons to be named in such Writing, and shall request the same to be set out and allotted to the Person or Persons who shall have purchased the same, then every such Sale or Disposition shall be of the same Force and Validity as if made after the Execution of the said Award; and it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required to award all and every such Allotment and Allotments, Cattle Gates or Pasture Gates, or Shares of Cattle Gates or Pasture Gates, or other Rights so sold or disposed of, to the Person or Persons entitled to the same, by virtue of any such Sale or Disposition.

Leases of Common Rights at

XLIX. Provided also, and be it further enacted, That all and every Lease and Leases upon Rack Rent now subsisting, touching or in any wise affecting

affecting any Part or Parts of the Tracts of Moor, Common, or Waste Grounds to be inclosed or sold by virtue of this Act as aforesaid, and all other Agreements for any Term or Terms therein, at Rack Rent shall, as to the said Tracts of Moor, Common or Waste Grounds so to be inclosed or sold, or the Common Rights in, over, and out of the same, which are or shall be comprised in such Leases or Agreements, cease, determine, and be void, at such Time or Times as the said Commissioners shall, by any Writing or Writings under their Hands in that Behalf, order and appoint; the respective Owners and Proprietors of the Premises comprised in such respective Leases or Agreements, making such Satisfaction to the Lessee or Lessees, Tenant or Tenants, and at such Time or Times as the said Commissioners shall ascertain, direct, and appoint, as reasonable to be paid to such Lessee or Lessees, Tenant or Tenants, on account thereof, or as an Equivalent for the same.

Rack Rents to be void, Satisfaction being made to the Lessees.

L. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, or Incumbrances upon or affecting any Part of the said Tracts of Moor, Common, or Waste Grounds, which shall be respectively allotted or exchanged by virtue of this Act or of the said recited Act, or any Part or Parts thereof respectively; but the Lands or Grounds, Cattle Gates or Pasture Gates, Allotments, Tenements, or Hereditaments, which shall be allotted or exchanged under or by virtue of this Act, shall be held by the same Tenure, and the Person or Persons to whom the same shall be allotted or given in exchange, shall be seised or possessed thereof to such and the same Uses, upon such and the same Trusts, and for such and the same Estates, Rights, and Interests, and under and subject to such and the same Wills, Jointures, Rents, Charges, Covenants, and Incumbrances, as the Lands and Ground, Tenements, Cattle Gates or Pasture Gates, Common Rights and Hereditaments, for or in respect or in lieu of which such Allotments or Exchanges shall be made, would have been subject to, charged with, or affected by, in case this Act had not been made (except such Leases or Agreements as shall be determined by virtue of this Act).

No Will or Settlement to be affected.

LI. And be it further enacted, That the General Award to be made by the said Commissioners, pursuant to the said recited Act, and the Maps and Plans explanatory of the same, and also every such Award and Plan as shall be made by the said Commissioners or by the said Umpire, touching any Exchange or Exchanges, distinct Allotment or Allotments, or touching any Claim or Claims to be determined as aforesaid, together with the Particular and Certificate or Inquisition to be made by the said Tithe Valuers or their Umpire as aforesaid (to the end that the same may be preserved, and future Recourse had thereto by any Body Politic or Corporate, or any Person or Persons whomsoever), shall, at the Assizes to be holden at *Lancaster* aforesaid next ensuing the Execution of the said General Award by the said Commissioners, be delivered to and deposited with the Prothonotary of His Majesty's Court of Common Pleas at *Lancaster*, or his Deputy, to be by him kept among the Records of the said Court at *Lancaster* aforesaid; and the said Prothonotary or his Deputy is hereby required and empowered to receive and keep the same accordingly; for or in respect of which depositing and keeping such Awards, Plans, and other Documents,

Award and Plans to be deposited with the Prothonotary of the Common Pleas at *Lancaster*.

the Sum of Forty Shillings shall be paid, and no more; and for every Inspection thereof, or of any of them, after the same shall have been so deposited, the Sum of Seven Shillings and no more shall be paid to the said Prothonotary or his Deputy; and such respective Awards, and the Maps or Plans to be annexed thereto as aforesaid, or a true Copy of such Awards, Maps, or Plans, or any Part thereof, on Paper stamped according to Law for Copies of Records, and signed by the said Prothonotary or his Deputy, purporting the same to be a true Copy, shall be admitted and allowed as legal Evidence in all Courts whatsoever; and the said Prothonotary or his Deputy is hereby required to make and deliver unto any Person or Persons, Body Politic or Corporate, requesting and offering to pay for the same, a true Copy of the said Awards, Maps, or Plans, or any of them, or any Part thereof, for which he shall be paid by the Person or Persons, Bodies Politic or Corporate requesting the same, after the Rate of Sixpence for every Sheet or Folio of the said Award so copied, counting Seventy-two Words to each Sheet or Folio; and a reasonable Allowance shall also be paid to him, over and above, for a Copy or Copies of such Maps or Plans, or any Part thereof; and if any Dispute or Difference shall arise or happen between the said Prothonotary or his Deputy and the Person or Persons, Bodies Politic or Corporate, requesting a Copy of any such Maps or Plans, or of any Part thereof, touching such Allowance, then and in such Case the same shall be settled and ascertained by one of the Judges of the said Court of Common Pleas at *Lancaster* for the Time being; and the same being so settled and ascertained shall be final, binding and conclusive to all Parties; and that from and immediately after the Execution of the said General Award, and signing the said Maps and Plans by the said Commissioners, the said General Award and Maps and Plans, and all Matters and Things therein contained, shall be binding and conclusive unto and upon all and every Person and Persons, Bodies Politic or Corporate, having or claiming any Estate, Right, Title, or Interest, of, in, or to any of the Lands and Grounds, Cattle Gates or Pasture Gates, to be allotted or inclosed under and by virtue of this Act, and to and upon their respective Heirs, Executors, Administrators, Successors, and Assigns.

Duplicates of Awards and Plans to be made.

LII. And be it further enacted, That the said Commissioners shall, previous to the depositing the said Awards, Maps, or Plans, and other Documents as aforesaid, cause Duplicates of the said Maps or Plans, and true Copies to be fairly engrossed on Parchment and attested (or Duplicates) of the said Awards and other Documents, to be made and deposited (immediately after the depositing of the original Awards, Maps, or Plans, and other Documents) in a Chest or Box to be procured for that Purpose, and placed in the Parish Church of *Tunstal* aforesaid, for the Inspection thereof by any of the Parties interested therein, or of their Agents, upon every reasonable Application to the Churchwardens for the Time being, or either of them, and at reasonable Hours in the Day-time; and for every Inspection thereof shall be paid the Sum of One Shilling and no more, unless any such Inspection thereof shall occupy more than One Hour, in which Case they or he shall be paid the Sum of One Shilling for each and every Hour, or any Excess of Time beyond an Hour, which shall be occupied by any such Inspection; and moreover, that the said Commissioners shall, at the Request, Costs, and Charges of any Person or Persons, Bodies Politic or Corporate, interested in the said intended Inclosure, at any Time before the depositing of the said General Award as aforesaid, make and execute a

Duplicate or Duplicates of the said General Award and Surveys or Plans, or of any other Award, Plan, or Document that may be made to be annexed and be deposited therewith, or of any Part or Parts thereof respectively, for the Use of the Person or Persons, Bodies Politic or Corporate requesting the same; and every such Duplicate shall be admitted and allowed as legal Evidence in all Courts whatsoever.

LIII. And be it further enacted, That the Residue of all such Costs, Charges, and Expences as shall or may have been incurred preparatory to, or which shall or may be incurred in and about the obtaining and passing this Act, beyond the Portion which the said Commissioners shall determine to be paid exclusively by the Persons exonerated from Tithes as aforesaid, and also all Costs, Charges, and Expences which shall or may have been incurred, or which shall or may be incurred, in surveying, measuring, planning, and allotting the said Tracts or Parcels of Moor, Common, or Waste Grounds, (and in surveying, measuring, and planning the ancient inclosed Land within the Manor of *Tunstal*, with the Members aforesaid, or any Part or Parts thereof, in case any such last-mentioned Survey shall by the said Commissioners be deemed necessary), and of settling and forming and making public and private Ways and Roads within the same, and of inclosing and fencing the said intended Stinted Pasture or Stinted Pastures, or such Part or Parts thereof as the said Commissioners shall, in their Discretion judge necessary as aforesaid; and the Expences and Charges of preparing and depositing the General and other Awards and Plans of the said Commissioners or Arbitrators relating to the said Tracts or Parcels of Moor, Common or Waste Grounds, and the several other Documents herein-before directed or authorized to be prepared and deposited therewith (except the Costs of preparing and completing the Documents relating to the Tithes only, the Payment of the Expences of which is herein-before otherwise provided for), and other the reasonable Expences and Charges of the said Commissioners and Arbitrators, and also all other proper and necessary Expences in the Execution of this Act, whether as to the Fences of any distinct Allotments or Allotment, or any Parts or Part thereof, proper in the Opinion of the said Commissioners to be so paid and borne, or otherwise, from Time to Time as the same shall respectively accrue, shall be paid and borne in Manner following; (that is to say), the several Sums of Money to be raised from Compensations for Encroachments, and also by such Sales of Moor, Common, and Waste Lands as aforesaid, shall in the first Place be applied in Payment of so much of such Charges and Expences as the same will extend to pay; and the Residue of such Charges and Expences (if any) not otherwise herein-before directed to be paid and discharged, shall from Time to Time be paid and borne by the said several Owners and Proprietors of Commonable Messuages, Lands, Tenements, and Hereditaments only, in such Proportions, (with due Regard to their several Rights and Interests respectively); and in such Manner, and at such Time and Times either before or after the Execution of the General Award of the said Commissioners, as the said Commissioners shall direct or appoint; it being hereby provided and enacted, that (in order, as much as possible, to prevent Doubts and Litigations) the said Commissioners shall have the same Powers after the Execution of their said General Award, of making and enforcing Payment of their Assessments, and of doing all other Acts necessary, either to perfect the said Inclosures, or to explain their Proceedings and Intentions relative thereto, as are given to and reposed in them with reference to any Time prior to the making of such Award.

Expences payable by Common Right Proprietors.

Disposal of
Surplus
Money.

LIV. Provided always, and be it enacted, That in case any Surplus shall remain of the Monies received by the said Commissioners on either of the Accounts hereby directed to be kept by them, after Payment of all the Expences severally attendant thereupon as aforesaid, such Surplus or Surpluses shall be divided between the several Persons interested therein respectively, in such Shares as shall be in proportion to their respective Rights and Interests; and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of such others of them as shall not be Tenants in Fee Simple shall be applied and disposed of in Manner directed by the said recited Act in those Cases where any Money is to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses.

Money ad-
vanced to be
repaid with
Interest.

LV. And be it further enacted, That if any of the Proprietors or Persons interested in the Execution of this Act, or any other Person or Persons on the Behalf of them, or any of them, shall have advanced and paid, or become entitled to charge and receive, or shall advance and pay, or become entitled to charge and receive any Money in Discharge of Fees or other Expences, or for the Conduct of Business preparatory or incidental to, or for obtaining or executing this Act, the Money so paid and advanced or chargeable, shall be repaid and satisfied by the Direction of the said Commissioners, together with lawful Interest for the Advances or Payments made out of the first or any other Monies that shall or may be raised for the Purpose of this Act.

Allowances
to Commis-
sioners and
Umpire.

LVI. And be it further enacted, That the said Commissioners and their Umpire shall bear and pay their own Charges and Expences (except the Money they shall pay to Servants, and for the Room or Rooms wherein their Meetings shall be held); and that out of the Monies which shall be raised on Behalf of the Common Right Proprietors as aforesaid, they the said Commissioners shall be paid and allowed the Sum of Two Guineas and a Half each, and no more, for each and every Day by them respectively employed in putting this Act in Execution; and that they may and shall from Time to Time make and pay to such Umpire, such Compensation and Fees as they in their Discretion shall think equivalent or expedient, with reference to the Occupation of any such Umpire for the Time being, and his Trouble and Employment in any Matter or Matters to be referred to him under and by virtue of this Act, not exceeding Two Guineas and a Half *per* Day.

Compensa-
tions to Tithe
Valuers and
their Umpire.

LVII. And be it further enacted, That each of the Tithe Valuers, and any Umpire between them to be appointed by virtue of this Act, shall likewise bear and pay their and his own Expences when attending to the Execution of this Act (except the Money they or he shall pay to Servants and for the Hire of Rooms to meet for Business in as aforesaid); and that the said Commissioners shall allow and pay to them out of the Funds or Monies to be raised on Behalf of Persons having Land exonerated from Vicarial Tithes, as herein-before is provided or directed, the Sum of Two Guineas and a Half each, and no more, for each and every Day by them respectively employed in putting this Act in Execution, together with such Costs and other reasonable and necessary Expences, as may be sustained or paid by them respectively in and about the Completion of the several In-
vestigations

vestigations and Documents to be made and prepared by them, and in and about any other their necessary Proceedings respectively under and by virtue of this Act.

LVIII. And be it further enacted, That the said Common Right Proprietors, and all other Persons interested in the Execution of this Act, whether as to the Tithes or otherwise, not having Common Rights in the Lands or Grounds hereby directed to be enclosed, and their Attornies and Agents respectively, shall pay their own Expences respectively, when they or any of them shall attend at any Meeting whatsoever to be held for putting this Act, or the said recited Act, into Execution.

Proprietors and other Persons interested to pay their own Expences.

LIX. And be it further enacted, That the said Commissioners shall, and they are hereby required to keep Two several and distinct Accounts, each to be entered separately in a Book to be provided for that Purpose, the one to contain the Particulars of all Sums of Money whatever received from the Proprietors of Common Rights or other Persons interested therein, or from the Compensations for Encroachments or Sales of Waste Land herein-before authorized, in aid of and relative only to the Inclosure and Allotments hereby directed to be made in respect of such Common Rights, and of all the Charges, Expences, and Disbursements which shall accrue or be made concerning the same in carrying this Act into Execution herein-before mentioned or referred to, together with such Residue of the Expences of obtaining and passing this Act as aforesaid; and the other of such Accounts to contain the Particulars of all Sums of Money whatever, received from any Person or Persons whomsoever for and towards or in respect of the Compensations for the Extinguishment of the Tithes hereby authorized as aforesaid, or otherwise solely relating thereto, and of all the Charges, Expences, and Disbursements which shall accrue or be made concerning the Compensations for and Extinguishment of such Tithes only in carrying this Act into Execution, together with such Part or Portion of the Expences of obtaining and passing this Act, as the said Commissioners shall determine to be paid in that Respect as aforesaid; and each of which Books of Accounts shall be kept, and be open and accessible to all or any of the Parties or Persons interested therein respectively, in the Place and Manner (and subject to the like Penalty for Default as to either of the said Accounts) directed, prescribed and imposed in and by the said recited Act with reference to the Account to be kept under any Bill for Inclosure only; and that once at least in each and every Year during the Execution of this Act (such Year to be computed from the passing of this Act) the said Commissioners shall and they are hereby required to make a full and just Statement or Particular of each of such Accounts; each of which Statements or Particulars of Account, when so made, together with the Vouchers relating thereto respectively, shall be by them laid before any One Justice of the Peace for the County of *Lancaster* not interested therein respectively, or in the Inclosures or other Matters to be made and effected by virtue of this Act, to be by them examined and balanced; and the Balance of each of such Accounts shall be stated in the before mentioned Books of Account respectively; and no Charge or Item in either of such Accounts shall be binding on the Parties concerned therein respectively, or valid in Law, unless the same shall have been duly allowed by such Justice as aforesaid.

Commissioners to keep distinct Accounts, &c.

Appeal to
Quarter
Sessions with-
in Three
Months.

LX. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved, by any Thing done in pursuance of this Act or the said recited Act, (other than and except such Orders and Determinations of the said Commissioners or Umpire as are herein or by the said recited Act directed to be final and conclusive, and excepting such Cases where an Issue at Law shall be tried as herein mentioned), then and in such Case he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be holden for the said County of *Lancaster*, within Three Calendar Months next after the Cause of Complaint shall have arisen, on giving the said Commissioners, and the Party concerned, Ten Days Notice in Writing of such Appeal; in which Notice shall be distinctly stated and specified the Ground or Grounds, Cause or Causes of such Appeals; and the Justices, not interested therein, at such General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and to award such Costs and Damages, as to them shall seem reasonable; and by their Order and Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of such Justices shall be final and conclusive to all Parties, and shall not be removed by *Certiorari*, or any other Writ or Process into any of His Majesty's Courts of Record at *Westminster*, or elsewhere; 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 shall seem reasonable, and to be levied in Manner aforesaid.

Mines, &c.
reserved to
the Lord, with
Wayleaves,
&c.

LXI. And be it further enacted, That the said *Richard Toulmin North*, as Lord, and all succeeding Lords of the Manor, shall and may from Time to Time and at all Times hereafter have, hold, win, work, and enjoy all Rights and Interests, in and to all or any Mines, Minerals, and Quarries, as well opened as not opened, of what Nature or Kind soever, within, upon, and under the said Tracts of Moor, Common, or Waste Ground, or any Part or Parts thereof, after the same shall be inclosed and allotted or proportioned as aforesaid, together with all convenient and necessary Ways and Wayleaves incidental to such Rights in, over, and along the same, or any Part thereof; and shall have full Power of searching for, winning, and working the said Mines, Minerals and Quarries, and of leading and carrying away the Coals, Iron Stone, Stone, Lead, and other Things to be gotten thereout, and of making, forming, and placing Pit Shafts, Pit Rooms, and Heap Rooms, Drafts, Levels, Soughs, Drains, Pipes, Conduits, Streams, Canals, Aqueducts, Watercourses, Dams, Banks, Mounds, and Reservoirs of Water in, under, upon, through, or over any Part or Parts of the said Moor, Common, or Waste Grounds, and of erecting and using Fire Engines and other Engines, and of altering, changing, pulling down, and carrying away what shall be so made, formed, or placed, or any of the Materials thereof, at his or their free Will and Pleasure, and to do all such other Works, Acts, and Things, as may be necessary or convenient for the Enjoyment thereof, in as full, ample, and beneficial a Manner to all Intents and Purposes as he or they could or might have done in case this Act had not been passed.

LXII. Pro-

LXII. Provided nevertheless, That in case any Lord or Lady of the Manor for the Time being, or any Person or Persons claiming under him or her, shall, after such Inclosure and Allotments have been so made as aforesaid, win, work, or lead away any Mines, Minerals, Stones, Slates, or other Things lying within or under any of the said Allotments or Inclosures so to be made as aforesaid, then and in such Case such Person or Persons so winning, or working, or leading away the same shall make a reasonable Satisfaction for the Damage or Spoil of Ground occasioned thereby by the erecting or building any Houses, Engines, Draw Kilns, or other Erections or Buildings, or by the making or using any such Conveniences as aforesaid, or by the altering, changing, pulling down, or carrying away the same or the Materials thereof as aforesaid, to the Person or Persons, Bodies Politic or Corporate, who shall be in Possession of such Ground at the Time or Times of such Damage or Spoil being done.

Making Satisfaction for Damage in working such Mines, &c.

LXIII. And be it further enacted, That if any Person or Persons interested in any Allotment or Compensation to be made, or Exchange to take place, pursuant to this or the said recited Act, shall die before the same is perfected, the Powers and Authorities contained in this or the said recited Act shall not be determined or suspended, but the Share or Shares, or other Right or Interest in the said Premises respectively of the Person or Persons so dying shall be allotted or assigned to or for the Use of the Person or Persons who by Descent, Will or otherwise, would have been entitled to the same in case such Allotment, Compensation, or Exchange had been completed previous to the Death of such Person or Persons, and the Person or Persons to whom such Share or Shares shall be so allotted or assigned shall be liable to the Charges, Expences, Conditions, and Contingencies of this Act; and it shall be lawful for the said Commissioners to execute all the Powers and Authorities hereby given in such Manner as they might have done if no such Death had happened.

Deaths of Parties not to suspend the Powers of this Act.

LXIV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to the said *Richard Toulmin North*, as Manorial Lord, or other the Lord or Lords of the said Manor for the Time being, and also to all and every other Person or Persons, Bodies Politic and Corporate, his, her, and their Heirs, Successors, Executors, Administrators, and Assigns, all such Estate, Right, Title, and Interest, respectively (other than such as are meant and intended to be barred and destroyed by this Act), as they, every, or any of them, could, might, or ought to have had or enjoyed, of, in, to, or out of the said Tracts or Parcels of Moor, Common, or Waste Ground, directed to be inclosed or sold as aforesaid, or any Part thereof, in case this Act had not been made; and more particularly saving and reserving to the said *Richard Toulmin North*, as Manorial Lord as aforesaid, or other the Lord or Lords of the said Manor for the Time being, all such Manerial and Leet Jurisdictions, Privileges, and Royalties, and especially the Royalties of Game, Chase, Wild Fowl, and Fish, with the Liberties and Privileges of Ingress, Egress, and Regress, for the Purposes of Hunting, Hawking, Shooting, Fowling, and Fishing in, upon, off, from, and out of such Part or Parts of the said Moor, Common, and Waste Grounds, as by virtue hereof shall be converted into Stinted Pasture, or into any distinct Allotments or Allotment as he the said *Richard Toulmin North*, as Manerial Lord as aforesaid, could or might legally have had, enjoyed, and exercised immediately before the passing of this Act,

General Saving.

and that in as full and beneficial a Manner, to all Intents and Purposes, as if this Act had not been made.

Right of Soil,
not separately
allotted, shall
be vested.

LXV. Provided always, and be it further enacted, That the Right of Soil of and in such Part or Parts of the said Tract or Parcels of Moor, Common, and Waste Ground as shall not be separately allotted, but as shall either continue open, or be inclosed and converted into Stinted Pasture, under and by virtue of this Act, shall (subject to the Rights in, upon, or under the same, hereby saved to or reserved by the said *Richard Toulmin North*, as Manerial Lord as aforesaid, or other the Lord or Lords of the said Manor for the Time being, and subject to the intended Commoners Rights to Cattle Gates thereupon), go and accrue to and be vested in all the Persons who, by virtue of the Award of the said Commissioners shall be and become Owners of the Cattle Gates, to be enjoyed and continued upon such inclosed or open Stinted Pasture, in proportion to their Number of Cattle Gates respectively, as Tenants in Common.

Act to be
printed by
the King's
Printer, and
a Copy to be
Evidence.

LXVI. 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 that 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.