ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 170.

An Act for incloſing Lands in the Pariſh of *Dronfield*, in the County of *Derby*. [10th *June* 1809.]

WHEREAS there are within the Manor of *Dore*, in the Pariſh of *Dronfield*, in the County of *Derby*, divers open and common Fields, meſne Incloſures, Waſtes, Moors, Commons and other unincloſed Lands containing by Eſtimation Five thouſand Acres, or thereabouts: And whereas the Moſt Noble *William* Duke of *Devonſhire*, is Lord of the Manor of *Dore* aforeſaid: And whereas the ſaid *William*, Duke of *Devonſhire*, is entitled to the Tythes of Corn, Grain, Hay, and to other Tythes ariſing within the ſaid Manor of *Dore*, or to certain Moduſes or Payments in lieu thereof: And whereas the King's moſt Excellent Majeſty in Right of His Crown, is Patron of the Vicarage of *Dronfield* aforeſaid; and is Vicar of the Pariſh Church of *Dronfield*, and certain Vicarial and ſmall Tithes, or certain Moduſes or Payments in lieu thereof, are due and payable to the Vicar of *Dronfield*, from and out of the ſaid Manor of *Dore*: And whereas the Right Honourable *Wentworth*, Earl *Fitzwilliam*, is poſſeſſed of, and the Reverend *Francis Parker* is Curate of the perpetual Curacy of *Dore* aforeſaid, and as ſuch Curate is entitled to certain Glebe or other Lands within the ſaid Manor and Pariſh: And whereas the ſaid *William* Duke of *Devonſhire*, Sir *William Chambers Bagſhaw* Knight, *John Unwin*, *Henry Hancock*, *Joſhua Dungworth*, and ſeveral other Perſons are reſpectively Owners and Proprietors of, or otherwiſe intereſted in the ſaid open and common Fields, meſne Incloſures,

Waſtes, Moors, Commons and other unincloſed Lands: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled, *An Act for conſolidating in one Act certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts:* And whereas it would be for the Advantage of the ſaid Owners and Proprietors, and other Perſons intereſted as aforeſaid, if the ſaid open and common Fields, meſne Incloſures, Waſtes, Moors, Commons and other unincloſed Lands were divided and incloſed, and ſpecific Allotments made to the ſeveral Owners, Proprietors, and Perſons intereſted therein, according to their reſpective Properties, Rights and Intereſts, and a Commutation made for the great and ſmall Tithes within the ſaid Manor of *Dore*; but ſuch Diviſion, Allotment and Incloſure, and other Purpoſes cannot be made and effected without the Authority of Parliament: May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That the ſaid open and common Fields, meſne Incloſures, Waſtes, Moors, Commons and other unincloſed Lands, ſhall be divided, allotted and incloſed, in Manner herein-after mentioned; and that *James Dowland*, of *Cuckney*, in the County of *Nottingham*, and *John Nuttall*, of *Matlock*, in the County of *Derby*, Gentlemen, and their Succeſſors, to be elected in Manner herein-after mentioned, ſhall be, and they are hereby appointed Commiſſioners for carrying this and the ſaid recited Act into Execution, ſubject to the Rules, Orders, and Directions contained in the ſaid recited Act, except in Caſes where the ſame are hereby varied or altered.

Commiſſioners.

II. And be it further enacted, That *William Gauntley* the elder, of *Bakewell*, in the ſaid County of *Derby*, Gentleman, and his Succeſſors for the Time being, to be appointed as herein-after mentioned, ſhall be and he is hereby appointed to act as an Umpire touching any Difference of Opinion which ſhall ariſe between the ſaid Commiſſioners in the Execution of this or the ſaid recited Act; and that all ſuch Difference of Opinion (if any ſhall ariſe) ſhall be ſtated in Writing, and referred by the ſaid Commiſſioners to the ſaid *William Gauntley*, within Thirty Days next after ſuch Difference ſhall have ariſen, who ſhall determine the ſame, and deliver to the ſaid Commiſſioners, or one of them, ſuch his Determination in Writing, the Name of the ſaid Umpire being thereto ſigned within Three Calendar Months from the Time any ſuch Difference ſhall be referred to him; and the Judgement and Determination of the ſaid *William Gauntley* therein, in all Caſes ſo referred to him, ſhall be deemed and taken to be the Judgement and Determination of the ſaid Commiſſioners; and they the ſaid Commiſſioners ſhall, and they are hereby required to conform thereto; and ſuch Determination ſhall be enrolled and recorded with, and in the ſame Manner, as the other Proceedings of the ſaid Commiſſioners under this Act.

Umpire.

Appointment of new Commiſſioners, and Umpire.

III. And be it further enacted, That if the ſaid *James Dowland*, or any other Commiſſioner to be appointed in his ſtead, as herein-after mentioned, ſhall before the Execution of all the Powers and Authorities hereby veſted in him, die, refuſe, or become incapable of acting in the Premiſes, then and in every ſuch Caſe it ſhall and may be lawful, to and for the ſaid *William* Duke of *Devonſhire*, his Heirs or Aſſigns, by any Writing under his or

their

their Hand or Hands, within Thirty Days next after ſuch Death, Refuſal or Incapacity to act ſhall be made known to him or them, by Notice in Writing from the ſurviving or remaining Commiſſioner, (which Notice ſuch Commiſſioner is hereby required to give), to appoint one other Commiſſioner not intereſted in the ſaid Incloſure, in the Stead of the ſaid *James Dowland*, or ſuch other Commiſſioner ſo dying, refuſing, or becoming incapable of acting as aforeſaid; and if the ſaid *John Nuttall*, or any other Commiſſioner to be appointed in his Stead, as herein-after mentioned, ſhall before the Execution of all the Powers and Authorities hereby veſted in him, die, refuſe, or become incapable of acting in the Premiſes, then and in every ſuch Caſe it ſhall and may be lawful to and for a Majority in Value to be aſcertained by the Land Tax Aſſeſſments of the Proprietors or Perſons intereſted in the ſaid open and common Fields, meſne Incloſures, Waſtes, Moors, Commons and other unincloſed Lands hereby directed to be divided, allotted and incloſed, or their known Agents or Attornies, or Perſons to be appointed for that Purpoſe, by Writing under their reſpective Hands (except and excluſive of the ſaid *William* Duke of *Devonſhire*, his Heirs or Aſſigns), who ſhall be preſent at a public Meeting to be appointed for that Purpoſe by the ſurviving or remaining Commiſſioner, within Thirty Days next after ſuch laſt mentioned Death, Refuſal, or Incapacity to act as aforeſaid, ſhall be known to him, of which Meeting Fourteen Days Notice at the leaſt, ſhall be given in Writing by him, to be affixed on one of the moſt public outer Doors of the Pariſh Church of *Dronfield* aforeſaid, and on One of the moſt public outer Doors of the Church or Chapel of *Dore* aforeſaid; and alſo by Advertiſement to be inſerted in the Newſpaper called *The Derby Mercury*, or in ſome other Newſpaper publiſhed or circulated in the ſaid County of *Derby*, and in the Newſpaper called *The Sheffield Iris*, or in ſome other Newſpaper publiſhed or circulated in the Town of *Sheffield*, to appoint one other Commiſſioner (not intereſted in the ſaid Incloſure) in the Stead of the ſaid *John Nuttall*, or ſuch other Commiſſioner to be appointed in his Stead, ſo dying, refuſing, or becoming incapable of acting as laſt aforeſaid; and in caſe the ſaid *William* Duke of *Devonſhire*, his Heirs or Aſſigns, or the ſaid Parties laſt aforeſaid (as the Caſe may be), ſhall at any Time make Default in appointing any ſuch new Commiſſioners as herein-before mentioned, within Thirty Days next after the Death of any Commiſſioner, or his Refuſal or Incapacity to act, ſhall be made known as aforeſaid, and of which ſuch Notice ſhall have been given reſpectively as aforeſaid, then the ſurviving or remaining Commiſſioner ſhall, and he is hereby required, from Time to Time, by Writing under his Hand, within Fourteen Days next after the Expiration of the ſaid Thirty Days allowed to the reſpective Parties for naming ſuch new Commiſſioner as aforeſaid, to appoint one other Commiſſioner (not intereſted in the ſaid Incloſure) in the Room of any ſuch Commiſſioner ſo dying, refuſing, or becoming incapable to act as aforeſaid: And if the ſaid *William Gauntley*, or any Umpire to be appointed in his Stead, as herein-after mentioned ſhall, before the Execution of all the Powers and Authorities hereby veſted in him, die, refuſe, or become incapable of acting in the Premiſes, then and in every ſuch Caſe one other Perſon as Umpire, not intereſted in the ſaid Incloſure, ſhall be appointed in the Stead of the ſaid *William Gauntley*, or ſuch other Umpire ſo dying, refuſing or becoming incapable of acting as aforeſaid, by a Majority in Value (to be aſcertained by the Land Tax Aſſeſſments) of the Proprietors or Perſons intereſted in the ſaid open and common Fields, meſne Incloſures, Waſtes, Moors, Commons, and other unincloſed Lands hereby directed to be divided, allotted and incloſed (including the ſaid *William* Duke of *Devonſhire*, his Heirs or Aſſigns) or

their known Agents or Attornies, or Persons to be appointed for that Purpose by Writing under their respective Hands, who shall be present at a Public Meeting to be appointed for that Purpose by the said Commissioners, within Thirty Days next after such last mentioned Death, Refusal, or Incapacity to act as aforesaid, of which Meeting Fourteen Days Notice, at the least, shall be given in Writing, to be affixed on one of the most public outer Doors of the Parish Church of *Dronfield* aforesaid, and on one of the most public outer Doors of the Church or Chapel of *Dore* aforesaid, and also by Advertisement to be inserted in the said Newspaper called *The Derby Mercury*, or in some other Newspaper published or circulated in the said County of *Derby*, and in the said Newspaper called *The Sheffield Iris*, or in some other Newspaper published or circulated in the said Town of *Sheffield*; and every Appointment of a Commissioner or Umpire, in pursuance of this Act, shall be reduced into Writing, and signed by the Person or Persons making the same, and every Commissioner or Umpire to be appointed as aforesaid, shall have the like Powers and Authorities as if he had been named a Commissioner or Umpire in this Act.

Umpire to take an Oath.

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

'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 Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me, as an Umpire, by virtue of an Act for inclosing Lands in the Parish of *Dronfield*, in the County of *Derby*, 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, either of the said Commissioners is hereby empowered and required to administer; and the said Oath or Affirmation, so to be taken and subscribed by such Umpire, and also the Appointment of every new Umpire or Commissioner, shall be annexed to, and enrolled with the Award of the said Commissioners, and a Copy of the Enrolment thereof shall be admitted as legal Evidence.

Allowances to Commissioners and Umpire.

V. And be it further enacted, That each of the said Commissioners and Umpire shall be allowed and paid by the said Proprietors the Sum of Two Pounds and Two Shillings, and no more, for every Day which he shall attend and be employed at any Meeting or Meetings, or in going to or returning from thence, or otherwise howsoever in executing the Powers and Authorities hereby given to them; which said Sum of Two Pounds and Two Shillings shall include all Expences whatsoever incurred by going to, returning from, or attending any such Meeting or Meetings.

Notice of Meetings.

VI. And be it further enacted, That the said Commissioners shall, and they are hereby required to cause public Notice to be given by Writing under their Hands, to be affixed on one of the most publick outer Doors of the Parish Church of *Dronfield* aforesaid, and on one of the most public outer

outer Doors of the Church or Chapel of *Dore* aforesaid, and also by Advertisement to be inserted in the said Newspaper called *The Derby Mercury*, or in some other Newspaper published or circulated in the said County of *Derby*, and in the said Newspaper called *The Sheffield Iris*, or in some other Newspaper published or circulated in the said Town of *Sheffield*, of the Time and Place of the first and every other Attendance for the Execution of this Act, Eight Days at the least before such Attendance shall be held, Attendance by Adjournment (which it shall be lawful for the said Commissioners or either of them to make) only excepted: Provided always, that all Attendances of the said Commissioners and Umpire in the Execution of this or the said recited Act, shall be held within Eight Miles of the said Manor of *Dore*.

Other Notices how to be given.

VII. Provided always, and be it further enacted, That all other Notices necessary or requisite to be made or given by the said Commissioners, shall be made and given by Writing, to be affixed upon one of the most public outer Doors of the Parish Church of *Dronfield* aforesaid, and on one of the most public outer Doors of the Church or Chapel of *Dore* aforesaid, and also by Advertisement to be inserted in the said Newspaper called *The Derby Mercury*, or in some other Newspaper published or circulated in the said County of *Derby*, and in the said Newspaper called *The Sheffield Iris*, or in some other Newspaper published or circulated in the said Town of *Sheffield*.

Roads, Bridges, and other Conveniences to be made and repaired as Commissioners shall appoint.

VIII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, before they proceed to the Allotments herein-after mentioned, to set out and appoint and direct, or cause to be made, erected and completed, such publick and private Roads and Ways, and also such Bridges, Banks, Ditches, Drains, Watercourses, and other Conveniences, in, over and within the said open and common Fields, meine Inclosures, Wastes, Moors, Commons and unincloſed Lands, intended to be divided, allotted and inclosed, and also in, over, and within any of the old Inclosures, within the said Manor of *Dore*, as the said Commissioners shall judge necessary or proper; and that as well all such private Roads and Ways, and also all such Bridges, Banks, Ditches, Drains, Watercourses, and other Conveniences, shall respectively be made, erected and completed, and at all Times hereafter kept in repair, in such Manner, and by such Person or Persons; and the Grass, Herbage, and Soil of such private Roads and Ways, and other Conveniences, shall appertain and belong to such Person or Persons, and for such Purposes as the said Commissioners, in and by their Award shall direct; and in the mean Time, and until their said Award shall be made and executed as the said Commissioners, in and by any Writing under their Hands, shall order, direct or appoint; and the said Commissioners shall and may order and award, issue and pay such Satisfaction and Recompence as they shall think reasonable, to any Owner or Owners of Lands or Hereditaments, which may be damaged or destroyed by making or repairing any such Roads or Ways, or any such Bridges, Banks, Ditches, Drains, Watercourses, or other Conveniences as aforesaid.

For stopping up Roads.

IX. And be it further enacted, That it shall be lawful to and for the said Commissioners, with the Concurrence and Order of Two Justices of the Peace acting in and for the said County of *Derby*, and in Manner and

ſubject to Appeal, as in the ſaid recited Act is mentioned, to divert, ſtop up, diſcontinue, alter or change any old public Carriage or private Roads or Footways, leading into, through, over or upon the ſaid open or common Fields meſne Incloſures, Waſtes, Moors, or other unincloſed Lands, or the old Incloſures lying within the ſaid Manor of *Dore*; and that ſuch public Carriage Roads as ſhall be ſo ſtopped up and diſcontinued, ſhall be deemed Part of the Lands and Grounds to be ſold or divided, allotted and incloſed, purſuant to this Act.

Allotment for Public Watering Places, &c.

X. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required to ſet out and appoint One or more Piece or Pieces of Ground, (Part of the Waſtes, Moors, Commons and unincloſed Lands hereby intended to be divided, allotted and incloſed), in ſuch convenient Situation or Situations as they ſhall think proper within the ſaid Manor of *Dore*, not exceeding Ten Acres in the whole, to be uſed for the Purpoſes of public Watering Places for Cattle, and alſo for getting Stone, Gravel, Sand, and other Materials for building or repairing any Houſes or other Buildings, Bridges, Walls, Fences, Drains, Watercourſes and other Conveniences, and for repairing the Highways and Roads within the ſaid Manor of *Dore*, and for ſuch other Uſes and Purpoſes for the general Benefit and Advantage of the Inhabitants within the ſaid Manor of *Dore*, as the ſaid Commiſſioners ſhall direct; and that as well the ſaid Lands ſo to be ſet out, and the Herbage growing and renewing in and upon the ſame, as alſo all and every the private Lanes, Roads, and Ways within the ſaid Manor of *Dore*, and the Herbage thereof, ſhall be veſted in ſuch Perſon or Perſons, and applied to ſuch Uſes as the ſaid Commiſſioners ſhall in and by their ſaid Award direct or appoint.

Allotment for Glebe Lands.

XI. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required in the next Place to ſet out and allot unto the ſaid *Francis Parker*, Curate of *Dore* aforeſaid, and his Succeſſors, ſuch Parcels of Land, Part of the ſaid Waſtes, Moors, Commons and unincloſed Lands intended by this Act to be incloſed, as in the Judgement of the ſaid Commiſſioners ſhall be a full Equivalent and Compenſation for his unincloſed Lands and Right of Common, for and in reſpect of the Glebe and other Lands to which he is entitled as Curate as aforeſaid.

Allotment to the Duke of Devonſhire for Tythes.

XII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, in the next Place to ſet out and allot unto and for the ſaid *William* Duke of *Devonſhire*, his Heirs and Aſſigns, ſuch Part or Parts of the ſaid Waſtes, Moors, Commons and unincloſed Lands intended by this Act to be incloſed, as ſhall in the Judgement of the ſaid Commiſſioners be equal in Value to One Twelfth Part of the whole of the incloſed Lands within the ſaid Manor of *Dore*, (except ſuch Lands Part of the ſaid incloſed Lands, as ſhall be covered by any Modus or Moduſes in reſpect of which no greater Allotment or Allotments than the Value of ſuch Modus or Moduſes ſhall be made or allotted), and alſo to One Twelfth Part of the whole of the ſaid Waſtes, Moors, Commons and unincloſed Lands within the ſaid Manor; the ſame Allotments to be taken from ſuch Part or Parts of the ſaid Waſtes, Moors, Commons and unincloſed Lands intended by this Act to be incloſed, as

ſhall

ſhall in the Judgement of the ſaid Commiſſioners be of an Average Value *per* Acre with the Reſidue thereof; and that the ſaid Allotments reſpectively ſhall, by the ſaid Commiſſioners be divided and allotted unto the ſaid *William* Duke of *Devonſhire*, his Heirs and Aſſigns, as and for, and the ſame ſhall be and be taken in lieu of, and in full Satisfaction of and for the Tythes of Corn, Grain, Hay, and all other Tythes and Moduſes, or other Payments in lieu of Tythes, due and payable to the ſaid *William* Duke of *Devonſhire*, his Heirs or Aſſigns, or which might ariſe or become due or payable to him or them within the ſaid Manor of *Dore*, or any Part thereof.

Allotments to remain to the ſame Uſes as the Tythes.

XIII. Provided always, That the ſaid Allotments to be ſo made to the ſaid *William* Duke of *Devonſhire*, in lieu of Tythes, Moduſes, and other Payments in lieu thereof, as aforeſaid, ſhall be and remain to ſuch and the ſame Uſes, and to and for ſuch and the ſame Eſtates, and with and under ſuch and the ſame Powers and Authorities, and ſubject to ſuch and the ſame Wills, Limitations, Conditions, Settlements, Proviſoes, Remainders, Reverſions, Mortgages, Debts, Charges, and Incumbrances, as the Tythes, Moduſes, and other Payments, in lieu or in reſpect whereof ſuch Allotments reſpectively ſhall be made at or immediately preceding the making thereof, ſhall or may ſtand limited or liable to, or would have been liable to, in caſe this Act had not been made.

Allotment to the Vicar of Dronfield in lieu of Small Tythes.

XIV. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required in the next Place to ſet out and allot unto and for the Vicar of *Dronfield* aforeſaid, and his Succeſſors, ſo much and ſuch Part or Parts of the ſaid Waſtes, Moors, Commons, and unincloſed Lands by this Act directed to be divided, allotted and incloſed, as ſhall in the Judgement of the ſaid Commiſſioners, be equal in Value to the yearly Sum of Thirty Pounds, for and in lieu of and the ſame ſhall be taken in full Recompence and Satisfaction of and for all Vicarial and Small Tythes, and all other Tythes whatſoever, of what Nature or Kind ſoever, including Agiſtment Tythe, and all Payments in lieu of Tythes due and payable, or which might ariſe or become payable unto the ſaid Vicar of *Dronfield* aforeſaid, or his Succeſſors, within the ſaid Manor of *Dore*, *Eaſter* Dues, Mortuaries, and Surplice Fees only excepted.

In caſe Proprietors of old Incloſures have not ſufficient Common to commute for Tythes, the Deficiency to be made up from the other Part of the Common and Money paid in lieu thereof towards the Expences of the Act.

XV. And be it further enacted, That if it ſhall happen that any Proprietor or Proprietors of incloſed Lands ſhall not have, or be entitled to a ſufficient Quantity of Land on the ſaid Waſtes, Moors, Commons, or unincloſed Lands, to make Compenſation for the Tythes of his, her, or their incloſed Lands, in Manner aforeſaid, ſuch Deficiency ſhall be made up by and out of the other Part of the ſaid Waſtes, Moors, Commons, or unincloſed Lands; and ſuch Proprietor or Proprietors ſhall pay ſuch Sum or Sums of Money as the ſaid Commiſſioners ſhall adjudge reaſonable, as an Equivalent for ſuch Deficiency; which Sum and Sums of Money ſhall be applied towards the Expences of carrying this and the ſaid recited Act into Execution, and ſhall be levied and recovered in like Manner as the Penalties or other Sums of Money are hereby and by the ſaid recited Act directed to be levied and recovered; and if any Surplus Money ſhall remain, ſuch Surplus ſhall be divided and apportioned among the ſeveral Proprietors and Perſons intereſted in the ſaid Lands and Grounds, in ſuch Shares as ſhall be

be in Proportion to their reſpective Property and Intereſt therein; and the Shares of ſuch of them as ſhall be Tenants in Fee Simple, ſhall be paid to them reſpectively, and the Shares of the other Proprietors and Perſons, of and in ſuch Surplus Money ſhall be applied and diſpoſed of in Manner directed by the ſaid recited Act, in thoſe Caſes wherein 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.

Glebe and Tythe Allotments to be ring-fenced.

XVI. And be it further enacted, That the Allotment and Allotments herein-before reſpectively directed to be ſet out and allotted to and for the ſaid *William* Duke of *Devonſhire*, his Heirs and Aſſigns, and the Vicar of *Dronfield*, and the Curate of *Dore* aforeſaid, in reſpect of Glebe Lands, or in lieu of Tythes, or other Payments in reſpect thereof, as before mentioned and ſet forth, ſhall (ſave and except on ſuch Parts and Sides thereof as the ſaid Commiſſioners ſhall order and direct to be fenced by any of the Owners or Proprietors of Lands whoſe Allotments ſhall adjoin thereto) be ring-fenced and fenced on each Side of any publick Carriage Road, that ſhall by the ſaid Commiſſioners be laid out, or directed to be made or continued through the ſame, with good Stone Walls of the Height of Six Feet, and of the Breadth of Two Feet at the Bottom, and conſtructed in a ſubſtantial and workmanlike Manner, with cuſtomary Coping, and good Wooden Gates, properly ſet up and hung on proper Stone Poſts, in ſuch Parts of the ſaid Allotments as the ſaid Commiſſioners ſhall think neceſſary and direct, by and at the Expence of the reſpective Owners and Proprietors of Lands ſubject to the Payment of Tythes within the ſaid Manor of *Dore*, in ſuch Proportions as the ſaid Commiſſioners ſhall direct or appoint; and that ſuch Walls, Fences and Gates, ſhall for ever after the making thereof be maintained and kept in Repair by the ſaid *William* Duke of *Devonſhire*, his Heirs and Aſſigns, and the Vicar of *Dronfield*, and Curate of *Dore* aforeſaid, and their Succeſſors for the Time being reſpectively, ſo far as their reſpective Allotments ſhall extend; and that from the Firſt Day of *November* next after the ſaid Allotments, for or in lieu of Tythes or Moduſes, and Payments in lieu thereof, ſhall have been allotted and fenced as aforeſaid, all and all Manner of Tythes, both Great and Small, and all Moduſes and Payments in lieu thereof, (Mortuaries, *Eaſter* Offerings, and Surplice Fees excepted), as well for and in reſpect of the ſaid Waſtes, Moors, Commons and unincloſed Lands hereby intended to be divided, allotted, and incloſed, as alſo for and in reſpect of the ancient Incloſures, and all other Lands within the ſaid Manor of *Dore*, and each and every of them, ſhall ceaſe, determine, and be for ever extinguiſhed.

Allotment to the Lord of the Manor.

XVII. And be it further enacted, That the ſaid Commiſſioners, after having ſet out the ſeveral Allotments herein-before directed, ſhall, and they are hereby required to ſet out and allot unto and for the ſaid *William* Duke of *Devonſhire*, as Lord of the Manor of *Dore* aforeſaid, his Heirs and Aſſigns, ſo much and ſuch Part and Parts of the then Reſidue of the Waſtes, Moors, Commons and unincloſed Lands within the Manor of *Dore* aforeſaid, as in the Judgement of the ſaid Commiſſioners ſhall be equal in Value to One full Eighteenth Part or Share of ſuch Reſidue of the ſaid Waſtes

Moors, Commons and unincloſed Lands, for and in lieu of, and as a full Recompence and Satisfaction for his Right to the Soil of the ſaid Waſtes, Moors, Commons, and unincloſed Lands, and for his Conſent to the ſaid Incloſure.

Allotment for the School and Poor.

XVIII. And whereas certain Encroachments have ſome Time ſince been made on the ſaid Waſtes, Moors, Commons and unincloſed Lands, and the Pieces or Parcels of Land taken therefrom have been incloſed and improved, and the Rents and Profits thereof applied to or for the Benefit of a Schoolmaſter within the ſaid Manor of *Dore*, and for other charitable Purpoſes within the ſaid Manor; be it therefore enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, in the next Place to ſet out and allot ſo much and ſuch Part of the ſaid Waſtes, Moors, Commons, and unincloſed Lands by this Act directed to be divided, allotted, and incloſed, as in the Judgement of the ſaid Commiſſioners ſhall, together with the ſaid Encroachments ſo made, and incloſed and improved as aforeſaid, be equal in Value to the clear annual Sum of Thirty Pounds; and it is hereby declared, That as well the ſaid Lands ſo taken as Encroachments, as alſo the Allotment or Allotments to be ſet out and allotted thereto as aforeſaid, under and by virtue of this Act, ſhall be veſted in the ſaid *William* Duke of *Devonſhire*; the Right Honourable *William Cavendiſh*, commonly called Marquis of *Hartington*; Sir *Sitwell Sitwell* Baronet; Sir *William Chambers Bagſhaw* Knight; the Reverend *D' Ewes Coke* Clerk; *George Buſtard Greaves* Eſquire; *John Unwin*, *Henry Hancock*, *Joſhua Dungſworth*, *Thomas Hancock*, and the Curate for the Time being of the ſaid Curacy of *Dore*, upon Truſt, to ſtand and be poſſeſſed of the ſame, and to apply the Rents and Profits thereof, from Time to Time, as the ſame ſhall become due and payable, unto and for the Benefit of a Schoolmaſter within the ſaid Manor of *Dore*, or for ſuch other charitable Purpoſes within the ſaid Manor, as the ſaid Truſtees and their Succeſſors, or the major Part of them, or their known Agents or Attornies, or Perſons to be appointed for that Purpoſe by Writing under their reſpective Hands at a public Meeting, of which Meeting ſuch Notice ſhall be given as is herein-before directed with reſpect to other Notices under this Act, ſhall in their Diſcretion think proper, and by any Writing or Writings under their Hands, from Time to Time direct or appoint; and it is hereby further declared, that the ſaid Truſtees and their Succeſſors, or the major Part of them, or ſuch Agents, Attornies, or Perſons as aforeſaid, ſhall at any ſuch Meeting have full Power from Time to Time, to elect One or more new Truſtees for the Purpoſes aforeſaid, in the Room of any of the ſaid Truſtees or their Succeſſors, who ſhall die, refuſe to act, or become incapable of acting in the Premiſes, and alſo ſhall have full Power, from Time to Time, to leaſe and demiſe the ſaid Premiſes hereby veſted in them as aforeſaid, to any Perſon or Perſons whomſoever, for any Term not exceeding Twenty-one Years, reſerving upon every ſuch Leaſe and Demiſe, the beſt and moſt improved Rent that could reaſonably be gotten for the ſame Premiſes, and without taking any Fine or Fore-Gift, or other Conſideration for making or granting any ſuch Leaſe or Demiſe.

Allotment of Reſidue to Proprietors.

XIX. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required, to ſet out and allot the Reſidue of the ſaid open and Common

Common Fields, Meſne Incloſures, Waſtes, Moors, Commons, and uninclоſed Lands hereby intended to be divided, allotted, and incloſed, unto, between and amongſt the ſeveral Perſons who at the Time of making ſuch Diviſion, Allotment and Incloſure ſhall be entitled thereto or intereſted therein, in Proportion to their ſeveral and reſpective Shares, Eſtates, Rights, Properties and Intereſts; and in making the ſeveral Allotments to be made under and by virtue of this Act, the ſaid Commiſſioners ſhall, and they are hereby required to have due Regard to Situation and Convenience, as well as to the Quantity and Quality of the Land to be allotted, ſo as that the Allotment or Allotments of each Perſon be laid as near together, and as contiguous to their ſeveral Dwelling and Farm Houſes and Eſtates as conveniently may be, conſiſtently with the general Convenience of the Parties intereſted in the ſaid Diviſion, Allotment, and Incloſure: Provided always, that it ſhall be lawful for the ſaid Commiſſioners, at any Time before executing their final Award, to make any ſuch Alterations in the Allotments, or in the Fences which they may have ſet out and ordered, or in any of the Orders and Directions relating thereto, which they may have made in purſuance of this or the ſaid recited Act, as they may think right and expedient; and in caſe any Perſon or Perſons be injured by ſuch Alterations on Account of any Expences he or they may have been at, or otherwiſe, the ſaid Commiſſioners ſhall aſcertain and determine what Recompence ſhall be made to him, her, or them for ſuch Injury, and ſhall order and direct by whom and in what Manner ſuch Recompence ſhall be made.

Certain incloſed Lands to be allotted as open Fields.

XX. And be it further enacted, That whenever it ſhall happen that more Proprietors than one have Land in the ſame Cloſe or Parcel of the preſent incloſed Lands, within the ſaid Manor of *Dore*, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required in every ſuch Caſe, at the Requeſt of the Parties intereſted therein, to be ſignified by Writing under their reſpective Hands, to divide, allot, and award every ſuch Cloſe or Parcel of the preſent incloſed Land, in the ſame Way and Manner as if the ſame were Part of the open and common Fields hereby directed to be divided, allotted, and incloſed.

Allotments may be made in lieu of chief or other Rents.

XXI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized to aſſign, ſet out and allot unto any Perſon or Perſons who ſhall or may be entitled to any Fee Farm Rents, Chief Rents, Quit Rents or other dry unimprovable Rents or Payments whatſoever, from or out of any Meſſuages, Cottages, Lands, Tenements or Hereditaments belonging to any of the ſaid Owners or Proprietors, or Perſons intereſted as aforeſaid, and entitled to any Allotment or Allotments under and by virtue of this Act, ſuch Portion or Portions of the Allotment or Allotments of ſuch Owners or Proprietors, or Perſons intereſted as aforeſaid, as in the Judgement of the ſaid Commiſſioners ſhall be equivalent in Value to the Fee Simple and Inheritance of any ſuch Rents or Payments, and in lieu of and full Satisfaction for the ſame.

Lands to be of the ſame Tenure as

XXII. And be it further enacted, That all and every the Lands and Hereditaments which ſhall be allotted by virtue of this or the ſaid recited Act,

Act, shall be holden, and shall be deemed and taken to be under and subject to such and the like Tenure, Rents, Fines, Customs, Heriots and Services, as the Lands and Hereditaments in right or in respect of which such Allotments shall be made. those in right of which they may be allotted.

XXIII. And be it further enacted, That all Encroachments (except the Encroachments for the Benefit of a Schoolmaster and other Charitable Purposes herein-before mentioned) which shall appear to the said Commissioners to have been made at any Time within Thirty Years previously to the First Day of *January* One thousand eight hundred and ten, upon the said Wastes, Moors, Commons and unincloſed Lands, shall be deemed Part thereof, and shall be divided and allotted accordingly; and in case any Dispute or Difference shall arise, touching any such Encroachments, or the Extent thereof, such Dispute shall be settled by the said Commissioners; and all such Encroachments as shall be deemed Parts of the said Wastes, Moors, Commons and unincloſed Lands, in case the same shall be allotted to the respective Parties who may have improved the same, or to the said *William* Duke of *Devonshire*, his Heirs or Assigns, shall be valued as if in an unimproved State, and without considering the Improvements made thereupon in building, or otherwise; but if such Encroachments shall be allotted to any other Person or Persons, then and in such Case the Person or Persons who shall receive the same, shall pay and allow to such Person or Persons as shall or may have improved the same, such Compensation or Satisfaction and in such Manner as the said Commissioners shall think reasonable, and by Writing under their Hands, or in and by their Award, order and direct. Respecting Encroachments.

XXIV. And be it further enacted, That in case any Difference or Dispute shall arise with or between any Person or Persons interested in the said intended Division, Allotment and Inclosure, touching their respective Shares, Proportions, Rights, Interests, Claims or Demands, or relating to the Boundaries to be set out by the said Commissioners, in pursuance of this or the said recited Act, the said Commissioners or Umpire shall and and they are hereby authorized and required to hear and determine the same; provided that nothing herein contained shall authorize the said Commissioners or Umpire to determine any Difference or Dispute touching the Title of any Person or Persons, in or to any Messuages, Cottages, Lands, Tenements or Hereditaments whatsoever. Commissioners to determine disputed Claims;

XXV. And be it further enacted, That in case the said Commissioners or Umpire, upon the Hearing or Determination of any Claim or Claims, Objection or Objections, Difference or Dispute, which shall be brought before them under and by virtue of this or the said recited Act shall see cause to award any Costs or Charges to any of the Parties concerned therein, it shall and may be lawful for the said Commissioners or Umpire, upon Application made to them for that Purpose, to settle, assess and award such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any such Determination of the said Commissioners or Umpire shall be made, by any Person or Persons whose Claim or Claims, Objection or Objections shall or may by such Determination be disallowed or over-ruled; and such Costs and Charges, shall and may be levied but not to determine Titles.

levied and recovered in the same Manner as the Expences of passing and executing this Act are directed and authorized to be recovered.

Allowing the Parties to try their Rights by an issue at Law.

XXVI. And be it further enacted, That in case any Person or Persons interested, or claiming to be interested in the said intended Division, Allotment or Inclosure, shall be dissatisfied with any Determination of the said Commissioners or Umpire, touching or concerning any Claim or Claims of the Right to the Soil, or of any Right of Common, or other Right or Interest in, over or upon, or in respect of the said Open and Common Fields, Mesne Inclosures, Wastes, Moors, Commons, and other unenclosed Lands hereby directed to be divided, allotted, and enclosed, or any Part thereof, or relating to the Boundaries to be set out in pursuance of this or the said recited Act as aforesaid, or touching or concerning any other Matter or Thing relating to the said Division, Allotment or Inclosure, it shall and may be lawful for the Person or Persons so dissatisfied to proceed to Trial at Law of the Matter determined by the said Commissioners or Umpire, at the then next or at the following Assizes to be holden for the said County of *Derby*; and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners, or Umpire as aforesaid, shall cause an Action to be brought or commenced on a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made within Two Calendar Months next after such Determination of the said Commissioners or Umpire shall have been made known to such Person or Persons; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file common Bail, and accept one or more Issue or Issues whereby such Claim or Claims, and the Right or Rights thereby insisted upon, or in Dispute, may be tried and determined; such Issue or Issues, in case the Parties shall differ about the same, to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced; and if at the Trial of any such Issue or Issues, it shall appear that the Party claiming is entitled to any qualified or less Right or Rights or Interests than was or were claimed by such Party, then it shall and may be lawful for the Jury by whom such Issue or Issues shall be tried, to find and declare the same by their Verdict, which shall be indorsed on the Postea, in Addition to the Verdict given on the Issue or Issues joined, but nevertheless the Costs of such Action or Actions shall abide and be determined by the Verdict given upon the Issue or Issues joined, as if no such Special Finding had been made; and the Verdict or Verdicts which shall be given in such Action or Actions upon the Issue or Issues therein joined, in case there shall be no such Special Finding and Indorsement, or such Special Finding and Indorsement if any shall be made, shall be finally binding and conclusive upon and to all and every Person or Persons whomsoever, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, or Finding and Indorsement, and order a new Trial or Trials to be had thereupon, which it shall be lawful for the Court to do; and also upon sufficient Cause shewn to put off the Trial of such Issue or Issues, as is usual in other Cases; and that after such Verdict or Verdicts, or Special Finding and Indorsement shall be obtained and not set aside by the Court, the said Commissioners shall, and they are hereby required to act in conformity thereto, and to allow or disallow the Claim

or Claims, Right or Rights, or Intereſt or Intereſts thereby determined, according to ſuch Verdict or Verdicts, or Finding and Indorſement as aforeſaid: Provided always, that the Determination of the ſaid Commiſſioners or Umpire, touching or concerning any ſuch Claim or Claims as aforeſaid, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion, Allotment and Incloſure, which ſhall not be objected to, or being objected to in reſpect whereof the Party or Parties objecting ſhall not cauſe ſuch Action at Law to be brought and proceeded in as aforeſaid, ſhall be final, binding, and concluſive upon and to all Parties whatſoever.

Determination of Commiſſioners to be final, if not objected to, or Action brought.

XXVII. And be it further enacted, That if any of the Parties in any Action to be brought in purſuance of this or the ſaid recited Act, ſhall die pending the ſame, ſuch Action ſhall not abate by Reaſon thereof, but ſhall be proceeded in as if ſuch Event had not happened.

If Parties die Proceedings not to abate.

XXVIII. And be it further enacted, That if any Suit or Suits ſhall be commenced or proſecuted, touching or concerning the Title of any Perſon or Perſons to any Meſſuages, Lands, Tenements or Hereditaments within the ſaid Manor of *Dore*, ſuch Suit or Suits ſhall not impede, delay, or hinder the ſaid Commiſſionerrs from proceeding in the Execution of the Powers veſted in them by the ſaid recited Act and this Act; but the ſaid Diviſion, Allotment and Incloſure ſhall be proceeded in notwithſtanding ſuch Suit or Suits; and the Allotment or Allotments to which ſuch Suit or Suits ſhall relate, may be had and taken by the Perſon or Perſons, who upon the Determination of ſuch Suit or Suits ſhall become entitled to the ſame.

Suits not to delay the Incloſure.

XXIX. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been been brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politic or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioners with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith, if living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein in the ſame Manner as if ſuch Perſon or Perſons had been actually living, and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

Proviſion in caſe of Death of Parties before Actions brought.

XXX. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioners to determine any Right between any Parties contrary to the Poſſeſſion of any of ſuch Parties

Right of Poſſeſſion of Perſons not to be deter-

mined by Commissioners. Parties, except in Cases of Encroachments made within the Period of Thirty Years, as herein-before mentioned; but in case the said Commissioners shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up, or recovered from such Person or Persons by Ejectment or other due Course of Law.

For diverting Watercourses. XXXI. And be it further enacted, That the said Commissioners shall and they are hereby empowered to direct and order all or any of the Watercourses or Springs of Water in the said open and common Fields, mesne Inclosures, Wastes, Moors, Commons, and other unincloſed Lands, or any Part thereof, to be diverted, turned, or varied, and to be carried and conveyed in such Courses, and through such Lands and Allotments as they shall in their Discretion think proper; provided that such Watercourses or Springs of Water shall not be diverted, turned, or varied, without the Consent in Writing of the Person or Persons who may at that Time be Owner or Owners entitled to the Benefit and Use thereof; and the Consent in Writing of the Person or Persons from or into whose Lands or Grounds such Springs or Watercourses shall be diverted, turned or varied, carried through or conveyed as aforesaid; and provided also, that nothing herein contained shall extend or be construed to extend, so as to affect the Springs or Watercourses called *Sparkinson Spring* and *Sheep Hill Spring*, but the Inhabitants within the said Manor of *Dore* shall have and enjoy the Benefit and Advantage thereof, in such and the like Manner as if this Act had not been made.

Commissioners may direct the Course of Husbandry. XXXII. And be it further enacted, That the said Commissioners shall as soon after the passing of this Act as conveniently may be, by some Writing or Writings under their Hands, to be affixed upon one of the most public outer Doors of the Parish Church of *Dronfield* aforesaid, and also on one of the most public outer Doors of the Church or Chapel of *Dore* aforesaid, upon some *Sunday* immediately preceding Divine Service, order and direct the Course of Husbandry that shall be used, in, over and upon the Lands and Grounds intended by this Act to be inclosed, until the Time when they shall have made and completed the said intended Division and Allotments, as well with respect to the laying down, ploughing, sowing, fallowing, and tilling thereof, as to the stocking and eating the Fallow or Stubbles; and also as to the cutting of Turf, Peat, Furze, Thorns or Bushes getting or digging of Peat or Stone, cutting of Wood, or doing any Injury unto or upon the Lands intended by this Act to be inclosed; and by the same or any other Writing or Writings under their Hands to be affixed as aforesaid, shall and may make such Orders and Regulations touching the Conduct of Farmers and Tenants within the said Manor of *Dore*, for preventing them from committing Waste or Destruction upon any of the Lands and Grounds in the said Manor, in the Meantime and until the Allotments or Division thereof shall be effected, as to them shall seem expedient; all which Orders and Regulations of the said Commissioners shall be binding and conclusive upon all Parties interested therein, their Farmers and Tenants; and that the said Commissioners shall set and impose such pecuniary Penalties and Forfeitures, not exceeding Five Pounds *per* Acre, on every Person not conforming to such Orders and Regulations, as they shall think necessary, which Penalties and Forfeitures

shall

ſhall be paid to ſuch Perſon or Perſons, and for ſuch Uſes and Purpoſes as the ſaid Commiſſioners ſhall, by any Writing or Writings under their Hands, or by their Award herein-after mentioned, direct or appoint; and the ſame ſhall be recovered and recoverable in a ſummary Way before any one Juſtice of the Peace for the ſaid County of *Derby*, who is hereby authorized and required upon Complaint made before him, to ſummon the Parties accuſed, and to examine any Witneſs or Witneſſes upon Oath (to be adminiſtered by him), and to proceed to Judgement and Conviction as in Caſes of a ſimilar Nature, and if any ſuch Penalties and Forfeitures ſhall be adjudged to have been incurred, then it ſhall be lawful for any ſuch Juſtice, by Warrant under his Hand and Seal, to cauſe ſuch Penalties to be levied by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties offending, together with reaſonable Coſts, rendering the Overplus (if any) to the Owner or Owners of ſuch Goods and Chattels.

Commiſſioners to ſell Land to defray Expences.

XXXIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and empowered to aſcertain and ſet out ſo much and ſuch convenient Part or Parts of the ſaid Waſtes, Moors, Commons, and unincloſed Lands, as in the Judgement of the ſaid Commiſſioners ſhall be ſufficient to raiſe a competent Sum of Money for paying the Charges and Expences of paſſing and executing this Act, and to ſell the Lands ſo ſet out (the Situation and Extent being by the ſaid Commiſſioners firſt laid before a Meeting of the Proprietors or Perſons intereſted in the ſaid Incloſure) in ſuch Manner and ſubject to ſuch Conditions and Regulations, as by the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty is provided in that Behalf; and ſhall alſo in like Manner, if requeſted ſo to do by any Tenant for Life or in Tail, or other Perſon being in Poſſeſſion of, but not having the abſolute Eſtate or Intereſt in any Meſſuages, Lands, Tenements, or Hereditaments, within the ſaid Manor of *Dore*, (ſuch Requeſt being in Writing under the Hand or Hands of ſuch Perſon or Perſons as aforeſaid), to ſell ſo much of the reſpective Allotment or Allotments to be made to ſuch Perſon or Perſons, in reſpect of ſuch Meſſuages, Lands, Tenements or Hereditaments, as ſhall in the Judgement of the ſaid Commiſſioners be equal in Value to the Expences which ſuch Perſon or Perſons may be charged with or liable to in fencing, ditching, encloſing and ſubdividing any ſuch Allotment or Allotments; and the Receipt or Receipts of the ſaid Commiſſioners for the Purchaſe Money, ſhall be a full and complete Diſcharge, or full and complete Diſcharges to the Purchaſer or Purchaſers, for the Conſideration Money which ſhall be therein expreſſed to be received; and ſuch Purchaſer or Purchaſers, after ſuch Receipt or Receipts, ſhall not be obliged to ſee to the Application of ſuch Purchaſe Money or any Part thereof, or be anſwerable or accountable for the Miſapplication or Non-application thereof, or of any Part thereof; and after Payment of the full Purchaſe Money for any ſuch Allotment or Allotments, the Purchaſer or Purchaſers ſhall thereupon reſpectively have and take to himſelf, herſelf or themſelves, and his, her and their reſpective Heirs and Aſſigns, as abſolute and indefeaſible Eſtate of Inheritance in Fee Simple, of and in the Lands which ſhall be comprized in ſuch his, her, or their Purchaſe or Purchaſes; and the ſaid Commiſſioners ſhall and they are hereby authorized and empowered, either to award the ſaid Part or

Parts of the ſaid Waſtes, Moors, Commons and unincloſed Lands, when ſold, to the Purchaſer or Purchaſers thereof reſpectively; his, her, or their Heirs and Aſſigns for ever, in and by their ſaid Award; or otherwiſe if the Purchaſer or Purchaſers ſhall requeſt the ſame, the ſaid Commiſſioners ſhall and they are hereby authorized and empowered to convey in Fee Simple, by Leaſe and Releaſe, made and executed by the ſaid Commiſſioners, to the Purchaſer or Purchaſers thereof reſpectively, his, her, and their Heirs and Aſſigns, the ſaid Allotment or Allotments, and the ſame ſhall be good, valid and effectual in the Law, to all Intents and Purpoſes; and the Money ariſing from ſuch Sale or Sales ſhall be applied by the ſaid Commiſſioners in defraying the ſeveral Charges and Expences aforeſaid.

The Deficiency to be raiſed by the Proprietors.

XXXIV. Provided always, that in Caſe the Money ariſing by the Sale of ſuch Allotment or Allotments as aforeſaid, ſhall not be ſufficient to defray all the Charges and Expences as aforeſaid, then the Deficiency ſhall be made up by the ſeveral Perſons intereſted in the ſaid Incloſure (other than and except the ſaid *William* Duke of *Devonſhire*, his Heirs and Aſſigns, and the ſaid Vicar of *Dronfield*, and Curate of *Dore* aforeſaid, for the Time being, reſpectively, ſo far as relates to the Allotments herein-before directed to be made to the ſaid *William* Duke of *Devonſhire*, and Vicar of *Dronfield*, and Curate of *Dore* aforeſaid, in reſpect or in lieu of Glebe Lands, or Tythes), and ſhall be paid in ſuch Shares and Proportions, and within ſuch Time or Times, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct, nominate and appoint; or in caſe any Expences ſhall be incurred in the Execution of any of the Powers and Proviſions of this Act, which ought to be borne and defrayed by any particular Perſon or Perſons, and not out of any Money to be raiſed for the general Purpoſes of this Act, then the ſame ſhall be paid in ſuch Shares and Proportions, and by ſuch Perſon or Perſons, and within ſuch Time and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct, nominate or appoint: Provided always, that if there ſhall be any Overplus of the Money ariſing by ſuch Sale, ſuch Overplus ſhall be divided and apportioned among the ſeveral Proprietors and Perſons intereſted in the ſaid Lands and Grounds, in ſuch Shares as ſhall be in Proportion to their reſpective Property and Intereſt therein; and the Shares of ſuch of them as ſhall be Tenants in Fee Simple ſhall be paid to them reſpectively, and the Shares of the other Proprietors and Perſons of and in ſuch overplus Money ſhall be applied in the Manner directed by the ſaid recited Act, with reſpect to Money 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.

Leaſes at Rack Rent to be void.

XXXV. And be it further enacted, That all and every Leaſe and Leaſes, or other Agreements, at Rack Rent, ſubſiſting of all or any Part or Parts of any Meſſuage, Lands, Tenements or Hereditaments within the ſaid Manor of *Dore*, for any Term or Number of Years unexpired, ſhall immediately, upon ſuch Allotments being made, or ſo ſoon after as the ſaid Commiſſioners ſhall by their ſaid Award direct, ceaſe, determine, and be void, in reſpect of the ſaid open and common Fields, meſne Incloſures, Waſtes,

Wastes Moors, Commons, and other unincloſed Lands, the reſpective Owners and Proprietors of the ſaid Meſſuages, Lands, Tenements or Hereditaments ſo in Leaſe as aforeſaid, making ſuch Satisfaction to ſuch Leſſee or Leſſees, Tenant or Tenants, as the ſaid Commiſſioners ſhall direct or appoint, for or in reſpect of ſuch Leaſe or Leaſes, or other Agreements, or as an Equivalent for the ſame.

Not to extend to Leaſes where Fine has been paid.

XXXVI. Provided alſo, That nothing herein contained ſhall extend to make void any Leaſe or Leaſes of the preſent incloſed Lands or Hereditaments, or of any Part or Parts of the Lands or Grounds by this Act directed to be divided, allotted and incloſed, upon the making or renewal whereof any Fine or Fines hath or have been paid.

Abatement to be allowed for Leſſees for Loſs of Rights.

XXXVII. And be it further enacted, That in all Caſes where any Allotment or Allotments of any Part of the ſaid open and common Fields, meſne Incloſures, Waſtes, Moors, Commons, and other unincloſed Lands, ſhall be made for and in reſpect of the Rights and Intereſts belonging to any Perſon or Perſons, for or in reſpect of any Lands, Tenements or Hereditaments, within the ſaid Manor of *Dore*, which are held by any Tenants or Occupiers for a Term of Years, by virtue of any Leaſe or Agreement thereof made, and if ſuch Tenants or Occupiers do not or ſhall not come to an Agreement with the Perſon or Perſons to whom ſuch Allotments ſhall be made for the Uſe, Occupation and Enjoyment thereof, ſuch Tenants or Occupiers ſhall not be entitled to enter upon, occupy, or hold the ſaid Allotment or Allotments, but ſhall nevertheleſs have and receive from the reſpective Owners or Proprietors thereof, ſuch an Abatement from the Yearly Rent or Rents, reſerved and made payable in and by ſuch Leaſe or Leaſes, Agreement or Agreements, for the Remainder of the Term or Terms then to come therein, as the ſaid Commiſſioners ſhall adjudge to be a reaſonable Compenſation for the Loſs which he or they ſhall ſuſtain thereby.

Exchanges may be made.

XXXVIII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners to ſet out, allot and award any Lands, Tenements or Hereditaments whatſoever, within the ſaid Manor of *Dore*, in lieu of and in Exchange for any other Lands, Tenements and Hereditaments whatſoever, within the ſaid Manor of *Dore*, or within any adjoining Manor, Hamlet, Townſhip or Place; provided that all ſuch Exchanges be aſcertained, ſpecified and declared, in the Award of the ſaid Commiſſioners, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements or Hereditaments which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors ſhall be a Body or Bodies Politic, Corporate or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail general or ſpecial, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, or with the Conſent of the Guardians, Truſtees, Feoffees for charitable or other Uſes, Huſbands, Committees, or Attornies of or acting for any ſuch Proprietors or Owners as aforeſaid, who at the Time of making ſuch Exchange or Exchanges, ſhall be reſpectively Infants, Femes Covert, Lunatics, or under any other legal Incapacity

or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself or herself; such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate or Collegiate, and under the Hands of the other Parties consenting respectively; and all and every such Exchange or Exchanges, so to be made, shall be good, valid and effectual in the Law, to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements or Hereditaments, held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements or Hereditaments so to be exchanged, shall be or be situate: Provided always, that the Costs, Charges and Expences attending the making and completing any Exchanges or Partitions under the Powers and Authorities in this Act, and the said recited Act, or either of them contained, shall be paid and borne by the several Persons, Bodies Politic, Corporate or Collegiate, making such Exchanges or Partitions, in such Manner and in such Proportions as the said Commissioners shall order and direct.

Expences of Exchanges how to be borne.

Tenants to give up exchanged Lands.

XXXIX. And be it further enacted, That all and every Tenant and Occupier, under any Lease or Agreement for any Term of Years of any of the old Inclosures, within the said Manor of *Dore*, which shall be exchanged by virtue of this Act, shall immediately after the Execution of the Award of the said Commissioners, or within such further Time as the said Commissioners shall appoint, and whereof Notice in Writing shall be given for that Purpose, give up and relign the full and peaceable Possession of such exchanged Lands, to the Person or Persons to or with whom the same shall be respectively exchanged; such respective Tenants and Occupiers receiving from the said respective Owners and Proprietors of such exchanged Lands, such Satisfaction as the said Commissioners shall ascertain, order, direct, or appoint to be paid to such Tenant or Tenants respectively, on Account thereof, or as an Equivalent for the Loss or Losses he, she, or they shall respectively sustain thereby; and if the Money so to be ascertained as aforesaid, shall not be paid to the Person or Persons entitled to receive the same, within Six Calendar Months after Demand made thereof, it shall be lawful for the said Commissioners, and they are hereby required to raise and levy the same, for the Use of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges and Expences of obtaining and executing this Act, can or may be raised or recovered.

Vicar of Dronfield not to lease his Allotment without the King's Consent.

XL. Provided always, and be it further enacted, That no Lease or Leases, to be made by virtue of the said recited Act of any Lands or Grounds to be allotted to the Vicar of *Dronfield*, or his Successors for the Time being, shall be good, valid and effectual, unless the Consent of the King's most Excellent Majesty, His Heirs or Successors, as Patron of the said Vicarage, shall be had and obtained thereto previously to the Execution of such Lease or Leases.

Persons selling before the Execution of the Award, Com-

XLI. Provided always, and be it further enacted, That if any Person or Persons shall or may, at any Time before the Execution of the said Award, have sold his or their Right, Interest, or Property, in over or upon the Lands and Grounds hereby intended to be divided, allotted and inclosed,

or any Part thereof, to any other Perſon or Perſons, then and in every ſuch Caſe it ſhall and may be lawful for the ſaid Commiſſioners, and they are hereby authorized and empowered to make an Allotment of Land unto the Vendee or Purchaſer, Vendees or Purchaſers, or to his, her, or their Heirs and Aſſigns, for and in reſpect of ſuch Right, Intereſt, and Property ſo ſold. Commiſſioners to allot to the Purchaſers.

XLII. Provided always, and be it further enacted, That nothing herein contained ſhall extend, or be conſtrued, deemed, adjudged, or taken to revoke, make void, alter or annul any Settlement, Deed, or Will, or to prejudice any Perſon or Perſons having or claiming any Jointure, Dower, Portion, Mortgage, Debt, Charge or Incumbrance, out of, upon, or affecting any of the Lands and Grounds to be divided, allotted and incloſed as aforeſaid, or any Lands, Tenements or Hereditaments, which ſhall be exchanged or divided by virtue of this Act, or the ſaid recited Act, or any Part or Parcel thereof reſpectively; but that the ſeveral Lands, Tenements and Hereditaments, ſo to be aſſigned, allotted, exchanged or divided as aforeſaid, ſhall immediately after the making ſuch Allotments, Exchanges, Partitions or Diviſions reſpectively be, remain, and enure, and be held and enjoyed, and the ſeveral Perſons to whom the ſame ſhall be aſſigned and allotted, or given in Exchange, ſhall from thenceforth ſtand, and be ſeized and poſſeſſed thereof reſpectively, to ſuch and the ſame Uſes, and to and for ſuch and the ſame Eſtates, and with and under ſuch and the ſame Powers and Authorities, and ſubject to ſuch and the ſame Wills, Limitations, Conditions, Settlements, Proviſions, Remainders, Reverſions, Mortgages, Debts, Charges and Incumbrances, as the ſeveral Meſſuages, Lands, Grounds, Hereditaments and common Rights in lieu or in reſpect whereof ſuch Allotments and Exchanges ſhall be made, at or immediately preceding the making thereof, ſhall or may ſtand limited or liable to, or would have been liable to in caſe this Act had not been made. No Settlement, Will, &c. to be altered.

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

XLIV. And be it further enacted, That the Award to be made by the ſaid Commiſſioners, when enrolled in Manner directed by the ſaid recited Act, ſhall be depoſited and kept in the public Cheſt belonging to the Church or Chapel of *Dore* aforeſaid, where the other public Writings belonging to the ſaid Manor of *Dore* are uſually kept, in order that all Perſons intereſted in the ſaid Incloſure may have recourſe thereto at all ſeaſonable Times. Award to be depoſited.

XLV. And be it further enacted, That once at leaſt in each and every Year during the Execution of this Act (ſuch Year to be computed from the Day of the paſſing thereof) the ſaid Commiſſioners ſhall, and they are hereby required to make a true and juſt Statement or Account of all Sums of Money Commiſſioners to account.

Money by them received and expended, or due to them, for their own Trouble and Expences in the Execution of this and the ſaid recited Act; and ſuch Statement or Account, when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before any One or more of His Majeſty's Juſtices of the Peace for the ſaid County of *Derby*, to be by him or them examined and balanced, and ſuch Balance ſhall be by ſuch Juſtice or Juſtices ſtated in the Books of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioners; and no Charge or Items in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been firſt allowed by ſuch Juſtice or Juſtices.

Proprietors to pay their own Expences.

XLVI. And be it further enacted, That the ſaid Proprietors ſhall pay their own Expences when they attend the ſaid Commiſſioners at any of their Meetings to be holden for putting this Act into Execution.

Appeal to the Quarter Seſſions.

XLVII. 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 or the ſaid recited Act, other than and except ſuch Claims, Matters and Things as are herein-before directed or authorized to be aſcertained, ſettled, tried or determined by the Verdict of a Jury, or where by any of the Proviſions of the ſaid recited Act, or of this Act, the Determinations of the ſaid Commiſſioners are directed to be final and concluſive), then and in every ſuch Caſe, he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace, which ſhall be holden for the ſaid County of *Derby*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners, and to the Party or Parties concerned, Fourteen Days Notice in Writing of ſuch Appeal, and of the Matter thereof; and the Juſtices (not intereſted in the Premiſes) in their ſaid General Quarter Seſſions, are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order therein, and award ſuch Coſts and Damages as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order or 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 the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter*, or elſewhere; but in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants, as to them in their Diſcretion ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

Rights of Mining reſerved.

XLVIII. Provided always, and be it further enacted, That nothing in this Act contained, ſhall bar, prejudice, leſſen, or defeat the Rights, Titles, and Intereſts, which the ſaid *William* Duke of *Devonſhire*, or any of His Majeſty's Subjects now have and enjoy, or ſhall or may hereafter claim to have and enjoy, of digging for, ſearching, working, and carrying on Mines

of

of Lead Ore, Mines, Veins, Beds or Seams of Coal, Iron, Stone, and other Minerals (ſave and except Stone, Gravel, Clay and Sand), and taking and enjoying ſuch Lead Ore, Coal, Iron, Stone, and other Minerals (except as aforeſaid) in, upon, and out of all the ſaid Waſtes, Moors, Commons, and unincloſed Lands within the ſaid Manor of *Dore*, intended to be divided, allotted and incloſed as aforeſaid; but that all and every His Majeſty's Subjects, ſhall from henceforth, for ever hereafter, have and enjoy ſuch Rights of mining for and getting Lead Ore, Coals, Iron, Stone, and other Minerals (except as aforeſaid), and uſe and exerciſe ſuch Liberties and Priviſeges in reſpect thereof, in and throughout all and every Part of the ſaid Waſtes, Moors, Commons, and unincloſed Lands, intended to be divided, allotted and incloſed as aforeſaid, in as ample and extenſive a Manner as they have hitherto of Right enjoyed and exerciſed the ſame, making Satisfaction for any Damages that ſhall be done thereby; any Thing herein contained to the contrary thereof in anywiſe notwithſtanding.

Saving Rights to the Lord of the Manor.

XLIX. Provided always, and be it further enacted, That nothing in this Act contained, ſhall prejudice, leſſen, or defeat the Right, Title or Intereſt of the ſaid *William* Duke of *Devonſhire*, his Heirs or Aſſigns, Lord or Lords of the ſaid Manor of *Dore*, of, in, or to the Seigniorities and Royalties incident to or belonging to the ſaid Manor, but that ſuch Lord or Lords for the Time being, ſhall and may from Time to Time, and at all Times hereafter, hold and enjoy all Rents, Services, Courts, Perquiſites and Profits of Courts, Mines of Lead Ore, Mines, Veins, Beds or Seams of Coal, Iron, Stone, and other Minerals, except as aforeſaid, Waifs, Eſtrays, and all other Royalties, Juriſdictions, Pre-eminences, and Privileges whatſoever, to the ſaid Manor incident, appendant, belonging, or appertaining; (other than and except the Right to the Soil of the ſaid Waſtes, Moors, Commons, and unincloſed Lands, for which a Compenſation is hereby before directed to be made), in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as the ſame might or could have been held and enjoyed, in caſe this Act had not been made.

General Saving of Rights.

L. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, his, her, and their Heirs, Succeſſors, Executors and Adminiſtrators reſpectively, (other than and except the ſeveral Perſons, Bodies Politic, Corporate or Collegiate, to whom any Allotment or Allotments of Land or other Compenſation ſhall be made or provided by virtue of this Act, in reſpect of the Intereſt or Property for which ſuch Allotment or Allotments, or Compenſation ſhall be made, his, her, and their Heirs, Succeſſors, Executors, Adminiſtrators and Aſſigns, and except ſuch other Rights and Intereſts as the Intent and Purpoſe of the Diviſion, Allotment and Incloſure hereby authorized ſhall abſolutely require to be barred, deſtroyed, or extinguiſhed, by virtue of this Act); all ſuch Eſtates, Rights, Titles and Intereſts, as they, every, or any of them had or enjoyed, of, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted and incloſed, before the paſſing of this Act, or could, might, or ought to have held or enjoyed, in caſe this Act had not been made.

Act to be printed by the King's Printer.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1809.