ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 131.

An Act for incloſing Lands in the Pariſh of *Eaton*, in the County of *Nottingham*. [27th *May* 1809.]

WHEREAS there are within the Pariſh of *Eaton*, in the County of *Nottingham*, divers open Arable Fields and Brecks, Meadows, Stinted Paſture, and Commons, and Waſte Grounds, containing in the Whole Seven hundred and ninety-ſix Acres or thereabouts: And whereas the Honourable *John Simpſon* is Lord of the Manor of *Eaton* aforeſaid, and as ſuch entitled to the Soil of the Commons and Waſte Grounds within the ſaid Manor and Pariſh: And whereas the Reverend *Scrope Berdmore*, Doctor in Divinity, Prebendary of the Prebend of *Eaton*, founded in the Collegiate Church of the Bleſſed *Mary* the Virgin, of *Southwell*, in the ſaid County of *Nottingham*, is Impropriator of the Rectory of *Eaton* aforeſaid, and as ſuch is entitled to certain Glebe Lands and Common Rights within the ſaid Pariſh, and to all the Great Tythes growing, renewing, or ariſing within the ſame, and is alſo Patron of the Vicarage of *Eaton* aforeſaid; and the ſaid Honourable *John Simpſon* is Leſſee of the ſaid Glebe Lands, Common Rights, and Tythes, under the ſaid *Scrope Berdmore* as Prebendary as aforeſaid: And whereas *Charles Fowler* Clerk, is Vicar of the Pariſh of *Eaton* aforeſaid, and in Right of ſuch Vicarage is entitled to certain Glebe Lands and Common Rights within the ſaid Pariſh, and to all Small Tythes ariſing within the ſame, or Moduſes in lieu of the ſame or ſome Part thereof: And whereas the ſaid Honourable *John Simpſon*, Sir *Thomas Woollaſton White* Baronet, and others, are reſpectively ſeiſed or poſſeſſed of or otherwiſe entitled to the Lands and Grounds by this Act intended to be divided, allotted, and

incloſed, and they or ſome of them are reſpectively entitled to certain Rights of Common therein: And whereas the Lands in the ſaid Open Arable Fields and Brecks and Meadows lie intermixed and diſperſed in ſmall Parcels, and are very inconveniently ſituated for the Occupation thereof, and incapable of any conſiderable Improvement; but if the ſame and the ſaid Commons and Waſte Grounds and Stinted Paſture were divided and allotted into ſpecific Parts and Shares, and ſuch Allotments incloſed, great Advantage would ariſe to the ſeveral Perſons intereſted therein; yet as ſuch Diviſion, Allotment, and Incloſure cannot be 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

Commiſſioner. of the ſame, That *Jonas Bettiſon*, of *Holme Pierrepont*, in the ſaid County of *Nottingham*, Eſquire, and his Succeſſor, to be elected in Manner hereinafter mentioned, ſhall be and is hereby appointed ſole Commiſſioner for dividing, allotting, and incloſing the ſaid Open Arable Fields and Brecks, Meadows, Stinted Paſture, Commons, and Waſte Grounds within the ſaid Pariſh of *Eaton*, and for carrying this Act into Execution, and alſo ſuch of the Powers, Authorities, Directions, Clauſes, and Proviſions as are contained in an Act made and 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*, which ſhall be applied, and deemed and taken as Part of this Act, except ſo far as they or any of them are altered, varied, or otherwiſe provided for in and by this Act.

Appointment of new Commiſſioner.

II. And be it further enacted, That when and as often as the ſaid Commiſſioner herein-before named or to be appointed as herein-after mentioned, ſhall die, refuſe to act, or become incapable of acting before the Powers hereby veſted in him ſhall be executed, then and in every ſuch Caſe, within Two Calendar Months next after ſuch Death or Refuſal, or Incapacity to act ſhall happen or be known, or ſo ſoon after as Occaſion ſhall require, a new Commiſſioner, not intereſted in the ſaid intended Diviſion and Incloſure, ſhall be appointed in the Place and Stead of every Commiſſioner dying or refuſing to act, or becoming incapable of acting as aforeſaid, by a Majority in Value of the ſeveral Owners and Proprietors of the Lands and Grounds in the ſaid Pariſh of *Eaton*, or their reſpective Attornies, Agents, or Proxies duly appointed for that Purpoſe, who ſhall be preſent at a Meeting for that Purpoſe; and that Notice be given in the Pariſh Church of *Eaton* aforeſaid, on ſome *Sunday* immediately after Divine Service, or in Writing on the principal Door of ſuch Church, ſubſcribed with the Names of Two at leaſt of the ſaid Proprietors, of the Time and Place of Meeting to chuſe ſuch Commiſſioner, at leaſt Twenty Days before ſuch Meeting; and that every ſuch new Commiſſioner in the above Manner to be appointed and elected, having taken and ſubſcribed the Oath by the ſaid recited Act directed to be taken and ſubſcribed by every Commiſſioner, ſhall have the ſame Powers and Authorities by virtue of this Act, as the Commiſſioner which he ſhall ſucceed was inveſted with; provided that every ſuch Appointment of a new Commiſſioner be reduced into Writing, and ſigned by the Perſons appointing or electing ſuch new Commiſſioner,

which

which Appointment shall be annexed to the Award herein-after mentioned and deposited therewith.

Notice of Meetings.

III. And be it further enacted, That the said Commissioner shall and he is hereby required to give or cause to be given, Notice in Writing, by affixing the same on the principal Door of the Parish Church of *Eaton* aforesaid, of the Time and Place of his First and every subsequent Meeting for executing the Purposes of this Act, Eight Days at least before every such Meeting (Meetings by Adjournment, whereof Notice shall be left at the Place of the last Sitting, only excepted): Provided always, that all Meetings of the said Commissioner, in pursuance of this or the said recited Act, shall be held within Eight Miles of the said Parish of *Eaton*.

All Meetings to be within Eight Miles.

Other Notices how to be given.

IV. Provided always, and be it enacted, That the public Notices necessary or requisite to be given by the said Commissioner in pursuance of the said recited Act, of setting out public Carriage Roads, and of reading and executing the Award of the said Commissioner, shall be given in the Newspaper called *The Nottingham Journal*, or if that Newspaper shall not be then published, in some other Newspaper usually circulated in the said County of *Nottingham*.

For shortening Boundary Fences.

V. And be it further enacted, That in order to shorten the Boundary Fences between the Lands hereby directed to be inclosed and any of the adjoining Parishes, it shall and may be lawful to and for the said Commissioner, with the Consent in Writing under the Hand of the Lord of the Manor of *Eaton*, and of the Lord of any adjoining Manor, in respect of any Common or Waste Lands adjoining to the said Manor and Parish of *Eaton*, and also under the Hand or Hands of the Owner or Owners of any Lands and Grounds upon which such Fence or Fences is or are intended to be made, to set out, ascertain, and determine the Boundary Fences between the Lands and Grounds hereby intended to be divided, allotted, and inclosed, and the Lands and Grounds in such adjoining Parish or Parishes, in such Manner as the said Commissioner shall judge proper for the Purposes aforesaid; and after such Boundary Fences shall be set out, ascertained, and determined as aforesaid, the same shall be fenced by such Person and Persons, Body and Bodies Politic, Corporate, and Collegiate, in such Manner and at such Time or Times as the said Commissioner shall by any Writing under his Hand, or in and by his Award order and direct, and such Fences shall for ever thereafter be deemed and taken to be the Boundary and Boundaries between the said Parish of *Eaton* and such adjoining Parish or Parishes; any Law, Usage, or Custom to the contrary thereof in anywise notwithstanding.

Encroachments.

VI. And be it further enacted, That all Encroachments which shall have been made upon the said Open Fields, Brecks, Meadows, Commons and Waste Grounds, within the Space of Twenty Years next before the First Day of *January* One thousand eigh thundred and nine, shall be deemed and taken to be Part thereof, and shall be divided and allotted accordingly; and that it shall and may be lawful to and for the said Commissioner to enquire what Inclosures and Encroachments have been made, and to determine whether or not the same are to be deemed Part of the Lands hereby intended to be divided and allotted pursuant to the Directions of this Act; and all such Inclosures and Encroachments as shall be deemed Part of the said

Commons

Commons and Waſte Grounds, ſhall be valued as if in an unimproved State, and without conſidering the Improvements made thereupon by building or otherwiſe, in caſe the ſame ſhall be allotted to the reſpective Perſons who may have improved the ſame, or to the ſaid Honourable *John Simpſon* as Lord of the ſaid Manor; but if ſuch Incloſures or 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 to the ſeveral Perſons reſpectively who may have incloſed and improved the ſame, ſuch Compenſation in Money, in ſuch Manner and at ſuch Times as the ſaid Commiſſioner ſhall think reaſonable, and by Writing under his Hand ſhall direct and appoint.

Commiſſioner to ſettle Differences, but not to determine Titles.

VII. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Perſons or Bodies Politic, Corporate, or Collegiate, who are or ſhall be Proprietors of or intereſted in any of the Lands, Tenements, or Hereditaments to be affected by this Act, touching or concerning the reſpective Shares, Rights, or Intereſts which they or any of them have or claim to have in the ſame, or touching or concerning any Allotment or Compenſation to be made in lieu thereof, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion and Allotments, it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authorized and empowered to examine into, hear, and determine the ſame: Provided always, that nothing herein contained ſhall authorize the ſaid Commiſſioner to determine the Title to any Meſſuages, Cottages, Lands, Tenements, or Hereditaments whatſoever.

Power to aſſeſs Coſts.

VIII. And be it further enacted, That in caſe the ſaid Commiſſioner ſhall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to him in purſuance of this or the ſaid recited Act, ſee cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby empowered, upon Application made to him for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as he ſhall think reaſonable, to be paid to the Party or Parties in whoſe Favour any Determination of the ſaid Commiſſioner ſhall be made, by the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, whoſe Claim or Claims, Objection or Objections, ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, 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 Commiſſioner, and he is hereby authorized and required, by Warrant under his Hand directed to any Perſon or Perſons whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels (wherefoever the ſame ſhall be found) of the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand, to the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Allowing Parties to try their Rights by an Iſſue at Law.

IX. And be it further enacted, That in caſe any Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Allotment, ſhall be diſſatisfied

fied with any Determination of the ſaid Commiſſioner, touching or concerning any Claim or Claims of any Rights of Common or other Rights or Intereſts in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and incloſed, or any Part thereof, then and in every ſuch Caſe it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate ſo diſſatisfied, to proceed to a Trial at Law of the Matter ſo determined by the ſaid Commiſſioner, at the then next Aſſizes or at the Aſſizes then next following, to be holden for the ſaid County of *Nottingham*, and for that Purpoſe the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, who ſhall be diſſatisfied with the Determination of the ſaid Commiſſioner, ſhall cauſe an Action to be brought upon a feigned Iſſue againſt the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, in whoſe Favour ſuch Determination ſhall have been made, within Two Calendar Months next after ſuch Determination of the ſaid Commiſſioner; and the Defendant or Defendants in ſuch Action or Actions ſhall, and he, ſhe, or they is and are hereby required to name an Attorney or Attornies, who ſhall appear thereto or file Common Bail, and accept One or more Iſſue or Iſſues, whereby ſuch Claim or Claims, and the Right or Rights thereby inſiſted on may be tried and determined (ſuch Iſſue or Iſſues to be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be commenced, in caſe the Parties ſhall differ about the ſame); and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions, ſhall be binding, final, and concluſive upon all and every Perſon and Perſons whomſoever, Body and Bodies Politic, Corporate or Collegiate, unleſs the Court wherein ſuch Action or Actions ſhall be brought ſhall ſet aſide ſuch Verdict or Verdicts, and order a new Trial to be had therein, which it ſhall be lawful for the Court to do as is uſual in other Caſes; and after ſuch Verdict or Verdicts ſhall be obtained and not ſet aſide by the Court, the ſaid Commiſſioner ſhall, and he is hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials.

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

X. Provided always, and be it enacted, That in caſe the Determination of the ſaid hereby appointed Commiſſioner, touching any Claim or Claims of any Rights of Common, or other Rights or Intereſt in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and incloſed, or any Part thereof, ſhall not be objected to, or being objected to, ſuch Action or Actions at Law ſhall not be brought and proceeded in within the Time and in the Manner herein-before for that Purpoſe mentioned, ſuch Determination ſhall be final, binding, and concluſive upon all Parties.

Trial not to ſuſpend the Execution of the Powers of the Act.

XI. Provided always, and be it enacted, That no ſuch Difference, Suit, or Proceeding as aforeſaid, nor any Difference, Suit, or Proceeding, touching the Title to any Lands, Tenements, or Hereditaments, ſhall impede or delay the ſaid Commiſſioner in the Execution of this Act; but the Diviſion and Incloſure hereby directed to be made, ſhall be proceeded in notwithſtanding any ſuch Difference, Suit, or Proceeding.

Actions not to abate by Death of Parties.

XII. Provided alſo, and be it enacted, That if any of the Parties in any ſuch Action to be brought in purſuance of this Act, ſhall die pending the ſame, ſuch Action ſhall not abate by Reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened.

Proviſo in caſe of Death of Parties before Actions brought.

XIII. 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 brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic or Corporate, who might have brought ſuch Action or Actions againſt the 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 Commiſſioner with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith, if living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, and Proceedings ſhall be had therein in the ſame Manner as if ſuch Perſon or Perſons had been actually living, and the Rights of all Parties ſhall be equally bound and concluded by the Event of ſuch Action or Actions.

Right of Poſſeſſion of Perſons not to be determined by the Commiſſioner.

XIV. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioner to determine any Right between any Parties contrary to the Poſſeſſion of any of ſuch Parties, except in Caſes of Encroachments made within the Period of Twenty Years, as herein-before mentioned; but in caſe the ſaid Commiſſioner ſhall be of Opinion againſt the Right of the Perſon or Perſons ſo in Poſſeſſion, he ſhall forbear to make any Determination thereupon until the Poſſeſſion ſhall have been given up, or recovered from ſuch Perſon or Perſons by Ejectment or other due Courſe of Law.

For ſetting out Roads, &c.

XV. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required, before he ſhall proceed to ſet out the Allotments herein-after mentioned, to ſet out, aſcertain, appoint and direct to be made and completed ſuch public and private Roads and Highways, in purſuance of the Directions of the ſaid recited Act, and alſo ſuch Banks, Ditches, Drains, Sluices, Watercourſes, Bridges, and other Conveniences, in, over, and through the Lands and Grounds intended by this Act to be divided and incloſed, and alſo in, over, and through any of the Incloſures (by and with the Conſent in Writing of the Owner or Owners of ſuch Incloſures) within the Pariſh of *Eaton* aforeſaid, as he ſhall judge neceſſary; and the ſame, except the ſaid public Roads and Highways, ſhall reſpectively be made, and at all Times thereafter cleanſed and kept in Repair, at ſuch Times and by ſuch Perſon or Perſons, Proprietor or Proprietors, and in ſuch Manner as the ſaid Commiſſioner by his Award, when the ſame ſhall be executed, and in the mean Time and until the Execution thereof, by any Writing under his Hand ſhall order, direct, or appoint; and the ſaid Commiſſioner ſhall and may order and award, iſſue and pay ſuch Satisfaction and Recompence as he ſhall judge reaſonable to the Owner or Owners of Lands which may be cut, damaged, or deſtroyed, by making the ſaid Roads or Ways, or by making or repairing ſuch Banks, Ditches, Sluices, Watercourſes, Bridges, and other Circumſtances, as he ſhall cauſe to be made and repaired purſuant to the Directions of the ſaid recited Act; and that after making of ſuch Roads and Ways ſo to be ſet

out

out and appointed, it ſhall not be lawful for any Perſon to uſe any other Roads or Ways in, over, or through the Lands and Grounds intended by this Act to be divided and incloſed, on Foot or with Horſes, Cattle, or Carriages; and that all the former Roads and Ways in, over, and through the ſame Lands and Grounds, which ſhall not be appointed by the ſaid Commiſſioner or his Succeſſor, to be contiued as Roads or Ways, ſhall be deemed Part of the Lands to be incloſed, and ſhall be divided and allotted accordingly.

For ſtopping up old Roads.

XVI. And be it further enacted, That the ſaid Commiſſioner ſhall and may, in and by his ſaid Award, or by any Writing under his Hand, in the mean Time order and direct any ancient Roads or Ways, through or over the ſaid ancient Incloſures, or leading unto the Lands or Grounds intended by this Act to be divided and incloſed, and which, upon ſetting out the Roads over or through the ſaid Lands ſo intended to be incloſed, he ſhall think unneceſſary to be continued, to be ſtopped up and diſcontinued; and the Graſs or Herbage growing or ariſing on any of the ſaid public or private Ways or Roads to be ſet out as aforeſaid, ſhall at all Times be and remain for the Uſe and Benefit of ſuch Perſon or Perſons, and for ſuch Purpoſes as the ſaid Commiſſioner ſhall by his Award order and direct: Provided always, that the ſaid Commiſſioner ſhall in no Caſe divert, turn, or ſtop any old or accuſtomed Road paſſing or leading through any ſuch ancient Incloſures, without the Conſent in Writing of the Owner or Owners thereof, and without the Concurrence and Order of Two Juſtices of the Peace acting in and for ſuch Diviſion, and not intereſted in the Repairs of ſuch Roads; and which Order ſhall be ſubject to an Appeal to the Quarter Seſſions, in like Manner and under the ſame Terms and Reſtrictions as if the ſame had been originally made by ſuch Juſtices as aforeſaid.

Ancient Roads may be widened.

XVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to cauſe ſuch ancient public Roads or Highways within the ſaid Pariſh of *Eaton*, as he ſhall deem to be too narrow, to be widened to the Breadth of Forty Feet, or not leſs than Thirty Feet in Width, as he may deem neceſſary, on making Recompence and Satisfaction to the reſpective Owner or Owners of the Land to be taken away for that Purpoſe, by other Lands of equal Value, Part of the Lands hereby directed to be divided and incloſed, which Roads or Highways when ſo widened ſhall for ever thereafter be and remain of ſuch Breadth as the ſaid Commiſſioner ſhall determine and ſet out.

Allotment of Materials for Repair of Roads.

XVIII. And be it further enacted, That the ſaid Commiſſioner ſhall and may, and he is hereby authorized, if he ſhall think neceſſary (but not otherwiſe), after ſetting out the Roads, Ways, and Drains in Manner directed, to ſet out, allot, and award unto the Surveyor of the Highways of the ſaid Pariſh of *Eaton*, and his Succeſſors, ſuch Parcel or Parcels of Land (Part of the Lands and Grounds hereby intended to be divided and incloſed) not exceeding Two Acres in the Whole, as the ſaid Commiſſioner ſhall think moſt proper for the digging for and getting Stone, Gravel, and other Materials, for the Repairs of the Highways, and public and private Roads within the ſaid Pariſh; and the Herbage and Produce of ſuch Parcel or Parcels of Land, ſhall be awarded to ſuch Perſon or Perſons and for ſuch Purpoſes as the ſaid Commiſſioner ſhall in and by his Award direct and appoint.

Allotments for Glebe and Right of Common.

XIX. And be it further enacted, That the ſaid Commiſſioner ſhall, and he is hereby authorized and required, (after the ſaid public and private Roads and Drains, and the Allotment or Allotments to the ſaid Surveyor of the Highways, ſhall have been ſet out and allotted), in the next Place to ſet out and allot unto and for the ſaid *Scrope Berdmore*, and his Succeſſors Prebendaries as aforeſaid, and to his and their Leſſee and Leſſees, and alſo unto and for the ſaid *Charles Fowler*, and his Succeſſors, Vicars of *Eaton* aforeſaid, in Severalty, ſuch Parcel or Parcels of the Lands and Grounds hereby intended to be divided and incloſed, as ſhall in the Judgement of the ſaid Commiſſioner be a full Satisfaction and Compenſation for the uninincloſed Glebe Lands and Right of Common belonging to the ſaid *Scrope Berdmore* in Right of his ſaid Prebend, and to the ſaid *Charles Fowler* in Right of his ſaid Vicarage, ſeverally and reſpectively, within the ſaid Pariſh of *Eaton*.

Allotments in lieu of Tythes.

XX. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required, in the next Place, to make an exact Valuation of all the remaining Part of the ſaid Open Arable Fields, Brecks, Meadows, and Stinted Paſtures, ſubject to Great and Small Tythes, and the remaining Part of the ſaid Commons and Waſte Grounds, as alſo of the ancient incloſed Lands and Grounds within the ſaid Pariſh of *Eaton*; and after ſuch Valuation ſhall be ſo made, then to ſet out and allot unto and for the ſaid *Scrope Berdmore*, Prebendary of the ſaid Prebend of *Eaton*, and his Succeſſors, and to his ſaid Leſſee, and to the ſaid *Charles Fowler*, and his Succeſſors Vicars of *Eaton* aforeſaid, (to be partitioned and divided between them in ſuch Manner as here-after is mentioned), ſuch Parcels of the Lands and Grounds hereby intended to be divided and incloſed, as ſhall in his Judgement be equal in Value to Two-eleventh Parts of all the remaining Open Arable Fields and Brecks, to One-eighth Part of all the remaining Open Meadows, to One-eighth Part of all the ancient incloſed Lands and Grounds lying within the ſaid Pariſh of *Eaton*, ſubject to Great and Small Tythes, and to One-ninth Part of all the remaining Commons, Stinted Paſtures and Waſte Grounds (ſuch Parts, if any, of the ſaid Open Lands and Grounds and ancient incloſed Lands and Grounds, as were free from Great and Small Tythes, or diſcharged by a Modus or Moduſes, and the Glebe Lands belonging to the ſaid Prebendary and Vicar reſpectively, excepted); and the ſaid Commiſſioner is hereby required to value and aſcertain how much and what Share or Proportion of the ſaid Parcels of Land ſo to be ſet out and allotted to and for the ſaid Prebendary and Vicar, ſhall in his Judgement be a fair and equitable Compenſation for all the Vicarial Tythes (including Agiſtment Tythes) and Payments in lieu of Tythes ariſing or payable within the Pariſh of *Eaton* aforeſaid, to the ſaid Vicar, except as herein-after excepted reſpecting the Tythe of Hops, and ſhall then accordingly aſſign, ſet out, allot, partition and divide the ſaid Parcels of Land between the ſaid *Scrope Berdmore*, and his Succeſſors Prebendaries as aforeſaid, and the ſaid *Charles Fowler*, and his Succeſſors Vicars as aforeſaid, in Severalty, in Proportion to their reſpective Intereſts in the ſame, in ſuch Manner as the ſaid Commiſſioner ſhall adjudge fair and equitable; which ſaid Parcels of Lands ſo to be aſſigned, ſet out and allotted to and for the ſaid Prebendary and his Leſſee, and to and for the ſaid Vicar, and ſo to be divided between them as aforeſaid, ſhall be accepted in lieu of and full Satisfaction for all Manner of Tythes, both Great and Small, and all Moduſes, Compoſitions, and Payments for Tythes, growing

or

or arising within the said Parish of *Eaton*, and due and payable to the said Prebendary and his Lessee, and to the said Vicar and his Successors, respectively (*Easter* Offerings, Mortuaries, and Surplice Fees, payable to the said Vicar and his Successors, Vicars as aforesaid, and Tythe of Hops as herein-after mentioned and provided for, only excepted).

One Guinea per Acre to be paid for Tythe of Hops, if planted on Lands which have produced Hops within Two Years.

XXI. Provided always, and be it further enacted, That in case any Part or Parts of the Lands and Grounds within the said Parish of *Eaton*, which have been cultivated for the Purpose of growing Hops, within Two Years next before the passing of this Act, shall in any future Year after such Compensation shall have been made, be planted with Hops, then and in such Case, One Guinea *per* Acre shall be paid for the same, as an annual Tythe Payment, so long as the same Lands and Grounds shall be cultivated for the Purpose of growing Hops; and that such last-mentioned Lands shall for the Purpose of Compensation in Land as herein-before directed, be valued as if the same had been in the ordinary Cultivation as arable Land; but the same Hop Lands shall be particularly specified and distinguished in a Schedule to the said Award.

Allotment to the Lord of the Manor.

XXII. And be it further enacted, That after the said public and private Roads and Drains, the Allotment or Allotments to the Surveyor of the Highways, and the Allotment or Allotments in lieu of the Tythes of the Commons and Waste Grounds only, shall be set out as herein-before directed, the said Commissioner shall in the next Place set out and allot unto the said Honourable *John Simpson*, as Lord of the Manor of *Eaton* aforesaid, his Heirs and Assigns (exclusive of all other Allotments for or in respect of his other Rights and Interests), such Part and Parcel of the then Residue of the said Commons and Waste Grounds within the said Parish of *Eaton*, as shall in the Judgement of the said Commissioner be equal in Value to One-eighteenth Part of such Commons and Waste Grounds, in lieu of and as a Compensation for his Right in or to the Soil of the said Commons and Waste Grounds, and for his Consent to the Division and Inclosure thereof.

Impropriator's and Vicar's Allotments to be Ring-fenced.

XXIII. And be it further enacted, That the several Allotments to be made to the said *Scrope Berdmore*, and his Successors, as Impropriators of the Rectory of *Eaton* aforesaid, and his or their Lessee or Lessees of the same Rectory; and to the said *Charles Fowler*, and his Successors, Vicars of *Eaton* aforesaid, or any of them respectively, shall, on all such Sides and Parts thereof as shall not be ordered by the said Commissioner to be fenced by any other Proprietor or Proprietors, be well ditched and planted with good Quick, guarded on the Outside by good Oak Posts and Treble Rails of Oak, Ash, or some other durable Wood, and on the Inside by good Oak Posts and Double Rails of Oak, Ash, or some other durable Wood, and good and substantial Gates shall also be fixed in such Fences where necessary, by and at the Expence of the Rest of the Owners and Proprietors of and Persons interested in the Lands by this Act directed to be divided and inclosed, and to be paid by them at such Time or Times, and to such Person or Persons, and in such Proportions as the said Commissioner shall, by any Writing under his Hand or by his said Award, order and appoint; and that all such Fences and Gates shall for ever after the making thereof, be maintained by the said Impropriator and his Successors, or his or their Lessee or Lessees, and by the said Vicar of *Eaton*, and his

Succeſſors reſpectively; and that upon and from the Firſt Day of *April* then next after the ſaid Allotments ſhall be fenced and incloſed, or from and after ſuch other Time as the ſaid Commiſſioner ſhall by any Writing under his Hand direct and appoint, the Right of the ſaid *Scrope Berdmore*, and his Succeſſors, Prebendaries of *Eaton*, in reſpect of the ſaid Prebend, and of the ſaid *Charles Fowler*, and his Succeſſors, Vicars of *Eaton* reſpectively, to all Great and Small Tythes, and all Moduſes, Compoſitions, and other Eccleſiaſtical Dues and Payments in lieu of Tythes (*Eaſter* Offerings, Mortuaries and Surplice Fees, payable to the ſaid Vicar and his Succeſſors only excepted) iſſuing out or payable in reſpect of every or any Part or Parcel of the ſaid Pariſh of *Eaton*, ſhall ceaſe, determine, and be for ever extinguiſhed.

Perſons not having Open Land., to pay in Money for their Tythes,

XXIV. And be it further enacted, That in caſe any Perſon or Perſons ſhall at the Time of ſuch Diviſion and Incloſure to be made as aforeſaid, be entitled to, or poſſeſſed of any of the preſent ancient Meſſuages or Tofts, ancient Incloſures and Homeſteads within the ſaid Pariſh of *Eaton*, and ſhall not be entitled to or poſſeſſed of Property or Intereſt within the ſaid Lands and Grounds hereby directed to be divided and incloſed, equal in Value to the Tythes of ſuch his, her, or their other Eſtates within the ſaid Pariſh, ſuch Perſon or Perſons ſhall reſpectively pay or cauſe to be paid to ſuch other Perſon or Perſons, and at ſuch Time or Times as the ſaid Commiſſioners ſhall direct and appoint, ſuch Sum or Sums of Money for ſuch Deficiency, as he the ſaid Commiſſioner ſhall think reaſonable, for the Tythes of ſuch ſeveral ancient Meſſuages or Tofts, ancient Incloſures and Homeſteads, which Sum or Sums of Money ſhall be applied towards Payment of the Charges and Expences of obtaining and paſſing this Act, and carrying the ſame into Execution; and the ſaid Commiſſioner ſhall and may, in caſe of Refuſal by any ſuch Owner or Owners to pay ſuch Sum and Sums of Money, levy and recover the ſame, by ſuch Ways and Means as the Coſts, Charges, and Expences of obtaining and executing this Act, can or may be levied and recovered; and in caſe any Surplus Money ſhall remain, ſuch Surplus ſhall be divided and apportioned between 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 Surplus Money, 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.

Allotment of the Reſidue.

XXV. And be it further enacted, That the ſaid Commiſſioner (after ſetting out and making the ſeveral Allotments before-mentioned) ſhall then ſet out, allot and award the Reſidue of the Lands and Grounds hereby directed to be divided and incloſed, unto and amongſt the ſeveral Perſons and Bodies Politic, Corporate, and Collegiate intereſted therein, in ſuch Quantities, Shares and Proportions as the ſaid Commiſſioner ſhall adjudge and determine to be a full Equivalent, Satisfaction, and Compenſation for their ſeveral and reſpective Rights and Intereſts in, over, or upon the ſame.

XXVI. And

Incloſed Property lying intermixed, to be allotted.

XXVI. And be it further enacted, That if it ſhall happen that in any Cloſe or incloſed Parcel of Land within the ſaid Pariſh of *Eaton*, there ſhall be Lands belonging to different Perſons, ſuch Lands being diſperſed or lying intermixed with each other, then and in every ſuch Caſe it ſhall and may be lawful for the ſaid Commiſſioner, and he is hereby authorized and directed to proceed in valuing, dividing, and allotting ſuch intermixed Lands and Grounds, and ſuch Lands and Grounds ſhall be, and be deemed and taken to be Part and Parcel of the Lands and Grounds to be divided, allotted, and incloſed by virtue of this Act.

Freeboards to be allotted.

XXVII. And be it further enacted, That when any Parcel of Land ſo to be allotted as aforeſaid ſhall abut upon or adjoin to any Freeboard or Ditch belonging to any Common Fields or incloſed Grounds, next adjoining to the Lands and Grounds hereby directed to be divided, allotted, and incloſed, the Perſon or Perſons to whom ſuch Parcel of Land ſhall be allotted, ſhall and may, and he, ſhe, and they is and are hereby empowered to ſet up and erect Gates and Fences in, over, or upon ſuch Freeboard or Ditch for levelling the ſaid Parcels of Land, and for raiſing and preſerving the Quickſets and other the Fences to be made thereupon, until ſuch Time or Times as the Owner or Owners of ſuch Freeboard or Ditch ſhall ſufficiently, at his, her, or their own Expence, have ditched and fenced ſuch Freeboard from the Land adjoining thereto, or otherwiſe it ſhall be lawful to and for the ſaid Commiſſioner and his Succeſſor, at the Requeſt of the Perſon or Perſons entitled to ſuch Freeboard, to make a ſpecific Allotment in lieu thereof out of the Lands and Grounds hereby directed to be divided, allotted, and incloſed, and ſuch Freeboard ſhall for ever thereafter be deemed and taken to be within and Part of the Pariſh of *Eaton* aforeſaid.

For incloſing the reſt of the Proprietors Allotments.

XXVIII. And be it further enacted, That the ſeveral Parcels of Land and Allotments which ſhall be ſet out and allotted by virtue of this and the ſaid recited Act (except ſuch Allotments as ſhall be made to the ſaid Impropriator and Vicar reſpectively for Tythes, Glebe Lands, and Right of Common), ſhall be incloſed and fenced in ſuch Manner and within ſuch Time or Times as the ſaid Commiſſioner, by any Writing or Writings under his Hand or by his ſaid Award, ſhall order and direct; and ſuch Fences ſhall at all Times for ever after the making thereof, be repaired and maintained by ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall direct or appoint in or by any ſuch Writing or in or by his ſaid Award.

Proprietors empowered to ſell Allotments before Execution of the Award,

XXIX. And be it further enacted, That if any Perſon or Perſons hath or have ſold or contracted or agreed to ſell, or ſhall at any Time before the Execution of the ſaid Award ſell or contract or agree to ſell his, her, or their Right, Intereſt, or Property, in, over, or upon the Lands and Grounds to be divided, allotted, and incloſed, by virtue of this Act, to any other Perſon or Perſons, then and in every ſuch Caſe it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authorized and required to make the Allotment or Allotments of the Vendor unto the Vendee or Purchaſer in every ſuch Sale, Contract, or Agreement, or to his or her Heirs or Aſſigns, for or in reſpect of ſuch Right, Intereſt, or Property ſo ſold or contracted or agreed to be ſold as aforeſaid; and every ſuch Vendee or Purchaſer, and his, her, or their Heirs and Aſſigns, ſhall and may, from and after the Execution of the ſaid Award, hold and enjoy the

the Land ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner to all Intents and Purpoſes as the Vendor in every ſuch Sale, Contract, or Agreement, might, could, or ought to have held and enjoyed the ſame, in caſe ſuch Sale, Contract, or Agreement had not been made, or ſuch Right, Intereſt, or Property had been veſted in ſuch Vendor at the Time of making ſuch Allotment or Allotments as aforeſaid.

Land may be deducted from Allotments for Expences.

XXX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, upon the Requeſt of any of the Owners or Proprietors of the Lands and Grounds hereby directed to be divided and allotted, or of any Right or Intereſt therein, whether ſeiſed in Fee or being Tenants in Tail or for Life or Lives, or for any Number of Years determinable on a Life or Lives, or for any other determinable Eſtate or Intereſt, or at the Requeſt of the reſpective Huſbands, Guardians, Truſtees, Committees, Receivers, Agents or Attornies of or for any ſuch Owners or Proprietors being under Coverture, Minors, Lunatics, or beyond the Seas, or under any other Diſability or Incapacity, or for the Perſons acting as ſuch Guardians, Truſtees, Committees, Receivers, Agents, or Attornies, or of the Truſtees for any charitable or public Uſes, or the major Part of them reſpectively, to deduct from the Value and Amount of the Allotment or reſpective Allotments of ſuch Owner or Owners, by whom or on whoſe Behalf ſuch Requeſt ſhall be made as aforeſaid, ſo much as ſhall in the Judgement of the ſaid Commiſſioner be equal to the Share and Proportion or reſpective Shares and Proportions of the Perſon or Perſons by or on whoſe Behalf any ſuch Requeſt ſhall be made, of the Charges and Expences of paſſing this Act, and of carrying the ſame into Execution, and to allot the Land and Value ſo deducted to and amongſt ſuch of the Owners and Proprietors as ſhall by the ſaid Commiſſioner be charged with, and ſhall pay ſuch Charges and Expences in Proportion to the Sums they ſhall reſpectively pay or contribute thereto, provided that it ſhall be lawful to and for the ſaid Commiſſioner, and he is hereby required, upon any ſuch Requeſt as aforeſaid, and upon Payment by the Perſon or Perſons making ſuch Requeſt, of his, her, or their full Proportion of ſuch Coſts and Expences, to allot to the Perſon or Perſons reſpectively by whom or on whoſe Behalf ſuch Requeſt and Payment ſhall be made, his, her, or their Heirs and Aſſigns, the Land which ſhall have been ſo deducted; and the Perſon or Perſons reſpectively to whom any ſuch Allotment ſhall be made and awarded, ſhall be and become ſeiſed thereof of an abſolute Eſtate in Fee Simple, freed and diſcharged from all former Titles, Charges, and Incumbrances; provided that every ſuch Requeſt as aforeſaid ſhall be made in Writing, and ſigned by the Perſon or Perſons making the ſame, and ſhall be delivered to the ſaid Commiſſioner, at one of the Meetings for carrying this Act into Execution, to be holden previouſly to his allotting the Lands and Grounds hereby directed to be divided and incloſed: Provided always, that it ſhall not be lawful to raiſe by ſuch Sale, any further or greater Sum of Money than the Perſon or Perſons Part of whoſe Allotment or Allotments ſhall be ſold as aforeſaid, would have been empowered or authorized to borrow or charge upon his, her, or their Eſtate or Eſtates, under or by virtue of the ſaid recited Act: Provided alſo, that in all Caſes where any Land ſhall be deducted from the Allotment of any of the ſaid Proprietors or Perſons towards Payment of Expences as aforeſaid, it ſhall not be lawful for the Proprietor or Perſon from whoſe Allotment Land ſhall be ſo deducted as aforeſaid, to charge his, her, or their Lands, Tenements, or Hereditaments,

Hereditaments, by virtue of the ſaid recited Act or this Act, with any Money towards Payment of ſuch Expences.

Extinguiſhment or Suſpenſion of Rights of Common.

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

Leaſes at Rack Rent as to uninclоſed Lands to be void.

XXXII. And be it further enacted, That from and immediately after the Allotments herein directed to be made, ſhall be marked and ſtaked out, and the ſaid Commiſſioner ſhall have directed the ſame to be entered upon by the Perſons to or for whom the ſame ſhall be intended, or at ſuch other Time or Times as the ſaid Commiſſioner ſhall by any Writing or Writings under his Hand direct, all and every Leaſe and Leaſes, and other Agreement and Agreements at Rack or extended Rent ſubſiſting, of all or any Part or Parts of the ſaid Lands hereby intended to be divided and incloſed, or of any Right of Common, or any Payment in reſpect thereof, alone or together with any Meſſuages, Homeſteads, or ancient Incloſures within the ſaid Pariſh of *Eaton*, ſhall ceaſe, determine, and be void as to all ſuch Lands, but not as to any of the ſaid Meſſuages, Homeſteads, or ancient Incloſures comprized therein, the reſpective Landlords making ſuch Satisfaction to their reſpective Leſſees or Tenants in reſpect of ſuch Lands, as the ſaid Commiſſioner ſhall by Writing under his Hand order and direct in that Behalf; and it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authorized, under his Hand to aſcertain, direct, and appoint what Rent or Share, or Proportion of Rent, ſhall be paid by the ſeveral Tenants of the Lands to be incloſed by virtue of this Act, or the Right of Common thereof in their reſpective Holdings, to their reſpective Landlords, from the Time of paſſing this Act until ſuch Lands ſhall be marked and ſtaked out, and directed to be entered upon by the new Proprietors thereof; and alſo to order and direct what Proportion or Share of the Whole Rent reſerved upon ſuch Leaſe or Leaſes, Agreement or Agreements, ſhall be paid by ſuch Tenants from the Time of paſſing this Act to their reſpective Landlords, for the Meſſuages, Homeſteads, or ancient Incloſures comprized in ſuch Leaſe or Leaſes, Agreement or Agreements, until the Expiration thereof, and which are not meant or intended to be made void as to ſuch Meſſuages, Homeſteads, or ancient Incloſures; it being the true Intent and Meaning hereof that the Power or Authority of the ſaid Commiſſioner to vacate ſuch Leaſe or Leaſes, Agreement or Agreements, ſhall extend to the making void the ſame ſo far only as the ſaid Leaſe or Leaſes, Agreement or Agreements, comprize or contain, or have inſerted in them ſuch Lands and Grounds as are under or by this Act to be divided and incloſed, and not to any of the Meſſuages, Homeſteads, or

ancient Incloſures within the ſaid Pariſh of *Eaton*; and that no Leaſe or Agreement comprizing Meſſuages, Homeſteads, or ancient Incloſures only within the ſaid Pariſh ſhall be made void by this Act, but that it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby empowered and required to take into Conſideration the Benefit and Advantage which ſhall or may accrue to the reſpective Tenants by reaſon of the ſaid Homeſteads and ancient Incloſures being made Tythe-free, and by Writing under his Hand to direct ſuch additional Rent as to him the ſaid Commiſſioner ſhall ſeem right and proper to be paid in future in reſpect thereof; and ſuch Rent ſhall and may be recovered by ſuch Ways and Means as may by Law be uſed for the Recovery of Rent in arrear.

Leaſes of exchanged Lands in another Pariſh, or for which Fines have been paid, not to be affected.

XXXIII. Provided alſo, and be it further enacted, That in caſe any Land ſhall be taken in exchange under the Authorities and Powers of this Act, which Land ſhall be under any ſuch Leaſe or Agreement as aforeſaid, and wholly ſituate in any Pariſh or Place adjoining to the Pariſh of *Eaton* aforeſaid, the Leaſe or Agreement of ſuch Land ſhall not be vacated: Provided alſo, that nothing herein contained ſhall extend to make void any beneficial Leaſe or Leaſes of the preſent incloſed Lands, nor of any Part or Parts of the Lands or Grounds hereby intended to be divided and incloſed, upon the making a Renewal, whereof any Fine or Fines hath or have been paid.

Commiſſioner to regulate the Courſe of Huſbandry.

XXXIV. And be it further enacted, That from and after the paſſing of this Act until the Execution of the Award of the ſaid Commiſſioner, all the Open Arable Fields, Brecks, Meadows, and Stinted Paſture hereby directed to be divided and allotted, ſhall be ſubject and liable to ſuch Directions and Regulations as the ſaid Commiſſioner ſhall from Time to Time by Writing under his Hand appoint, as well with regard to the ſtocking as to the ploughing, folding, tilling, ſowing, and laying down the ſame or any Part or Parts thereof; and it ſhall be lawful for the ſaid Commiſſioner to order and direct ſuch Sum or Sums of Money in reſpect thereof, to be paid by any Perſon or Perſons intereſted in the ſaid Open Arable Fields, Brecks, or Meadows, not exceeding Ten Pounds *per* Acre thereof, his, her, or their Tenant or Tenants, as the ſaid Commiſſioner ſhall think reaſonable; and in caſe any Perſon or Perſons who ſhall be directed to pay any Sum or Sums of Money on any of the Accounts aforeſaid, ſhall neglect or refuſe to pay the ſame on Demand, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby required to raiſe and levy the ſame for the Uſe and Benefit of the Perſon or Perſons entitled thereto, by ſuch Ways and Means as the Coſts, Charges, and Expences of obtaining and executing this Act may be levied and recovered.

Lands held by different Tenures or Titles to be diſtinguiſhed.

XXXV. And be it further enacted, That where any Perſon or Perſons ſhall be ſeiſed or poſſeſſed of Lands or other Hereditaments in the ſaid Pariſh, held by different Tenures, or for, by, or under different Eſtates or Titles, the ſaid Commiſſioner ſhall, upon the Requeſt of the Perſon ſo ſeized or poſſeſſed reſpectively, inquire into, aſcertain, and determine the reſpective Lands or other Hereditaments held by ſuch ſeveral Tenures, or for, by or under ſuch different Eſtates or Titles reſpectively, and ſhall ſet out diſtinct Allotments in reſpect of ſuch Parts thereof as ſhall be or ariſe within the Common and Open Fields or other the Lands and Grounds hereby directed to be divided and incloſed, regard being had to the Deductions which ſhall have been made for Tythes of ancient Incloſures held by the ſame Tenures and for the ſame Eſtates reſpectively.

XXXVI. And

Exchanges may be made.

XXXVI. And be it further enacted, That it shall and may be lawful to and for the said Commissioner to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever within the said Parish of *Eaton*, in lieu of and Exchange for any other Lands, Tenements, and Hereditaments whatsoever within the said Parish, or within any adjoining Parish, Hamlet, Townships, or Places, provided that all such Exchanges be ascertained, specified and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, 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 and Exchanges so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent 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 lie or be situate.

Expences of Exchanges how to be paid.

XXXVII. Provided always, and be it further enacted, That the Costs, Charges, and Expences attending the making and completing any Exchanges or Partitions, under the Powers and Authorities of this Act, 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.

Wills and Settlements not to be affected.

XXXVIII. 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, Rents or Incumbrances, out of, upon or affecting any Lands or Hereditaments to be divided, allotted, inclosed, or exchanged by virtue of this Act, or any Part or Parts thereof respectively; but that from and after the Execution of the said Award of the said Commissioner, the respective Persons to whom any Lands or Hereditaments shall be allotted or given in Exchange by virtue of this Act, shall be seised thereof to such and the same Uses, and for such and the same Estates, Intails, Trusts, and Interests, and subject to such and the same Wills, Jointures, Rents, Charges, and Incumbrances, as the Lands and Hereditaments in respect whereof 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.

XXXIX. And

Award to be depoſited.

XXXIX. And be it further enacted, That the Award to be made by the ſaid Commiſſioner, when inrolled in Manner directed by the ſaid recited Act, ſhall be depoſited in the Pariſh Church of *Eaton* aforeſaid.

Perſons advancing Money for obtaining this Act, to be repaid with Intereſt.

XL. And be it further enacted, That the Perſon or Perſons who ſhall advance or lend any Sum or Sums of Money for defraying the Expences of applying for and paſſing this Act, ſhall be repaid the ſame out of the firſt Monies which ſhall be raiſed and collected in purſuance thereof, with Intereſt at the Rate of Five Pounds *per Centum per Annum*, from the Time of advancing the ſame reſpectively.

For defraying the Expences of the Act, and carrying the ſame into Execution.

XLI. And be it further enacted, That the Charges and Expences incident to and attending the obtaining and paſſing of this Act, and of ſurveying, meaſuring, mapping, valuing, dividing, and allotting the Lands and Grounds hereby intended to be divided and incloſed, and any of the incloſed Lands within the ſaid Pariſh, and of preparing and inrolling the ſaid Award, and of ring-fencing the ſeveral Allotments to be made to the ſaid Impropriator and Vicar reſpectively, in the Manner herein directed; and alſo the Allotment or Allotments to be made to the Surveyor of the Highways, and all the Expences of forming, making, completing, and repairing the public and private Carriage Roads and Highways, Banks, Ditches, Drains, Sluices, Watercourſes and Bridges, to be ſet out and appointed as ſuch by the ſaid Commiſſioner; and alſo the Charges of the ſaid Commiſſioner for his Trouble and Expence, and of the ſeveral Perſons to be employed by the ſaid Commiſſioner in and about the Premiſes, either before or after the Execution of the ſaid Award; and all other Coſts, Charges, and Expences attending the Execution of this and the ſaid recited Act, ſhall be borne, defrayed, and paid by the Owners and Proprietors of, and Perſons intereſted in the Lands and Grounds hereby intended to be divided and incloſed, and the incloſed Lands exonerated from Tythes by virtue of this Act, (other than and except the ſaid Impropriator and Vicar reſpectively, their reſpective Succeſſors and Leſſees, for and in reſpect of the Allotment or Allotments herein directed to be made for Glebe Lands, Right of Common and Tythes, and the Surveyors of the Highways in the ſaid Pariſh of *Eaton*, in reſpect of the Allotment or Allotments to be made for getting Materials for the Repairs of ſuch Highways and other Roads,) in ſuch Shares and Proportions, at ſuch Time or Times, and to ſuch Perſon or Perſons as the ſaid Commiſſioner ſhall direct and appoint; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay his, her, or their Proportion of ſuch Coſts, Charges, and Expences, according to ſuch Direction or Appointment as aforeſaid, then and in ſuch Caſe the ſame ſhall and may be recovered in Manner directed in and by the ſaid recited Act.

Power to borrow Money.

XLII. And whereas ſome of the Owners and Proprietors of, and Perſons intereſted in the Lands and Grounds within the ſaid Pariſh of *Eaton*, may have Occaſion to borrow Money to defray their reſpective Shares and Proportions of the Charges and Expences of obtaining and carrying this and the ſaid recited Act into Execution, and of exonerating ſuch Lands and Grounds from Tythes; be it therefore enacted, That it ſhall and may be lawful to and for the Proprietors and Owners of, and all other Perſons whomſoever intereſted in ſuch Lands and Grounds, being a Tenant or Tenants for Life, with or without Impeachment of Waſte, Tenant or Tenants in Fee

Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives; and also to and for the Husbands, Guardians, Trustees, and Committees of any of the said Owners or Proprietors being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or labouring under any other Disability whatsoever; and also to and for all Persons acting as Guardians, Trustees, or Committees of any Owners or Proprietors being under any Disability or Incapacity whatsoever, whether such Owners or Proprietors respectively be Tenants for Life with or without Impeachment of Waste, Tenants in Fee Tail General or Special, or Tenants by the Courtesy of *England*, or for Years determinable on any Life or Lives, (other than and except the said Impropriator and Vicar and their Successors respectively, for or in respect of any Allotment made to them as aforesaid, and other than and except the Surveyor of the Highways of the said Parish for the Time being, for or in respect of any Allotment made to him as Surveyor), by any Deed or Deeds, Writing or Writings under their respective Hands and Seals, to be duly executed in the Presence of and attested by Two or more credible Witnesses, to charge the Freehold Part, and by Surrender or Surrenders duly passed according to the Custom or Customs of the Manor or Manors whereof the same are or shall be holden to charge the Copyhold Part of such Lands and Grounds with any Sum or Sums of Money not exceeding Five Pounds *per* Acre, for defraying their respective Proportions of the Charges and Expences of obtaining and executing this and the said recited Act, and of exonerating and discharging such Lands and Grounds from Tythes as aforesaid, as the said Commissioner shall think necessary, the same to be paid to such Person or Persons, and applied for the Purposes aforesaid, in such Manner as the said Commissioner shall direct and appoint; and for securing the Re-payment of such Sum and Sums of Money, with Interest for the same, to grant, mortgage, lease, demise, surrender, or otherwise subject the said Premises or any Part thereof, unto any Person or Persons who shall advance and lend such Sum or Sums of Money respectively, his, her, or their Executors, Administrators, or Assigns, for any Term or Number of Years; so that every such Grant, Mortgage, Demise, Surrender or Security be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, and the Interest thereof shall be fully paid and satisfied; and so that in every such Grant, Mortgage, Demise, Surrender, or Security, which shall be made by any Person or Persons interested in or entitled unto the Premises, for the Term of their natural Lives only, or by his, her, or their Guardian or Guardians, Trustee or Trustees, Committee or Committees, there be contained a Proviso or Covenant that the Owner or Proprietor of the said Premises shall duly pay and keep down the Interest of any Sum or Sums of Money to be thereby secured during their respective Lives; and no Person afterwards becoming seised or possessed of the said Premises, shall be liable to the Payment of any further or larger Arrear of Interest than for One Year preceding the Time that the Title to such Possession shall have commenced; and every such Grant, Mortgage, Lease, Demise, or Surrender of the said Premises, shall be good, valid, and effectual in the Law for the Purposes thereby intended.

The Commissioner to lay Accounts

XLIII. And be it further enacted, That Once at least in every Year during the Execution of this Act (such Year to be computed from the Day of

before a Referee once in every Year.

of paſſing thereof) the ſaid Commiſſioner ſhall and he is hereby required to make a true and juſt Statement or Account of all Sums of Money by him received and expended, or due to him for his own Trouble and Expences in the Execution of this and the ſaid recited Act; and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be by him laid before any One Juſtice of the Peace for the County of *Nottingham* (not intereſted in the ſaid intended Incloſure), to be by him examined and balanced, and ſuch Balance ſhall by ſuch Juſtice be ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioner; and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtice.

Appeal to the Quarter Seſſions.

XLIV. 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 Orders and Determinations of the ſaid Commiſſioner as are by this or the ſaid recited Act directed to be final, binding, or concluſive, and except in ſuch Caſes wherein an Iſſue at Law ſhall be tried as herein mentioned), then and in every ſuch Caſe he, ſhe, or they may appeal to any General Quarter Seſſions of the Peace which ſhall be held for the ſaid County of *Nottingham*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioner and to the Party concerned, Fourteen Days Notice in Writing of ſuch Appeal and of the Matter thereof, and the Juſtices (not intereſted therein) at ſuch General Quarter Seſſions, are hereby authorized and required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order, 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) on Demand to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Diſtreſs and Sale; which Determination of the ſaid Juſtices ſhall be final and concluſive 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; and 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.

General Saving.

XLV. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon or Perſons, Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, all ſuch Right, Title, and Intereſt (other than and except ſuch as are hereby meant and intended to be barred, deſtroyed, and extinguiſhed) as they, every or any of them could, might, or ought to have had and enjoyed in, to, out of, or in reſpect of the Lands and Grounds hereby directed to be divided, allotted, and incloſed, in caſe this Act had not been made.

XLVI. And

XLVI. 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. Act to be printed by King's Printer.

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